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Indicates New Matter

COMMITTEE REPORT

April 18, 2013

**H. 3853**

Introduced by Reps. Owens, Patrick, Bedingfield, Loftis, Taylor, Allison, Anthony, Brannon, Southard, Bowen, Whitmire, Limehouse, Cole, Erickson, Forrester, Harrell, Herbkersman, Hixon, Lucas, D.C. Moss, Norman, Pitts, Pope, Putnam, Simrill, G.R. Smith, Sottile, Stringer, Wells and Willis

S. Printed 4/18/13--H. [SEC 4/22/13 4:25 PM]

Read the first time March 21, 2013.

**THE COMMITTEE ON EDUCATION AND**

**PUBLIC WORKS**

To whom was referred a Bill (H. 3853) to amend the Code of Laws of South Carolina, 1976, by adding Section 59‑40‑111 so as to authorize an Alternative Education Campus (AEC) to be, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, Section 59‑40‑55(B)(11), as contained in SECTION 2, by deleting the item in its entirety and inserting:

/ (11) permanently close any charter school at the conclusion of the school year after receiving the lowest performance level rating as defined by the federal accountability system for three consecutive years in accordance Section 59‑40‑110(E). /

Amend the bill further, Section 59‑40‑110, as contained in SECTION 6, by deleting the SECTION in its entirety and inserting:

/ SECTION 6. Section 59‑40‑110 of the 1976 Code, as last amended by Act 164 of 2012, is further amended to read:

“Section 59‑40‑110. (A) A charter must be approved or renewed for a period of ten school years; however, the charter only may be revoked or not renewed under the provisions of subsection (C) of this section. The sponsor annually shall evaluate the conditions outlined in subsection (C). The annual evaluation results must be used in making a determination for nonrenewal or revocation.

(B) A charter renewal application must be submitted to the school’s sponsor one hundred twenty calendar days before the end of the school year for term of the charter contract, and it must contain:

(1) a report on the progress of the charter school in achieving the goals, objectives, pupil achievement standards, and other terms of the initially approved charter application; ~~and~~

(2) a financial statement that discloses the costs of administration, instruction, and other spending categories for the charter school that is understandable to the general public and that allows comparison of these costs to other schools or other comparable organizations, in a format required by the State Board of Education~~.~~; and

(3) any proposed material changes to the current charter or charter school contract to be implemented in the next ten year charter term.

(C) A charter must be revoked or not renewed by the sponsor if it determines that the charter school:

(1) committed a material violation of the conditions, standards, performance expectations, or procedures provided for in the charter application or charter school contract, or both;

(2) failed to meet ~~or make reasonable progress,~~ the academic performance standards and expectations as defined in the charter application or charter school contract, or both~~, toward pupil achievement standards identified in the charter application~~;

(3) failed to maintain its books and records according to generally accepted accounting principles or failed to create an appropriate system of internal control, or both ~~meet generally accepted standards of fiscal management~~; or

(4) violated any provision of law from which the charter school was not specifically exempted.

(D) A sponsor summarily may revoke any charter school that is determined by the sponsor to pose an imminent threat of harm to the health or safety of students, or both, based on documented and clear and convincing data.

(E) Any charter school shall automatically and permanently close at the conclusion of the school year in which the school first becomes subject to automatic closure for receiving the lowest performance level rating as defined by the federal accountability system for three consecutive years. The determination of closure is considered final. Automatic closure shall not apply to any charter school serving fifty percent or more students with disabilities or any charter school designated as an Alternative Education Campus (AEC) by its sponsor as outlined in Section 59‑40‑111.

(F) At least sixty days before not renewing or terminating a charter school, the sponsor shall notify in writing the charter school’s governing body of the proposed action. The notification shall state the grounds for the proposed action in reasonable detail. Termination must follow the procedure provided for in this section.

~~(E)~~(G) The existence of another charter granting authority must not be grounds for the nonrenewal or revocation of a charter. Grounds for nonrenewal or revocation must be only those specified in subsection (C) of this section.

~~(F)~~(H) The charter school’s governing body may request in writing a hearing before the sponsor within fourteen days of receiving notice of nonrenewal or termination of the charter. Failure by the school’s governing body to make a written request for a hearing within fourteen days must be treated as acquiescence to the proposed action. Upon receiving a timely written request for a hearing, the sponsor shall give reasonable notice to the school’s governing body of the hearing date. The sponsor shall conduct a hearing before taking final action. The sponsor shall take final action to renew or not renew a charter by the last day of classes in the last school year for which the charter school is authorized.

~~(G)~~(I) A charter school seeking renewal may submit a renewal application to another charter granting authority if the charter school has not committed a material violation of the provisions specified in subsection (C) of this section and the sponsor refuses to renew the charter. In such cases, the charter school shall continue to receive local funding pursuant to Section 59‑40‑140(A). However, the charter school is not eligible to receive one hundred percent of the base student cost from the State. The charter school only is eligible to receive the percentage of the base student cost previously received as a school in its former district.

~~(H)~~(J) A decision to revoke or not to renew a charter school may be appealed to the Administrative Law Court pursuant to the provisions of Section 59‑40‑90. Upon appeal to the Administrative Law Court, there is no automatic stay of the revocation or nonrenewal decision. Pending resolution of the appeal, the charter school also may move before the Administrative Law Court for imposition of a stay of the revocation or nonrenewal on the grounds that an unusual hardship to the charter school will result from the execution of the sponsor’s decision.

(K) Prior to any public charter school closure, the sponsor shall develop a public charter school closure protocol to ensure timely notification to parents, orderly transition of students and student records to new schools, and proper disposition of school funds, property, and net assets in accordance with the requirements of this chapter. The protocol shall specify tasks, timelines, and responsible parties, including delineating the respective duties of the school and the sponsor. In the event of a public charter school closure for any reason, the sponsor shall oversee and work with the closing school to ensure a smooth and orderly closure and transition for students and parents, as guided by the closure protocol.” /

Amend the bill further by adding an appropriately numbered penultimate SECTION to read:

/ SECTION \_\_\_. Section 59‑40‑65(A)(1) of the 1976 Code, as added by Act 26 of 2007, is amended to read:

“(1) provide each student enrolled in the program with a course or courses of online or computer instruction approved by the ~~State Department of Education~~ charter school’s sponsor that must meet or exceed the South Carolina content and grade specific standards. Students enrolled in the program of online or computer instruction must receive all instructional materials required for the student’s program;” /

Renumber sections to conform.

Amend title to conform.

PHILLIP D. OWENS for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The State Department of Education and the Administrative Law Court indicate that there is no impact to the General Fund of the State.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59‑40‑111 SO AS TO AUTHORIZE AN ALTERNATIVE EDUCATION CAMPUS (AEC) TO BE ESTABLISHED BY A CHARTER SCHOOL SPONSOR WHICH SHALL CONSTITUTE A CHARTER SCHOOL SERVING A SPECIFIC STUDENT POPULATION, AND TO PROVIDE THE CRITERIA FOR A CHARTER SCHOOL TO BE DESIGNATED AS AN AEC; TO AMEND SECTION 59‑40‑55, RELATING TO A CHARTER SCHOOL SPONSOR’S POWERS AND DUTIES, SO AS TO FURTHER PROVIDE FOR THESE POWERS AND DUTIES INCLUDING THE ADOPTION OF NATIONAL INDUSTRY STANDARDS FOR THE SCHOOL, AND THE CLOSURE OF LOW PERFORMING SCHOOLS; TO AMEND SECTION 59‑40‑60, AS AMENDED, RELATING TO CHARTER SCHOOL APPLICATIONS AND THE FORMATION OF CHARTER SCHOOLS, SO AS TO PROVIDE THAT THE CHARTER SCHOOL APPLICATION MUST BE BASED ON AN APPLICATION TEMPLATE WITH COMPLIANCE GUIDELINES DEVELOPED BY THE DEPARTMENT OF EDUCATION, AND TO FURTHER PROVIDE FOR THE CONTENTS OF THE APPLICATION AND FOR LETTERS OF INTENT TO BE SUBMITTED BY AN APPLICANT AND A CHARTER COMMITTEE; TO AMEND SECTION 59‑40‑70, AS AMENDED, RELATING TO THE CHARTER SCHOOL ADVISORY COMMITTEE AND ITS DUTY TO REVIEW CHARTER SCHOOL APPLICATIONS, SO AS TO DELETE THE COMMITTEE, TO REVISE THE PROCEDURES REQUIRED OF A CHARTER SCHOOL APPLICANT IN REGARD TO A CHARTER SCHOOL APPLICATION, TO PROVIDE THAT THE DEPARTMENT OF EDUCATION SHALL PROVIDE GUIDANCE ON COMPLIANCE TO BOTH SPONSORS AND APPLICANTS, AND TO FURTHER PROVIDE FOR THE STANDARDS FOR A SCHOOL BOARD OF TRUSTEES OR AREA COMMISSION TO FOLLOW WHEN CONSIDERING THE DENIAL OF AN APPLICATION; TO AMEND SECTION 59‑40‑90, AS AMENDED, RELATING TO APPEAL OF FINAL DECISIONS OF A SCHOOL DISTRICT TO THE ADMINISTRATION LAW COURT, SO AS TO ALSO INCLUDE FINAL DECISIONS OF A PUBLIC OR INDEPENDENT INSTITUTION OF HIGHER LEARNING SPONSOR; TO AMEND SECTION 59‑40‑110, AS AMENDED, RELATING TO THE DURATION OF A CHARTER SCHOOL SPONSOR AND THE RENEWAL OR TERMINATION OF A CHARTER BY THE SPONSOR, SO AS TO FURTHER PROVIDE FOR THE CIRCUMSTANCES WHEN A CHARTER SCHOOL SHALL AUTOMATICALLY AND PERMANENTLY CLOSE, TO REVISE THE CRITERIA TO CONSIDER WHEN REVOKING OR NOT RENEWING A CHARTER, TO PROVIDE FOR WHEN A SPONSOR SUMMARILY MAY REVOKE A CHARTER, AND TO PROVIDE FOR THE MANNER IN WHICH STAYS OF THE REVOCATION OR NONRENEWAL OF THE CHARTER TAKE EFFECT OR MAY BE GRANTED; TO AMEND SECTION 59‑40‑115, AS AMENDED, RELATING TO THE TERMINATION OF A CHARTER SCHOOL’S CONTRACT WITH A SPONSOR, SO AS TO DELETE A REFERENCE TO THE CHARTER SCHOOL ADVISORY COMMITTEE; AND TO AMEND SECTION 59‑40‑180, AS AMENDED, RELATING TO REGULATIONS AND GUIDELINES PERTAINING TO CHARTER SCHOOLS, SO AS TO DELETE A REFERENCE TO THE CHARTER SCHOOL ADVISORY COMMITTEE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 40, Title 59 of the 1976 Code is amended by adding:

“Section 59‑40‑111. (A) For purposes of this chapter, an Alternative Education Campus (AEC) is any charter school with an explicit mission as outlined in its charter to serve an enrolled student population with:

(1) severe limitations that preclude appropriate administration of the assessments administered pursuant to federal and state requirements;

(2) fifty percent or more of students having Individualized Education Programs (IEPs) in accordance with federal regulations; or

(3) ninety‑five percent or more of enrolled students meeting the definition of a ‘high‑risk’ student including students who:

(a) have been adjudicated as juvenile delinquents or who are awaiting disposition of charges that may result in adjudication;

(b) have dropped out of school or who have not been continuously enrolled and regularly attending any school for at least one semester before enrolling in this school;

(c) have been expelled from school or who have engaged in behavior that would justify expulsion;

(d) have documented histories of personal drug or alcohol use or who have parents or guardians with documented dependencies on drugs or alcohol;

(e) have documented histories of personal street gang involvement or who have immediate family members with documented histories of street gang involvement;

(f) have documented histories of child abuse or neglect;

(g) have parents or guardians in prison or on parole or probation;

(h) have documented histories of domestic violence in the immediate family;

(i) have documented histories of repeated school suspensions;

(j) are under the age of twenty years who are parents or pregnant women;

(k) are homeless, as defined in the McKinney‑Vento Homeless Assistance Act; or

(l) have a documented history of a serious psychiatric or behavioral disorder, including, but not limited to, an eating disorder or a history of suicidal or self‑injurious behaviors.

(B) Such schools must be classified as AECs by their sponsor.

(C) A high poverty rating alone shall not qualify any charter school for status as an AEC.

(D) Charter school applicants seeking such a designation shall provide sufficient information in their charter application to allow the authorizer to make a determination as to whether that classification applies.

(E) Charter schools already in operation may seek AEC classification by petitioning their sponsor.

(F) Charter schools receiving an AEC designation either before or after opening, shall be held to applicable state and federal accountability standards along with the academic performance standards and expectations established by written agreement between the sponsor and the school that takes into account the school’s specialized mission and student population.”

SECTION 2. Section 59‑40‑55 of the 1976 Code, as added by Act 164 of 2012, is amended to read:

“Section 59‑40‑55. (A) In order to promote the quality of charter school outcomes and oversight, the charter school sponsor shall adopt national industry standards of quality charter schools and shall authorize and implement practices consistent with those standards.

(B) A charter school sponsor shall:

(1) approve charter applications that meet the requirements specified in Sections 59‑40‑50 and 59‑40‑60;

(2) decline to approve charter applications according to Section 59‑40‑70(C);

(3) negotiate and execute sound charter contracts with each approved charter school;

(4) monitor, in accordance with charter contract terms, the performance and legal/fiscal compliance of charter schools to include collecting and analyzing data to support ongoing evaluation according to the charter contract;

(5) conduct or require oversight activities that enable the sponsor to fulfill its responsibilities outlined in this chapter, including conducting appropriate inquiries and investigations, only if those activities are consistent with the intent of this chapter, adhere to the terms of the charter contact, and do not unduly inhibit the autonomy granted to public charter schools;

(6) collect, in accordance with Section 59‑40‑140(H), an annual report from each of its sponsored charter schools and submit the reports to the Department of Education;

(7) notify the charter school of perceived problems if its performance or legal compliance appears to be unsatisfactory and provide reasonable opportunity for the school to remedy the problem, unless the problem warrants revocation and revocation timeframes apply;

(8) take appropriate corrective actions or exercise sanctions short of revocation in response to apparent deficiencies in charter school performance or legal compliance. These actions or sanctions may include requiring a school to develop and execute a corrective action plan within a specified timeframe;

(9) determine whether each charter contract merits renewal, nonrenewal, or revocation; ~~and~~

(10) provide to parents and the general public information about charter schools authorized by the sponsor as an enrollment option within the district in which the charter school is located to the same extent and through the same means as the district in which the charter school is located provides and publicizes information about all public schools in the district. A charter school shall notify its sponsor of its enrollment procedures and dates of its enrollment period no less than sixty days ~~prior to~~ before the first day of its enrollment period~~.~~; and

(11) permanently close any charter school at the conclusion of the school year after receiving the lowest performance level rating as defined by the federal accountability system for two consecutive years in accordance Section 59‑40‑110(C).

~~(B)~~(C) The South Carolina Public Charter School District may retain no more than two percent of the total state appropriations for each charter school it authorizes to cover the costs for overseeing its charter schools. The sponsor’s administrative fee does not include costs incurred in delivering services that a charter school may purchase at its discretion from the sponsor. The sponsor’s fee is not applicable to federal money or grants received by the charter school. The sponsor shall use its funding provided pursuant to this section exclusively for the purpose of fulfilling sponsor obligations in accordance with this chapter.”

SECTION 3. Section 59‑40‑60 of the 1976 Code, as last amended by Act 164 of 2012, is further amended to read:

“Section 59‑40‑60. (A) An approved charter application constitutes an agreement between the charter school and the sponsor.

(B) A contract between the charter school and the sponsor must be executed and must reflect all provisions outlined in the application as well as the roles, powers, responsibilities, and performance expectations for each party to the contract. A contract must include the proposed enrollment procedures and dates of the enrollment period of the charter school. All agreements regarding the release of the charter school from school district policies must be contained in the contract. The Department of Education shall develop a contract template to be used by charter schools and the sponsor. The template must serve as a foundation for the development of a contract between the charter school and the sponsor.

(C) A material revision of the terms of the contract between the charter school and the sponsor may be made only with the approval of both parties.

(D) Except as provided in subsection (F), an applicant who wishes to form a charter school shall:

(1) organize the charter school as a nonprofit corporation pursuant to the laws of this State;

(2) form a charter committee for the charter school which includes one or more teachers;

(3) submit a letter of intent and a written charter school application ~~to the charter school advisory committee and~~ to the board of trustees or area commission from which the committee is seeking sponsorship.

(E) A charter committee is responsible for and has the power to:

(1) submit letter of intent and an application to operate as a charter school, sign a charter school contract, and ensure compliance with all of the requirements for charter schools provided by law;

(2) employ and contract with teachers and nonteaching employees, contract for services, and develop pay scales, performance criteria, and discharge policies for its employees. All teachers whether certified or noncertified must undergo the background checks and other investigations required for certified teachers, as provided by law, before they may teach in the charter school; and

(3) decide all other matters related to the operation of the charter school, including budgeting, curriculum, and operating procedures.

(F) The charter school application, based on an application template with compliance guidelines developed by the State Department of Education, must include:

(1) an executive summary, not to exceed two pages;

(2) the mission statement of the charter school, which must be consistent with the principles of the General Assembly’s purposes pursuant to Section 59‑40‑20;

~~(2)~~(3) the goals, objectives, and ~~pupil achievement~~ academic performance standards to be achieved by the charter school, and a description of the charter school’s admission policies and procedures;

~~(3)~~(4) evidence that an adequate number of parents~~, teachers,~~ or legal guardians with students eligible to attend the proposed school pursuant to Section 59‑40‑50 ~~pupils, or any combination of them~~ support the formation of a charter school and justify the projected per pupil allocation in the application budget;

~~(4)~~(5) a description of the charter school’s educational program, including how it will meet or exceed the academic performance standards and expectations, including academic ~~pupil achievement standards, and curriculum which must meet or exceed any content~~ standards adopted by the State Board of Education and ~~the sponsor must be designed to~~ how the instructional design, learning environment, class size and structure, curriculum, and teaching methods enable each pupil to achieve these standards;

~~(5)~~(6) a description of the charter school’s plan for evaluating pupil achievement and progress toward accomplishment of the school’s achievement standards in addition to state assessments, the timeline for meeting these standards, and the procedures for taking corrective action if that pupil achievement falls below the standards;

~~(6)~~(7) evidence that the plan for the charter school is economically sound, a proposed budget for the term of the charter, a description of the manner in which an annual audit of the financial and administrative operations of the charter school, including any services provided by the sponsor, is to be conducted;

~~(7)~~(8) a description of the governance and operation of the charter school, including a detailed school start up plan, resumes, and background information on the charter committee members, the capacity and experience of the school leadership and management team, any involvement with the replication of existing successful public charter schools, any proposed management company or educational service provider responsibilities, and the nature and extent of parental, professional educator, and community involvement in the governance and operation of the charter school;

~~(8)~~(9) a description of how the charter school plans to ensure that the enrollment of the school is similar to the racial composition of the local school district in which the charter school is to be located or the targeted student population of the local school district that the charter school proposes to serve and provide assurance that the school does not conflict with any school district desegregation plan or order in effect for the school district in which the charter school is to be located;

~~(9)~~(10) a description of how the charter school plans to meet the transportation needs of its pupils;

~~(10)~~(11) a description of the building, facilities, and equipment and how they shall be obtained;

~~(11)~~(12) an explanation of the relationship that shall exist between the proposed charter school and its employees, including a staffing chart aligned with the budget and student enrollment projections, descriptions of evaluation procedures, and evidence that the terms and conditions of employment have been addressed with affected employees;

~~(12)~~(13) a description of a reasonable grievance and termination procedure, as required by this chapter, including notice and a hearing before the governing body of the charter school. The application must state whether or not the provisions of Article 5, Chapter 25, Title 59 apply to the employment and dismissal of teachers at the charter school;

~~(13)~~(14) a description of student rights and responsibilities, including behavior and discipline standards, and a reasonable hearing procedure, including notice and a hearing before the board of directors of the charter school before expulsion;

~~(14)~~(15) an assumption of liability by the charter school for the activities of the charter school and an agreement that the charter school must indemnify and hold harmless the sponsor, its servants, agents, and employees, from any and all liability, damage, expense, causes of action, suits, claims, or judgments arising from injury to persons or property or otherwise which arises out of the act, failure to act, or negligence of the charter school, its agents and employees, in connection with or arising out of the activity of the charter school; and

~~(15)~~(16) a description of the types and amounts of insurance coverage to be obtained by the charter school.

(G) Nothing in this section shall require a charter school applicant to provide a list of prospective or tentatively enrolled students or prospective employees with the application.”

SECTION 4. Section 59‑40‑70 of the 1976 Code, as last amended by Act 164 of 2012, is further amended to read:

“Section 59‑40‑70. (A) ~~The Charter School Advisory Committee must be established by the State Board of Education to review charter school applications for compliance with established standards that reflect the requirements and intent of this chapter. Members must be appointed by the State Board of Education unless otherwise indicated.~~

~~(1) The advisory committee shall consist of eleven members as follows:~~

~~(a) South Carolina Association of School Administrators, the executive director or his designee;~~

~~(b) South Carolina Chamber of Commerce, the executive director or his designee and one additional representative from the chamber;~~

~~(c) South Carolina Education Oversight Committee, the chair or a business designee;~~

~~(d) South Carolina Commission on Higher Education, the chair or his designee;~~

~~(e) South Carolina School Boards Association, the executive director or his designee;~~

~~(f) South Carolina Alliance of Black Educators, the president or his designee;~~

~~(g) one teacher and one parent to be appointed by the State Superintendent of Education; and~~

~~(h) one charter school principal and one charter school board member to be appointed by the Governor.~~

~~(2) As an application is reviewed, a representative from the board of trustees or area commission from which the committee is seeking sponsorship and a representative of the charter committee shall serve on the advisory committee as ex officio nonvoting members. If the applicant indicates a proposed contractual agreement with the local school district in which the charter school is located, a representative from the local school board of trustees of that district shall serve on the advisory committee as an ex officio, nonvoting member.~~

~~(3) Appointing authorities shall give consideration to the appointment of minorities and women as representatives on the committee.~~

~~(4) The committee shall establish bylaws for its operation that must include terms of office for its membership.~~

~~(5)~~(1) An applicant shall submit a letter of intent at least ninety days before submitting an application to the board of trustees or area commission from which it is seeking sponsorship and a copy to the South Carolina Department of Education.

(2) An applicant shall submit the application ~~to the advisory committee and one copy~~ to the board of trustees or area commission from which it is seeking sponsorship and one copy to the South Carolina Department of Education. In the case of the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor, the applicant shall provide notice of the application to the local school board of trustees in which the charter school will be located for informational purposes only. The ~~advisory committee shall receive input from the~~ school district or the public or independent institution of higher learning from which the applicant is seeking sponsorship ~~and shall~~ may request clarifying information from the applicant. ~~An applicant may submit an application to the advisory committee pursuant to State Board of Education regulations and the advisory committee, within ninety days, shall determine whether the application is in compliance. An application that is in compliance must be forwarded to the board or area commission of the school district or the public or independent institution of higher learning from which the applicant is seeking sponsorship with a letter stating the application is in compliance. The letter also shall include a recommendation from the Charter School Advisory Committee to approve or deny the charter. The letter must specify the reasons for its recommendation. This recommendation is nonbinding on the school board of trustees or area commission. If the application is in noncompliance, it must be returned to the applicant with deficiencies noted. The applicant may appeal the decision to the Administrative Law Court.~~ The State Department of Education shall provide guidance on compliance to both sponsors and applicants.

~~(6)~~(3) The ~~advisory committee~~ applicant shall notify the local delegation of a county in which a proposed charter school is to be located upon ~~receipt~~ submission of a charter school application and also shall provide a copy of the charter school application upon request by a member of the local delegation.

(B) The board of trustees or area commission from which the applicant is seeking sponsorship shall rule on the application for a charter school in a public hearing, upon reasonable public notice, within ~~forty‑five~~ ninety days after receiving the application. If there is no ruling within ~~forty‑five~~ ninety days, the application is considered approved. Once the application has been approved by the board of trustees or area commission, the charter school may open at the beginning of the following year. However, before a charter school may open, the State Department of Education shall verify the accuracy of the financial data for the school within forty‑five days after approval.

(C) A board of trustees or area commission shall deny an application only if the application does not meet the requirements specified in Section 59‑40‑50 or 59‑40‑60, fails to meet the spirit and intent of this chapter, or adversely affects, as defined in regulation, the other students in the district in which the charter school is to be located, or if, based on the totality of information provided by the applicant, the board of trustees or area commission determines that the applicant has failed to demonstrate a substantial likelihood that it has the capacity to establish a viable school based on national industry standards of quality charter school authorization. It shall provide, within ten days, a written explanation of the reasons for denial, citing specific standards related to provisions of Section 59‑40‑50 or 59‑40‑60 that the application violates. This written explanation immediately must be sent to the charter committee and filed with the State Board of Education ~~and the Charter School Advisory Committee~~.

(D) In the event that the racial composition of an applicant’s or charter school’s enrollment differs from the enrollment of the local school district in which the charter school is to be located or the targeted student population of the local school district by more than twenty percent, despite its best efforts, the board of trustees or area commission from which the applicant is seeking sponsorship shall consider the applicant’s or the charter school’s recruitment efforts and racial composition of the applicant pool in determining whether the applicant or charter school is operating in a nondiscriminatory manner. A finding by the board of trustees or area commission that the applicant or charter school is operating in a racially discriminatory manner justifies the denial of a charter school application or the revocation of a charter as provided in this section or in Section 59‑40‑110, as may be applicable. A finding by the board of trustees or area commission that the applicant is not operating in a racially discriminatory manner justifies approval of the charter without regard to the racial percentage requirement if the application is acceptable in all other aspects.

(E) If the board of trustees or area commission from which the applicant is seeking sponsorship denies a charter school application, the charter applicant may appeal the denial to the Administrative Law Court pursuant to Section 59‑40‑90.

(F) If the board of trustees or area commission approves the application, it becomes the charter school’s sponsor and shall sign the approved application. The sponsor shall submit a copy of the charter contract to the State Board of Education.

(G) If a local school board of trustees has information that an approved application by the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor adversely affects the other students in its district, as defined in regulation, or that the approval of the application fails to meet the spirit and intent of this chapter, the local school board of trustees may appeal the granting of the charter to the Administrative Law Court. The Administrative Law Court, within forty‑five days, may affirm or reverse the application for action by the South Carolina Public Charter School District or the public or independent institution of higher learning in accordance with an order of the state board.”

SECTION 5. Section 59‑40‑90 of the 1976 Code, as last amended by Act 239 of 2008, is further amended to read:

“Section 59‑40‑90. A final decision of the school district or a public or independent institution of higher learning sponsor may be appealed by any party to the Administrative Law Court as provided in Sections 1‑23‑380(B) and 1‑23‑600(D).”

SECTION 6. Section 59‑40‑110 of the 1976 Code, as last amended by Act 164 of 2012, is further amended to read:

“Section 59‑40‑110. (A) A charter must be approved or renewed for a period of ten school years; however, the charter only may be revoked or not renewed under the provisions of subsection (C) of this section. The sponsor annually shall evaluate the conditions outlined in subsection (C). The annual evaluation results must be used in making a determination for nonrenewal or revocation.

(B) A charter renewal application must be submitted to the school’s sponsor one hundred twenty calendar days before the end of the school year for term of the charter contract, and it must contain:

(1) a report on the progress of the charter school in achieving the goals, objectives, pupil achievement standards, and other terms of the initially approved charter application; ~~and~~

(2) a financial statement that discloses the costs of administration, instruction, and other spending categories for the charter school that is understandable to the general public and that allows comparison of these costs to other schools or other comparable organizations, in a format required by the State Board of Education~~.~~; and

(3) any proposed material changes to the current charter or charter school contract to be implemented in the next ten year charter term.

(C) A charter must be revoked or not renewed by the sponsor if it determines that the charter school:

(1) committed a material violation of the conditions, standards, performance expectations, or procedures provided for in the charter application or charter school contract, or both;

(2) failed to meet ~~or make reasonable progress,~~ the academic performance standards and expectations as defined in the charter application or charter school contract, or both~~, toward pupil achievement standards identified in the charter application~~;

(3) failed to maintain its books and records according to generally accepted accounting principles or failed to create an appropriate system of internal control, or both ~~meet generally accepted standards of fiscal management~~; or

(4) violated any provision of law from which the charter school was not specifically exempted.

(D) A sponsor summarily may revoke any charter school that is determined by the sponsor to pose an imminent threat of harm to the health or safety of students, or both, based on documented and clear and convincing data.

(E) Any charter school shall automatically and permanently close at the conclusion of the school year in which the school first becomes subject to automatic closure for receiving the lowest performance level rating as defined by the federal accountability system for two consecutive years. The determination of closure is considered final. No charter school is subject to automatic closure during its first two years of operation. Automatic closure shall not apply to any charter school serving fifty percent or more students with disabilities or any charter school designated as an Alternative Education Campus (AEC) by its sponsor as outlined in Section 59‑40‑111.

(F) At least sixty days before not renewing or terminating a charter school, the sponsor shall notify in writing the charter school’s governing body of the proposed action. The notification shall state the grounds for the proposed action in reasonable detail. Termination must follow the procedure provided for in this section.

~~(E)~~(G) The existence of another charter granting authority must not be grounds for the nonrenewal or revocation of a charter. Grounds for nonrenewal or revocation must be only those specified in subsection (C) of this section.

~~(F)~~(H) The charter school’s governing body may request in writing a hearing before the sponsor within fourteen days of receiving notice of nonrenewal or termination of the charter. Failure by the school’s governing body to make a written request for a hearing within fourteen days must be treated as acquiescence to the proposed action. Upon receiving a timely written request for a hearing, the sponsor shall give reasonable notice to the school’s governing body of the hearing date. The sponsor shall conduct a hearing before taking final action. The sponsor shall take final action to renew or not renew a charter by the last day of classes in the last school year for which the charter school is authorized.

~~(G)~~(I) A charter school seeking renewal may submit a renewal application to another charter granting authority if the charter school has not committed a material violation of the provisions specified in subsection (C) of this section and the sponsor refuses to renew the charter. In such cases, the charter school shall continue to receive local funding pursuant to Section 59‑40‑140(A). However, the charter school is not eligible to receive one hundred percent of the base student cost from the State. The charter school only is eligible to receive the percentage of the base student cost previously received as a school in its former district.

~~(H)~~(J) A decision to revoke or not to renew a charter school may be appealed to the Administrative Law Court pursuant to the provisions of Section 59‑40‑90. Upon appeal to the Administrative Law Court, there is no automatic stay of the revocation or nonrenewal decision. The serving and the filing of the appeal itself shall not automatically operate as a suspension of the revocation or nonrenewal decision. If, pending determination of the appeal, it appears to the court that an unusual hardship to the charter school will result from the execution of the sponsor’s order to revoke or not renew, the court may grant a suspension and fix its terms upon the filing of a petition by the charter school under Rule 65 of the South Carolina Rules of Civil Procedure.”

SECTION 7. Section 59‑40‑115 of the 1976 Code, as last amended by Act 239 of 2008, is further amended to read:

“Section 59‑40‑115. A charter school may terminate its contract with a sponsor before the ten‑year term of contract if all parties under contract with the charter school agree to the dissolution. A charter school that terminates its contract with a sponsor directly may seek application for the length of time remaining on its original contract from another sponsor ~~without review from the Charter School Advisory Committee~~.”

SECTION 8. Section 59‑40‑180 of the 1976 Code, as last amended by Act 239 of 2008, is further amended to read:

“Section 59‑40‑180. The State Board of Education shall promulgate regulations and develop guidelines necessary to implement the provisions of this chapter, including standards ~~which the Charter School Advisory Committee shall use~~ to determine compliance with this chapter and an application process to include a timeline for submission of applications that will allow for final decisions, including Administrative Law Court appeal, by December first of the year preceding the charter school’s opening.”

SECTION 9. This act takes effect upon approval by the Governor.

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