**South Carolina General Assembly**

125th Session, 2023-2024

**S. 126**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Hembree

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Introduced in the Senate on January 10, 2023

Currently residing in the Senate

Summary: Charter School Accountability Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

11/30/2022 Senate Prefiled

11/30/2022 Senate Referred to Committee on **Education**

1/10/2023 Senate Introduced and read first time ([Senate Journal‑page 70](h:\sj\20230110.docx))

1/10/2023 Senate Referred to Committee on **Education** ([Senate Journal‑page 70](h:\sj\20230110.docx))

4/19/2023 Senate Committee report: Favorable with amendment **Education** ([Senate Journal‑page 6](h:\sj\20230419.docx))

4/21/2023 Scrivener's error corrected

View the latest  [legislative information](https://www.scstatehouse.gov/billsearch.php?billnumbers=126&session=125&summary=B)  at the website

**VERSIONS OF THIS BILL**

[12/01/2022](https://www.scstatehouse.gov/sess125_2023-2024/prever/126_20221201.docx)

[04/19/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/126_20230419.docx)

[04/21/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/126_20230421.docx)

Indicates Matter Stricken

Indicates New Matter

Committee Report

April 19, 2023

S. 126

Introduced by Senator Hembree

S. Printed 04/19/23--S. [SEC 4/21/2023 10:54 AM]

Read the first time January 10, 2023

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The committee on Senate Education

To who was referred a Bill (S. 126) to amend the South Carolina Code of Laws by enacting the “Charter School Accountability Act”; by amending Section 59-40-30, relating to the intent of the General, 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, by striking SECTION 2 and inserting:

SECTION X. Section 59-40-40 of the S.C. Code is amended to read:

Section 59-40-40. As used in this chapter:

(1) A “charter school” means a public, nonreligious, nonhome-based, nonprofit corporation forming a school that operates by sponsorship authorization of a public school district, the South Carolina Public Charter School District, or a public or independent institution of higher learning, but is accountable to the board of trustees, or in the case of technical colleges, the area commission, of the sponsor authorizer which grants its charter. Nothing in this chapter prohibits charter schools from offering virtual services pursuant to state law and subsequent regulations defining virtual schools.

(2) A charter school:

(a) is, for purposes of state law and the state constitution, considered a public school and part of the South Carolina Public Charter School District, the local school district in which it is located, or is sponsored authorized by a public or independent institution of higher learning;

(b) is subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services; however, an applicant may seek to form a single gender charter school without regard to the gender makeup of that proposed charter school;

(c) must be administered and governed by a governing body in a manner agreed to by the charter school applicant and the sponsorauthorizer, the governing body to be selected as provided in Section 59-40-50(B)(9);

(d) may not charge tuition or other charges pursuant to Section 59-19-90(8) except as may be allowed by the sponsor authorizer and is comparable to the charges of the local school district in which the charter school is located;

(e) is subject to the same fixed asset inventory requirements as are traditional public schools.

(3) “Applicant” means the person who or nonprofit corporate entity that desires to form a charter school and files the necessary application with 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, or the board of trustees or area commission of a public or independent institution of higher learning. The applicant also must be the person who or the nonprofit corporate entity that applies to the Secretary of State to organize the charter school as a nonprofit corporation.

(4) “SponsorAuthorizer” 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 registerregistered with the South CarolinaState Department of Education as of July 1, 2022, or approved by an application process developed by the State Board of Education pursuant to this chapter after July 1, 2022, may serve as charter school sponsorsauthorizers, and the department shall maintain a directory of those institutions. The sponsor authorizer 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 authorizer 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.

(5) “Certified teacher” means a person currently certified by the State of South Carolina to teach in a public elementary or secondary school or who currently meets the qualifications outlined in Sections 59-27-10 and 59-25-115.

(6) “Noncertified teacher” means an individual considered appropriately qualified for the subject matter taught and who has completed at least one year of study at an accredited college or university and meets the qualifications outlined in Section 59-25-115.

(7) “Charter committee” means the governing body of a charter school formed by the applicant to govern through the application process and until the election of a board of directors is held. After the election, the board of directors of the corporation must be organized as the governing body and the charter committee is dissolved.

(8) “Local school district” means any school district in the State except the South Carolina Public Charter School District and does not include special school districts.

(9) “Charter school contract” means a fixed term, renewable contract between a charter school and a sponsoran authorizer that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract.

(10) “Resident public school” means the school, other than a charter school, within whose attendance boundaries the charter school student's custodial parent or legal guardian resides.

(11) “Charter management company” means any not-for-profit organization that (A) is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time, and (B) contracts with a charter school for educational design, implementation or whole school management services.

(12) “Education management company” means any for-profit organization that contracts with a charter school for educational design, implementation, or whole school management services.

(13) “Whole school management services” means the financial, business, operation, and administrative functions for a school.

SECTION X. Section 59-40-50(B) of the S.C. Code is amended to read:

(B) A charter school must:

(1) adhere to the same health, safety, civil rights, and disability rights requirements as are applied to public schools operating in the same school district or, in the case of the South Carolina Public Charter School District or a public or independent institution of higher learning sponsorauthorizer, the local school district in which the charter school is located;

(2) meet, but may exceed, the same minimum student attendance requirements as are applied to public schools;

(3) adhere to the same financial audits, audit procedures, and audit requirements as are applied to public schools, and post their annual audit in a prominent location on its website;

(4) be considered a school district for purposes of tort liability under South Carolina law, except that the tort immunity does not include acts of intentional or wilful willful racial discrimination by the governing body or employees of the charter school. Employees of charter schools must be relieved of personal liability for any tort or contract related to their school to the same extent that employees of traditional public schools in their school district or, in the case of the South Carolina Public Charter School District or a public or independent institution of higher learning sponsorauthorizer, the local school district in which the charter school is located are relieved;

(5) in its discretion hire noncertified teachers in a ratio of up to twenty-five percent of its entire teacher staff; however, if it is a converted charter school, it shall hire in its discretion noncertified teachers in a ratio of up to ten percent of its entire teacher staff. However, in either a new or converted charter school, a teacher teaching in the core academic areas as defined by the federal No Child Left Behind law must be certified in those areas or possess a baccalaureate or graduate degree in the subject he or she is hired to teach. Part-time noncertified teachers are considered pro rata in calculating this percentage based on the hours which they are expected to teach;

(6) hire or contract for, in its discretion, administrative staff, including a school leader, to oversee the daily operation of the school. At least one of the administrative staff must be certified or experienced in the field of school administration;

(7) admit all children eligible to attend public school to a charter school, subject to space limitations, except in the case of an application to create a single gender charter school or, in the case of a charter school designated as an Alternative Education Campus, pursuant to Section 59-40-111, with an explicit mission and purpose of specializing in providing evidence-based, specific educational or behavioral health services for educationally disadvantaged students with a demonstrated need for such services. Demonstrated need may include, but not be limited to, as documented in an Individualized Education Program (IEP), 504 plan, a medical or psychological diagnosis, or documentation that the student is not meeting grade-specific standards in literacy as documented by the student's school. For purposes of this section, educationally disadvantaged students are those students as defined by the Every Student Succeeds Act (ESSA). Evidence-based services must include, but are not limited to, services to students who need evidence-based, specialized, multi-sensory instruction in literacy or other services included in the students' IEP or 504 plan. This specialized mission and purpose must be defined in the school's charter and charter contract as approved by the sponsor authorizer and as allowed by ESSA. However, it is required that the racial composition of the charter school enrollment reflect that of the local school district in which the charter school is located or that of the targeted student population of the local school district that the charter school proposes to serve, to be defined for the purposes of this chapter as differing by no more than twenty percent from that population. This requirement is also subject to the provisions of Section 59-40-70(D). If the number of applications exceeds the capacity of a program, class, grade level, or building, students must be accepted by lot, and there is no appeal to the sponsorauthorizer. In the case of a charter school designated as an Alternative Education Campus, pursuant to Section 59-40-111, that is serving educationally disadvantaged students, if the number of applicants exceeds the capacity of a program, class, grade level, or building, students may be accepted by weighted lot as allowed by ESSA with mission-aligned preference and the process clearly described in their charter and charter contract approved by their sponsorauthorizer, and there is no appeal to the sponsorauthorizer;

(8) not limit or deny admission or show preference in admission decisions to any individual or group of individuals, except in the case of an application to create a single gender charter school, in which case gender may be the only reason to show preference or deny admission to the school; a charter school may give enrollment priority to a sibling of a pupil currently enrolled and attending, or who, within the last six years, attended the school for at least one complete academic year. A public charter school shall give enrollment preference to students enrolled in the public charter school the previous school year. An enrollment preference for returning students excludes those students from entering into a lottery. A charter school also may give priority to children of a charter school employee and children of the charter committee, if priority enrollment for children of employees and of the charter committee does not constitute more than twenty percent of the enrollment of the charter school. In the case of a charter school designated as an Alternative Education Campus, pursuant to Section 59-40-111, mission-aligned preference may be given to educationally disadvantaged students as specifically defined in their charter and charter contract approved by their sponsor authorizer and as allowed by ESSA. In addition, a charter school located on a federal military installation or base where the appropriate authorities have made buildings, facilities, and grounds on the installation or base available for use by the charter school as its principal location also may give enrollment priority to otherwise eligible students who are dependents of military personnel living in military housing on the base or installation or who are currently stationed at the base or installation not to exceed fifty percent of the total enrollment of the charter school. This priority is in addition to the other priorities provided by this item, but no child may be counted more than once for purposes of determining the percentage makeup of each priority;

(9) consist of a board of directors of seven or more individuals with the exact number specified in or fixed in accordance with the bylaws. Members of a board of directors may serve a term of two years, and may serve additional terms. A choice of the membership of the board must take place every two years. Fifty percent of the members of the board as specified by the bylaws must be individuals who have a background in K-12 education or in business, and the bylaws of the charter school also must provide for the manner of selection of these members. In addition, at least fifty percent of the members of the board as specified by the bylaws must be elected by the employees and the parents or guardians of students enrolled in the charter school. Parents or guardians shall have one vote for each student enrolled in the charter school. All members must be residents of the State of South Carolina. A person who has been convicted of a felony must not be elected to a board of directors. If the board of directors consists of an odd number of members, the extra member must be an individual who has a background in K-12 education or in business;

(10) be subject to the Freedom of Information Act, including the charter school and its governing body. A board of directors of a charter school shall notify its sponsor authorizer of any regular meeting of the board at least forty-eight hours prior to the date on which it is to occur;

(11) be subject to the ethics and government accountability requirements for public members and public employees as contained in Chapter 13, Title 8. For purposes of this subsection, employees of the charter school board are considered public employees. The charter contract in accordance with Section 59-40-60(B) must contain a statement of assurance of ethical compliance on behalf of the school.

(12) notify and provide a copy of any executed or amended charter or education management contracts to the authorizer. Contracts must also be posted in a prominent location on its website;

Amend the bill further, SECTION 3, by striking Section 59-40-55(A) and (B) and inserting:

(A) In order to promote the quality of charter school outcomes and oversight, the charter school sponsor authorizer 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 authorizer’s powers and duties as an LEA as provided in this chapter.

(B) A charter school sponsor authorizer 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 authorizer 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 authorized charter schools and submit the reports to the Department of Education the report on the performance of each of its authorized charter schools and authorizers performance to the State Board of Education before December thirtieth;

(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 authorizer 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 authorizer 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).;

(12) post in a prominent location on its website all charter school applications, renewal applications and any charter or education management contracts associated with the charter schools;

(13) post in a prominent location on its website their budget as an authorizer, including revenues, source of revenue, and expenditures. If the authorizer has charged fees to a charter school for services, those fees must be listed by individual school; and

(14) review and notify the charter schools of any perceived problems on all charter or education management contracts.

Amend the bill further, SECTION 3, by adding:

(C) The South Carolina Public Charter School DistrictA charter school authorizer 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. An authorizer may offer additional services however the charter school shall be under no obligation to purchase those services from the authorizer. A charter school may not be penalized or have its charter revoked based upon their failure to purchase offered services from the authorizer. 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 authorizer’s fee is not applicable to federal money or grants received by the charter school. The sponsor authorizer shall use its funding provided pursuant to this section exclusively for the purpose of fulfilling sponsor authorizer obligations in accordance with this chapter.

(D) The State Board of Education shall conduct regular reviews to monitor and evaluate the performance of all charter school authorizers, informed by the annual report provided for in this section. The review process must include an examination of how authorizers meet standards and practices, an evaluation of each authorizer’s charter schools performance, and review of each authorizer’s record of renewal, revocation, and authorization decisions. The State Board of Education shall issue citations of concern to the authorizer and in the case of continuous poor performance may terminate a charter school authorizer’s registration. The State Board of Education shall allow an authorizer the ability to have a hearing prior to any consideration of registration termination. All appeals from the State Board of Education’s decisions to terminate registration shall be made to the Administrative Law Court.

Amend the bill further, by adding appropriately numbered SECTIONS to read:

SECTION X. Section 59-40-60(F) of the S.C. Code is amended to read:

(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;

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

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

(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 standards adopted by the State Board of Education and how the instructional design, learning environment, class size and structure, curriculum, and teaching methods enable each pupil to achieve these standards;

(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;

(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 sponsorauthorizer, is to be conducted;

(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;

(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;

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

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

(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;

(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;

(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;

(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 sponsorauthorizer, 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

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

(17) a copy of any proposed charter or education management contracts contemplated by the charter school. The contract must include a term sheet that sets forth the length of the contract, the roles and responsibilities of the governing board of the charter school, the staff of the charter school and the staff of the management company, the scope of services and resources to be provided by the management company, the performance evaluation measures and timelines, the compensation structure, including clear identification of all fees to be paid to the charter management organization, the methods of contract oversight and enforcement, the conditions of renewal and termination of the contract and assurances that the governing board of the charter school, at all times, maintains independent fiduciary oversight and authority over the school budget and ultimate responsibility for the school’s performance.

SECTION X. Section 59-40-70(B) of the S.C. Code is amended to read:

(B) The board of trustees or area commission from which the applicant is seeking sponsorship authorization shall rule on the application for a charter school in a public hearing, upon reasonable public notice, within not less than forty-five days nor more than ninety days after receiving the application. If there is no ruling within 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.

Amend the bill further, SECTION 4, by striking Section 59-40-75(A), (B), and (C) and inserting:

(A) A member of the South Carolina Public Charter School District or of the governing board or sponsor of the an authorizer or the 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, or the charges are dismissed. In case of conviction, the office must be declared vacant by the Governor and the vacancy filled as provided by lawin the same manner as provided for full-term appointments.

(B) Notwithstanding another provision of law to the contrary, members of a an authorizer or charter school board of directors governing board who wilfullywillfully commit or engage in an act of malfeasance, misfeasance, chronic unexcused absenteeism, conflicts of interest, misconduct, or persistent neglect of duty in office, or are deemed medically incompetent or medically 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 .same manner as provided for full-term appointments.

(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 authorizer 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.

(D) An individual is prohibited from serving as a member of the governing board of either a charter school or charter school authorizer if the individual, an immediate family member, or the individual’s spouse is a full or part owner or principal with an entity with whom the charter school or authorizer contracts, directly or indirectly, for professional services, goods or facilities or is an employee of the charter school authorizer.

(E) An individual is prohibited from employment by an authorizer of a charter school, if the individual, an immediate family member, or the individual’s spouse is employed in a position to exercise direct or indirect financial decision making authority with a charter school authorized by the authorizer.

For the purpose of this section immediate family member means a child, a spouse, or an individual claimed by the individual as a dependent for income tax purposes.

(F) An individual may not serve simultaneously as a member of more than one governing board of either a charter school or a charter school authorizer.

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

SECTION X. Section 59-40-90 of the S.C. Code is 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).An appeal of any final decision made pursuant to this chapter must be made to the Administrative Law Court provided in Sections 1-23-380(B) and 1-23-600(D).

Amend the bill further, SECTION 5, by striking Section 59-40-115(A) and (B) and inserting:

(A) A charter school voluntarily may terminate its charter and contract with a the sponsor authorizer 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 authorizer, it must obtain the approval of its current authorizer and the proposed new authorizer pursuant to procedures in this section.

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

(2) The proposed new authorizer shall issue a written final decision approving or denying the request to transfer before October thirty‑first. The request to transfer may be denied by the proposed new authorizer for any reason however if the proposed authorizer determines the charter school’s request to transfer is, to avoid accountability, prohibited by law or untimely, the transfer must be denied. A copy of the final decision must be served on the charter school applying to transfer, the current authorizer, and the State Department of Education before November fifth.

(3) If the proposed new authorizer approves the request to transfer, the current authorizer shall issue a final decision approving or denying the request to transfer before December thirty‑first. The authorizer must 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. A hearing must be granted if a charter school makes a request at least five business days before the board meeting. If an authorizer fails to comply with this section, the State Department of Education may compel the authorizer to comply with this section by withholding the authorizer’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 authorizer must deny a request to transfer to the proposed new authorizer if the current authorizer 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 during the past two academic years by the charter school seeking to transfer;

(c) more than two transfer requests by the charter school within a ten‑year period; or

(d) the charter school has operated less than two years with the current authorizer.

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

Amend the bill further, SECTION 6, by striking Section 59-40-150(A) and inserting:

(A) The Department of Education shall disseminate information to the public, directly and through sponsorsauthorizers, on how to form and operate a charter school and how to utilize the offerings of a charter school.

Amend the bill further, SECTION 6, by striking Section 59-40-150(C) and (D) and inserting:

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

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

Amend the bill further, SECTION 7, by striking Section 59-40-180 and inserting:

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 authorizers 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.

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

SECTION X. The Code Commissioner is directed to change all references in Title 59 of the 1976 Code from the "Charter School Sponsor”, “Sponsor(s)” and “School Sponsor(s)” to the "Charter School Authorizer”, “Authorizer(s)” and “School Authorizer(s)”, as appropriate.

Renumber sections to conform.

Amend title to conform.

GREG HEMBREE for Committee.

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A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS by enacting THE “CHARTER SCHOOL ACCOUNTABILITY ACT”; by amending 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; by amending SECTION 59-40-40, RELATING TO DEFINITIONS CONCERNING CHARTER SCHOOLS, SO AS TO REVISE DEFINITIONS; by amending SECTION 59-40-55, RELATING TO CHARTER SCHOOL POWERS AND DUTIES, SO AS TO INCLUDE PROVISIONS CONCERNING GOVERNANCE AND ACCOUNTABILITY; by amending 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; BY AMENDING 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; BY AMENDING 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 BY AMENDING 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 59‑40‑40(4) of the S.C. 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, 2022, or approved by an application process developed by the State Board of Education pursuant to this chapter after July 1, 2022, 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 3. Section 59‑40‑55(A) and (B) of the S.C. 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 4. Section 59‑40‑75 of the S.C. 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 5. Section 59‑40‑115 of the S.C. 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 6. Section 59‑40‑150 of the S.C. 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 shall annually 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 7. Section 59‑40‑180 of the S.C. 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 8. This act takes effect upon approval by the Governor.

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