**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “CHARTER SCHOOL ACCOUNTABILITY ACT”; TO AMEND SECTION 59‑40‑30, RELATING TO THE INTENT OF THE GENERAL ASSEMBLY IN THE CHARTER SCHOOLS ACT, SO AS TO INCLUDE PROVISIONS CONCERNING GOVERNANCE AND ACCOUNTABILITY; TO AMEND SECTION 59‑40‑40, RELATING TO DEFINITIONS CONCERNING CHARTER SCHOOLS, SO AS TO REVISE DEFINITIONS; TO AMEND SECTION 59‑40‑55, RELATING TO CHARTER SCHOOL POWERS AND DUTIES, SO AS TO INCLUDE PROVISIONS CONCERNING GOVERNANCE AND ACCOUNTABILITY; TO AMEND SECTION 59‑40‑75, AS AMENDED, RELATING TO THE REMOVAL OF CHARTER SCHOOL GOVERNING BODY MEMBERS AND SPONSORS, SO AS TO REMOVE REFERENCES TO THE SOUTH CAROLINA PUBLIC CHARTER SCHOOL DISTRICT AND MAKE CERTAIN PROVISIONS APPLICABLE TO SPONSORS; TO AMEND SECTION 59‑40‑115, RELATING TO THE TERMINATION OF SPONSOR CONTRACTS BY CHARTER SCHOOLS, SO AS TO REVISE CRITERIA FOR VOLUNTARY TERMINATIONS AND PROVIDE PROCEDURES AND REQUIREMENTS FOR TRANSFERS TO OTHER SPONSORS; TO AMEND SECTION 59‑40‑150, RELATING TO DUTIES OF THE STATE DEPARTMENT OF EDUCATION CONCERNING CHARTER SCHOOLS, SO AS TO INCLUDE PROVISIONS CONCERNING CHARTER SCHOOL SPONSORS; AND TO AMEND SECTION 59‑40‑180, RELATING TO THE PROMULGATION OF REGULATIONS CONCERNING CHARTER SCHOOLS BY THE DEPARTMENT, SO AS TO PROVIDE REQUIREMENTS CONCERNING SPONSORS AND REVISE OTHER REQUIREMENTS.

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

SECTION 1. This act must be known and may be cited as the “Charter School Accountability Act”.

SECTION 2. Section 59‑40‑30 of the 1976 Code is amended by adding an appropriately lettered subsection to read:

“( ) It is the intent of the General Assembly to promote quality charter school choices for parents and students by ensuring good school governance, ensuring accountability and oversight of charter schools and charter school sponsors, and avoiding the instability, fiscal challenges, and potential negative outcomes associated with charter hopping and charter shopping. As such, the provisions of this chapter must be interpreted to encourage good governance, accountability, and oversight of charter schools and charter school sponsors.”

SECTION 3. Section 59‑40‑40(4) of the 1976 Code is amended to read:

“(4) ‘Sponsor’ means the South Carolina Public Charter School District Board of Trustees, the local school board of trustees in which the charter school is to be located, as provided by law, a public institution of higher learning as defined in Section 59‑103‑5, or an independent institution of higher learning as defined in Section 59‑113‑50, from which the charter school applicant requested its charter and which granted approval for the charter school’s existence. Only those public or independent institutions of higher learning, as defined in this subsection, ~~who register~~ registered with the ~~South Carolina~~ State Department of Education as of July 1, 2021, or approved by an application process developed by the State Board of Education pursuant to this chapter after July 1, 2021, may serve as charter school sponsors, and the department shall maintain a directory of those institutions. The sponsor of a charter school is the charter school’s Local Education Agency (LEA) and a charter school is a school within that LEA. The sponsor retains responsibility for special education and shall ensure that students enrolled in its charter schools are served in a manner consistent with LEA obligations under applicable federal, state, and local law.”

SECTION 4. Section 59‑40‑55(A) and (B) of the 1976 Code is amended to read:

“(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~~ and implement policies, procedures, and practices that ensure good governance and accountability and are consistent with ~~those standards~~ the charter school sponsor’s powers and duties as an LEA as provided in this chapter.

(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~~ an annual report on the performance of each of its sponsored charter schools and sponsor performance to the State Board of Education before June thirtieth annually;

(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;

(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 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 three consecutive years in accordance with Section 59‑40‑110(E).”

SECTION 5. Section 59‑40‑75 of the 1976 Code, as last amended by Act 32 of 2021, is further amended to read:

“Section 59‑40‑75. (A) A member of ~~the South Carolina Public Charter School District or of the governing board or sponsor~~ ~~of the~~ a sponsor or charter school governing board who is indicted in any court for any crime, or has waived the indictment if permitted by law, may be suspended by the Governor, who shall appoint another in his stead until he is acquitted. In case of conviction, the office must be declared vacant by the Governor and the vacancy filled as provided by law.

(B) Notwithstanding another provision of law to the contrary, members of a sponsor or charter school ~~board of directors~~ governing board who wilfully commit or engage in an act of malfeasance, misfeasance, absenteeism, conflicts of interest, misconduct, or persistent neglect of duty in office, or are deemed incompetent or incapacitated, ~~may be removed from office~~ must be subject to removal by the Governor upon any of the forgoing causes being made to appear to the satisfaction of the Governor. Before removing ~~the~~ any such officer, the Governor shall inform him in writing of the specific charges brought against him and give him an opportunity on reasonable notice to be heard. Vacancies occurring in the membership of any governing board ~~of directors~~ as a result of removal pursuant to this subsection must be filled in the manner provided in the ~~charter school’s~~ bylaws of the charter school or sponsor, as applicable.

(C) Whenever it appears to the satisfaction of the Governor that probable cause exists to charge a member ~~of the South Carolina Public Charter School District or~~ of the governing board of a sponsor or a ~~the~~ charter school who has the custody of public or trust funds with embezzlement or the appropriation of public or trust funds to private use, then the Governor shall direct his immediate prosecution by the proper officer.”

SECTION 6. Section 59‑40‑115 of the 1976 Code is amended to read:

“Section 59‑40‑115. (A) A charter school voluntarily may terminate its charter and contract with ~~a~~ the sponsor before the expiration of the ten‑year term of the 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~~ by a majority vote of the charter school board, which constitutes a dissolution event of the corporation.

(B) In order for a charter school to transfer its charter to another sponsor, it must obtain the approval of its current sponsor and the proposed new sponsor pursuant to procedures in this section.

(1) A charter school shall submit a written request to the current sponsor to transfer its charter to a different sponsor before September first. The transfer must be effective on July first of the following year.

(2) The proposed new sponsor shall issue a written final decision approving or denying the request to transfer before October thirty‑first. The request may be denied for any reason that is not arbitrary, capricious, discriminatory, or otherwise violative of law. A copy of the final decision must be served on the charter school applying to transfer, the current sponsor, and the State Department of Education before November fifth.

(3) If the proposed new sponsor approves the request to transfer, the current sponsor shall issue a final decision approving or denying the request to transfer before December thirty‑first. The sponsor may, but is not required to, permit the charter school to submit materials or information to support its transfer request, all of which must be submitted at least five business days before the board hearing. No hearing is required. If a sponsor fails to comply with this section, the State Department of Education may compel the sponsor to comply with this section by withholding the sponsor’s fees related to the charter school seeking to transfer until a final decision is issued.

(4) Items (1) through (3) must be conducted in the year in which the request was submitted following proper notice, public discussion, and a vote by the board during a public meeting in accordance with the Freedom of Information Act.

(5) The current sponsor shall deny a request to transfer to the proposed new sponsor if the current sponsor determines the charter school’s request to transfer is to avoid accountability, prohibited by law, untimely, or other good cause to deny the transfer exits.

(6) Good cause to deny the charter school’s transfer request includes, but is not limited to:

(a) violations of the charter, contract, or applicable law, that have not been resolved by the charter school;

(b) receipt of the lowest performance level rating under the state or federal accountability system at any grade level during the past two academic years by the charter school seeking to transfer;

(c) more than one transfer request by the charter school within a five‑year period; or

(d) the charter school has operated less than three years with the current sponsor.

(7) The final decision of the current sponsor is appealable to the Administrative Law Court.”

SECTION 7. Section 59‑40‑150 of the 1976 Code is amended to read:

“Section 59‑40‑150. (A) The Department of Education shall disseminate information to the public, directly and through sponsors, on how to form and operate a charter school and how to utilize the offerings of a charter school.

(B) At least annually, the department shall provide upon request a directory of all charter schools authorized under this chapter with information concerning the educational goals of each charter school, the success of each charter school in meeting its educational goals, and procedures to apply for admission to each charter school.

(C) The department shall fulfill all duties of the State Education Agency (SEA) for each sponsor and shall provide technical assistance, oversight, and guidance to sponsors for compliance with LEA responsibilities to the same extent as other LEAs in this State. Sanctions issued by the department against a sponsor may be appealed to the Administrative Law Court and must be stayed pending resolution of the appeal.

(D) The department annually shall review the policies, procedures, and performance of each sponsor for compliance with the provisions of this chapter, state regulations, and other state and federal law.

(E) The department shall bear the cost of complying with this section.”

SECTION 8. Section 59‑40‑180 of the 1976 Code is 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 to determine compliance with this chapter and an application process for new sponsors and charter schools 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~~ to be issued consistent with budget and funding needs.”

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

‑‑‑‑XX‑‑‑‑