

1 HB664
2 169400-1
3 By Representative Collins
4 RFD: Education Policy
5 First Read: 14-MAY-15

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8 SYNOPSIS: Under existing law, the State Board of
9 Education is required to appoint the members of the
10 Alabama Public Charter School Commission.

11 This bill would require that the members of
12 the commission be appointed by the Governor,
13 Lieutenant Governor, President Pro Tempore of the
14 Senate, and the Speaker of the House of
15 Representatives.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT

20
21 To amend Section 6 of Act 2015-3, 2015 Regular
22 Session, to provide that for the members of the Alabama Public
23 Charter School Commission to be appointed by the Governor,
24 Lieutenant Governor, President Pro Tempore of the Senate, and
25 the Speaker of the House of Representatives.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 6 of Act 2015-3, 2015 Regular
2 Session, is amended to read as follows:

3 "Section 6.

4 "(a) Eligible authorizing entities.

5 "(1) A public charter school shall not be
6 established in this state unless its establishment is
7 authorized by this section. No governmental entity or other
8 entity, other than an entity expressly granted chartering
9 authority as set forth in this section, may assume any
10 authorizing function or duty in any form. The following
11 entities shall be authorizers of public charter schools:

12 "a. A local school board, for chartering of schools
13 within the boundaries of the school system under its
14 jurisdiction, pursuant to state law.

15 "b. The Alabama Public Charter School Commission,
16 pursuant to this section.

17 "(2) A local school board that registers as an
18 authorizer may approve or deny an application to form a public
19 charter school within the boundaries of the local school
20 system overseen by the local school board.

21 "(3) All authorizing entities shall prioritize those
22 applications that are focused on serving at-risk students.

23 "(4) A decision made by a local school board shall
24 be subject to appeal to the commission. The commission may
25 hear an application for the formation of a public charter
26 school by an applicant only if one of the following factors is
27 met:

1 "a. An application to form a public charter school
2 is denied by the local school board overseeing that system and
3 the applicant chooses to appeal the decision of the local
4 school board to the commission.

5 "b. The applicant wishes to open a start-up public
6 charter school in a public school system that has chosen not
7 to register as an authorizer.

8 "(b) Public charter school cap.

9 "(1) Authorizers may not approve more than 10
10 start-up public charter schools in a fiscal year.

11 "(2) Upon receiving notice of approval of the tenth
12 start-up public charter school to be approved in a fiscal
13 year, the department shall provide notice to all authorizers
14 that the cap has been reached and no new start-up public
15 charter schools may be approved in that fiscal year.

16 "(3) The cap expires on April 1 immediately
17 following the conclusion of the fifth fiscal year after the
18 effective date of this act.

19 "(4) At the conclusion of the fifth fiscal year, the
20 department shall submit a report to the Legislature outlining
21 the performance of both start-up and conversion public charter
22 schools. This report shall include, at a minimum, academic
23 performance of all public charter schools in the state, a
24 detailed update on the authorizing process, and
25 recommendations for adjustments to public charter school
26 governance and oversight.

1 "(5) There is no limit on the number of conversion
2 public charter schools that may be approved.

3 "(c) The Alabama Public Charter School Commission.

4 "(1) The commission is established as an independent
5 state entity.

6 "(2) The mission of the commission is to authorize
7 high quality public charter schools, in accordance with the
8 powers expressly conferred on the commission in this act.

9 "(3) The commission shall be composed of a total of
10 11 members. ~~The State Board of Education~~ Governor, Lieutenant
11 Governor, President Pro Tempore of the Senate, and the Speaker
12 of the House of Representatives shall appoint 10 members, made
13 up of four appointees ~~recommended by~~ of the Governor, one
14 appointee ~~recommended by~~ of the Lieutenant Governor, two
15 appointees ~~recommended by~~ of the President Pro Tempore of the
16 Senate, and three appointees ~~recommended by~~ of the Speaker of
17 the House of Representatives. ~~The Governor, the Lieutenant~~
18 ~~Governor, the President Pro Tempore of the Senate, and the~~
19 ~~Speaker of the House of Representatives shall each recommend a~~
20 ~~list of no fewer than two nominees for each appointment to the~~
21 ~~commission.~~ One ~~recommended~~ appointee of the President Pro
22 Tempore of the Senate and one ~~recommended~~ appointee of the
23 Speaker of the House of Representatives shall be an appointee
24 recommended by members of the Senate minority party and
25 members of the House minority party, respectively. ~~No~~
26 ~~commission member can be appointed unless he or she has been~~
27 ~~recommended by the Governor, Lieutenant Governor, President~~

1 ~~Pro Tempore of the Senate, or the Speaker of the House of~~
2 ~~Representatives.~~

3 "(4) The eleventh member of the commission shall be
4 a rotating position based on the local school system where the
5 application was denied. This member appointed to the rotating
6 position shall be appointed by the local school system where
7 the applicant is seeking to open a public charter school. The
8 local school system shall appoint a member to the rotating
9 position through board action specifically to consider that
10 application.

11 "(5) The appointing authorities of the commission
12 members shall strive to select individuals that collectively
13 possess strong experience and expertise in public and
14 nonprofit governance, strategic planning, management and
15 finance, public school leadership, assessment, curriculum and
16 instruction, and public education law. Each member of the
17 commission shall have demonstrated understanding of and
18 commitment to charter schooling as a tool for strengthening
19 public education and shall sign an agreement to hear the
20 appeal and review documents in a fair and impartial manner.

21 "(6) Membership of the commission shall be inclusive
22 and reflect the racial, gender, geographic, urban/rural, and
23 economic diversity of the state. The appointing authority
24 shall consider the eight State Board of Education districts in
25 determining the geographical diversity of the commission.

26 "(7) The initial appointments to the commission
27 shall be made no later than June 1, 2015. Two ~~recommended~~

1 appointees of the Governor, one ~~recommended~~ appointee of the
2 Lieutenant Governor, one ~~recommended~~ appointee of the Speaker
3 of the House of Representatives, and one ~~recommended~~ appointee
4 of the President Pro Tempore of the Senate shall serve and
5 initial term of one year and two ~~recommended~~ appointees of the
6 Governor, two ~~recommended~~ appointees of the Speaker of the
7 House of Representatives, and one ~~recommended~~ appointee of the
8 President Pro Tempore of the Senate shall serve an initial
9 term of two years. Thereafter, all appointees shall serve
10 two-year terms of office. All appointments shall be eligible
11 for reappointment as determined by the appointing authority,
12 not to exceed a total of six years of service, unless the
13 member was initially appointed to serve a one-year term of
14 office. If the initial term of office of an appointee was one
15 year, he or she may serve a total of five years of service on
16 the commission.

17 "(8) A member of the commission may be removed for
18 failure to perform the duties of the appointment. Whenever a
19 vacancy on the commission exists, the appointing authority,
20 within 60 days after the vacancy occurs, shall appoint a
21 member for the remaining portion of the term in the same
22 manner as the original appointment was made. A member of the
23 commission shall abstain from any vote that involves a local
24 school system of which he or she is an employee or which he or
25 she oversees as a member of a local school board. The
26 requirement to abstain does not apply to the rotating position
27 on the commission.

1 "(9) Six members of the commission constitute a
2 quorum, and a quorum shall be necessary to transact business.
3 Actions of the commission shall be by a majority vote of the
4 commission. The commission, in all respects, shall comply with
5 the Alabama Open Meetings Act and state record laws.
6 Notwithstanding the preceding sentence, members of the
7 commission may participate in a meeting of the commission by
8 means of telephone conference, video conference, or similar
9 communications equipment by means of which all persons
10 participating in the meeting may hear each other at the same
11 time. Participation by such means shall constitute presence in
12 person at a meeting for all purposes, including the
13 establishment of a quorum. Telephone or video conference or
14 similar communications equipment shall also allow members of
15 the public the opportunity to simultaneously listen to or
16 observe meetings of the commission.

17 "(10) If the commission overrules the decision of a
18 local school board and chooses to authorize the establishment
19 of a public charter school in that local school system, the
20 commission shall serve as the authorizer for that public
21 charter school, pursuant to this act.

22 "(11) The commission may do any of the following:

23 "a. Utilize professional and administrative staff of
24 the department as recommended by the State Superintendent of
25 Education.

26 "b. Adopt rules for the operation and organization
27 of the commission.

1 "c. Review, at least once per year, department rules
2 and regulations concerning public charter schools and, if
3 needed, recommend to the State Superintendent of Education any
4 rule or regulation changes deemed necessary.

5 "d. Convene stakeholder groups and engage experts.

6 "e. Seek and receive state, federal, and private
7 funds for operational expenses.

8 "f. A commission member may not receive
9 compensation, but shall be reimbursed by the department for
10 travel and per diem expenses at the same rates and in the same
11 manner as state employees.

12 "g. The commission shall submit an annual report to
13 the department pursuant to subsection (g).

14 "(12) In order to overrule the decision of a local
15 school board and authorize a public charter school, the
16 commission shall do all of the following:

17 "a. Find evidence of a thorough and high-quality
18 public charter school application from the applicant based on
19 the authorizing standards in subdivision (8) of subsection (a)
20 of Section 7.

21 "b. Hold an open community hearing opportunity for
22 public comment within the local school system where the
23 application was denied.

24 "c. Find that the local board's denial of an
25 original charter application was not supported by the
26 application and exhibits.

1 "d. Take into consideration (i) other existing
2 charter school applications, (ii) the quality of school
3 options existing in the affected community, (iii) the
4 existence of other charter schools, and (iv) any other factors
5 considered relevant to ensure the establishment of
6 high-quality charter schools in accordance with the intent of
7 this act.

8 "e. Find evidence that the local school board erred
9 in its application of nationally recognized authorizing
10 standards.

11 "(d) A local school board may register with the
12 department for chartering authority within the boundaries of
13 the school system overseen by the local school board. The
14 department shall publicize to all local school boards the
15 opportunity to register with the state for chartering
16 authority within the school system they oversee. By June 1 of
17 each year, the department shall provide information about the
18 opportunity, including a registration deadline, to all local
19 school boards. To register as a charter authorizer in its
20 school system, each interested local school board shall submit
21 the following information in a format to be established by the
22 department:

23 "(1) Written notification of intent to serve as a
24 charter authorizer in accordance with this act.

25 "(2) An explanation of the local school board's
26 capacity and commitment to execute the duties of quality

1 charter authorizing, as defined by nationally recognized
2 authorizing standards.

3 "(3) An explanation of the local school board's
4 strategic vision for chartering.

5 "(4) An explanation of how the local school board
6 plans to solicit public charter school applicants, in
7 accordance with this act.

8 "(5) A description or outline of the performance
9 framework the local school board will use to guide the
10 establishment of a charter contract and for ongoing oversight
11 and evaluation of public charter schools, consistent with the
12 requirements of this act.

13 "(6) A draft of the local school board's renewal,
14 revocation, and nonrenewal processes, consistent with
15 subsection (c) of Section 8.

16 "(7) A statement of assurance that the local school
17 board commits to serving as a charter authorizer and shall
18 fully participate in any authorizer training provided or
19 required by the state.

20 "(e) If a local school board chooses not to register
21 as an authorizer, all applications seeking to open a start-up
22 public charter school within that local school board's
23 boundaries shall be denied. Applicants wishing to open a
24 public charter school physically located in that local school
25 system may apply directly to the commission.

26 "(f) An authorizer may do all of the following:

1 "(1) Solicit, invite, receive, and evaluate
2 applications from organizers of proposed public charter
3 schools.

4 "(2) Approve applications that meet identified
5 educational needs.

6 "(3) Deny applications that do not meet identified
7 educational needs.

8 "(4) Create a framework to guide the development of
9 charter contracts.

10 "(5) Negotiate and execute charter contracts with
11 each approved public charter school.

12 "(6) Monitor the academic, fiscal, and
13 organizational performance and compliance of public charter
14 schools.

15 "(7) Determine whether each charter contract merits
16 renewal or revocation.

17 "(g) An authorizer shall submit to the State Board
18 of Education a publicly accessible annual report within 60
19 days after the end of each school fiscal year summarizing all
20 of the following:

21 "(1) The authorizer's strategic vision for
22 chartering and progress toward achieving that vision.

23 "(2) The academic and financial performance of all
24 operating public charter schools overseen by the authorizer,
25 according to the performance measures and expectations
26 specified in the charter contracts.

1 "(3) The status of the public charter school
2 portfolio of the authorizer, identifying all public charter
3 schools within that portfolio as one of the following:

4 "a. Approved, but not yet open.

5 "b. Open and operating.

6 "c. Terminated.

7 "d. Closed, including year closed and reason for
8 closing.

9 "e. Never opened.

10 "(4) The oversight and services, if any, provided by
11 the authorizer to the public charter schools under the purview
12 of the authorizer.

13 "(5) The authorizing functions provided by the
14 authorizer to the public charter schools under its
15 jurisdiction, including the operating costs and expenses of
16 the authorizer detailed in annual audited financial statements
17 that conform to generally accepted accounting principles.

18 "(6) All use of taxpayer dollars including
19 expenditures, contracts, and revenues.

20 "(h) To cover costs for overseeing and authorizing
21 public charter schools in accordance with this act, a local
22 school board serving as an authorizer may do all of the
23 following:

24 "(1) Expend its own resources, seek grant funds, and
25 establish partnerships to support its public charter school
26 authorizing activities.

1 "(2) Charge a portion of annual per student state
2 allocations received by each public charter school it
3 authorizes based on the following schedule:

4 "a. If the local school board has oversight over one
5 to three, inclusive, public charter schools: Three percent of
6 annual per student state allocations.

7 "b. If the local school board has oversight over
8 four to five, inclusive, public charter schools: Two percent
9 of annual per student state allocations.

10 "c. If the local school board has oversight over six
11 to 10, inclusive, public charter schools: One percent of
12 annual per student state allocations.

13 "d. These funds shall be used to cover the costs for
14 a local school board to provide authorizing services to its
15 public charter schools.

16 "(i) An employee, agent, or representative of an
17 authorizer may not simultaneously serve as an employee, agent,
18 representative, vendor, or contractor of a public charter
19 school of that authorizer.

20 "(j) With the exception of charges for oversight
21 services as required in subsection (h), a public charter
22 school may not be required to purchase services from its
23 authorizer as a condition of charter approval or of a charter
24 contract, nor may any such condition be implied.

25 "(k) A public charter school authorized by a local
26 school system may choose to purchase services, such as
27 transportation-related or lunchroom-related services, from its

1 authorizer. In such event, the public charter school and
2 authorizer shall execute an annual service contract, separate
3 from the charter contract, stating the mutual agreement of the
4 parties concerning any service fees to be charged to the
5 public charter school. A public charter school authorized by
6 the commission may not purchase services from the commission,
7 but consistent with this section, may purchase services from
8 the local school system where the public charter school is
9 located.

10 "(l) The department shall oversee the performance
11 and effectiveness of all authorizers established under this
12 act. Persistently unsatisfactory performance of the portfolio
13 of the public charter schools of an authorizer, a pattern of
14 well-founded complaints about the authorizer or its public
15 charter schools, or other objective circumstances may trigger
16 a special review by the department. In reviewing and
17 evaluating the performance of an authorizer, the department
18 shall apply nationally recognized standards for quality in
19 charter authorizing. If, at any time, the department finds
20 that an authorizer is not in compliance with an existing
21 charter contract or the requirements of all authorizers under
22 this act, the department shall notify the authorizer in
23 writing of any identified problem, and the authorizer shall
24 have reasonable opportunity to respond and remedy the problem.

25 "(m) If a local school board acting as an authorizer
26 persists in violating a material provision of a charter
27 contract or fails to remedy any other authorizing problem

1 after due notice from the department, the department shall
2 notify the local school board, within 60 days, that it intends
3 to revoke the chartering authority of the local school board
4 unless the local school board demonstrates a timely and
5 satisfactory remedy for the violation or deficiencies.

6 "(n) If the commission violates a material provision
7 of a charter contract or fails to remedy any other authorizing
8 problems after due notice from the department, the department
9 shall notify the commission, within 60 days, that it intends
10 to notify the Governor, the Speaker of the House of
11 Representatives, and the President Pro Tempore of the Senate
12 of the actions of the commission unless the commission
13 demonstrates a timely and satisfactory remedy for the
14 violation of the deficiencies. Along with this notification,
15 the department shall publicly request in writing that the
16 Governor, the Speaker of the House of Representatives, and the
17 President Pro Tempore appointees comply with the requests of
18 the department or face a revocation of their appointment to
19 the commission.

20 "(o) In the event of revocation of the chartering
21 authority of an authorizer, the department shall manage the
22 timely and orderly transfer of each charter contract held by
23 that authorizer to another authorizer in the state, with the
24 mutual agreement of each affected public charter school and
25 proposed new authorizer. The new authorizer shall assume the
26 existing charter contract for the remainder of the charter
27 term.

1 "(p) Authorizer power, duties, and liabilities.
2 Authorizers are responsible for executing, in accordance with
3 this act, the following essential powers and duties:

4 "(1) Soliciting and evaluating charter applications
5 based on nationally recognized standards.

6 "(2) Approving quality charter applications that
7 meet identified educational needs and promote a diversity of
8 high-quality educational choices.

9 "(3) Declining to approve weak or inadequate charter
10 applications.

11 "(4) Negotiating and executing charter contracts
12 with each approved public charter school.

13 "(5) Monitoring, in accordance with charter contract
14 terms, the performance and legal compliance of public charter
15 schools.

16 "(6) Determining whether each charter contract
17 merits renewal, nonrenewal, or revocation.

18 "(q) An authorizer that grants a charter to a
19 501(c)(3) tax-exempt organization for the purpose of opening
20 and operating a public charter school is not liable for the
21 debts or obligations of the public charter school, or for
22 claims arising from the performance of acts, errors, or
23 omissions by the charter school, if the authorizer has
24 complied with all oversight responsibilities required by law,
25 including, but not limited to, those required by this act.

26 "(r) Principles and standards for charter
27 authorizing.

1 "(1) All authorizers shall be required to develop
2 and maintain chartering policies and practices consistent with
3 nationally recognized principles and standards for quality
4 charter authorizing in all major areas of authorizing
5 responsibility including: Organizational capacity and
6 infrastructure; soliciting and evaluating charter
7 applications; performance contracting; ongoing public charter
8 school oversight and evaluation; and charter renewal
9 decision-making. The State Board of Education shall promulgate
10 reasonable rules and regulations to effectuate this section
11 within 90 days after the effective date of this act.

12 "(2) Authorizers shall carry out all of their duties
13 under this act in a manner consistent with such nationally
14 recognized principles and standards and with the spirit and
15 intent of this act. Evidence of material or persistent failure
16 to do so shall constitute grounds for losing charter
17 authorizing powers."

18 Section 2. This act shall become effective
19 immediately following its passage and approval by the
20 Governor, or its otherwise becoming law.