

1 ~~Indicates Matter Stricken~~

2 Indicates New Matter

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4 CONFERENCE COMMITTEE REPORT ADOPTED -- NOT
5 PRINTED

6 May 1, 2012

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H. 3241

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10 Introduced by Reps. Owens, Stringer, G.R. Smith, Harrison,
11 Daning, Hamilton, Bingham, Long, Henderson, Atwater, Lucas,
12 Clemmons, Cooper, Horne, Simrill, D.C. Moss, Sandifer, Harrell,
13 Erickson, Norman, Barfield and Loftis

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15 S. Printed 3/21/12--S.

16 Read the first time March 1, 2011.

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Comment [MVC1]: See comments for schools leaders
in the doc

[3241-1]

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TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-40-55 SO AS TO PROVIDE CHARTER SCHOOL POWERS AND DUTIES AND TO ALLOW A SPONSOR TO RETAIN CERTAIN FUNDS FOR OVERSEEING THE CHARTER SCHOOL; BY ADDING SECTION 59-40-175 SO AS TO CREATE THE CHARTER SCHOOL FACILITY REVOLVING LOAN PROGRAM FOR THE CONSTRUCTION, PURCHASE, RENOVATION, AND MAINTENANCE OF PUBLIC CHARTER SCHOOL FACILITIES; TO AMEND SECTION 59-40-20, AS AMENDED, RELATING TO THE PURPOSE OF THE CHARTER SCHOOL ACT, SO AS TO INCLUDE AN ADDITIONAL PURPOSE; TO AMEND SECTION 59-40-40, AS AMENDED, RELATING TO DEFINITIONS, SO AS TO AMEND EXISTING DEFINITIONS AND ADD NEW DEFINITIONS; TO AMEND SECTION 59-40-50, AS AMENDED, RELATING TO CHARTER SCHOOL POWERS AND DUTIES, SO AS TO ALLOW FOR THE APPLICATION TO CREATE A SINGLE GENDER CHARTER SCHOOL, REVISE PRIORITY ENROLLMENT LIMITS, PROVIDE FOR THE ELECTION OF A CHARTER SCHOOL BOARD OF DIRECTORS, PROVIDE FOR BOARD MEETING NOTICE REQUIREMENTS, ALLOW A CHARTER SCHOOL TO CONTRACT WITH PROVIDERS FOR STUDENT TRANSPORTATION, AND ALLOW CHARTER SCHOOL STUDENTS TO PARTICIPATE IN CERTAIN EXTRACURRICULAR ACTIVITIES UNDER CERTAIN CONDITIONS; TO AMEND SECTION 59-40-60, AS AMENDED, RELATING TO APPLICATION TO CREATE A CHARTER SCHOOL, SO AS TO CLARIFY WHAT MUST BE INCLUDED IN THE CONTRACT, AND TO REQUIRE THE DEPARTMENT OF EDUCATION TO CREATE A CONTRACT TEMPLATE; TO AMEND SECTION 59-40-70, AS AMENDED,

1 RELATING TO THE CHARTER SCHOOL ADVISORY
2 COMMITTEE, SO AS TO REVISE ITS MEMBERSHIP AND
3 TO EXTEND THE TIME PERIOD IN WHICH THE
4 COMMITTEE SHALL DETERMINE APPLICATION
5 COMPLIANCE AND THE TIME IN WHICH A LOCAL
6 SCHOOL DISTRICT SHALL RULE ON THE APPLICATION;
7 TO AMEND SECTION 59-40-100, AS AMENDED, RELATING
8 TO CHARTER SCHOOL CONVERSION, SO AS TO REQUIRE
9 THE STATE BOARD OF EDUCATION TO PROMULGATE
10 REGULATIONS PROVIDING FOR PAPER BALLOTS, TO
11 REVISE PRIORITY ENROLLMENT PROCEDURES FOR A
12 CONVERTED CHARTER SCHOOL, AND TO ALLOW A
13 CONVERTED CHARTER SCHOOL TO RETAIN FACILITIES
14 AND EQUIPMENT AVAILABLE BEFORE CONVERSION; TO
15 AMEND SECTION 59-40-110, AS AMENDED, RELATING TO
16 THE DURATION OF A CHARTER, SO AS TO ALLOW A
17 SPONSOR TO IMMEDIATELY REVOKE A CHARTER AND
18 CLOSE THE SCHOOL UPON CERTAIN CONDITIONS; TO
19 AMEND SECTION 59-40-140, AS AMENDED, RELATING TO
20 DISTRIBUTION OF RESOURCES, SO AS TO PROVIDE FOR
21 THE DISTRIBUTION OF FUNDS TO CHARTER SCHOOLS,
22 TO REVISE WHAT THE SOUTH CAROLINA PUBLIC
23 CHARTER SCHOOL DISTRICT SHALL RECEIVE, TO
24 ALLOW THE DEPARTMENT OF EDUCATION TO FINE
25 SPONSORS THAT FAIL TO DISTRIBUTE CERTAIN FUNDS
26 TO CHARTER SCHOOLS, AND TO REVISE REPORTING
27 REQUIREMENTS; TO AMEND SECTION 59-40-190, AS
28 AMENDED, RELATING TO LIABILITY OF A GOVERNING
29 BODY OF A CHARTER SCHOOL, SO AS TO PROVIDE
30 IMMUNITY TO A LOCAL SCHOOL DISTRICT FOR
31 CRIMINAL OR CIVIL LIABILITY REGARDING ACTIVITIES
32 RELATED TO A SPONSORED CHARTER SCHOOL; TO
33 AMEND SECTION 59-40-230, RELATING TO THE BOARD
34 OF TRUSTEES OF THE SOUTH CAROLINA PUBLIC
35 CHARTER SCHOOL, SO AS TO REVISE ITS MEMBERSHIP;
36 AND TO AMEND SECTION 59-40-130, AS AMENDED,
37 RELATING TO LEAVE TO BE EMPLOYED AT A CHARTER
38 SCHOOL, SO AS TO PROVIDE THAT A CHARTER SCHOOL
39 IS A COVERED EMPLOYER WITH RESPECT TO THE
40 SOUTH CAROLINA RETIREMENT SYSTEMS FOR CERTAIN
41 SCHOOL DISTRICT EMPLOYEES.
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1 Be it enacted by the General Assembly of the State of South
2 Carolina:

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

- 6
7 “Section 59-40-55. (A) A charter school sponsor shall:
- 8 (1) approve charter applications that meet the requirements
 - 9 specified in Sections 59-40-50 and 59-40-60;
 - 10 (2) decline to approve charter applications according to
 - 11 Section 59-40-70(C);
 - 12 (3) negotiate and execute sound charter contracts with each
 - 13 approved charter school;
 - 14 (4) monitor, in accordance with charter contract terms, the
 - 15 performance and legal/fiscal compliance of charter schools to
 - 16 include collecting and analyzing data to support ongoing
 - 17 evaluation according to the charter contract;
 - 18 (5) conduct or require oversight activities that enable the
 - 19 sponsor to fulfill its responsibilities outlined in this chapter,
 - 20 including conducting appropriate inquiries and investigations, only
 - 21 if those activities are consistent with the intent of this chapter,
 - 22 adhere to the terms of the charter contact, and do not unduly inhibit
 - 23 the autonomy granted to public charter schools;
 - 24 (6) collect, in accordance with Section 59-40-140(H), an
 - 25 annual report from each of its sponsored charter schools and
 - 26 submit the reports to the Department of Education;
 - 27 (7) notify the charter school of perceived problems if its
 - 28 performance or legal compliance appears to be unsatisfactory and
 - 29 provide reasonable opportunity for the school to remedy the
 - 30 problem, unless the problem warrants revocation and revocation
 - 31 timeframes apply;
 - 32 (8) take appropriate corrective actions or exercise sanctions
 - 33 short of revocation in response to apparent deficiencies in charter
 - 34 school performance or legal compliance. These actions or
 - 35 sanctions may include requiring a school to develop and execute a
 - 36 corrective action plan within a specified timeframe;
 - 37 (9) determine whether each charter contract merits renewal,
 - 38 nonrenewal, or revocation; and
 - 39 (10) provide to parents and the general public information
 - 40 about charter schools authorized by the sponsor as an enrollment
 - 41 option within the district in which the charter school is located to
 - 42 the same extent and through the same means as the district in
 - 43 which the charter school is located provides and publicizes

Comment [MVC2]: This is a new section about sponsor responsibilities.

1 information about all public schools in the district. A charter
2 school shall notify its sponsor of its enrollment procedures and
3 dates of its enrollment period no less than sixty days prior to the
4 first day of its enrollment period.

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

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16 SECTION 2. Chapter 40, Title 59 of the 1976 Code is amended
17 by adding:

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19 "Section 59-40-175. There is created in the state treasury the
20 Charter School Facility Revolving Loan Program. This loan
21 program is comprised of federal funds obtained by the state for
22 charter school facilities, other funds appropriated or transferred to
23 the fund by the state, and privately donated funds. Funds deposited
24 to the Charter School Facility Revolving Loan Program must
25 remain available for the purposes of the program until appropriated
26 or reverted by the General Assembly. The State Treasurer may
27 approve loans from monies in the Charter School Revolving Loan
28 Program to a charter school, upon application by the charter
29 school. Money loaned to a charter school pursuant to this section
30 must be used for construction, purchase, renovation, and
31 maintenance of public charter school facilities. The State Treasurer
32 shall establish guidelines and procedures for application, approval,
33 allocation, and repayment regarding loans from these monies. The
34 Office of State Treasurer may be reimbursed from the program for
35 costs associated with the administration of these loans."

36

37 SECTION 3. Chapter 40, Title 59 of the 1976 Code is amended
38 by adding:

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40 "Section 59-40-235. The geographical boundaries from which
41 a charter school sponsored by a public or independent institution of
42 higher learning may accept students are the same as the boundaries
43 of the State of South Carolina."

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SECTION 4. Section 59-40-20 of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

“Section 59-40-20. This chapter is enacted to:

- (1) improve student learning;
- (2) increase learning opportunities for students;
- (3) encourage the use of a variety of productive teaching methods;
- (4) establish new forms of accountability for schools;
- (5) create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site; ~~and~~
- (6) assist South Carolina in reaching academic excellence; ~~and~~

(7) create new, innovative, and more flexible ways of educating children within the public school system, with the goal of closing achievement gaps between low performing student groups and high performing student groups.”

Comment [MVC4]: Fyi – new purpose added

SECTION 5. Section 59-40-40 of the 1976 Code, as last amended by Act 274 of 2006, is further 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 ~~within~~ by sponsorship of a public school district ~~or~~ the South Carolina Public Charter School District, or a public or independent institution of higher learning, but is accountable to the ~~school board of trustees of that district, or in the case of technical colleges, the area commission, of the sponsor~~ 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 ~~or~~ the local school district in which it is located ~~for the purposes of state law and the state constitution, or is sponsored 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,

1 ancestry, or need for special education services; however, an
2 applicant may seek to form a single gender charter school without
3 regard to the gender makeup of that proposed charter school;

4 (c) must be administered and governed by a governing
5 body in a manner agreed to by the charter school applicant and the
6 sponsor, the governing body to be selected; as provided in Section
7 59-40-50(B)(9);

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

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

Comment [MVC5]: Note this new requirement.

14 (3) ‘Applicant’ means the person who or nonprofit corporate
15 entity that desires to form a charter school and files the necessary
16 application with the South Carolina Public Charter School District
17 Board of Trustees ~~or~~, the local school board of trustees in which
18 the charter school is to be located, or the board of trustees or area
19 commission of a public or independent institution of higher
20 learning. The applicant also must be the person who or the
21 nonprofit corporate entity that applies to the Secretary of State to
22 organize the charter school as a nonprofit corporation.

23 (4) ‘Sponsor’ means the South Carolina Public Charter
24 School District Board of Trustees ~~or~~, the local school board of
25 trustees in which the charter school is to be located, as provided by
26 law, a public institution of higher learning as defined in Section
27 59-103-5, or an independent institution of higher learning as
28 defined in Section 59-113-50, from which the charter school
29 applicant requested its charter and which granted approval for the
30 charter school’s existence. Only those public or independent
31 institutions of higher learning, as defined in this subsection, who
32 register with the South Carolina Department of Education may
33 serve as charter school sponsors, and the department shall maintain
34 a directory of those institutions. The sponsor of a charter school is
35 the charter school’s Local Education Agency (LEA) and a charter
36 school is a school within that LEA. The sponsor retains
37 responsibility for special education and shall ensure that students
38 enrolled in its charter schools are served in a manner consistent
39 with LEA obligations under applicable federal, state, and local
40 law.

Comment [MVC6]: Clear language about LEA status

41 (5) ‘Certified teacher’ means a person currently certified by
42 the State of South Carolina to teach in a public elementary or

1 secondary school or who currently meets the qualifications
2 outlined in Sections 59-27-10 and 59-25-115.

3 (6) ‘Noncertified teacher’ means an individual considered
4 appropriately qualified for the subject matter taught and who has
5 completed at least one year of study at an accredited college or
6 university and meets the qualifications outlined in Section
7 59-25-115.

8 (7) ‘Charter committee’ means the governing body of a
9 charter school formed by the applicant to govern through the
10 application process and until the election of a board of directors is
11 held. After the election, the board of directors of the corporation
12 must be organized as the governing body and the charter
13 committee is dissolved.

14 (8) ‘Local school district’ means any school district in the
15 State except the South Carolina Public Charter School District and
16 does not include special school districts.

17 (9) ‘Charter school contract’ means a fixed term, renewable
18 contract between a charter school and a sponsor that outlines the
19 roles, powers, responsibilities, and performance expectations for
20 each party to the contract.

21 (10) ‘Resident public school’ means the school, other than a
22 charter school, within whose attendance boundaries the charter
23 school student’s custodial parent or legal guardian resides.”

Comment [MVC7]: SCDE developing template. Please submit comments when requested.

Comment [MVC8]: This has to do with access to athletics and extra curricular.

24
25 SECTION 6. Section 59-40-50 of the 1976 Code, as last amended
26 by Act 239 of 2008, is further amended to read:

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28 “Section 59-40-50. (A) Except as otherwise provided in this
29 chapter, a charter school is exempt from all provisions of law and
30 regulations applicable to a public school, a school board, or a
31 district, although a charter school may elect to comply with one or
32 more of these provisions of law or regulations.

33 (B) A charter school must:

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

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

42 (3) adhere to the same financial audits, audit procedures, and
43 audit requirements as are applied to public schools;

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

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

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

Comment [MVC9]: Note additional language.

27 (7) admit all children eligible to attend public school to a
28 charter school, subject to space limitations, except in the case of an
29 application to create a single gender charter school. However, it is
30 required that the racial composition of the charter school
31 enrollment reflect that of the local school district in which the
32 charter school is located or that of the targeted student population
33 of the local school district that the charter school proposes to serve,
34 to be defined for the purposes of this chapter as differing by no
35 more than twenty percent from that population. This requirement
36 is also subject to the provisions of Section 59-40-70(D). If the
37 number of applications exceeds the capacity of a program, class,
38 grade level, or building, students must be accepted by lot, and
39 there is no appeal to the sponsor;

40 (8) not limit or deny admission or show preference in
41 admission decisions to any individual or group of individuals,
42 except in the case of an application to create a single gender
43 charter school, in which case gender may be the only reason to

1 show preference or deny admission to the school; however, a
2 charter school may give enrollment priority to a sibling of a pupil
3 already currently enrolled or previously enrolled, and attending, or
4 who, within the last six years, attended the school for at least one
5 complete academic year. A charter school also may give priority
6 to children of a charter school employee, and children of the
7 charter committee, if such priority enrollment for children of
8 employees and of the charter committee does not constitute more
9 than twenty percent of the enrollment of the charter school;

Comment [MVC10]: Sibling preference -

10 (9) ~~elect its~~ consist of a board of directors annually of seven
11 or more individuals with the exact number specified in or fixed in
12 accordance with the bylaws. Members of a board of directors may
13 serve a term of two years, and may serve additional terms. A
14 choice of the membership of the board must take place every two
15 years. Fifty percent of the members of the board as specified by
16 the bylaws must be individuals who have a background in K-12
17 education or in business, and the bylaws of the charter school also
18 must provide for the manner of selection of these members. In
19 addition, at least fifty percent of the members of the board as
20 specified by the bylaws must be elected by the employees and the
21 parents or guardians of students enrolled in the charter school.
22 Parents or guardians shall have one vote for each student enrolled
23 in the charter school. All members must be residents of the State
24 of South Carolina. ~~All employees of the charter school and all~~
25 ~~parents or guardians of students enrolled in the charter school are~~
26 ~~eligible to participate in the election. Parents or guardians of a~~
27 ~~student shall have one vote for each student enrolled in the charter~~
28 ~~school. A person who has been convicted of a felony must not be~~
29 ~~elected to a board of directors. If the board of directors consists of~~
30 ~~an odd number of members, the extra member must be an~~
31 ~~individual who has a background in K-12 education or in business;~~

Comment [MVC11]:
CSAC – applicants may need to amend this section in their charter.
This section impacts existing schools as well.

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

Comment [MVC12]: This impacts existing schools and new school planning groups.

37 (C)(1) If a charter school denies admission to a student, the
38 student may appeal the denial to the sponsor. The decision is
39 binding on the student and the charter school.

40 (2) If a charter school suspends or expels a student, other
41 charter schools or the local school district in which the charter
42 school is located has the authority but not the obligation to refuse
43 admission to the student.

1 (3) ~~The sponsor has no obligation to provide extracurricular~~
2 ~~activities or access to facilities of the school district for students~~
3 ~~enrolled in the charter school; however, the charter contract may~~
4 ~~include participation in agreed upon interscholastic activities at a~~
5 ~~designated school within the sponsor district. Notwithstanding~~
6 ~~another provision of law, the local school district has no obligation~~
7 ~~to provide charter schools, sponsored by the South Carolina Public~~
8 ~~Charter School District, extracurricular activities or access to~~
9 ~~facilities of the school district for students enrolled in charter~~
10 ~~schools unless the school district, by contract, has agreed to~~
11 ~~provide activities or access. Students participating under this~~
12 ~~agreement must be considered eligible to participate in league~~
13 ~~events if other eligibility requirements are met.~~

14 (a) A charter school is eligible for federally sponsored,
15 state-sponsored or district-sponsored interscholastic leagues,
16 competitions, awards, scholarships, grants, and recognition
17 programs for students, educators, administrators, staff, and schools
18 to the same extent as all other public schools.

19 (b) A charter school student is eligible to compete for, and
20 if selected, participate in any extracurricular activities not offered
21 by the student's charter school which are offered at the resident
22 public school he would otherwise attend. A charter school student
23 is eligible to compete for, and if selected, participate in an activity
24 governed by the South Carolina High School League offered at the
25 resident public school he would otherwise attend if the league
26 governed activity is not offered at the student's charter school.

27 (c) A charter school student is eligible for extracurricular
28 activities at the student's resident public school consistent with
29 eligibility standards as applied to full-time students of the resident
30 public school.

31 (d) A school district or resident public school may not
32 impose additional requirements on a charter school student to
33 participate in extracurricular activities that are not imposed on
34 full-time students of the resident public school.

35 (e) Charter school students shall pay the same fees as
36 other students to participate in extracurricular activities.

37 (f) Charter school students shall be eligible for the same
38 fee waivers for which other students are eligible.

39 (D) The State is not responsible for student transportation to a
40 charter school unless the charter school is designated by the local
41 school district as the only school selected within the local school
42 district's attendance area. However, a charter school may enter

Comment [MVC13]: We need to work with the HSL to insure a smooth implementation.

1 into a contract with a school district or a private provider to
2 provide transportation to the charter school students.

3 (E) The South Carolina Public Charter School District Board of
4 Trustees may not use program funding for transportation.”
5

6 SECTION 7. Section 59-40-60 of the 1976 Code, as last amended
7 by Act 274 of 2006, is further amended to read:
8

9 “Section 59-40-60. (A) An approved charter application
10 constitutes an agreement, ~~and the terms must be the terms of a~~
11 ~~contract~~ between the charter school and the sponsor.

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

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

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

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

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

33 (3) submit a written charter school application to the charter
34 school advisory committee and to the school board of trustees or
35 area commission from which the committee is seeking
36 sponsorship.

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

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

42 (2) employ and contract with teachers and nonteaching
43 employees, contract for services, and develop pay scales,

Comment [MVC14]: SCDE to develop contract template

1 performance criteria, and discharge policies for its employees. All
2 teachers whether certified or noncertified must undergo the
3 background checks and other investigations required for certified
4 teachers, as provided by law, before they may teach in the charter
5 school; and

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

9 (F) The charter school application ~~shall be a proposed contract~~
10 ~~and~~ must include:

11 (1) the mission statement of the charter school, which must
12 be consistent with the principles of the General Assembly's
13 purposes pursuant to Section 59-40-20;

14 (2) the goals, objectives, and pupil achievement standards to
15 be achieved by the charter school, and a description of the charter
16 school's admission policies and procedures;

17 (3) evidence that an adequate number of parents, teachers,
18 pupils, or any combination of them support the formation of a
19 charter school;

20 (4) a description of the charter school's educational
21 program, pupil achievement standards, and curriculum which must
22 meet or exceed any content standards adopted by the State Board
23 of Education and the ~~chartering district~~ sponsor must be designed
24 to enable each pupil to achieve these standards;

25 (5) a description of the charter school's plan for evaluating
26 pupil achievement and progress toward accomplishment of the
27 school's achievement standards in addition to state assessments,
28 the timeline for meeting these standards, and the procedures for
29 taking corrective action if that pupil achievement falls below the
30 standards;

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

37 (7) a description of the governance and operation of the
38 charter school, including the nature and extent of parental,
39 professional educator, and community involvement in the
40 governance and operation of the charter school;

41 (8) a description of how the charter school plans to ensure
42 that the enrollment of the school is similar to the racial
43 composition of the local school district in which the charter school

1 is to be located or the targeted student population of the local
2 school district that the charter school proposes to serve and provide
3 assurance that the school does not conflict with any school district
4 desegregation plan or order in effect for the school district in
5 which the charter school is to be located;

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

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

10 (11) an explanation of the relationship that shall exist between
11 the proposed charter school and its employees, including
12 descriptions of evaluation procedures and evidence that the terms
13 and conditions of employment have been addressed with affected
14 employees;

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

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

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

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

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

39

40 SECTION 8. Section 59-40-70 of the 1976 Code, as last amended
41 by Act 239 of 2008, is further amended to read:

42

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

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

9 ~~(a) South Carolina Association of Public Charter Schools,~~
10 ~~the president or his designee and one additional representative~~
11 ~~from the association;~~

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

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

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

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

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

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

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

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

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

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

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

1 (5) An applicant shall submit the application to the advisory
2 committee and one copy to the ~~school~~ board of trustees ~~of the~~
3 ~~district~~ or area commission from which it is seeking sponsorship.
4 In the case of the South Carolina Public Charter School District or
5 a public or independent institution of higher learning sponsor, the
6 applicant shall provide notice of the application to the local school
7 board of trustees in which the charter school will be located for
8 informational purposes only. The advisory committee shall
9 receive input from the school district ~~in~~ or the public or
10 independent institution of higher learning from which the applicant
11 is seeking sponsorship and shall request clarifying information
12 from the applicant. An applicant may submit an application to the
13 advisory committee ~~at any time during the fiscal year~~ pursuant to
14 State Board of Education regulations and the advisory committee,
15 within ~~sixty~~ ninety days, shall determine whether the application is
16 in compliance. An application that is in compliance must be
17 forwarded to the board or area commission of the school district or
18 the public or independent institution of higher learning from which
19 the applicant is seeking sponsorship with a letter stating the
20 application is in compliance. The letter also shall include a
21 recommendation from the Charter School Advisory Committee to
22 approve or deny the charter. The letter must specify the reasons
23 for its recommendation. This recommendation is nonbinding on
24 the school board of trustees or area commission. If the application
25 is in noncompliance, it must be returned to the applicant with
26 deficiencies noted. The applicant may appeal the decision to the
27 Administrative Law Court.

28 (6) The advisory committee shall notify the local delegation
29 of a county in which a proposed charter school is to be located
30 upon receipt of a charter school application and also shall provide
31 a copy of the charter school application upon request by a member
32 of the local delegation.

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

1 (C) A ~~school district~~ board of trustees ~~only~~ or area commission
2 shall deny an application only if the application does not meet the
3 requirements specified in Section 59-40-50 or 59-40-60, fails to
4 meet the spirit and intent of this chapter, or adversely affects, as
5 defined in regulation, the other students in the district in which the
6 charter school is to be located. It shall provide, within ten days, a
7 written explanation of the reasons for denial, citing specific
8 standards related to provisions of Section 59-40-50 or 59-40-60
9 that the application violates. This written explanation immediately
10 must be sent to the charter committee and filed with the State
11 Board of Education and the Charter School Advisory Committee.

12 (D) In the event that the racial composition of an applicant's or
13 charter school's enrollment differs from the enrollment of the local
14 school district in which the charter school is to be located or the
15 targeted student population of the local school district by more
16 than twenty percent, despite its best efforts, the ~~school district~~
17 board of trustees or area commission from which the applicant is
18 seeking sponsorship shall consider the applicant's or the charter
19 school's recruitment efforts and racial composition of the applicant
20 pool in determining whether the applicant or charter school is
21 operating in a nondiscriminatory manner. A finding by the ~~school~~
22 ~~district~~ board of trustees or area commission that the applicant or
23 charter school is operating in a racially discriminatory manner
24 justifies the denial of a charter school application or the revocation
25 of a charter as provided in this section or in Section 59-40-110, as
26 may be applicable. A finding by the ~~school district~~ board of
27 trustees or area commission that the applicant is not operating in a
28 racially discriminatory manner justifies approval of the charter
29 without regard to the racial percentage requirement if the
30 application is acceptable in all other aspects.

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

35 (F) If the ~~school district~~ board of trustees or area commission
36 approves the application, it becomes the charter school's sponsor
37 and shall sign the approved application, ~~which constitutes a~~
38 ~~contract with the charter committee of the charter school.~~ The
39 sponsor shall submit a copy of the charter ~~must be filed with~~
40 contract to the State Board of Education.

41 (G) If a local school board of trustees has information that an
42 approved application by the South Carolina Public Charter School
43 District or a public or independent institution of higher learning

1 sponsor adversely affects the other students in its district, as
2 defined in regulation, or that the approval of the application fails to
3 meet the spirit and intent of this chapter, the local school board of
4 trustees may appeal the granting of the charter to the
5 Administrative Law Court. The Administrative Law Court, within
6 forty-five days, may affirm or reverse the application for action by
7 the South Carolina Public Charter School District or the public or
8 independent institution of higher learning in accordance with an
9 order of the state board.”

10

11 SECTION 9. Section 59-40-100 of the 1976 Code, as last
12 amended by Act 239 of 2008, is further amended to read:

13

14 “Section 59-40-100. (A)(1) Subject to item (2), an ~~An~~ existing
15 public school may be converted into a charter school if two-thirds
16 of the faculty and instructional staff employed at the school and
17 two-thirds of all voting parents or legal guardians of students
18 enrolled in the school agree to the filing of an application with the
19 local school board of trustees for the conversion and formation of
20 that school into a charter school. Parents or legal guardians of
21 students enrolled in the school must be given the opportunity to
22 vote on the conversion. Parents or guardians of a student shall
23 have one vote for each student enrolled in the school seeking
24 conversion. The application must be submitted pursuant to Section
25 59-40-70(A)(5) by the principal of that school or his designee who
26 must be considered the applicant. The application must include all
27 information required of other applications pursuant to this chapter.
28 The local school board of trustees shall approve or disapprove this
29 application in the same manner it approves or disapproves other
30 applications. The existence of another charter granting authority
31 must not be grounds for disapproving a school desiring to convert
32 to a charter school.

33 (2)(a) In addition to the vote requirements required in item
34 (1), if a proposed conversion school has outstanding general
35 obligation bond debt owed on it and that debt is resulting from an
36 ordinance originally authorizing the bonds, and the original
37 authorization was no more than ten years prior to the proposed
38 conversion, and the bonds were specifically issued for the
39 construction or improvement of the proposed conversion school,
40 the school may be converted into a charter school only upon a
41 majority vote of the local school board of trustees.

42 (b) In addition to the vote requirements required in item
43 (1), if a proposed conversion school has outstanding general

1 obligation bond debt owed on it and that debt is resulting from a
2 referendum originally authorizing the bonds, and the original
3 authorization was no more than ten years prior to the proposed
4 conversion, and the bonds were specifically issued for the
5 construction or improvement of the proposed conversion school,
6 the school may be converted into a charter school only upon a
7 two-thirds vote of the local school board of trustees.

8 (B) A converted charter school shall offer at least the same
9 grades, or nongraded education appropriate for the same ages and
10 education levels of pupils, as offered by the school immediately
11 before conversion, and also may provide additional grades and
12 further educational offerings.

13 (C) All students enrolled in the school at the time of conversion
14 must be given priority enrollment. Thereafter, students who reside
15 within the former attendance area of that public school must be
16 given enrollment priority.

17 (D) All employees of a converted school shall remain
18 employees of the local school district ~~or~~ the South Carolina Public
19 Charter School District, or the public or independent institution of
20 higher learning sponsor with the same compensation and benefits
21 including any future increases. The converted charter school
22 quarterly shall reimburse the local school district ~~or~~ the South
23 Carolina Public Charter School District, or the public or
24 independent institution of higher learning sponsor for the
25 compensation and employer contribution benefits paid to or on
26 behalf of these employees and also provide to the school district
27 sponsor any reports, forms, or data necessary for maintaining
28 retirement coverage and providing South Carolina Retirement
29 Systems benefits to converted school employees. The provisions
30 of Article 5, Chapter 25 ~~of~~ Title 59 apply to the employment and
31 dismissal of teachers at a converted school.

32 (E) For the duration of a converted charter school's contract
33 with a sponsor, a converted charter school shall have the right to
34 retain occupancy and use of the school's facility or facilities and
35 all equipment, furniture, and supplies that were available to the
36 school before it converted, in the same manner as before the school
37 converted, with no additional fees or charges.

38 ~~(E)~~(F) The South Carolina Public Charter School District or a
39 public or independent institution of higher learning may not
40 sponsor a public school to convert to a charter school. However,
41 the South Carolina Public Charter School District or a public or
42 independent institution of higher learning may sponsor a converted
43 charter school renewal if the charter school has not committed a

1 material violation of the provisions specified in subsection (C) of
2 Section 59-40-110 and the local school district board of trustees
3 refuses to renew the charter. In such cases, the charter school shall
4 continue to receive local funding pursuant to Section
5 59-40-110(A). However, the charter school is not eligible to
6 receive one hundred percent of the base student cost from the
7 State. The charter school only is eligible to receive the percentage
8 of the base student cost previously received as a school in its
9 former district.

10 (G) A governing board or a school district employee who has
11 control over personnel actions shall not take unlawful reprisal
12 against another employee of the school district because the
13 employee is directly or indirectly involved in an application to
14 establish a charter school. A governing board or a school district
15 employee shall not take unlawful reprisal against an educational
16 program of the school or the school district because an application
17 to establish a charter school proposes the conversion of all or a
18 portion of the educational program to a charter school.

19 As used in this subsection, 'unlawful reprisal' means an action
20 that is taken by a governing board or a school district employee as
21 a direct result of a lawful application to establish a charter school
22 and that is adverse to another employee or education program and:

23 (1) with respect to a school district employee, results in:
24 (a) disciplinary or corrective action;
25 (b) detail, transfer, or reassignment;
26 (c) suspension, demotion, or dismissal;
27 (d) an unfavorable performance evaluation;
28 (e) a reduction in pay, benefits, or awards;
29 (f) elimination of the employee's position without a
30 reduction in force by reason of lack of monies or work; or
31 (g) other significant changes in duties or responsibilities
32 that are inconsistent with the employee's salary or employment
33 classification.

34 (2) with respect to an educational program, results in:
35 (a) suspension or termination of the program;
36 (b) transfer or reassignment of the program to a less
37 favorable department;
38 (c) relocation of the program to a less favorable site
39 within the school district; or
40 (d) significant reduction or termination of funding for the
41 program."

42

1 SECTION 10. Section 59-40-110 of the 1976 Code, as last
2 amended by Act 239 of 2008, is further amended to read:

3
4 “Section 59-40-110. (A) A charter must be approved or
5 renewed for a period of ten school years; however, the charter only
6 may be revoked or not renewed under the provisions of subsection
7 (C) of this section. The sponsor annually shall evaluate the
8 conditions outlined in subsection (C). The annual evaluation
9 results must be used in making a determination for nonrenewal or
10 revocation.

11 (B) A charter renewal application must be submitted to the
12 school’s sponsor, and it must contain:

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

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

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

24 (1) committed a material violation of the conditions,
25 standards, or procedures provided for in the charter application;

26 (2) failed to meet or make reasonable progress, as defined in
27 the charter application, toward pupil achievement standards
28 identified in the charter application;

29 (3) failed to meet generally accepted standards of fiscal
30 management; or

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

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

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

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

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

23 (H) A decision to revoke or not to renew a charter school may
24 be appealed to the Administrative Law Court pursuant to the
25 provisions of Section 59-40-90.”

26

27 SECTION 11. Section 59-40-140 of the 1976 Code, as last
28 amended by Act 274 of 2006, is further amended to read:

29

30 “Section 59-40-140. (A) A local school board of trustees
31 sponsor shall distribute state, county, and school district funds to a
32 charter school as determined by the following formula: the
33 previous year’s audited total general fund revenues, divided by the
34 previous year’s weighted students, then increased by the Education
35 Finance Act inflation factor, pursuant to Section 59-20-40, for the
36 years following the audited expenditures, then multiplied by the
37 weighted students enrolled in the charter school, which will be
38 subject to adjustment for student attendance and state budget
39 allocations based on the same criteria as the local school district.
40 These amounts must be verified by the ~~State~~ Department of
41 Education before the first disbursement of funds. All state and
42 local funding must be distributed by the local school district to the
43 charter school monthly beginning July first following approval of

1 the charter school application and must continue to be disbursed to
2 the charter school for the duration of its charter and for the
3 duration of any subsequent renewals. After verification of student
4 attendance on the fifth day of school at the beginning of each
5 school year, the State Department of Education shall distribute
6 funds to school districts with charter schools (i) having approved
7 incremental growth and expansion as provided in their charter
8 application, or (ii) for opening of new charter schools in the
9 current fiscal year. These funds must be released to districts on
10 behalf of their charter schools no later than fifteen days after
11 receipt of verified enrollment. Districts shall provide this funding
12 to eligible charters no later than thirty days after receipt from the
13 Department of Education. Necessary adjustments due to
14 enrollment changes must be made pursuant to the Education
15 Finance Act.

16 ~~(B) The South Carolina Public Charter School District shall~~
17 ~~receive and distribute state funds to the charter school as~~
18 ~~determined by the following formula: the current year's base~~
19 ~~student cost, as funded by the General Assembly, multiplied by the~~
20 ~~weighted students enrolled in the charter school, which must be~~
21 ~~subject to adjustment for student attendance and state budget~~
22 ~~allocations. These state funds are in addition to other funds to be~~
23 ~~received and distributed by the South Carolina Public Charter~~
24 ~~School District pursuant to subsections (C) and (D) of this section~~
25 ~~and Section 59-40-220(A). However, the South Carolina Public~~
26 ~~Charter School District may not retain more than two percent of its~~
27 ~~gross revenue for its internal administrative and operating~~
28 ~~expenses~~ The South Carolina Public Charter School District or
29 public or independent institution of higher learning sponsor shall
30 receive and distribute state funds to the charter school as provided
31 by the General Assembly.

32 (C) During the year of the charter school's operation, as
33 received, and to the extent allowed by federal law, a sponsor shall
34 distribute to the charter school federal funds which are allocated to
35 the ~~school district~~ sponsor on the basis of the number of special
36 characteristics of the students attending the charter school. These
37 amounts must be verified by the State Department of Education
38 before the first disbursement of funds.

39 (D) Notwithstanding subsection (C), the proportionate share of
40 state and federal resources generated by students ~~with disabilities~~
41 or staff serving them must be directed to the ~~school district board~~
42 ~~of trustees~~ sponsor. ~~The proportionate share of funds generated~~
43 ~~under other federal or state categorical aid programs must be~~

1 ~~directed to the school district board of trustees serving students~~
2 ~~eligible for the aid pursuant to state and federal law. After receipt~~
3 ~~of federal or state categorical aid funds, sponsors shall, within ten~~
4 ~~business days, supply to the charter school the proportional share~~
5 ~~of each categorical fund for which the charter school qualifies. If~~
6 ~~the sponsor fails to do so, the Department of Education may fine~~
7 ~~the sponsor an amount equivalent to the withheld amounts. Fines~~
8 ~~imposed must be remitted to the charter school from which the~~
9 ~~amounts were withheld.~~

10 (E) All services centrally or otherwise provided by the sponsor
11 ~~or local school district, if any,~~ including, but not limited to, food
12 services, custodial services, maintenance, curriculum, media
13 services, libraries, and warehousing are subject to negotiation
14 between a charter school and the sponsor ~~or local school district~~
15 and must be outlined in the contract required pursuant to Section
16 59-40-70(F), except as otherwise provided or required by law.

17 (F) All awards, grants, or gifts collected by a charter school
18 must be retained by the charter school.

19 (G) The governing body of a charter school is authorized to
20 accept gifts, donations, or grants of any kind made to the charter
21 school and to expend or use the gifts, donations, or grants in
22 accordance with the conditions prescribed by the donor. A gift or
23 donation must not be required for admission. However, a gift,
24 donation, or grant must not be accepted by the governing board if
25 subject to a condition contrary to law or contrary to the terms of
26 the contract between the charter school and the governing body.
27 All gifts, donations, or grants must be reported to the sponsor in
28 their annual audit report as required in Section 59-40-50(B)(3).

29 (H) A charter school shall report to its sponsor and the
30 Department of Education any change to information provided
31 under its application. In addition, a charter school shall report at
32 least annually to its sponsor and the sponsor shall compile those
33 reports into a single document which must be submitted to the
34 department. The Department of Education shall develop a
35 template to be used by charter schools for this annual report. The
36 report shall provide all information required by the sponsor or the
37 department and shall include including, at a minimum;

38 (1) the number of students enrolled in the charter school
39 from year to year;

40 (2) the success of students in achieving the specific
41 educational goals for which the charter school was established;

42 (3) an analysis of achievement gaps among major groupings
43 of students in both proficiency and growth; and

1 (4) the identity and certification status of the teaching staff;
2 (5) the financial performance and sustainability of the
3 sponsor's charter schools; and
4 (6) board performance and stewardship including
5 compliance with applicable laws.

Comment [MVC15]: Reporting requirements.

6 (I) The sponsor shall provide technical assistance to persons
7 and groups preparing or revising charter applications at no
8 expense.

9 (J) Charter schools may acquire by gift, devise, purchase,
10 lease, sublease, installment purchase agreement, land contract,
11 option, or by any other means provided by law or otherwise, and
12 hold and own in its own name buildings or other property for
13 school purposes and interests in it which are necessary or
14 convenient to fulfill its purposes.

15 (K) Charter schools are exempt from all state and local
16 taxation, except the sales tax, on their earnings and property.
17 Instruments of conveyance to or from a charter school are exempt
18 from all types of taxation of local or state taxes and transfer fees.”

19 (L) Notwithstanding the above provisions of this section, this
20 subsection applies to converted charter schools that converted into
21 a charter school after the effective date of this act. For purposes of
22 computing the funding for any year to be provided a converted
23 charter school under the provisions of this section, the
24 computations required shall be made as provided in this section
25 based on the previous year's revenues, expenditures, and other
26 applicable factors pertaining to that particular converted charter
27 school, and also then shall be made as provided in this section for
28 the year immediately preceding the previous year based on the
29 revenues, expenditures, and other applicable factors for that year
30 pertaining to that particular converted charter school. The funding
31 of the converted charter school for the initial year shall be the
32 average of the weighted per pupil unit funding computed for these
33 two prior years, and funding for the converted charter school after
34 the initial year shall be provided by the school district in the same
35 manner as regular public schools in the district.”

36
37 SECTION 12. Section 59-40-190(C) of the 1976 Code is
38 amended to read:

39
40 “(C) A local school district, sponsor, members of the board or
41 area commission of a sponsor, and employees of a sponsor acting
42 in their official capacity are immune from civil or criminal liability
43 with respect to all activities related to a charter school they

1 sponsor. The governing body of a charter school shall obtain at
2 least the amount of and types of insurance required for this
3 purpose.”

4
5 SECTION 13. Section 59-40-230(A) of the 1976 Code, as added
6 by Act 274 of 2006, is amended to read:

7
8 “(A) The South Carolina Public Charter School District must be
9 governed by a board of trustees consisting of not more than ~~eleven~~
10 nine members:

- 11 (1) two appointed by the Governor;
- 12 (2) one appointed by the Speaker of the House of
13 Representatives;
- 14 (3) one appointed by the President Pro Tempore of the
15 Senate; and
- 16 (4) ~~seven~~ five to be appointed by the Governor upon the
17 recommendation of the:
- 18 (a) ~~South Carolina Association of Public Charter Schools~~
19 ~~and one additional representative from the association;~~
- 20 (b) South Carolina Association of School Administrators;
- 21 ~~(e)~~(b) South Carolina Chamber of Commerce;
- 22 ~~(d)~~(c) South Carolina Education Oversight Committee;
- 23 ~~(e)~~(d) South Carolina School Boards Association; and
- 24 ~~(f)~~(e) South Carolina Alliance of Black Educators.

25 The ~~nine~~ seven members appointed by the Governor pursuant to
26 this subsection are subject to advice and consent of the Senate.
27 Membership of the committee must reflect representatives from
28 each of the entities in item (A)(4) or their designee as reflected in
29 their recommendation.

30 Each member of the board of trustees shall serve terms of three
31 years, except that, for the initial members, two appointed by the
32 Governor, one by the Speaker of the House, and one by the
33 President Pro Tempore of the Senate, shall serve terms of one year
34 and three appointed by the Governor shall serve terms of two
35 years. A member of the board may be removed after appointment
36 pursuant to Section 1-3-240. In making appointments, every effort
37 must be made to ensure that all geographic areas of the State are
38 represented and that the membership reflects urban and rural areas
39 of the State as well as the ethnic diversity of the State.”

40
41 SECTION 14. Section 59-40-130(A) of the 1976 Code, as last
42 amended by Act 274 of 2006, is further amended to read:

43

1 “(A)(1) If an employee of a local school district makes a
2 written request for leave to be employed at a charter school before
3 July 1, 2006, the school district shall grant the leave for up to five
4 years as requested by the employee. The school district may
5 require that the request for leave or extension of leave be made by
6 the date provided for by state law for the return of teachers’
7 contracts. Employees may return to employment with the local
8 school district at its option with the same teaching or
9 administrative contract status as when they left but without
10 assurance as to the school or supplemental position to which they
11 may be assigned.

12 (2) Notwithstanding the provisions of item (1) of this
13 subsection and subject to the provisions of subsection (B) of this
14 section, a charter school employing after June 30, 2006, an
15 individual on leave from a local school district shall participate in
16 the South Carolina Retirement Systems as a covered employer
17 with respect to that employee on leave through the earlier of the
18 date the employee on leave returns to employment by the district
19 or June 30, 2011, and only if the charter school and the employee
20 have made required employer and employee contributions to the
21 South Carolina Retirement Systems from the employee’s date of
22 employment with the charter school.”

23
24 SECTION 15. Section 59-40-220(A) of the 1976 Code, as last
25 amended by Act 274 of 2006, is further amended to read:

26
27 “(A) The South Carolina Public Charter School District may not
28 have a local tax base and may not receive local property taxes.
29 This prohibition does not extend to local funds received by the
30 district on behalf of sponsored charter schools pursuant to Section
31 59-40-140(B).”

32
33 SECTION 16. Section 59-18-920 of the 1976 Code is amended to
34 read:

35
36 “Section 59-18-920. A charter school established pursuant to
37 Chapter 40, Title 59 shall report the data requested by the
38 Department of Education necessary to generate a report card. The
39 Department of Education shall utilize this data to issue a report
40 card with performance ratings to parents and the public containing
41 the ratings and explaining its significance and providing other
42 information similar to that required of other schools in this section.
43 The performance of students attending charter schools sponsored

1 by the South Carolina Public Charter School District must be
2 included in the overall performance ratings of the South Carolina
3 Public Charter School District. The performance of students
4 attending a charter school authorized by a local school district
5 must be reflected on a separate line on the school district's report
6 card and must not be included in the overall performance ratings of
7 the local school district, unless there is a mutual agreement to
8 include the scores in the local school district ratings. An
9 alternative school is included in the requirements of this chapter;
10 however, the purpose of an alternative school must be taken into
11 consideration in determining its performance rating. The
12 Education Oversight Committee, working with the State Board of
13 Education and the School to Work Advisory Council, shall
14 develop a report card for career and technology schools.”

Comment [MVC16]: There seems to be confusion with the districts and the EOC on this. Most schools thought it was already included.

15
16 SECTION 17. Article 1, Chapter 19, Title 59 of the 1976 Code
17 is amended by adding:

18
19 “Section 59-19-350. (A) A local school district board of
20 trustees of this State desirous of creating an avenue for new,
21 innovative, and more flexible ways of educating children within
22 their district may create a school of choice within the district that is
23 exempt from state statutes which govern other schools in the
24 district and regulations promulgated by the State Board of
25 Education. To achieve the status of exemption from specific
26 statutes and regulations, the local board of trustees, at a public
27 meeting, shall identify specific statutes and regulations which will
28 be considered for exemption. The exemption may be granted by
29 the governing board of the district only if there is a two-thirds
30 affirmative vote of the board for each exemption and the proposed
31 exemption is approved by the State Board of Education.

32 (B) In seeking exemptions, the local board of trustees may not
33 exempt:

34 (1) federal and state laws and constitutional provisions
35 prohibiting discrimination on the basis of disability, race, creed,
36 color, national origin, religion, ancestry, or need for special
37 education services;

38 (2) health, safety, civil rights, and disability rights
39 requirements as are applied to other public schools operating in the
40 district;

41 (3) minimum student attendance requirements;

42 (4) state assessment requirements; and

1 (5) certification requirements for teachers in the core
2 academic areas as defined by the federal No Child Left Behind
3 Act, Public Law 107-110; however, up to twenty-five percent of
4 the teaching staff of the school may be employed if the individual
5 possesses a baccalaureate or graduate degree in the subject he is
6 hired to teach.

7 (C) Any school created pursuant to this section shall admit all
8 children eligible to attend the school subject to space limitations
9 and may not limit or deny admission or show preference in
10 admission decisions to any individual or group of individuals.

11 (D) A local school district that provides exemptions pursuant to
12 subsection (A) shall provide the State Department of Education
13 with documentation of the approved exemptions and shall submit
14 evaluation documentation to be reviewed by the State Board of
15 Education after three years of the exemption to ensure that the
16 district continues to meet the needs of its students. Upon review, if
17 the State Board of Education determines the continuation of the
18 exemption does not meet the needs of the students attending the
19 district school of choice, the board may suspend exemptions
20 granted by the local board of trustees with a two-thirds vote.
21 Before suspending the exemptions, the State Board of Education
22 shall notify the district and provide the district with any
23 opportunity to defend the continuation of approved exemptions.”
24

25 SECTION 18. If any section, subsection, paragraph,
26 subparagraph, sentence, clause, phrase, or word of this act is for
27 any reason held to be unconstitutional or invalid, such holding
28 shall not affect the constitutionality or validity of the remaining
29 portions of this act, the General Assembly hereby declaring that it
30 would have passed this act, and each and every section, subsection,
31 paragraph, subparagraph, sentence, clause, phrase, and word
32 thereof, irrespective of the fact that any one or more other sections,
33 subsections, paragraphs, subparagraphs, sentences, clauses,
34 phrases, or words hereof may be declared to be unconstitutional,
35 invalid, or otherwise ineffective.

36
37 SECTION 19. This act takes effect upon approval by the
38 Governor.

39
40 /s/Sen. Robert W. Hayes, Jr. /s/Rep. Phillip D. Owens
41 /s/Sen. John W. Matthews, Jr. /s/Rep. James M. Neal
42 /s/Sen. Michael L. Fair /s/Rep. Andrew S. Patrick
43 On Part of the Senate. On Part of the House.

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[3241]

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