

1 ~~Indicates Matter Stricken~~

2 Indicates New Matter

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4 AMENDED

5 February 23, 2011

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## H. 3241

8

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

13

14 S. Printed 2/23/11--H. [SEC 2/24/11 3:08 PM]

15 Read the first time January 11, 2011.

16

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18 **STATEMENT OF ESTIMATED FISCAL IMPACT**

19 ESTIMATED FISCAL IMPACT ON GENERAL FUND

20

EXPENDITURES:

21

\$0 (No additional expenditures or savings are expected)

22

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER

23

FUND EXPENDITURES:

24

\$0 (No additional expenditures or savings are expected)

25

**EXPLANATION OF IMPACT:**

26

The State Department of Education indicates that the Committee  
27 Report on House Bill 3241 will have no fiscal impact on the  
28 General Fund of the State or on federal and/or other funds

29

**SPECIAL NOTES:**

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The Bill would result in a shift of local district funds from the  
31 resident districts to the charter district.

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*Approved By:*

34

Harry Bell

35

Office of State Budget

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## **A BILL**

11 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,  
12 1976, BY ADDING SECTION 59-40-55 SO AS TO PROVIDE  
13 CHARTER SCHOOL POWERS AND DUTIES AND TO  
14 ALLOW A SPONSOR TO RETAIN CERTAIN FUNDS FOR  
15 OVERSEEING THE CHARTER SCHOOL; BY ADDING  
16 SECTION 59-40-175 SO AS TO CREATE THE CHARTER  
17 SCHOOL FACILITY REVOLVING LOAN PROGRAM FOR  
18 THE CONSTRUCTION, PURCHASE, RENOVATION, AND  
19 MAINTENANCE OF PUBLIC CHARTER SCHOOL  
20 FACILITIES; TO AMEND SECTION 59-40-20, AS AMENDED,  
21 RELATING TO THE PURPOSE OF THE CHARTER SCHOOL  
22 ACT, SO AS TO INCLUDE AN ADDITIONAL PURPOSE; TO  
23 AMEND SECTION 59-40-40, AS AMENDED, RELATING TO  
24 DEFINITIONS, SO AS TO AMEND EXISTING DEFINITIONS  
25 AND ADD NEW DEFINITIONS; TO AMEND SECTION  
26 59-40-50, AS AMENDED, RELATING TO CHARTER SCHOOL  
27 POWERS AND DUTIES, SO AS TO ALLOW FOR THE  
28 APPLICATION TO CREATE A SINGLE GENDER CHARTER  
29 SCHOOL, REVISE PRIORITY ENROLLMENT LIMITS,  
30 PROVIDE FOR THE ELECTION OF A CHARTER SCHOOL  
31 BOARD OF DIRECTORS, PROVIDE FOR BOARD MEETING  
32 NOTICE REQUIREMENTS, ALLOW A CHARTER SCHOOL  
33 TO CONTRACT WITH PROVIDERS FOR STUDENT  
34 TRANSPORTATION, AND ALLOW CHARTER SCHOOL  
35 STUDENTS TO PARTICIPATE IN CERTAIN  
36 EXTRACURRICULAR ACTIVITIES UNDER CERTAIN  
37 CONDITIONS; TO AMEND SECTION 59-40-60, AS  
38 AMENDED, RELATING TO APPLICATION TO CREATE A  
39 CHARTER SCHOOL, SO AS TO CLARIFY WHAT MUST BE  
40 INCLUDED IN THE CONTRACT, AND TO REQUIRE THE  
41 DEPARTMENT OF EDUCATION TO CREATE A CONTRACT  
42 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.

42 Amend Title To Conform

43

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

3  
4 SECTION 1. Chapter 40, Title 59 of the 1976 Code is amended  
5 by 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 contract, 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

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."

15

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

18

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:

39

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."

1  
2 SECTION 4. Section 59-40-20 of the 1976 Code, as last amended  
3 by Act 274 of 2006, is further amended to read:

4  
5 “Section 59-40-20. This chapter is enacted to:

6 (1) improve student learning;

7 (2) increase learning opportunities for students;

8 (3) encourage the use of a variety of productive teaching  
9 methods;

10 (4) establish new forms of accountability for schools;

11 (5) create new professional opportunities for teachers,  
12 including the opportunity to be responsible for the learning  
13 program at the school site; ~~and~~

14 (6) assist South Carolina in reaching academic excellence; ~~and~~

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

19  
20 SECTION 5. Section 59-40-40 of the 1976 Code, as last amended  
21 by Act 274 of 2006, is further amended to read:

22  
23 “Section 59-40-40. As used in this chapter:

24 (1) A ‘charter school’ means a public, nonreligious,  
25 nonhome-based, nonprofit corporation forming a school that  
26 operates ~~within by sponsorship of~~ a public school district ~~or, the~~  
27 South Carolina Public Charter School District, or a public or  
28 independent institution of higher learning, but is accountable to the  
29 ~~school board of trustees of that district, or in the case of technical~~  
30 colleges, the area commission, of the sponsor which grants its  
31 charter. Nothing in this chapter prohibits charter schools from  
32 offering virtual services pursuant to state law and subsequent  
33 regulations defining virtual schools.

34 (2) A charter school:

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

40 (b) is subject to all federal and state laws and constitutional  
41 provisions prohibiting discrimination on the basis of disability,  
42 race, creed, color, gender, national origin, religion, ancestry, or  
43 need for special education services; however, an applicant may

1 seek to form a single gender charter school without regard to the  
2 gender makeup of that proposed charter school;

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

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

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

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

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

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

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

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

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

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

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

22  
23 SECTION 6. Section 59-40-50 of the 1976 Code, as last amended  
24 by Act 239 of 2008, is further amended to read:

25  
26 "Section 59-40-50. (A) Except as otherwise provided in this  
27 chapter, a charter school is exempt from all provisions of law and  
28 regulations applicable to a public school, a school board, or a  
29 district, although a charter school may elect to comply with one or  
30 more of these provisions of law or regulations.

31 (B) A charter school must:

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

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

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

42 (4) be considered a school district for purposes of tort  
43 liability under South Carolina law, except that the tort immunity

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

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

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

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

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

1 ~~already~~ currently enrolled or previously enrolled, or who, within  
2 the last three years, attended the school for at least one academic  
3 year. A charter school also may give priority to children of a  
4 charter school employee; and children of the charter committee, if  
5 ~~such~~ priority enrollment for children of employees and of the  
6 charter committee does not constitute more than twenty percent of  
7 the enrollment of the charter school;

8 (9) elect its board of directors ~~annually~~.

9 (i) At least one-third of the board positions must be open  
10 for election annually, allowing for staggered terms of no more than  
11 three years. Board members may be reelected for consecutive  
12 terms as allowed by the charter school bylaws. All employees of  
13 the charter school and all parents or guardians of students enrolled  
14 in the charter school are eligible to participate in the election.  
15 Parents or guardians of a student shall have one vote for each  
16 student enrolled in the charter school. A person who has been  
17 convicted of a felony must not be elected to a board of directors;

18 (ii) Section 59-40-50(B)(9)(i) does not apply to a charter  
19 school that originated by application of a local school district. In  
20 the case of a charter school that originated by application of a local  
21 school district, the governing board of the charter school consists  
22 of the elected members of the board of trustees of the local school  
23 district;

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

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

32 (2) If a charter school suspends or expels a student, other  
33 charter schools or the local school district in which the charter  
34 school is located has the authority but not the obligation to refuse  
35 admission to the student.

36 (3) ~~The sponsor has no obligation to provide extracurricular~~  
37 ~~activities or access to facilities of the school district for students~~  
38 ~~enrolled in the charter school; however, the charter contract may~~  
39 ~~include participation in agreed upon interscholastic activities at a~~  
40 ~~designated school within the sponsor district. Notwithstanding~~  
41 ~~another provision of law, the local school district has no obligation~~  
42 ~~to provide charter schools, sponsored by the South Carolina Public~~  
43 ~~Charter School District, extracurricular activities or access to~~

1 ~~facilities of the school district for students enrolled in charter~~  
2 ~~schools unless the school district, by contract, has agreed to~~  
3 ~~provide activities or access. Students participating under this~~  
4 ~~agreement must be considered eligible to participate in league~~  
5 ~~events if other eligibility requirements are met.~~

6 (a) A charter school is eligible for federally sponsored,  
7 state-sponsored or district-sponsored interscholastic leagues,  
8 competitions, awards, scholarships, grants, and recognition  
9 programs for students, educators, administrators, staff, and schools  
10 to the same extent as all other public schools.

11 (b) A charter school student is eligible to compete for, and  
12 if selected, participate in extracurricular activities not offered by  
13 the student's school at the resident public school, except activities  
14 governed by the South Carolina High School League, wherein a  
15 charter school student is eligible to compete to participate in these  
16 activities at his resident public school if the charter school he  
17 attends is not a member of the South Carolina High School  
18 League.

19 (c) A charter school student is eligible for extracurricular  
20 activities at the student's resident public school consistent with  
21 eligibility standards as applied to full-time students of the resident  
22 public school.

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

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

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

31 (D) The State is not responsible for student transportation to a  
32 charter school unless the charter school is designated by the local  
33 school district as the only school selected within the local school  
34 district's attendance area. However, a charter school may enter  
35 into a contract with a school district or a private provider to  
36 provide transportation to the charter school students.

37 (E) The South Carolina Public Charter School District Board of  
38 Trustees may not use program funding for transportation."

39  
40 SECTION 7. Section 59-40-60 of the 1976 Code, as last amended  
41 by Act 274 of 2006, is further amended to read:  
42

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

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

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

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

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

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

25 (3) submit a written charter school application to the charter  
26 school advisory committee and to the school board of trustees or  
27 area commission from which the committee is seeking  
28 sponsorship.

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

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

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

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

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

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

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

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

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

17 (5) a description of the charter school's plan for evaluating  
18 pupil achievement and progress toward accomplishment of the  
19 school's achievement standards in addition to state assessments,  
20 the timeline for meeting these standards, and the procedures for  
21 taking corrective action if that pupil achievement falls below the  
22 standards;

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

29 (7) a description of the governance and operation of the  
30 charter school, including the nature and extent of parental,  
31 professional educator, and community involvement in the  
32 governance and operation of the charter school;

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

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

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

3 (11) an explanation of the relationship that shall exist between  
4 the proposed charter school and its employees, including  
5 descriptions of evaluation procedures and evidence that the terms  
6 and conditions of employment have been addressed with affected  
7 employees;

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

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

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

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

29 (G) Nothing in this section shall require a charter school  
30 applicant to provide a list of prospective or tentatively enrolled  
31 students or prospective employees with the application.”  
32

33 SECTION 8. Section 59-40-70 of the 1976 Code, as last amended  
34 by Act 239 of 2008, is further amended to read:  
35

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35       (5) An applicant shall submit the application to the advisory  
36 committee and one copy to the ~~school~~ board of trustees ~~of the~~  
37 ~~district~~ or area commission from which it is seeking sponsorship.  
38 In the case of the South Carolina Public Charter School District or  
39 a public or independent institution of higher learning sponsor, the  
40 applicant shall provide notice of the application to the local school  
41 board of trustees in which the charter school will be located for  
42 informational purposes only. The advisory committee shall  
43 receive input from the school district ~~in~~ or the public or

1 independent institution of higher learning from which the applicant  
2 is seeking sponsorship and shall request clarifying information  
3 from the applicant. An applicant may submit an application to the  
4 advisory committee at any time during the fiscal year pursuant to  
5 State Board of Education regulations and the advisory committee,  
6 within ~~sixty~~ ninety days, shall determine whether the application is  
7 in compliance. An application that is in compliance must be  
8 forwarded to the board or area commission of the school district or  
9 the public or independent institution of higher learning from which  
10 the applicant is seeking sponsorship with a letter stating the  
11 application is in compliance. The letter also shall include a  
12 recommendation from the Charter School Advisory Committee to  
13 approve or deny the charter. The letter must specify the reasons  
14 for its recommendation. This recommendation is nonbinding on  
15 the school board of trustees or area commission. If the application  
16 is in noncompliance, it must be returned to the applicant with  
17 deficiencies noted. The applicant may appeal the decision to the  
18 Administrative Law Court.

19 (6) The advisory committee shall notify the local delegation  
20 of a county in which a proposed charter school is to be located  
21 upon receipt of a charter school application and also shall provide  
22 a copy of the charter school application upon request by a member  
23 of the local delegation.

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

35 (C) A ~~school district~~ board of trustees only or area commission  
36 shall deny an application only if the application does not meet the  
37 requirements specified in Section 59-40-50 or 59-40-60, fails to  
38 meet the spirit and intent of this chapter, or adversely affects, as  
39 defined in regulation, the other students in the district in which the  
40 charter school is to be located. It shall provide, within ten days, a  
41 written explanation of the reasons for denial, citing specific  
42 standards related to provisions of Section 59-40-50 or 59-40-60  
43 that the application violates. This written explanation immediately

1 must be sent to the charter committee and filed with the State  
2 Board of Education and the Charter School Advisory Committee.

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

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

26 (F) If the ~~school district~~ board of trustees or area commission  
27 approves the application, it becomes the charter school's sponsor  
28 and shall sign the approved application, ~~which constitutes a~~  
29 ~~contract with the charter committee of the charter school.~~ The  
30 sponsor shall submit a copy of the charter ~~must be filed with~~  
31 contract to the State Board of Education.

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

1  
2 SECTION 9. Section 59-40-100 of the 1976 Code, as last  
3 amended by Act 239 of 2008, is further amended to read:

4  
5 “Section 59-40-100. (A) An existing public school may be  
6 converted into a charter school if two-thirds of the faculty and  
7 instructional staff employed at the school and ~~two-thirds a majority~~  
8 ~~of all voting parents or legal guardians of students enrolled in the~~  
9 ~~school~~ returned premailed ballots issued to those who are eligible  
10 to vote agree to the filing of an application with the local school  
11 board of trustees for the conversion and formation of that school  
12 into a charter school. Parents or legal guardians of students  
13 enrolled in the school must be given the opportunity to vote on the  
14 conversion. Parents or guardians of a student shall have one vote  
15 for each student enrolled in the school seeking conversion. The  
16 State Board of Education shall promulgate regulations providing  
17 for paper ballots to be used in the voting process. The application  
18 must be submitted pursuant to Section 59-40-70(A)(5) by the  
19 principal of that school or his designee who must be considered the  
20 applicant. The application must include all information required of  
21 other applications pursuant to this chapter. The local school board  
22 of trustees shall approve or disapprove this application in the same  
23 manner it approves or disapproves other applications. The  
24 existence of another charter granting authority must not be grounds  
25 for disapproving a school desiring to convert to a charter school.

26 (B) A converted charter school shall offer at least the same  
27 grades, or nongraded education appropriate for the same ages and  
28 education levels of pupils, as offered by the school immediately  
29 before conversion, and also may provide additional grades and  
30 further educational offerings.

31 (C) All students enrolled in the school at the time of conversion  
32 must be given priority enrollment. Thereafter, students who reside  
33 within the former attendance area of that public school must be  
34 given enrollment priority.

35 (D) All employees of a converted school shall remain  
36 employees of the local school district ~~or~~, the South Carolina Public  
37 Charter School District, or the public or independent institution of  
38 higher learning sponsor with the same compensation and benefits  
39 including any future increases. The converted charter school  
40 quarterly shall reimburse the local school district ~~or~~, the South  
41 Carolina Public Charter School District, or the public or  
42 independent institution of higher learning sponsor for the  
43 compensation and employer contribution benefits paid to or on

1 behalf of these employees and also provide to the school district  
2 sponsor any reports, forms, or data necessary for maintaining  
3 retirement coverage and providing South Carolina Retirement  
4 Systems benefits to converted school employees. The provisions  
5 of Article 5, Chapter 25 ~~of~~ Title 59 apply to the employment and  
6 dismissal of teachers at a converted school.

7 (E) For the duration of a converted charter school's contract  
8 with a sponsor, a converted charter school shall have the right to  
9 retain occupancy and use of the school's facility or facilities and  
10 all equipment, furniture, and supplies that were available to the  
11 school before it converted, in the same manner as before the school  
12 converted, with no additional fees or charges.

13 ~~(E)~~(F) The South Carolina Public Charter School District or a  
14 public or independent institution of higher learning may not  
15 sponsor a public school to convert to a charter school. However,  
16 the South Carolina Public Charter School District or a public or  
17 independent institution of higher learning may sponsor a converted  
18 charter school renewal if the charter school has not committed a  
19 material violation of the provisions specified in subsection (C) of  
20 Section 59-40-110 and the local school district board of trustees  
21 refuses to renew the charter. In such cases, the charter school shall  
22 continue to receive local funding pursuant to Section  
23 59-40-110(A). However, the charter school is not eligible to  
24 receive one hundred percent of the base student cost from the  
25 State. The charter school only is eligible to receive the percentage  
26 of the base student cost previously received as a school in its  
27 former district.”

28  
29 SECTION 10. Section 59-40-110 of the 1976 Code, as last  
30 amended by Act 239 of 2008, is further amended to read:

31  
32 “Section 59-40-110. (A) A charter must be approved or  
33 renewed for a period of ten school years; however, the charter only  
34 may be revoked or not renewed under the provisions of subsection  
35 (C) of this section. The sponsor annually shall evaluate the  
36 conditions outlined in subsection (C). The annual evaluation  
37 results must be used in making a determination for nonrenewal or  
38 revocation.

39 (B) A charter renewal application must be submitted to the  
40 school's sponsor, and it must contain:

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

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

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

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

11 (2) failed to meet or make reasonable progress, as defined in  
12 the charter application, toward pupil achievement standards  
13 identified in the charter application;

14 (3) failed to meet generally accepted standards of fiscal  
15 management; or

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

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

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

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

39 (G) A charter school seeking renewal may submit a renewal  
40 application to another charter granting authority if the charter  
41 school has not committed a material violation of the provisions  
42 specified in subsection (C) of this section and the ~~local school~~  
43 ~~district board of trustees~~ sponsor refuses to renew the charter. In

1 such cases, the charter school shall continue to receive local  
2 funding pursuant to Section 59-40-140(A). However, the charter  
3 school is not eligible to receive one hundred percent of the base  
4 student cost from the State. The charter school only is eligible to  
5 receive the percentage of the base student cost previously received  
6 as a school in its former district.

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

10

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

13

14 “Section 59-40-140. (A) A local school board of trustees  
15 sponsor shall distribute state, county, and school district funds to a  
16 charter school as determined by the following formula: the  
17 previous year’s audited total general fund revenues, divided by the  
18 previous year’s weighted students, then increased by the Education  
19 Finance Act inflation factor, pursuant to Section 59-20-40, for the  
20 years following the audited expenditures, then multiplied by the  
21 weighted students enrolled in the charter school, which will be  
22 subject to adjustment for student attendance and state budget  
23 allocations based on the same criteria as the local school district.  
24 These amounts must be verified by the ~~State~~ Department of  
25 Education before the first disbursement of funds. All state and  
26 local funding must be distributed by the local school district to the  
27 charter school monthly beginning July first following approval of  
28 the charter school application and must continue to be disbursed to  
29 the charter school for the duration of its charter and for the  
30 duration of any subsequent renewals. After verification of student  
31 attendance on the fifth day of school at the beginning of each  
32 school year, the State Department of Education shall distribute  
33 funds to school districts with charter schools (i) having approved  
34 incremental growth and expansion as provided in their charter  
35 application, or (ii) for opening of new charter schools in the  
36 current fiscal year. These funds must be released to districts on  
37 behalf of their charter schools no later than fifteen days after  
38 receipt of verified enrollment. Districts shall provide this funding  
39 to eligible charters no later than thirty days after receipt from the  
40 Department of Education. Necessary adjustments due to  
41 enrollment changes must be made pursuant to the Education  
42 Finance Act.

1     ~~(B) The South Carolina Public Charter School District shall~~  
2 ~~receive and distribute state funds to the charter school as~~  
3 ~~determined by the following formula: the current year's base~~  
4 ~~student cost, as funded by the General Assembly, multiplied by the~~  
5 ~~weighted students enrolled in the charter school, which must be~~  
6 ~~subject to adjustment for student attendance and state budget~~  
7 ~~allocations. These state funds are in addition to other funds to be~~  
8 ~~received and distributed by the South Carolina Public Charter~~  
9 ~~School District pursuant to subsections (C) and (D) of this section~~  
10 ~~and Section 59-40-220(A). However, the South Carolina Public~~  
11 ~~Charter School District may not retain more than two percent of its~~  
12 ~~gross revenue for its internal administrative and operating~~  
13 ~~expenses~~ The South Carolina Public Charter School District or  
14 public or independent institution of higher learning sponsor shall  
15 receive and distribute state funds to the charter school as provided  
16 by the General Assembly.

17     (C) During the year of the charter school's operation, as  
18 received, and to the extent allowed by federal law, a sponsor shall  
19 distribute to the charter school federal funds which are allocated to  
20 the ~~school district~~ sponsor on the basis of the number of special  
21 characteristics of the students attending the charter school. These  
22 amounts must be verified by the State Department of Education  
23 before the first disbursement of funds.

24     (D) Notwithstanding subsection (C), the proportionate share of  
25 state and federal resources generated by students ~~with disabilities~~  
26 or staff serving them must be directed to the ~~school district board~~  
27 ~~of trustees~~ sponsor. ~~The proportionate share of funds generated~~  
28 ~~under other federal or state categorical aid programs must be~~  
29 ~~directed to the school district board of trustees serving students~~  
30 ~~eligible for the aid pursuant to state and federal law. After receipt~~  
31 of federal or state categorical aid funds, sponsors shall, within ten  
32 business days, supply to the charter school the proportional share  
33 of each categorical fund for which the charter school qualifies. If  
34 the sponsor fails to do so, the Department of Education may fine  
35 the sponsor an amount equivalent to the withheld amounts. Fines  
36 imposed must be remitted to the charter school from which the  
37 amounts were withheld.

38     (E) All services centrally or otherwise provided by the sponsor  
39 ~~or local school district, if any,~~ including, but not limited to, food  
40 services, custodial services, maintenance, curriculum, media  
41 services, libraries, and warehousing are subject to negotiation  
42 between a charter school and the sponsor ~~or local school district~~

1 and must be outlined in the contract required pursuant to Section  
2 59-40-70(F).

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

5 (G) The governing body of a charter school is authorized to  
6 accept gifts, donations, or grants of any kind made to the charter  
7 school and to expend or use the gifts, donations, or grants in  
8 accordance with the conditions prescribed by the donor. A gift or  
9 donation must not be required for admission. However, a gift,  
10 donation, or grant must not be accepted by the governing board if  
11 subject to a condition contrary to law or contrary to the terms of  
12 the contract between the charter school and the governing body.  
13 All gifts, donations, or grants must be reported to the sponsor in  
14 their annual audit report as required in Section 59-40-50(B)(3).

15 (H) A charter school shall report to its sponsor and the  
16 Department of Education any change to information provided  
17 under its application. In addition, a charter school shall report at  
18 least annually to its sponsor and the sponsor shall compile those  
19 reports into a single document which must be submitted to the  
20 department. The Department of Education shall develop a  
21 template to be used by charter schools for this annual report. The  
22 report shall provide all information required by the sponsor or the  
23 department and shall include including, at a minimum,;

24 (1) the number of students enrolled in the charter school  
25 from year to year;

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

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

30 (4) the identity and certification status of the teaching staff;

31 (5) the financial performance and sustainability of the  
32 sponsor's charter schools; and

33 (6) board performance and stewardship including  
34 compliance with applicable laws.

35 (I) The sponsor shall provide technical assistance to persons  
36 and groups preparing or revising charter applications at no  
37 expense.

38 (J) Charter schools may acquire by gift, devise, purchase,  
39 lease, sublease, installment purchase agreement, land contract,  
40 option, or by any other means, and hold and own in its own name  
41 buildings or other property for school purposes and interests in it  
42 which are necessary or convenient to fulfill its purposes.

1 (K) Charter schools are exempt from all state and local  
2 taxation, except the sales tax, on their earnings and property.  
3 Instruments of conveyance to or from a charter school are exempt  
4 from all types of taxation of local or state taxes and transfer fees.”  
5

6 SECTION 12. Section 59-40-190(C) of the 1976 Code is  
7 amended to read:  
8

9 “(C) A local school district, sponsor, members of the board or  
10 area commission of a sponsor, and employees of a sponsor acting  
11 in their official capacity are immune from civil or criminal liability  
12 with respect to all activities related to a charter school they  
13 sponsor. The governing body of a charter school shall obtain at  
14 least the amount of and types of insurance required for this  
15 purpose.”  
16

17 SECTION 13. Section 59-40-230(A) of the 1976 Code, as added  
18 by Act 274 of 2006, is amended to read:  
19

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

23 (1) two appointed by the Governor;

24 (2) one appointed by the Speaker of the House of  
25 Representatives;

26 (3) one appointed by the President Pro Tempore of the  
27 Senate; and

28 (4) ~~seven~~ five to be appointed by the Governor upon the  
29 recommendation of the:

30 (a) ~~South Carolina Association of Public Charter Schools~~  
31 ~~and one additional representative from the association;~~

32 ~~(b)~~ South Carolina Association of School Administrators;

33 ~~(c)~~ South Carolina Chamber of Commerce;

34 ~~(d)~~ South Carolina Education Oversight Committee;

35 ~~(e)~~ South Carolina School Boards Association; and

36 ~~(f)~~ South Carolina Alliance of Black Educators.

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

42 Each member of the board of trustees shall serve terms of three  
43 years, except that, for the initial members, two appointed by the

1 Governor, one by the Speaker of the House, and one by the  
2 President Pro Tempore of the Senate, shall serve terms of one year  
3 and three appointed by the Governor shall serve terms of two  
4 years. A member of the board may be removed after appointment  
5 pursuant to Section 1-3-240. In making appointments, every effort  
6 must be made to ensure that all geographic areas of the State are  
7 represented and that the membership reflects urban and rural areas  
8 of the State as well as the ethnic diversity of the State.”  
9

10 SECTION 14. Section 59-40-130(A) of the 1976 Code, as last  
11 amended by Act 274 of 2006, is further amended to read:  
12

13 “(A)(1) If an employee of a local school district makes a  
14 written request for leave to be employed at a charter school before  
15 July 1, 2006, the school district shall grant the leave for up to five  
16 years as requested by the employee. The school district may  
17 require that the request for leave or extension of leave be made by  
18 the date provided for by state law for the return of teachers’  
19 contracts. Employees may return to employment with the local  
20 school district at its option with the same teaching or  
21 administrative contract status as when they left but without  
22 assurance as to the school or supplemental position to which they  
23 may be assigned.

24 (2) Notwithstanding the provisions of item (1) of this  
25 subsection and subject to the provisions of subsection (B) of this  
26 section, a charter school employing after June 30, 2006, an  
27 individual on leave from a local school district shall participate in  
28 the South Carolina Retirement Systems as a covered employer  
29 with respect to that employee on leave through the earlier of the  
30 date the employee on leave returns to employment by the district  
31 or June 30, 2011, and only if the charter school and the employee  
32 have made required employer and employee contributions to the  
33 South Carolina Retirement Systems from the employee’s date of  
34 employment with the charter school.”  
35

36 SECTION 15. Section 59-40-220(A) of the 1976 Code, as last  
37 amended by Act 274 of 2006, is further amended to read:  
38

39 “(A) The South Carolina Public Charter School District may not  
40 have a local tax base and may not receive local property taxes.  
41 This prohibition does not extend to local funds received by the  
42 district on behalf of sponsored charter schools pursuant to Section  
43 59-40-140(B).”

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SECTION 16. Article 5, Chapter 1, Title 59 of the 1976 Code is amended by adding:

“Section 59-1-490. The exemption provisions provided in Section 59-40-50 that apply to charter schools also apply to traditional public schools of the local public school districts of this State, except that a traditional public school may employ noncertified teachers in a ratio of up to ten percent of its entire teacher staff. A traditional public school may not limit or deny admission or show preference in admission decisions to any group of individuals, and it must meet the student attendance requirements as provided in this title.”

SECTION 17. This act takes effect upon approval by the Governor.

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