

HOUSE BILL 1435

By Mitchell

AN ACT to amend Tennessee Code Annotated, Title 4 and
Title 49, relative to charter schools.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-1-614(k), is amended by deleting the language "Tennessee public charter school commission" wherever it appears in the subsection and substituting instead the language "state board of education".

SECTION 2. Tennessee Code Annotated, Section 49-3-110(a), is amended by deleting subdivision (5), and by deleting the language "the state board, or the Tennessee public charter school commission" in subdivision (6) and substituting instead the language "or the state board".

SECTION 3. Tennessee Code Annotated, Section 49-13-104, is amended by deleting subdivision (3) and substituting instead the following:

(3) "Authorizer" means the state board, a local board of education, or the achievement school district, as defined in § 49-1-614, that makes decisions regarding approval, renewal, and revocation of a charter school application or agreement;

SECTION 4. Tennessee Code Annotated, Section 49-13-104, is amended by deleting subdivision (6), and by inserting the following as a new, appropriately designated subdivision:

() "State board" means the state board of education;

SECTION 5. Tennessee Code Annotated, Section 49-13-105, is amended by deleting the section.

SECTION 6. Tennessee Code Annotated, Section 49-13-108(b), is amended by deleting subdivisions (4) and (5) and substituting instead the following:

(4)

(A) A denial by the local board of education of an application to establish a charter school may be appealed by the sponsor to the state board no later than ten (10) days after the date of the final decision to deny. The appeal and review process must be conducted in accordance with this subdivision (b)(4).

(B) No later than sixty (60) days after the state board receives a notice of appeal, or after the state board makes a motion to review and provides reasonable public notice, the state board, at a public hearing attended by the local board of education or the local board's designated representative and held in the LEA in which the proposed charter school submitted the charter school application, shall conduct a de novo on the record review of the proposed charter school's application and make its findings.

(C) The state board or the state board's executive director, acting for the state board, may allow a sponsor to make corrections to the sponsor's application on appeal, except for the elements of the application required under § 49-13-107(b)(1), (2), (4), (6), (9), (12), (13), (18), and (20).

(D) If the application is for a charter school in an LEA that does not contain a priority school on the current or last preceding priority school list, and if the state board finds that the local board of education's decision was contrary to the best interests of the students, LEA, or community, then the state board shall remand the decision to the local board with written instructions for approval of the charter school application. The grounds upon which the state board based its decision to remand the application must be stated in writing and must specify objective reasons for the state board's decision. The state board's decision is final and is not subject to appeal. The local board is the authorizer.

(E) If the application is for a charter school in an LEA that contains at least one (1) priority school on the current or last preceding priority school list, and if the state board finds that the local board of education's decision was contrary to the best interests of the students, LEA, or community, then the state board may approve the application for the charter school. The state board's decision is final and is not subject to appeal. The state board is the authorizer.

SECTION 7. Tennessee Code Annotated, Section 49-13-108(c), is amended by deleting the word "commission" wherever it appears in the subsection and substituting instead the language "state board".

SECTION 8. Tennessee Code Annotated, Section 49-13-110, is amended by deleting subsection (d) and substituting instead the following:

(d) The governing body of the charter school may petition the authorizer to amend the original charter agreement. The state board shall determine the timelines for approval and the appeal process. If the authorizer is the state board, then an appeal shall not be made of the state board's decision to deny a petition to amend the charter agreement. The governing body of a charter school may petition the authorizer for voluntary termination of the charter agreement before the charter agreement expires.

SECTION 9. Tennessee Code Annotated, Section 49-13-111(a)(7), is amended by deleting the word "commission" and substituting instead the language "state board".

SECTION 10. Tennessee Code Annotated, Section 49-13-112(b), is amended by deleting the word "commission" wherever it appears in the subsection and substituting instead the language "state board".

SECTION 11. Tennessee Code Annotated, Section 49-13-113(b), is amended by deleting the word "commission" wherever it appears in the subsection and substituting instead the language "state board".

SECTION 12. Tennessee Code Annotated, Section 49-13-119, is amended by deleting the word "commission" wherever it appears in the section and substituting instead the language "state board".

SECTION 13. Tennessee Code Annotated, Section 49-13-121, is amended by deleting the word "commission" wherever it appears in subsection (a) and substituting instead the language "state board" and by deleting the subsections (e) and (f) and substituting instead the following:

(e)

(1) A local board of education's decision to deny a renewal application may be appealed by the governing body to the state board no later than ten (10) days after the date of the local board's decision.

(2) If the state board finds that the local board's decision to deny renewal of a charter agreement is contrary to the best interest of the students, LEA, or community, and the renewal application is for a charter school in an LEA that does not contain a school on the current or last preceding priority school list, then the state board shall remand the decision to the local board with written instructions for approval of the renewal application. The local board of education must remain the authorizer.

(3) If the state board finds that the local board's decision not to renew a charter agreement was contrary to the best interests of the students, LEA, or community, and the renewal application is for a charter school in an LEA that contains at least one (1) school on the current or last preceding priority school list, then the state board shall approve the renewal application and the state board is the authorizer.

(4) A decision by the state board to deny the renewal of a charter agreement is final and is not subject to appeal.

SECTION 14. Tennessee Code Annotated, Section 49-13-122, is amended by deleting subsections (f) and (g) and substituting instead the following:

(f) A local board of education's decision to revoke a charter agreement may be appealed to the state board no later than ten (10) days after the date of the local board's decision, except for revocations based on the violations specified in subsection (a). No later than sixty (60) days after the state board receives a notice of appeal and after the state board provides reasonable public notice, the state board, at a public hearing attended by the local board or the local board's designated representative and held in the LEA in which the charter school has been operating, shall conduct a de novo on the record review of the authorizer's decision. In order to overturn a local board of education's decision to revoke a charter agreement, the state board must find that the local board's decision was contrary to this section. If the state board overturns the local board's decision to revoke a charter agreement, then the state board shall remand the decision to the local board and the local board remains the authorizer. The decision of the state board is final and is not subject to appeal. This subsection (f) only applies to decisions to revoke a charter agreement for which the local board is the authorizer.

SECTION 15. Tennessee Code Annotated, Section 49-13-128, is amended by deleting subsection (e) and substituting instead the following:

(e) If the state board authorizes a charter school under this chapter, then the state board must receive an annual authorizer fee of up to three percent (3%) of the charter school's per pupil state and local funding as allocated under § 49-13-112(a). By May 1 of each year, the state board shall set the percentage of a charter school's per student state and local funding that the state board must receive as the annual

authorizer fee for the next school year. Notwithstanding subsection (b), the state board may use the state board's annual authorizer fee to fulfill obligations consistent with the authority of the state board as set forth in this chapter.

SECTION 16. Tennessee Code Annotated, Section 49-13-141, is amended by deleting the word "commission" and substituting instead the language "state board".

SECTION 17. Tennessee Code Annotated, Section 49-13-142, is amended by deleting the section and substituting instead the following:

(a) This section applies to charter schools authorized by the state board on appeal from a denial of approval of a charter school application by an LEA that contains at least one (1) priority school on the current or last preceding priority school list.

(b)

(1) Except as provided in subdivision (b)(3), oversight and monitoring of charter schools authorized by the state board of education must be performed by the state board. As requested, the department of education shall assist the state board with general oversight of any charter school authorized by the state board.

(2) A charter school authorized by the state board must continue to be overseen and monitored by the state board notwithstanding the subsequent removal of all schools in an LEA from the priority school list; provided, however, that in the case of a charter school authorized by the state board but renewed by the LEA in accordance with § 49-13-121, the LEA becomes the authorizer and is responsible for oversight and monitoring of the charter school.

(3) A charter school authorized by the state board and the LEA in which the charter school is located may, within thirty (30) calendar days of such authorization, mutually agree that the charter school shall be overseen and monitored by the LEA. Any such agreement must be filed with the state board in

a manner prescribed by the state board. This subdivision (b)(3) applies to charter schools renewed on appeal by the state board.

(c)

(1) Except as provided in subdivision (c)(2), for accountability purposes under § 49-1-602, the performance of a charter school authorized by the state board of education is not attributable to the LEA.

(2) If a charter school authorized by the state board and the LEA in which the charter school is located mutually agree that the charter school must be overseen and monitored by the LEA pursuant to subdivision (b)(2), then, for accountability purposes under § 49-1-602, the performance of the charter school is attributable to the LEA.

(d) Funding for charter schools authorized by the state board must comply with § 49-13-112.

(e) A charter school authorized by the state board may contract with the LEA in which the school operates for school support services or student support services, including, but not limited to, food services and transportation.

(f) The state board is the LEA for all charter schools it authorizes.

SECTION 18. Tennessee Code Annotated, Section 49-13-142, is amended by adding the following as a new subsection (g):

(g)

(1) By July 1, 2023, all charter agreements for which the Tennessee public charter school commission is the authorizer must be transferred, for the remainder of the unexpired term of the charter agreement, to the state board if documentation of mutual agreement to the transfer has been executed by the charter school's governing body and the state board.

(2) Documentation of mutual agreement must be in the form of a written agreement between the charter school's governing body and the state board. The agreement must include any modification or amendment of the charter agreement as may be mutually agreed upon by the charter school's governing body and the state board.

(3) On July 1, 2023, subject to documentation of mutual agreement, the state board shall assume all authorizer rights under charter agreements executed by the commission.

(4) The commission shall transfer to the state board all student records and charter school performance data collected and maintained in the performance of the commission's duties as an authorizer.

(5) The state board, in consultation with the governing body of a charter school that is operating under a charter agreement that is to be transferred under this subsection (g), shall provide for timely notification of the transfer of the charter agreement, and any modifications or amendments to the charter agreement that are included in the written agreement executed under subdivision (g)(2), to parents or guardians of students enrolled in a charter school affected by the transfer.

(6) If a charter school's governing body and the state board cannot reach a mutual agreement before July 1, 2023, then the charter agreement authorized by the commission terminates on July 1, 2023.

(h) Subsection (g) is repealed on July 1, 2023.

SECTION 19. Tennessee Code Annotated, Section 49-13-107(b), is amended by deleting the language "in coordination with the commission".

SECTION 20. Tennessee Code Annotated, Section 4-29-244(a), is amended by deleting subdivision (38).

SECTION 21. Sections 4 and 18 of this act take effect upon becoming a law, the public welfare requiring it. All other sections of this act take effect July 1, 2023, at 12:01 a.m., the public welfare requiring it.