

1 SB513  
2 141425-7  
3 By Senators Brewbaker and Holtzclaw  
4 RFD: Education  
5 First Read: 12-APR-12

1 SB513

2  
3  
4 ENGROSSED

5  
6  
7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 Establishing the Education Options Act of 2012; to  
12 provide an overview of the act; to provide legislative  
13 findings and purposes; to provide definitions; to authorize  
14 school systems to enter into school flexibility contracts with  
15 the state; to provide for the Charter School Application  
16 Review Council; to provide for the process to be followed  
17 before a school flexibility contract is executed; to provide  
18 for the roles and responsibilities of the State Department of  
19 Education relating to public charter schools; to provide  
20 enrollment requirements for public charter schools; to provide  
21 for the roles and responsibilities of public charter school  
22 authorizers; to provide for the process of requesting  
23 proposals for public charter school applications; to specify  
24 who may apply to open a public charter school; to provide for  
25 the charter contract; to provide for the operation and funding  
26 of public charter schools; to provide for public charter

1 school facilities; to provide for extracurricular and  
2 interscholastic opportunities; and to provide for an effective  
3 date.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Short title.

6 This act shall be known and may be cited as the  
7 Education Options Act of 2012.

8 Section 2. Overview.

9 (a) Innovative schools and school systems may be  
10 established in Alabama in accordance with this act.

11 (b) Public charter schools may also be established  
12 in Alabama in accordance with this act. All public charter  
13 schools in the state established under this act are public  
14 schools and are part of the public education system of the  
15 state.

16 (c) This act should be interpreted liberally to  
17 support the findings and purposes of this act and to advance  
18 the continued commitment of the state to the mission, goals,  
19 and diversity of public education.

20 Section 3. Legislative findings and purposes.

21 (a) The Legislature finds and declares all of the  
22 following:

23 (1) It is in the best interests of the people of  
24 Alabama to provide all children with public schools that  
25 reflect high expectations and to create conditions in all  
26 public schools where these expectations can be met.

1                   (2) It is necessary to continue to search for ways  
2 to strengthen the performance of elementary and secondary  
3 public school students.

4                   (3) Those who know students best, parents and  
5 educators, make the best education-related decisions regarding  
6 students.

7                   (4) Parents and educators have a right and a  
8 responsibility to participate in the education institutions  
9 which serve the children of Alabama.

10                   (5) Public school programs, whenever possible,  
11 should be customized to fit the needs of individual students.

12                   (6) Students of all backgrounds are entitled to  
13 equal access to a high quality education.

14                   (b) Therefore, with this act, the Legislature  
15 intends to accomplish all of the following:

16                   (1) Provide school systems with additional tools  
17 that may be used to better meet the educational needs of a  
18 diverse student population.

19                   (2) Encourage innovative education ideas that  
20 improve student learning through high standards for student  
21 performance.

22                   (3) Allow public schools freedom and flexibility in  
23 exchange for exceptional levels of results-driven  
24 accountability.

1           (4) Provide students, parents, community members,  
2 and local entities with expanded opportunities for involvement  
3 in the public education system.

4           (5) Provide additional high quality educational  
5 options to all students, especially students in low performing  
6 schools.

7           Section 4. Definitions.

8           For the purposes of this act, the following terms  
9 shall have the following meanings:

10           (1) APPLICANT. Any person or group that develops and  
11 submits an application for a public charter school to an  
12 authorizer.

13           (2) APPLICATION. A proposal from an applicant to an  
14 authorizer to enter into a charter contract whereby the  
15 proposed school obtains public charter school status.

16           (3) AT-RISK STUDENT. A student who has an economic  
17 or academic disadvantage that requires special services and  
18 assistance to succeed in educational programs. The term  
19 includes, but is not limited to, students who are members of  
20 economically disadvantaged families, students who are  
21 identified as having special educational needs, students who  
22 are limited in English proficiency, students who are at risk  
23 of dropping out of high school, and students who do not meet  
24 minimum standards of academic proficiency.

25           (4) AUTHORIZER. An entity authorized under this act  
26 to review applications, decide whether to approve or reject

1 applications, enter into charter contracts with applicants,  
2 oversee public charter schools, and decide whether to renew,  
3 not renew, or revoke charter contracts.

4 (5) CHARTER CONTRACT. A fixed-term renewable  
5 contract between a public charter school and an authorizer  
6 that outlines the roles, powers, responsibilities, and  
7 performance expectations for each party to the contract.

8 (6) CONVERSION PUBLIC CHARTER SCHOOL. A charter  
9 school that existed as a non-charter public school before  
10 becoming a public charter school.

11 (7) COUNCIL. The Charter School Application Review  
12 Council created in Section 6.

13 (8) DEPARTMENT. The Alabama Department of Education.

14 (9) EDUCATION SERVICE PROVIDER. A nonprofit entity  
15 with which a public charter school intends to contract for  
16 educational design, implementation, or management. An  
17 education service provider shall be organized under the laws  
18 of the United States, with a citizen of the United States  
19 serving as chief executive officer and with the board of  
20 directors being comprised solely of United States citizens. No  
21 education service provider shall be allowed to contract with  
22 an Alabama public charter school if it operates any charter  
23 school designated as failing in any other state.

24 (10) GOVERNING BOARD. The independent board of a  
25 public charter school that is party to the charter contract  
26 with the authorizer and whose members have been elected or

1 selected pursuant to the application of the public charter  
2 school. At least two members of the board shall be a parent of  
3 a student attending the public charter school. Each governing  
4 board is a state agency with local jurisdiction.

5 (11) INNOVATION PLAN. The request of a local school  
6 system for flexibility and plan for annual accountability  
7 measures and five-year targets for all participating schools  
8 within its system.

9 (12) INSTRUCTIONAL SERVICES. The act of teaching  
10 students. This does not include books, computer hardware,  
11 software other than software that purports to replace a  
12 teacher, school supplies, supplemental tutoring, curricular  
13 materials, staff training, or other items or services  
14 routinely purchased in the non-charter public schools of this  
15 state.

16 (13) LOCAL SCHOOL BOARD. A city or county board of  
17 education exercising management and control of a local school  
18 system pursuant to state law.

19 (14) LOCAL SCHOOL SYSTEM. A public agency that  
20 establishes and supervises one or more public schools within  
21 its geographical limits pursuant to state law.

22 (15) NON-CHARTER PUBLIC SCHOOL. A public school  
23 other than a school formed pursuant to this act which is  
24 established by a city or county board of education for the  
25 purpose of providing educational services for students under  
26 its jurisdiction.

1           (16) PARENT. A parent, guardian, or other person or  
2 entity having legal custody of a child.

3           (17) PRIORITY LOCAL SCHOOL. A non-charter public  
4 school labeled as persistently low-performing by the State  
5 Department of Education, in the then-most recent United States  
6 Department of Education School Improvement Grant application,  
7 or, if no such application is submitted, a non-charter public  
8 school listed in the lowest 5 percent of non-charter public  
9 schools on the state accountability plan.

10          (18) PRIORITY LOCAL SCHOOL SYSTEM. A local school  
11 system which contains a priority local school.

12          (19) PUBLIC CHARTER SCHOOL. A public school formed  
13 pursuant to this act that satisfies all of the following:

14           a. Has autonomy over key decisions including, but  
15 not limited to, decisions concerning finance, personnel,  
16 scheduling, curriculum, instruction, and procurement.

17           b. Is governed by an independent governing board.

18           c. Is established and operated under the terms of a  
19 charter contract between the governing board and its  
20 authorizer, in accordance with this act.

21           d. Is a school that admits students on the basis of  
22 a random selection process if more students attempt to enroll  
23 for admission than can be accommodated.

24           e. Provides a program of education that:

25           1. Includes any grade or grades from prekindergarten  
26 to 12th grade, inclusive.



1           2. May include a focus on students with special  
2 needs, such as at-risk students.

3           3. May include a specific academic approach or  
4 theme, including, but not limited to, vocational and technical  
5 training; natural resources and the environment; foreign  
6 language and culture; visual and performing arts; liberal arts  
7 and classical education; or science, mathematics, and  
8 technology.

9           f. Operates in pursuit of a specific set of  
10 educational objectives as defined in its charter contract.

11           g. Operates under the oversight of its authorizer in  
12 accordance with its charter contract.

13           h. Is located in a priority local school system.

14           (20) SCHOOL FLEXIBILITY CONTRACT. A school  
15 flexibility contract between the local school system and the  
16 state wherein local school systems may apply for flexibility  
17 from state laws, including State Board of Education rules,  
18 regulations, and policies.

19           (21) START-UP PUBLIC CHARTER SCHOOL. A public  
20 charter school that did not exist as a non-charter public  
21 school prior to becoming a public charter school.

22           (22) STUDENT. Any child who is eligible for  
23 attendance in public schools in the state.

24           Section 5. Innovative school system status.

25           (a) Notwithstanding any other provision of law, a  
26 public school or local school system may achieve innovative

1 school system status in accordance with this section. All  
2 local school systems shall have an equal opportunity to  
3 achieve innovative school system status as provided in this  
4 section, and in no way shall one local school system be  
5 favored over another local school system based upon its size,  
6 location, student population, or some other possible measure.

7 (b) In order to be considered an innovative school  
8 system, a local school system shall successfully comply with  
9 the requirements and procedures as set forth in the  
10 department's guidance on school flexibility contracts, which  
11 shall include, but not be limited to:

12 (1) Submission by a local school superintendent to  
13 the department of a letter of intent to pursue a school  
14 flexibility contract.

15 (2) Submission by a local school board to the  
16 department of a resolution supporting the intent of the local  
17 school system to pursue a school flexibility contract.

18 (3) Submission by a local school board to the  
19 department of a document of assurance that the local school  
20 board will provide consistency in leadership and remain  
21 committed to state standards, assessments, and academic rigor.

22 (4) Submission by a local school board to the  
23 department of a resolution supporting the school flexibility  
24 contract proposal and the anticipated timeline of the local  
25 school system.

1 (c) Local school systems pursuing a school  
2 flexibility contract shall have a superintendent who has  
3 served a minimum of one calendar year in the local school  
4 system. This subsection may be waived by the State  
5 Superintendent of Education.

6 (d) Pursuant to State Board of Education rules, all  
7 local school systems shall provide an opportunity for full  
8 discussion and public input prior to submitting a final school  
9 flexibility contract proposal to the department. Additionally,  
10 local school systems shall ensure that their school  
11 flexibility contract and innovation plan proposals are easily  
12 accessible to the general public on the website of the local  
13 school system at least two weeks prior to any public hearing  
14 discussing the contract or plan.

15 (e) The innovation plan of a local school system, at  
16 a minimum, shall include the following:

17 (1) The school year the local school system expects  
18 the school flexibility contract to begin.

19 (2) The list of state laws, including State Board of  
20 Education rules, regulations, and policies the local school  
21 system is seeking to waive in its school flexibility contract.

22 (3) A list of schools included in the innovation  
23 plan of the local school system.

24 (4) The accountability measures and targets the  
25 local school system seeks to achieve as justification for  
26 granting the flexibility being sought.

1           (f) Local school systems are accountable to the  
2 state for the performance of all schools in their systems,  
3 including innovative schools, under state and federal  
4 accountability requirements.

5           (g) A local school system may not seek to waive  
6 requirements imposed by federal law, requirements related to  
7 the health and safety of students or employees, requirements  
8 imposed by open records or open meetings laws, requirements  
9 related to financial or academic accountability or  
10 transparency, requirements for state assessments, requirements  
11 designed to protect the civil rights of students or employees,  
12 requirements related to participation in a state retirement  
13 system or state health insurance plan, requirements relating  
14 to the state minimum salary schedule for certificated  
15 personnel and school nurses, compliance with the Foundation  
16 Program, or any requirements related to tenure or fair  
17 dismissal including, specifically, the Teacher Accountability  
18 Act and the Students First Act.

19           (h) All full-time teachers in a public school shall  
20 either hold an appropriate teaching certificate issued by the  
21 Alabama Department of Education or become certified within two  
22 years of the date they are hired, except that certification is  
23 not necessarily required for those full-time teachers with an  
24 advanced degree in the curricular area in which they teach,  
25 professional certification in the curricular area in which

1 they teach, or unique expertise or experience in the  
2 curricular area in which they teach.

3 (i) Once finalized, the school flexibility contract  
4 and innovation plan shall be submitted by the local school  
5 superintendent, with the approval of the local school board,  
6 to the State Superintendent of Education.

7 (j) Within 30 days of receiving the recommendation,  
8 the State Superintendent of Education shall decide whether the  
9 school flexibility contract and innovation plan should be  
10 approved. If the State Superintendent of Education decides not  
11 to approve a school flexibility contract and innovation plan,  
12 he or she shall provide a written explanation for the decision  
13 to the local school board that submitted the contract and  
14 plan, and to the State Board of Education.

15 (k) The State Board of Education shall promulgate  
16 any necessary rules required to implement this section  
17 including, but not limited to:

18 (1) Specification of timelines for submission and  
19 approval of the school flexibility contract and innovation  
20 plan of the local school system.

21 (2) Authorization for the State Superintendent of  
22 Education, upon approval by the State Board of Education, to  
23 revoke a school flexibility contract for noncompliance or  
24 nonperformance by a local school system.

25 (3) Specification of procedures that a local school  
26 system shall follow in the event that its original school

1 flexibility contract and innovation plan is not approved,  
2 including the steps that may be taken to amend and resubmit  
3 its school flexibility contract and innovation plan.

4 Section 6. The Charter School Application Review  
5 Council.

6 (a) The Charter School Application Review Council is  
7 established within the department.

8 (b) The mission of the council shall be to authorize  
9 high quality public charter schools in accordance with the  
10 powers expressly conferred on the council in subsection (c) of  
11 Section 9.

12 (c) The council shall consist of the following  
13 eleven members:

14 (1) The President of the State Board of Education,  
15 who shall serve as chair of the council.

16 (2) The State Superintendent of Education, who shall  
17 serve as vice-chair of the council.

18 (3) The member of the State Board of Education in  
19 whose district is to be located the public charter school that  
20 is the subject of the application before the council, or, if  
21 no application is before the council, the Vice-President of  
22 the State Board of Education.

23 (4) Four persons appointed by the State Board of  
24 Education.

25 (5) Two persons appointed by the Speaker of the  
26 House of Representatives.

1           (6) Two persons appointed by the President Pro  
2           Tempore of the Senate.

3           (d) At least one member of the council shall be a  
4           current or retired public school principal, at least one  
5           member of the council shall be a current or retired public  
6           school teacher, at least one member of the council shall be a  
7           current or retired local public school superintendent, and at  
8           least one member of the council shall be a current or retired  
9           member of a local school board. Also, at least two members of  
10          the council shall be parents who reside in a priority local  
11          school system. All members of the council shall reside in  
12          Alabama. Members appointed to the council shall 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 appointed member  
17          of the council shall have demonstrated understanding of  
18          charter schooling as a tool for strengthening public  
19          education. Members of the council may not be members of the  
20          Legislature and do not serve at the pleasure of their  
21          appointing authority.

22          (e) Membership of the council shall be inclusive and  
23          reflect the racial, gender, geographic, urban/rural, and  
24          economic diversity of the state.

25          (f) The initial appointments to the council shall be  
26          made no later than 90 days after December 31, 2012. Three

1 initial appointees, including one appointee of the Speaker of  
2 the House of Representatives and one appointee of the  
3 President Pro Tempore of the Senate, shall serve one-year  
4 terms; three initial appointees, including one appointee of  
5 the Speaker of the House of Representatives and one appointee  
6 of the President Pro Tempore of the Senate, shall serve  
7 two-year terms; and the remaining initial appointees shall  
8 serve three-year terms. After the first term of each initial  
9 appointee has ended, the term of office for all council  
10 members shall be three years. All members of the council shall  
11 serve on the council until their successor is appointed, but  
12 no member may serve more than three consecutive terms.

13 (g) A member of the council may be removed from the  
14 council by the Governor for any cause that renders the member  
15 incapable or unfit to discharge his or her duties as a council  
16 member. Whenever a vacancy on the council exists, the  
17 appointing authority, within 90 days after the vacancy occurs,  
18 shall appoint a member for the remaining portion of the term.  
19 A member of the council shall abstain from any vote that  
20 involves a local school system of which they are an employee  
21 or of which they oversee as a member of a local school board.

22 (h) A majority of the council constitutes a quorum,  
23 and any action of the council must be approved by a majority  
24 of the council. The council, in all respects, shall comply  
25 with the Alabama Open Meetings Act and state open records  
26 laws. Notwithstanding the preceding sentence, members of the



1 council may participate in a meeting of the council by means  
2 of telephone conference, video conference, or similar  
3 communications equipment by means of which all persons  
4 participating in the meeting may hear each other at the same  
5 time. Participation by such means shall constitute presence in  
6 person at a meeting for all purposes, including the  
7 establishment of a quorum. Such telephone or video conference  
8 or similar communications equipment shall also allow members  
9 of the public the opportunity to simultaneously listen to or  
10 observe such meetings.

11 (i) The council may do all of the following:

12 (1) Engage professional and administrative staff,  
13 including staff of the department.

14 (2) Adopt rules for the operation and organization  
15 of the council.

16 (3) Review, at least once per year, department rules  
17 and regulations concerning public charter schools and, if  
18 needed, recommend to the State Superintendent of Education any  
19 rule or regulation changes deemed necessary.

20 (4) Convene stakeholder groups and engage experts.

21 (5) Seek and receive state, federal, and private  
22 funds.

23 (j) A council member may not receive compensation,  
24 but shall be reimbursed by the department for travel expenses  
25 at the same rates and in the same manner as state employees.

1                   Section 7. Role of the department in the formation  
2 of public charter schools.

3                   (a) The department shall disseminate information on  
4 how to form and operate a public charter school and on how to  
5 enroll in a public charter school once the school is created.  
6 The department may provide assistance and guidance to  
7 authorizers in developing effective authorization and  
8 oversight procedures.

9                   (b) The department may apply for assistance from a  
10 federal charter school grant program on behalf of public  
11 charter schools in the state. If the department receives a  
12 grant from a federal charter school grant program, the grant  
13 shall be used according to the applicable federal law, for  
14 planning and start-up grants to public charter school  
15 organizers, or for such activities as:

16                   (1) Establishing a public charter school office in  
17 the department.

18                   (2) Providing information and technical assistance  
19 to public charter school organizers and authorizers.

20                   (3) Allocating funds to support the work of  
21 authorizers.

22                   (c) The department may promulgate administrative  
23 rules pursuant to the Alabama Administrative Procedure Act to  
24 implement this act or carry out its responsibilities under  
25 this act.

1           (d) The department shall establish policies and  
2 practices consistent with nationally recognized principles and  
3 professional standards for authorizers of public charter  
4 schools, including standards relating to all of the following:

5           (1) Organizational capacity and infrastructure.

6           (2) Soliciting and evaluating applications.

7           (3) Ongoing public charter school oversight and  
8 evaluation.

9           (4) Charter renewal decision making.

10          (e) Consistent with the policies and practices  
11 established in subsection (d), the department may investigate  
12 and, as appropriate, institute sanctions in response to  
13 deficiencies in authorizer performance or legal compliance.

14          (f) The department shall assume decision-making  
15 responsibilities on behalf of priority schools if the  
16 administrator or local board does not act to provide an  
17 appropriate intervention to address the needs of the priority  
18 schools at the end of the first year of priority status.

19          (g) Three years after December 31, 2012, the State  
20 Superintendent of Education shall issue to the Governor, the  
21 Legislature, and the public a report on the public charter  
22 school program in the state. The State Superintendent of  
23 Education shall determine the content of the report, but the  
24 report, at a minimum, shall include an assessment of the  
25 successes, challenges, and areas for improvement in meeting  
26 the purposes of this act of the public charter school program,

1 as well as any suggested changes in state law or policy  
2 necessary to strengthen the public charter school program. The  
3 State Superintendent of Education shall issue a similar report  
4 December 31, 2018, and every three years thereafter.

5 (h) On or before December 31, 2015, the State  
6 Superintendent of Education shall recommend to the Governor  
7 and the Legislature what changes, if any, should be made to  
8 the definition of a priority local school system in Section 4  
9 including, specifically, recommendations for what measurements  
10 should be used to define a priority local school system.

11 Section 8. Public charter school enrollment

12 (a) Public charter school organizers, in their  
13 recruitment efforts, shall include all segments of the  
14 populations served by the existing public schools in the area  
15 where they propose to locate a public charter school,  
16 especially those students who reside in the attendance zone of  
17 a priority local school.

18 (b) A public charter school shall enroll students in  
19 accordance with this subsection.

20 (1) A public charter school may only accept  
21 enrollment applications from students residing in the local  
22 school system where the public charter school is to be  
23 located.

24 (2) A local school system may not require any  
25 student enrolled in the local school system to attend a  
26 start-up public charter school, but any student in the local

1 school system may choose to submit an enrollment application  
2 to attend a start-up public charter school.

3 (3) The student body of a public charter school  
4 shall be inclusive and reflect the racial, gender, geographic,  
5 urban/rural, and economic diversity of the state.

6 (4) A public charter school shall enroll all  
7 students who wish to attend the school. Enrollment may not  
8 exceed the capacity level as approved by the authorizer and  
9 included in the charter contract.

10 (5) A public charter school may limit enrollment to  
11 students within a given age group or grade level and may be  
12 organized around a special emphasis, theme, or concept as  
13 stated in the application for a charter contract.

14 (6) If capacity is insufficient to enroll all  
15 students who wish to attend the public charter school, the  
16 school shall select students through a random selection  
17 process. The selection shall take place in a public meeting,  
18 called by the authorizer, that is held no earlier than seven  
19 days after the place and time of the meeting has been widely  
20 disseminated to the general public. While public charter  
21 schools are required to have an open enrollment process, a  
22 public charter school shall give enrollment preference to  
23 certain students or potential students, but only as provided  
24 below by paragraphs a. and b. Students or potential students  
25 given enrollment preference shall be exempt from the random

1 selection process. Enrollment preference may be provided only  
2 to the following:

3 a. Students enrolled in the public charter school  
4 the previous year.

5 b. Siblings of students already enrolled in the  
6 public charter school.

7 (7) The at-risk composition of the public charter  
8 school enrollment shall reflect that of the students in  
9 similar grades in the local school system from which the  
10 public charter school is expected to enroll students, to be  
11 defined for the purposes of this act as differing by no more  
12 than 20 percent from that population. In the event the at-risk  
13 composition of an applicant's or public charter school's  
14 enrollment differs from the enrollment of students in similar  
15 grades in the local school system from which the public  
16 charter school is expected to enroll students by more than 20  
17 percent, despite its best efforts, the authorizer from which  
18 the applicant is seeking approval shall consider the  
19 recruitment efforts and at-risk composition of the applicant  
20 pool in determining whether the applicant or charter school is  
21 operating in a non-discriminatory manner. A finding by the  
22 authorizer that the applicant is not operating in a  
23 discriminatory manner justifies approval of the charter  
24 without regard to the at-risk percentage requirement if the  
25 application is acceptable in all other aspects. A finding by  
26 the authorizer that the applicant or charter school is

1 operating in a discriminatory manner justifies the denial of a  
2 charter school application or the revocation of a charter, as  
3 applicable.

4 (8) Any non-charter public school converting  
5 entirely to a public charter school shall adopt and maintain a  
6 policy that gives enrollment preference to students who reside  
7 within the former attendance area of that non-charter public  
8 school.

9 (c) If a student who was previously enrolled in a  
10 public charter school enrolls in another public school in this  
11 state, the new school of the student shall accept credits  
12 earned by the student in courses or instructional programs at  
13 the public charter school in a uniform and consistent manner  
14 and according to the same criteria that are used to accept  
15 academic credits from other public schools.

16 Section 9. Public charter school authorizers.

17 (a) A public charter school may not be established  
18 in this state unless its establishment is authorized by local  
19 law and this section. A local law authorizing the  
20 establishment of a public charter school or a conversion  
21 public charter school in a local school system shall be  
22 approved by unanimous consent of the members of the local  
23 legislative delegation representing the geographical area  
24 where the local school system is located before the applicable  
25 local legislation is introduced. A public charter school may  
26 be established only in a priority local school system. No

1 governmental entity or other entity, other than an entity  
2 expressly granted chartering authority as set forth in this  
3 section, may assume any authorizing function or duty in any  
4 form. The following entities may become authorizers of public  
5 charter schools:

6 (1) A local school board that oversees a priority  
7 local school system, pursuant to subsection (b).

8 (2) The Charter School Application Review Council,  
9 pursuant to subsection (c).

10 (b) A local school board that oversees a priority  
11 local school system, at its sole discretion, may approve or  
12 deny an application to form a public charter school within the  
13 boundaries of the local school system overseen by the local  
14 school board. Decisions made by a local school board that  
15 oversees a priority local school system shall be subject to  
16 appeal to the council pursuant to subsection (c).

17 (c) (1) The council may authorize the formation of a  
18 public charter school only if both of the following factors  
19 are met:

20 a. An application to form a public charter school in  
21 a priority local school system is either denied by the local  
22 school board overseeing that system or the application is not  
23 acted on within 90 days of its submission.

24 b. The applicant chooses to appeal the decision of  
25 the local school board to the council consistent with  
26 subdivision (2) of subsection (a) of Section 11.



1           (2) The council is expressly prohibited from doing  
2 any of the following:

3           a. Authorizing the formation of a public charter  
4 school in a local school system that is not a priority local  
5 school system.

6           b. Authorizing a charter school in any priority  
7 system where the local school board has established one or  
8 more charter schools.

9           c. Authorizing a public charter school in any county  
10 that does not contain a Class 3, or larger, municipality.

11           (3) While any public charter school, consistent with  
12 subdivision (1) of subsection (b) of Section 8, may accept  
13 enrollment applications from any student residing in the local  
14 school system where the public charter school is to be  
15 located, any public charter school whose formation is  
16 authorized by the council must be a conversion charter school  
17 established within the low-performing priority school.

18           (d) An authorizer may do all of the following:

19           (1) Solicit, invite, receive, and evaluate  
20 applications from organizers of proposed public charter  
21 schools.

22           (2) Approve applications that meet identified  
23 educational needs.

24           (3) Deny applications that do not meet identified  
25 educational needs.

1           (4) Create a framework to guide the development of  
2 charter contracts.

3           (5) Negotiate and execute sound charter contracts  
4 with each approved public charter school.

5           (6) Monitor the performance and compliance of public  
6 charter schools, including no fewer than three site visits per  
7 year, two of which shall take place when school is in session.

8           (7) Determine whether each charter contract merits  
9 renewal or revocation.

10           (e) An authorizer shall submit to the Governor, the  
11 Legislature, and the State Superintendent of Education a  
12 publicly accessibly annual report within 60 days of the end of  
13 each school fiscal year summarizing all of the following:

14           (1) The performance of all operating public charter  
15 schools overseen by the authorizer, according to the  
16 performance measures and expectations specified in the charter  
17 contracts.

18           (2) The status of the public charter school  
19 portfolio of the authorizer, identifying all public charter  
20 schools within that portfolio as one of the following:

- 21           a. Approved, but not yet open.
- 22           b. Operating.
- 23           c. Terminated.
- 24           d. Closed.
- 25           e. Never opened.

1           (3) The oversight and services, if any, provided by  
2 the authorizer to the public charter schools under the purview  
3 of the authorizer.

4           (4) The authorizing functions provided by the  
5 authorizer to the public charter schools under its oversight,  
6 including the operating costs and expenses of the authorizer.

7           (f) To cover costs for overseeing public charter  
8 schools in accordance with this act, an authorizer may do all  
9 of the following:

10           (1) Expend its own resources, seek grant funds, and  
11 establish partnerships to support its public charter school  
12 authorizing activities.

13           (2) Charge up to three percent of annual per student  
14 allocations received by each public charter school it  
15 authorizes. These funds shall be used to cover the costs for  
16 an authorizer to provide oversight services to its public  
17 charter schools.

18           (g) An employee, agent, or representative of an  
19 authorizer may not simultaneously serve as an employee, agent,  
20 representative, vendor, or contractor of a public charter  
21 school of that authorizer.

22           (h) (1) With the exception of charges for oversight  
23 services as required by subsection (f), a public charter  
24 school may not be required to purchase services from its  
25 authorizer as a condition of charter approval or of a charter  
26 contract, nor may any such condition be implied.

1           (2) A public charter school authorized by a local  
2 school system may choose to purchase services, such as  
3 transportation-related or lunchroom-related services, from its  
4 authorizer. In such event, the public charter school and  
5 authorizer shall execute an annual service contract, separate  
6 from the charter contract, stating the mutual agreement of the  
7 parties concerning any services to be provided by the  
8 authorizer and any service fees to be charged to the public  
9 charter school. A public charter school authorized by the  
10 council may not purchase services from the council but,  
11 consistent with this subdivision, may purchase services from  
12 the local school system where the public charter school is  
13 located.

14           (i) An authorizer or a designated representative of  
15 an authorizer, at any time, may conduct a compliance  
16 inspection of a public charter school under its oversight.

17           (j) (1) The department shall oversee the performance  
18 and effectiveness of all authorizers established under this  
19 act.

20           (2) Persistently unsatisfactory performance of the  
21 portfolio of the public charter schools of an authorizer, a  
22 pattern of well-founded complaints about the authorizer or its  
23 public charter schools, or other objective circumstances may  
24 trigger a special review by the department. In reviewing and  
25 evaluating the performance of an authorizer, the department  
26 shall apply nationally recognized principles and standards for

1 quality and equity in charter authorizing. If, at any time,  
2 the department finds that an authorizer is not in compliance  
3 with an existing charter contract or the requirements of all  
4 authorizers under this act, the department shall notify the  
5 authorizer in writing of any identified problem, and the  
6 authorizer shall have reasonable opportunity to respond and  
7 remedy the problem.

8 (3) If a local school board acting as an authorizer  
9 persists in violating a material provision of a charter  
10 contract or fails to remedy any other authorizing problem  
11 after due notice from the department, the department shall  
12 notify the local school board, within 60 days, that it intends  
13 to terminate the chartering authority of the local school  
14 board unless the local school board demonstrates a timely and  
15 satisfactory remedy for the violation or deficiencies. If the  
16 local school board acting as an authorizer persists, after due  
17 notice from the department, in violating a material provision  
18 of a charter contract or fails to remedy other identified  
19 authorizing problems, the department shall notify the local  
20 school board, within a reasonable amount of time under the  
21 circumstances, that it intends to revoke the chartering  
22 authority of the local school board unless the local school  
23 board demonstrates a timely and satisfactory remedy for the  
24 violation or deficiencies.

25 (4) If the council persists in violating a material  
26 provision of a charter contract or fails to remedy any other

1 authorizing problem after due notice from the department, the  
2 department shall notify the council, within 60 days, that it  
3 intends to notify the Governor, the Speaker of the House of  
4 Representatives, and the President Pro Tempore of the Senate  
5 of the actions of the council unless the council demonstrates  
6 a timely and satisfactory remedy for the violation or  
7 deficiencies. Along with this notification, the department  
8 shall publicly request in writing that the Governor, the  
9 Speaker of the House of Representatives, and the President Pro  
10 Tempore of the Senate demand that the appointee or appointees  
11 either comply with the requests of the department or face a  
12 revocation of their appointment to the council.

13 (5) In the event of revocation of the chartering  
14 authority of an authorizer, the department shall manage the  
15 timely and orderly transfer of each charter contract held by  
16 that authorizer to another authorizer in the state, with the  
17 mutual agreement of each affected public charter school and  
18 proposed new authorizer. The new authorizer shall assume the  
19 existing charter contract for the remainder of the charter  
20 term. In the event a new authorizer cannot be secured, the  
21 department shall manage the timely and orderly transfer of  
22 affected students from the public charter school or schools to  
23 the appropriate non-charter public school.

24 (k) Disputes between a governing board and an  
25 authorizer shall be mediated and resolved by the State

1 Superintendent of Education, whose decision is final and  
2 binding.

3 Section 10. Public charter school requests for  
4 proposals.

5 (a) To invite, solicit, encourage, and guide the  
6 development of high quality public charter school  
7 applications, the department shall issue and broadly publicize  
8 a request for proposals. The content and dissemination of the  
9 request for proposals shall be consistent with the purposes  
10 and requirements of this act.

11 (b) (1) A request for proposals shall state clear,  
12 appropriately detailed questions as well as guidelines  
13 concerning the format and content essential for applicants to  
14 demonstrate the capacities necessary to establish and operate  
15 a successful public charter school.

16 (2) A request for proposals shall require  
17 applications to provide or describe thoroughly, at a minimum,  
18 all of the following essential elements of the proposed public  
19 charter school plan:

20 a. The vision of the proposed public charter school,  
21 including:

22 1. An executive summary.

23 2. The mission of the proposed public charter  
24 school, including identification of the targeted student  
25 population and the community the school hopes to serve.

1           3. Evidence of need and community support for the  
2 proposed public charter school.

3           b. The governance plan of the proposed public  
4 charter school, including:

5           1. Background information on proposed board members  
6 and any assurances or certifications required by the  
7 authorizer.

8           2. Proposed governing bylaws.

9           3. An organization chart that clearly presents the  
10 organizational structure of the school, including lines of  
11 authority and reporting between the governing board, staff,  
12 and any related bodies such as advisory bodies or parent and  
13 teacher councils, and any external organizations that may play  
14 a role in managing the school.

15           4. A clear description of the roles and  
16 responsibilities for the governing board, the leadership and  
17 management team of the school, and any other entities shown on  
18 the organization chart.

19           5. Identification of the proposed founding governing  
20 board members and, if identified, the proposed school leader  
21 or leaders.

22           6. Background information on the leadership and  
23 management team of the school, if identified.

24           c. The proposed plan of organization of the public  
25 charter school, including all of the following:

26           1. The location or geographic area of the school.



1                   2. The grades to be served each year for the full  
2 term of the charter.

3                   3. Minimum, planned, and maximum enrollment per  
4 grade per year for the term of the charter, based upon the  
5 capacity of a program, class, grade level, or building.

6                   4. The proposed calendar and sample daily schedule  
7 of the school.

8                   5. Plans and timelines for student recruitment and  
9 enrollment, including random selection procedures and a  
10 detailed explanation of how students will be recruited from  
11 all racial, ethnic, geographic, and income groups in the  
12 service area.

13                   6. Explanations of any partnerships or contractual  
14 relationships central to the operations or mission of the  
15 school.

16                   7. The proposals for providing transportation, food  
17 service, and other significant operational or ancillary  
18 services.

19                   8. A facilities plan, including backup or  
20 contingency plans if appropriate.

21                   9. A detailed school start-up plan, identifying  
22 tasks, timelines, and responsible individuals.

23                   10. A closure protocol, outlining orderly plans and  
24 timelines for transitioning students and student records to  
25 new schools and for appropriately disposing of school funds,  
26 property, and assets in the event of school closure.

1           d. The finances of the proposed public charter  
2 school, including all of the following:

3           1. A description of the financial plan and policies  
4 of the school, including financial controls and audit  
5 requirements.

6           2. Start-up and three-year budgets with clearly  
7 stated assumptions.

8           3. Start-up and first-year cash-flow projections  
9 with clearly stated assumptions.

10          4. Evidence of anticipated fundraising  
11 contributions, if claimed in the application.

12          5. Evidence of financial accountability measures  
13 that shall be implemented by the school that are consistent  
14 with Section 16-6B-4, Code of Alabama 1975.

15          6. A description of the insurance coverage the  
16 school proposes to obtain.

17          e. The student policy of the proposed public charter  
18 school, including all of the following:

19          1. Plans for identifying, recruiting, and  
20 successfully serving students with the wide range of learning  
21 needs and styles typically found in schools of the sending  
22 area.

23          2. Plans for compliance with applicable state and  
24 federal laws, rules, and regulations, including special  
25 education and antidiscrimination laws.

1                   3. Student discipline plans and policies, including  
2 those for special education students, and an explanation of  
3 the research basis for the plan and policies.

4                   4. Student transfers out of the school to  
5 non-charter public schools.

6                   f. The academic program of the proposed public  
7 charter school, including all of the following:

8                   1. A description of the academic program.

9                   2. A description of the instructional design of the  
10 school, including the type of learning environment, class size  
11 and structure, curriculum overview, teaching methods, and  
12 research basis.

13                   3. A description of cocurricular and extracurricular  
14 programs and how each shall be funded and delivered.

15                   g. The staff policy of the proposed public charter  
16 school, including all of the following:

17                   1. A staffing chart for the first year of the school  
18 and a staffing plan for the term of the charter.

19                   2. Plans for recruiting and developing school  
20 leadership and staff.

21                   3. The leadership and teacher employment policies of  
22 the school, including performance evaluation plans.

23                   4. Opportunities and expectations for parent  
24 involvement and how the school plans to afford flexibility in  
25 the expectations for those parents with significant barriers  
26 to involvement.

1 (c) With respect to a proposed charter school that  
2 intends to contract with an education service provider for  
3 substantial education or management services, in addition to  
4 the other requirements of this section, the request for  
5 proposals shall require applicants to do all of the following:

6 (1) Explain how and why the education service  
7 provider was selected.

8 (2) Provide evidence of the success of the education  
9 service provider in serving student populations similar to the  
10 targeted population, including demonstrated academic  
11 achievement and successful management of nonacademic school  
12 functions, if applicable.

13 (3) Provide information on the proposed duration of  
14 the service contract; roles and responsibilities; scope of  
15 services and resources to be provided by the education service  
16 provider; performance evaluation measures and timelines;  
17 compensation structure, including clear identification of all  
18 fees to be paid to the education service provider; methods of  
19 contract oversight and enforcement; investment disclosure; and  
20 conditions for renewal and termination of the contract.

21 (4) Provide a draft of the proposed service contract  
22 including all of the terms in subdivisions (1), (2), and (3).

23 (5) Explain the relationship between the governing  
24 board and the education service provider, specifying how the  
25 governing board shall monitor and evaluate the performance of  
26 the education service provider, the internal controls that

1 shall guide the relationship, and how the governing board  
2 shall ensure fulfillment of performance expectations.

3 (6) Provide a statement of assurance that the  
4 governing board is legally and operationally independent from  
5 the education service provider.

6 (7) Disclose and explain any existing or potential  
7 conflicts of interest between the governing board and the  
8 education service provider or any affiliated business  
9 entities.

10 (8) Provide a statement of assurance that all  
11 employees of the education service provider, and any affiliate  
12 or subordinate business entity that shall be working in a  
13 public charter school, shall be subject to verification of  
14 immigration status and a criminal history background check as  
15 required of charter school employees.

16 (d) With respect to a public charter school proposal  
17 from an applicant that currently operates one or more schools,  
18 in addition to the other requirements of this section, the  
19 request for proposals shall require applicants to provide  
20 evidence of past performance and current capacity for growth.

21 Section 11. Public charter school applicants.

22 (a) An applicant for approval as a public charter  
23 school shall submit an application as set out in this section.

24 (1) An application seeking to establish a start-up  
25 public charter school in a priority local school system, upon  
26 the recommendation of the local school superintendent, shall

1 be first submitted to the local school board overseeing that  
2 local school system. If an application submitted to a local  
3 school board pursuant to the preceding sentence is denied, the  
4 applicant may appeal the decision to the council. The council  
5 may hear the appeal pursuant to subsection (c) of Section 9.  
6 Applicants wishing to appeal the decision of a local school  
7 board shall notify the council of the decision to appeal  
8 within 30 days after the denial of the application. The  
9 council shall hear the appeal within 30 days of receiving this  
10 notice. The denied application as well as any records related  
11 to the denial of the application may be reviewed by the  
12 council. The council, at its discretion, may also permit oral  
13 testimony at any council meeting or hearing. All decisions  
14 made by the council shall be final and may not be appealed.

15 (2) An application seeking to establish a conversion  
16 public charter school in a priority local school system, upon  
17 the recommendation of the local school superintendent, shall  
18 be submitted to the local school board overseeing the  
19 non-charter public school that is the subject of the  
20 application. Decisions made by a local school system acting on  
21 an application seeking to establish a conversion public  
22 charter school shall be final and may not be appealed.

23 (3) An applicant may submit a proposal for a  
24 particular public charter school to no more than one  
25 authorizer at a time. Furthermore, an applicant shall submit a

1 separate application for each public charter school it seeks  
2 to open.

3 (b) (1) An application to establish a start-up public  
4 charter school may be submitted only by a nonprofit,  
5 nonreligious organization.

6 (2) An application to establish a conversion public  
7 charter school may be submitted only by the superintendent of  
8 the local school system where the non-charter public school  
9 that is the subject of the application is located.

10 Furthermore, in addition to any other requirements in this  
11 act, an application to establish a conversion public charter  
12 school shall include a petition signed by a majority of  
13 parents of students in the existing non-charter public school  
14 that is the subject of the application.

15 (c) In reviewing and evaluating applications,  
16 authorizers shall employ procedures, practices, criteria, and  
17 standards consistent with nationally recognized principles and  
18 standards for authorizing high quality public charter schools.

19 (1) The application review process, at a minimum,  
20 may include substantive participation by a team of reviewers  
21 who collectively possess appropriate academic expertise and  
22 operational experience with charter schools.

23 (2) The application review process may also include  
24 a thorough evaluation of each application, an in-person  
25 interview with the applicant, and a public hearing, notice of

1 which shall be posted on the website of the authorizer at  
2 least two weeks prior to the hearing.

3 (3) In deciding whether to approve applications,  
4 authorizers, at their discretion, shall:

5 a. Grant charters to applicants that have  
6 demonstrated competence in each element of the published  
7 approval criteria of the authorizer and are likely to open and  
8 operate a successful public charter school.

9 b. Base decisions on documented evidence collected  
10 through the application review process.

11 c. Follow charter granting policies and practices  
12 that are transparent, based on merit, and avoid conflicts of  
13 interest or any appearance of a conflict of interest.

14 (d) No later than 90 days after the filing of an  
15 application, or, in the case of the council, after receiving  
16 the notice of appeal of an applicant, an authorizer shall  
17 decide to approve or deny an application. The authorizer shall  
18 make and announce all charter approval or denial decisions in  
19 a meeting of the governing entity of the authorizer that is  
20 open to the public.

21 (1) An approval decision, if appropriate, may  
22 include reasonable conditions that the applicant shall meet  
23 before a charter contract may be executed.

24 (2) If the authorizer denies an application, the  
25 authorizer, for public record, shall specifically state in  
26 writing its reasons for denial. An authorizer is immune from



1 legal liability stemming from the denial of an application  
2 based on mere simple negligence. An applicant may subsequently  
3 reapply to that authorizer, but not more than once during any  
4 two-year period.

5 (3) Within 10 days of taking action to approve or  
6 deny an application, the authorizer shall report to the State  
7 Superintendent of Education the action it has taken. The  
8 authorizer shall provide a copy of the report to the applicant  
9 at the same time that the report is submitted to the State  
10 Superintendent of Education.

11 (4) The State Superintendent of Education shall  
12 register the charters approved by all chartering authorities  
13 in chronological order by date of approval. No public charter  
14 school may begin operating until its charter has been  
15 registered by the State Superintendent of Education. The State  
16 Superintendent of Education may register a cumulative total of  
17 no more than 20 public charter schools. Once this cap is  
18 reached, the State Superintendent of Education may not accept  
19 further registrations from any authorizer.

20 (5) An approved application may not serve as the  
21 charter contract of a school nor may it be incorporated by  
22 reference into the charter contract.

23 (6) A decision on an application shall be conveyed  
24 in writing to the applicant. A decision may grant approval or  
25 conditional approval, request resubmission, or reject the

1 application, and shall include written reasons for the  
2 decisions.

3 (e) This act may not be interpreted to allow the  
4 conversion of a private school into a public charter school.

5 (f) Under no circumstances may this act be  
6 interpreted to allow any applicant, or any entity with which  
7 the applicant contracts, to provide financial incentives of  
8 any sort to the parent of a public charter school student or a  
9 potential public charter school student.

10 Section 12. Charter contracts.

11 (a) When an application is approved, a charter  
12 contract shall be executed in accordance with this section.

13 (1) After approval of an application and no later  
14 than 60 days before the opening date of the public charter  
15 school, the authorizer and the governing board shall execute a  
16 charter contract that sets forth:

17 a. Performance provisions describing the academic  
18 and operational performance expectations and measures by which  
19 the public charter school shall be judged.

20 b. Administrative provisions articulating the  
21 administrative relationship between the authorizer and the  
22 public charter school, including the rights and duties of each  
23 party.

24 (2) The performance provisions set forth in a  
25 charter contract under paragraph a. of subdivision (1):

1           a. Shall include, but need not be limited to,  
2 applicable federal and state accountability requirements.

3           b. May be refined or amended by mutual agreement of  
4 the parties to the charter contract after the public charter  
5 school is operating and has collected baseline achievement  
6 data for its enrolled students.

7           c. Shall be set by a public charter school in  
8 conjunction with its authorizer and must be designed to help  
9 the school meet applicable federal and state requirements and  
10 authorizer expectations.

11          d. Shall require the disaggregation of all student  
12 performance data by major student subgroups.

13          e. Shall be based on a performance framework  
14 developed by the authorizer that sets forth annual academic  
15 and operational performance targets that shall guide the  
16 evaluations of the authorizer of each public charter school,  
17 including:

- 18           1. Student academic proficiency.
- 19           2. Student academic growth.
- 20           3. Achievement gaps in both proficiency and growth  
21 between major student subgroups.
- 22           4. Attendance.
- 23           5. Recurrent enrollment from year to year.
- 24           6. With respect to high school, postsecondary  
25 readiness and graduation rates.
- 26           7. Financial performance and sustainability.

1                   8. Governing board performance and stewardship.

2                   9. Parent and community engagement.

3                   10. Mid-year transfers and withdrawals and the  
4 reasons therefor.

5                   11. Suspensions, expulsions, and the reasons  
6 therefor.

7                   (3) A charter contract shall be signed by the  
8 president of the governing entity of the authorizer and the  
9 president of the governing board.

10                  (4) A public charter school may not commence  
11 operations without a charter contract executed in accordance  
12 with this section and approved in a meeting open to the public  
13 of the governing entity of the authorizer.

14                  (b) An authorizer may establish reasonable  
15 requirements or conditions before the opening of a public  
16 charter school to monitor the start-up progress of a newly  
17 approved public charter school, ensure that it is prepared to  
18 open smoothly on the date agreed, and ensure that the school  
19 meets all building, health, safety, insurance, and other legal  
20 requirements for school opening.

21                  (c) For each public charter school it oversees, the  
22 authorizer is responsible for annually collecting, analyzing,  
23 and publicly reporting all data from state assessments and  
24 other measures of performance in accordance with the  
25 performance framework developed pursuant to this act. An  
26 authorizer shall monitor the performance and legal compliance

1 of the public charter schools it oversees, including  
2 collecting and analyzing all data to support ongoing  
3 evaluation according to the charter contract. In the event  
4 that the performance or legal compliance of a public charter  
5 school appears unsatisfactory, the authorizer shall promptly  
6 notify the public charter school of perceived problems and  
7 provide reasonable opportunity for the school to remedy the  
8 problems.

9 (d) Terms of a charter contract shall be mutually  
10 agreed upon by the applicant and the authorizer. If necessary,  
11 either party to a contract may request that the State  
12 Superintendent of Education review and mediate any terms of a  
13 charter contract that the parties cannot agree upon after due  
14 diligence.

15 (e) Nothing in this section shall preclude a charter  
16 contract from including terms that require the holder of a  
17 charter from posting a bond to cover expenses associated with  
18 moving equipment to a public charter school or expenses  
19 incurred as a result of the closure of a public charter  
20 school.

21 Section 13. Charter term and renewal.

22 (a) An initial charter shall be granted for a term  
23 of five operating years. The charter term commences on the  
24 first day of operation of the public charter school. An  
25 approved public charter school may delay its opening for one  
26 school year in order to plan and prepare for the opening. If

1 the public charter school requires an opening delay of more  
2 than one school year, the public charter school shall request  
3 an extension from its authorizer. The authorizer may grant or  
4 deny the extension depending on the particular circumstances  
5 of the public charter school.

6 (b) A charter may be renewed for successive terms of  
7 five years, although an authorizer may grant a renewal for a  
8 term not to exceed 10 years based on the performance,  
9 demonstrated capacities, and particular circumstances of each  
10 public charter school. If a charter is renewed for more than  
11 five years, the authorizer shall issue a charter school  
12 performance report every five years as called for by  
13 subsection (c). An authorizer may grant renewal with specific  
14 conditions for necessary improvements to a public charter  
15 school.

16 (c) No later than June 30 of the fourth year of  
17 operation under each five-year term of a charter contract, the  
18 authorizer shall issue a charter school performance report. If  
19 the charter of the public charter school is expiring, the  
20 authorizer shall offer charter renewal application guidance to  
21 the school.

22 (1) The performance report required in this  
23 subsection shall summarize the performance record of the  
24 public charter school to date, based on the data required by  
25 this act and the charter contract, and shall provide notice of  
26 any weaknesses or concerns perceived by the authorizer

1 concerning the school that may jeopardize its position in  
2 seeking renewal if not timely notified. The school shall be  
3 given the opportunity to respond to the performance report and  
4 submit any corrections or clarifications for the report.

5 (2) The renewal application guidance required by  
6 this subsection shall include or refer explicitly to the  
7 criteria and standards that shall guide the renewal decisions  
8 of the authorizer, which shall be based on the performance  
9 framework set forth in the charter contract and consistent  
10 with this act. The renewal application guidance, at a minimum,  
11 shall require and provide an opportunity for the public  
12 charter school to do all of the following:

13 a. Present additional evidence, beyond the data  
14 contained in the performance report, supporting its case for  
15 charter renewal.

16 b. Describe improvements undertaken or planned for  
17 the school.

18 c. Detail the plans of the school for the next  
19 charter term.

20 (d) No later than September 30 of the final  
21 authorized year of operation of a public charter school under  
22 a term of a charter contract, the governing board of a public  
23 charter school seeking renewal shall submit a renewal  
24 application to the authorizer pursuant to any renewal  
25 application guidance offered by the authorizer.

1 (e) An authorizer shall rule by resolution on a  
2 renewal application under this section no later than 45 days  
3 after the filing of the renewal application. In making charter  
4 renewal decisions, every authorizer shall do all of the  
5 following:

6 (1) Ground its decision in evidence of the  
7 performance of the public charter school over the term of the  
8 charter in accordance with the performance framework set forth  
9 in the charter contract.

10 (2) Ensure that data used in making renewal  
11 decisions are available to the school and the public.

12 (3) Provide a public report summarizing the evidence  
13 basis for each decision.

14 (f) A decision by an authorizer to revoke or not to  
15 renew the charter of a public charter school shall be made in  
16 accordance with this subsection.

17 (1) A charter shall be revoked at any time or not  
18 renewed if the authorizer determines that the public charter  
19 school failed to comply with this act or did any of the  
20 following:

21 a. Committed a material violation of any of the  
22 terms, conditions, standards, or procedures required under  
23 this act or the charter contract.

24 b. Failed to meet or make sufficient progress toward  
25 the performance expectations set forth in the charter  
26 contract.



1           c. Failed to meet generally accepted standards of  
2 fiscal management.

3           d. Violated any provision of law from which the  
4 school was not exempted.

5           (2) If an authorizer revokes or does not renew a  
6 charter, the authorizer shall clearly state, in a resolution  
7 of its governing entity, the reasons for the revocation or  
8 nonrenewal. The resolution may only be adopted at a public  
9 meeting of the governing entity that is held after notice of  
10 the meeting has been made available to the general public for  
11 no fewer than seven days in advance of the meeting.

12           (g) Within 10 days of taking action to renew, not  
13 renew, or revoke a charter under this section, the authorizer  
14 shall report to the State Superintendent of Education the  
15 action taken and shall provide a copy of the report to the  
16 public charter school at the same time that the report is  
17 submitted to the State Superintendent of Education. The report  
18 shall include a copy of the governing entity of the resolution  
19 setting forth the action taken and reasons for the decision.

20           (h) In the event a public charter school closes for  
21 any reason:

22           (1) The authorizer shall oversee and work with the  
23 closing public charter school to ensure timely notification to  
24 parents, orderly transition of students and student records to  
25 new schools, and proper disposition of school funds, property,  
26 and assets in accordance with the requirements of this act.

1           (2) The assets of the public charter school shall be  
2 distributed first to satisfy outstanding payroll obligations  
3 for employees of the school, next to satisfy outstanding  
4 obligations owed to local school boards or authorizers  
5 providing services to the public charter school, and finally  
6 to creditors of the school. Any remaining funds must be paid  
7 to the State Treasurer to the credit of the local school board  
8 overseeing the local school system where the public charter  
9 school is located. If the assets of the school are  
10 insufficient to pay all parties to whom the school owes  
11 compensation, the prioritization of the distribution of assets  
12 may be determined by decree of a court of law.

13           (3) A charter contract and its oversight may not be  
14 transferred from one authorizer to another before the  
15 expiration of the charter contract term except by mutual  
16 agreement of all parties.

17           Section 14. Public charter school operations.

18           (a) Notwithstanding any provision of law to the  
19 contrary, to the extent that any provision of this act is  
20 inconsistent with any other state or local law, rule, or  
21 regulation, this act shall govern and is controlling.

22           (1) A public charter school is subject to all  
23 federal laws and authorities, to local law not inconsistent  
24 with this act, and to the charter contract.

25           (2) A single governing board may be issued one or  
26 more charter contracts.

1           (3) Each public charter school shall operate  
2 pursuant to its own distinct charter as a state agency with  
3 local jurisdiction.

4           (4) All members of a governing board of a charter  
5 school shall be United States citizens and Alabama residents.

6           (b)(1) A public charter school established in  
7 accordance with this act functions for all purposes as a local  
8 educational agency. Local educational agency status does not  
9 preclude a public charter school from developing links to  
10 local school systems for services, resources, and programs, by  
11 mutual agreement or by formal contract.

12           (2) The public charter school is responsible for  
13 meeting the requirements of local educational agencies under  
14 applicable federal, state, and local law, including those  
15 relating to special education, receipt of funds,  
16 interscholastic athletics, and compliance with funding  
17 requirements.

18           (3) The public charter school has sole  
19 responsibility for special education at the school, including  
20 identification and provision of service, and is responsible  
21 for meeting the needs of enrolled students with disabilities.

22           (c) A public charter school has all the powers  
23 necessary for carrying out the terms of its charter contract,  
24 including the power to do all of the following:

25           (1) Receive and disburse funds for school purposes.

1           (2) Contract or cooperate with non-charter public  
2 schools for service for students with special needs, English  
3 language learner students, and other specialized populations,  
4 as well as for mutually agreed administrative services.

5           (3) Secure appropriate insurance and enter into  
6 contracts and leases.

7           (4) Contract with an education service provider for  
8 the management and operation of the school, as long as the  
9 governing board of the school retains oversight authority over  
10 the school. However, an education service provider shall not  
11 subcontract with, or in any other way affiliate with, any  
12 for-profit corporation or other for-profit entity, including  
13 any for-profit subsidiary or for-profit related entity of a  
14 nonprofit, for the management or operation or any  
15 instructional services, transportation services, janitorial  
16 services, or health services. An education service provider  
17 may contract for other items or services routinely purchased  
18 in the non-charter public schools of this state.

19           (5) Incur debt, upon the approval of the State  
20 Superintendent of Education, in reasonable anticipation of the  
21 receipt of public or private funds.

22           (6) Pledge, assign, or encumber its assets to be  
23 used as collateral for loans or extensions of credit.

24           (7) Solicit and accept any gifts or grants for  
25 school purposes subject to applicable laws and the terms of  
26 its charter contract.

1           (8) Acquire real property for use as its facility or  
2 facilities from public or private sources at or below fair  
3 market value.

4           (d) A public charter school is subject to the  
5 general requirements set out in this subsection.

6           (1) The student body of a public charter school  
7 shall be inclusive and reflect the racial, gender, geographic,  
8 urban/rural, and economic diversity of the state.

9           (2) A public charter school may not engage in any  
10 religious practices in its educational program, admissions, or  
11 employment policies or operations.

12           (3) A public charter school may not charge tuition  
13 and may only charge such fees as may be imposed by other  
14 public schools in the local school system in which the public  
15 charter school is located.

16           (4) If the public charter school operates its own  
17 transportation system, the public charter school shall have a  
18 plan that describes how the school shall meet the  
19 transportation needs of its students, and such plan shall be  
20 consistent with applicable federal and state school-related  
21 transportation safety regulations.

22           (5) The powers, obligations, and responsibilities  
23 set forth in a charter contract may not be delegated or  
24 assigned by either party.

1 (e) The applicability of other laws, rules, and  
2 regulations to public charter schools is as set out in this  
3 subsection.

4 (1) Public charter schools are subject to the same  
5 civil rights and health and safety requirements applicable to  
6 other public schools in the state.

7 (2) Public charter schools are subject to the same  
8 student standards, assessment, and accountability requirements  
9 applicable to other public schools in the state, but nothing  
10 in this act precludes a public charter school from  
11 establishing additional student assessment measures that go  
12 beyond state requirements if the authorizer of the school  
13 approves such measures.

14 (3) Governing boards are subject to and shall comply  
15 with all open records and open meetings laws of the state.

16 (4) Except as provided in this act and its charter  
17 contract, a public charter school is exempt from all statutes  
18 and rules applicable to a public school, a local school board,  
19 or a local school system, although it may elect to comply with  
20 one or more provisions of these statutes or rules.

21 (5) A public charter school is exempt from the  
22 restrictions normally associated with any state-funded  
23 categorical education funding program, including,  
24 specifically, any restrictions required for participation in  
25 the apportionment of funds appropriated from the Foundation  
26 Program Fund.

1           (f) This subsection governs teacher employment in a  
2 public charter school.

3           (1) A public charter school shall comply with  
4 applicable federal laws and regulations regarding the  
5 qualification of teachers and other instructional staff.

6           (2) All full-time teachers in a public charter  
7 school shall either hold an appropriate teaching certificate  
8 issued by the Alabama Department of Education or become  
9 certified within two years of the date they are hired, except  
10 that certification is not necessarily required for those  
11 full-time teachers with an advanced degree in the curricular  
12 area in which they teach, professional certification in the  
13 curricular area in which they teach, or unique expertise or  
14 experience in the curricular area in which they teach.

15           (3) Teachers and all other employees in charter  
16 schools have the same rights and privileges as other public  
17 school teachers and employees including, but not limited to,  
18 state laws related to the minimum salary schedule, employee  
19 tenure, the Alabama Teachers' Retirement System and the Public  
20 Education Employees' Health Insurance Plan, and principal  
21 contracts.

22           (4) Teachers and other public charter school  
23 personnel, as well as governing board members, are subject to  
24 criminal history record checks and fingerprinting requirements  
25 applicable to other public schools.

1           (5) Any other provision of this act notwithstanding,  
2 a non-charter public school converting entirely to a public  
3 charter school shall adopt and maintain a policy that gives a  
4 hiring opportunity to those who are full-time employees of the  
5 non-charter public school at the time the charter contract  
6 becomes effective. This provision may not be interpreted to  
7 mandate the hiring of such employees.

8           (g) A public charter school shall adhere to  
9 generally accepted accounting principles and shall annually  
10 engage, at the expense of the public charter school, the  
11 Alabama Department of Examiners of Public Accounts to do an  
12 independent audit of the finances of the school.

13           (h) Employees of a public charter school, as well as  
14 members of the governing board of a public charter school,  
15 shall demonstrate to the authorizer of the public charter  
16 school that they are citizens of or lawfully present in the  
17 United States. Additionally, employees of a public charter  
18 school, at the time of their employment, shall either reside  
19 in Alabama or demonstrate their intent to establish residency  
20 in Alabama within 120 days of when their employment begins.

21           Section 15. Public charter school funding.

22           (a) Students enrolled in and attending public  
23 charter schools shall be included in all enrollment and  
24 attendance counts of students of the local school systems in  
25 which the students reside. The public charter school shall  
26 report all such data to the local school systems of residence



1 in a timely manner. Each local school system shall report such  
2 enrollment, attendance, and other counts of students to the  
3 department in the manner required by the department.

4 (b) The following provisions govern operational  
5 funding.

6 (1) For each of its students, a public charter  
7 school shall receive the same amount of state and local funds,  
8 including funds earmarked for transportation, school nurses,  
9 technology coordinators, and other line items that may be  
10 included in the appropriation for the Foundation Program Fund,  
11 that, for the then-current fiscal year, would have otherwise  
12 been allocated on behalf of each public charter school student  
13 to the local non-charter public school of each student's  
14 residence. This amount shall reflect the status of each  
15 student according to grade level, economic disadvantage,  
16 limited English proficiency, and special education needs.

17 (2) The state funds described in subdivision (1)  
18 shall be forwarded on a quarterly basis to the public charter  
19 school by the department. The local funds described in  
20 subdivision (1) shall be forwarded on a quarterly basis to the  
21 public charter school by the local educational agency of the  
22 student's residence. Additionally, any local revenues  
23 restricted, earmarked, or committed by statutory provision,  
24 constitutional provision, or bond covenant pledged or imposed  
25 by formal action of the local board of education or other  
26 authorizing body of government, shall be excluded by the local

1 educational agency of the student's residence when determining  
2 the amount of funds to be forwarded by the agency to the  
3 public charter school. Similarly, public charter schools that  
4 do not provide transportation services shall not be allocated  
5 any federal, state, or local funds otherwise earmarked for  
6 transportation-related expenses.

7 (3) If necessary, the department shall adopt rules  
8 governing how to calculate and distribute these per-student  
9 allocations, as well as any rules governing cost-sharing for  
10 students participating in gifted, talented, vocational,  
11 technical, or career education programs.

12 (c) The following provisions govern special  
13 education funding.

14 (1) The funding and educational decision-making  
15 process for special education students attending a public  
16 charter school is the sole responsibility of the public  
17 charter school, and all current options available to the  
18 parents and the public charter school through the student's  
19 local educational agency of residence shall be retained.  
20 Nothing in this act precludes the local educational agency of  
21 residence from participating in the development of a student's  
22 individualized education plan.

23 (2) The department shall pay directly to the public  
24 charter school any federal or state aid attributable to a  
25 student with a disability attending the public school. The  
26 local school system of residence shall pay directly to the

1 public charter school any local aid attributable to a student  
2 with a disability attending the public school. The state and  
3 local payments shall be made in the same manner and based on  
4 the same funding assumptions that would have otherwise been  
5 used by the local school system of residence of the student.

6 (d) Except as otherwise provided in this chapter,  
7 the state shall send applicable federal funds directly to  
8 public charter schools attended by eligible students.

9 (1) Public charter schools with students eligible  
10 for funds under Title I of the federal Elementary and  
11 Secondary Education Act of 1965 shall receive and use these  
12 funds in accordance with federal and state law.

13 (2) A public charter school shall be considered a  
14 local educational agency for purposes of applying for  
15 competitive grants.

16 (e) A public charter school may receive gifts and  
17 grants from private sources.

18 (f) A public charter school may not levy taxes or  
19 issue bonds secured by tax revenues, although nothing in this  
20 act precludes a public charter school from issuing bonds  
21 secured by other sources of revenue, including allocations of  
22 federal, state, or local funds, just as nothing in this act  
23 precludes one or more public charter schools from pooling  
24 their resources together to issue bonds. The proceeds from the  
25 sale of any bonds secured by state or local funds shall be  
26 used solely for public charter schools located in Alabama.

1 (g) In the event of the failure of the local school  
2 system to make payments required by subsections (b) and (c),  
3 the State Treasurer shall deduct from any state funds that  
4 become due to the local school system an amount equal to the  
5 unpaid obligation. The State Treasurer shall pay over the  
6 amount to the public charter school upon certification of the  
7 department. Any dispute over payments required by subsections  
8 (b) and (c) shall be resolved by the State Superintendent of  
9 Education.

10 (h) Any money received by a public charter school  
11 from any source and remaining in the accounts of the school at  
12 the end of any fiscal year shall remain in the accounts of  
13 that school for use by that school during subsequent fiscal  
14 years and does not revert to the authorizer or to the state.

15 (i) Nothing in this act may be construed to prohibit  
16 any person or organization from providing funding or other  
17 assistance for the establishment or operation of a public  
18 charter school. The governing board of a public charter school  
19 may accept gifts, donations, or grants of any kind made to the  
20 public charter school and expend or use such gifts, donations,  
21 or grants in accordance with the conditions prescribed by the  
22 donor except that a gift, donation, or grant may not be  
23 accepted if subject to a condition that is contrary to any  
24 provision of law, including state ethics laws, or term of the  
25 charter contract.

26 Section 16. Public charter school facilities.

1           (a) A public charter school may acquire facilities  
2 and property in accordance with this section.

3           (1) A public charter school may purchase or lease a  
4 closed public school facility or property or unused portions  
5 of a public school facility or property located in a local  
6 school system from which it draws its students if the local  
7 school system decides to sell or lease the public school  
8 facility or property. The local school system may not require  
9 purchase or lease payments that exceed the fair market value  
10 of the property.

11           (2) A public charter school may negotiate and  
12 contract with a local school system, the governing body of a  
13 state college or university or public community college or any  
14 other public or for-profit or nonprofit private entity for the  
15 use of a school building.

16           (3) Library, community service, museum, performing  
17 arts, theater, cinema, church, community college, college, and  
18 university facilities may provide space to public charter  
19 schools within their facilities under their preexisting zoning  
20 and land use designations.

21           (4) A public charter school may purchase or lease at  
22 or below fair market value part or all of any surplus or  
23 unused state-owned facility or property located in the local  
24 school system from which it draws its students. The state  
25 agency in control of the facility may not require purchase or

1 lease payments that exceed the fair market value of the  
2 property.

3 (5) The same zoning rules that apply to other public  
4 schools apply to public charter schools.

5 (b) The State Building Commission shall be the  
6 agency that has jurisdiction for the purpose of inspection of  
7 the facility and issuance of a certificate of occupancy for  
8 the facility. A facility of a public charter school is subject  
9 to the same building codes, regulations, and fees that apply  
10 to other public schools.

11 (c) A facility, or portion thereof, used to house a  
12 public charter school is exempt from property taxes.

13 (d) Nothing in this act shall be interpreted to  
14 preclude facilities used by a public charter school from being  
15 insured in the same manner as facilities used by a non-charter  
16 public school.

17 Section 17. Extracurricular and interscholastic  
18 activities at public charter schools.

19 (a) A public charter school is eligible for  
20 state-sponsored or local school system-sponsored  
21 interscholastic leagues or competitions, private governing  
22 agency-sponsored leagues or competitions, such as leagues or  
23 competitions sponsored by the Alabama High School Athletic  
24 Association, awards, scholarships, and recognition programs  
25 for students, educators, administrators, and schools to the  
26 same extent as non-charter public schools.

1           (b) A local school system or public school may not  
2 impose additional requirements on a public charter school  
3 student to participate in extracurricular activities that are  
4 not imposed on full-time students of the public school. All  
5 applicable Alabama High School Athletic Association  
6 eligibility rules apply to a public charter school, including  
7 transfer, attendance zone, and enrollment rules. If a public  
8 charter school does not have an athletic program in any sport,  
9 the students attending that public charter school may be  
10 eligible for athletics at the non-charter public school for  
11 which they are zoned under Alabama High School Athletic  
12 Association rules.

13           Section 18. The provisions of this act are  
14 severable. If any part of this act is declared invalid or  
15 unconstitutional, that declaration shall not affect the part  
16 which remains.

17           Section 19. This act shall become effective on  
18 December 31, 2012, following its passage and approval by the  
19 Governor, or its otherwise becoming law.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17

Senate

Read for the first time and referred to the Senate  
committee on Education..... 12-APR-12

Read for the second time and placed on the calen-  
dar 7 amendments..... 19-APR-12

Read for the third time and passed as amended .... 02-MAY-12

Yeas 23  
Nays 12

Patrick Harris  
Secretary