

First Extraordinary Session, 2005

HOUSE BILL NO. 121

BY REPRESENTATIVE CRANE AND SENATOR DUPLESSIS

SCHOOLS: Provides for the transfer, operation, and management of certain schools into the Recovery School District, expands the authority of the recovery district, and provides for the duration of the transfer (Item #8)

1 AN ACT
2 To amend and reenact R.S. 17:1990(A), (B)(1), (2)(a), and (4), (C)(1)(a), (2)(a), and (3),
3 3973(2)(b)(v)(aa), 3982(A)(1), and 3983(A)(2)(a) and to enact R.S. 17:10.7,
4 1990(F)(3), and 3983(A)(1)(g), relative to the Recovery School District; to provide
5 for the tranfer of certain schools to the recovery district; to provide for the operation
6 and management of such schools; to require the development and approval of a plan
7 for the operation of all schools transferred and to specify the contents of such plan;
8 to provide for the duration and continuation of the transfer; to require the state
9 superintendent of education to make certain reports relative to the recovery district;
10 to subject the administration of the recovery district to the approval of the State
11 Board of Elementary and Secondary Education; to authorize the recovery district to
12 manage and retain certain funding, including the authorization for retaining fund
13 balances; to specify that the expenditure of certain funds by the recovery district is
14 subject to the requirements of the approved Minimum Foundation Program formula;
15 to provide with regard to the authority of the recovery district to contract with for-
16 profit providers; to provide for the exercise of limited rights of ownership over
17 property of transferred schools by the recovery district; to provide for the transfer of
18 certain funding to the recovery district; to provide for the process for the tranfer of
19 such funds and for a limitation on the tranfer of such funds; to provide for the

1 expenditure of certain retained funds by certain city, parish, or other local public
2 school systems; to provide for the eligibility of a student to attend a school operated
3 under the jurisdiction of the recovery district; to provide for the obligations of the
4 recovery district in providing services to students; to expand the definition of a Type
5 charter school to include charters involving certain schools transferred to the
6 recovery district; to prohibit certain local school boards from considering or acting
7 on Type 1 charter school applications under certain circumstances; to authorize the
8 state Department of Education to enter into a charter to operate a charter school
9 under certain circumstances; to provide for effectiveness; and to provide for related
10 matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 17:1990(A), (B)(1), (2)(a), and (4), (C)(1)(a), (2)(a), and (3),
13 3973(2)(b)(v)(aa), 3982(A)(1), and 3983(A)(2)(a) are hereby amended and reenacted and
14 R.S. 17:10.7, 1990(F)(3), and 3983(A)(1)(g) are hereby enacted to read as follows:

15 §10.7. School and district accountability; schools in districts in academic crisis;
16 transfer to Recovery School District
17 A. Each elementary or secondary school that participates in a Spring cycle
18 of student testing and has a baseline school performance score below the state
19 average and each alternative school, established pursuant to R.S. 17:100.5, that
20 provides educational services to students a majority of whose test scores are reported
21 back to such an elementary or secondary school under a uniform statewide program
22 of school accountability established pursuant to rules adopted under authority of law
23 by the State Board of Elementary and Secondary Education, referred to in this
24 Section as "the state board", that is a school in or granted a charter by a city, parish,
25 or other local public school system that has been declared to be academically in
26 crisis pursuant to R.S. 17:10.6, and that has at least one school eligible to transfer to
27 the Recovery School District pursuant to R.S. 17:10.5, shall be designated a failing
28 school and shall be transferred to the jurisdiction of the Recovery School District
29 established in R.S. 17:1990. Directed by its administering agency, the Recovery

1 School District, referred to in this Section as "the recovery district", shall provide all
2 educational services required of any city, parish, or other local public school system
3 in order to meet the educational needs of all students residing in the jurisdiction of
4 the transferring local school system who were attending a transferred school or who
5 would have been eligible to attend such transferred school because of the residential
6 location of the student or as the result of any other option or program available to the
7 student.

8 B.(1) Any school transferred to the recovery district pursuant to this Section
9 shall be reorganized as necessary and operated by the recovery district, pursuant to
10 its authority, in whatever manner is determined by the administering agency of the
11 recovery district to be most likely to improve the academic performance of each
12 student in the school.

13 (2)(a) The recovery district, as directed by its administering agency, shall
14 manage the schools so transferred in a fashion that provides the best educational
15 opportunity to all students who attended or were eligible to attend such schools
16 without regard to the attendance zones related to such schools prior to the transfer.
17 The authority provided in this Paragraph includes the authority to determine and act
18 on which schools should be operated, which schools should be closed, which schools
19 should be relocated or rebuilt, and what range of grades should be operated in each
20 school.

21 (b)(i) Within six months after the transfer of a school to the recovery district
22 pursuant to this Section, the administering agency shall develop and present to the
23 state board, for its approval, a plan for the operation of all schools transferred. The
24 plan shall be annually updated and reviewed by the state board.

25 (ii) The plan required in this Subparagraph shall address each of the
26 following:

27 (aa) The educational needs of all students.

1 (bb) The number and location of schools to be operated to provide
2 appropriate educational services to all students. This plan element shall include
3 provision for changes in the student population being served.

4 (cc) A method for maintaining clear communication among interested
5 parties, including the recovery district, the Louisiana Recovery Authority, the chief
6 executive officer of the governing authority of the relevant municipality or parish,
7 the parents and guardians of children for whom the recovery district is required to
8 provide educational services, and the city, parish, or other local public school board
9 from which schools were transferred.

10 (3) The state superintendent of education shall make an annual report to the
11 House and Senate committees on education concerning the status, management, and
12 operation of any school transferred to the recovery district pursuant to the provisions
13 of this Section.

14 C.(1) The recovery district shall retain jurisdiction over any school
15 transferred to it for a period of not less than five school years not including the
16 school year in which the transfer occurred if the transfer occurred during a school
17 year.

18 (2)(a) No later than nine months prior to the expiration of the five-year
19 period, the state superintendent of education shall make a report to the state board.

20 (b) The report shall include at a minimum each of the following elements:

21 (i) The status of each school transferred, the nature of its faculty and
22 administration, the demographics and size of its student body, its organizational and
23 management structure, whether there has been improvement in student academic
24 performance and, if so, how much and, if not, why not.

25 (ii) A recommendation as to whether the school should be:

26 (aa) Continued in the recovery district pursuant to its reported operational
27 status.

28 (bb) Continued in the recovery district with a change in its operational status
29 and the nature of the recommended change.

1 obligated to provide for routine maintenance and repair such that the facilities and
2 property are maintained in as good an order as when the right of use was acquired
3 by the district. There shall be no requirement for the district to provide for the type
4 of extensive repair to buildings or facilities that would be considered to be a capital
5 expense. Such extensive repairs shall be provided by the governing authority of the
6 city, parish, or other local public school system or other public entity which is
7 responsible for the facility.

8 (b)(i) In the case of the transfer of schools pursuant to R.S. 17:10.7, the
9 school district may, at the discretion of the administering agency and
10 notwithstanding the provisions of Subparagraph (a) of this Paragraph, acquire with
11 the transfer of the schools all the rights and responsibility of ownership regarding all
12 land, buildings, facilities, and other property that is part of the school being
13 transferred, except that the school district may not transfer the ownership of the land
14 or usable buildings constructed on the land to another save returning the land and
15 such buildings to the stewardship of the prior system. The district may lease land or
16 property, dispose of property other than the land as is necessary to properly manage
17 the operation of the schools, rebuild school buildings, or renovate school buildings.

18 (ii) No building shall be destroyed pursuant to the authority of the school
19 district unless the destruction of the building has been approved by the office of
20 facility planning in the division of administration.

21 (iii) In the case that the rights and responsibilities provided for in this
22 Subparagraph are acquired by the school district, the school district, through its
23 administering agency, shall be the exclusive authority to receive, manage, and
24 expend any and all state, local, or federal funding dedicated to or available for the
25 purpose of repairing, renovating, or rebuilding, or building a school building or
26 facility and any and all insurance proceeds attributable to damage done to any
27 property, except that portion of such insurance proceeds used to pay debt owed by
28 the prior system. A portion of all revenues available to the prior system which are
29 dedicated to the repair, maintenance, or capital projects regarding a transferred

1 (bb) Ad valorem taxes, less any tax collection fee paid by the school system;

2 (cc) Earnings from sixteenth section lands owned by the school system; ~~or,~~

3 (ii)(aa) ~~Such allocation and transfer shall be accomplished by a~~
4 reduction in the amount of state funds otherwise to be allocated to the city, parish,
5 or other local public school system as contained in the Minimum Foundation
6 Program budget letter approved by the State Board of Elementary and Secondary
7 Education equal to the amount provided in ~~Item (i) of this Subparagraph~~ this
8 Paragraph which reduction shall be allocated to the school district.

9 (bb) In the case that there are insufficient funds available to provide the total
10 due the school district under this Paragraph if all state funds are reduced and
11 allocated to the school district, the prior system shall transfer a sufficient amount of
12 money remaining from the sources provided in Item (i) of this Subparagraph to the
13 school district. In the case that the prior system local revenues are insufficient to
14 allow for the allocation to the school district and to allow the prior system to
15 maintain a minimum balance of ten percent of state Minimum Foundation Program
16 funding and ten percent of the local revenues listed in Item (i) of this Subparagraph,
17 local revenues otherwise required to be allocated to the school district shall be
18 reduced to an amount necessary to allow the prior system to maintain such balances.
19 Such maintained minimum balances shall be applied firstly to the prior system's
20 retiree health insurance costs and secondly to the prior system's board administrative
21 costs.

22 * * *

23 (3)(a) Except for administrative costs, monies appropriated to the Recovery
24 School District that are attributable to the transfer of a school from a prior school
25 system and monies allocated or transferred from the prior system to the recovery
26 district shall be expended solely on the operation of schools transferred from the
27 prior system to the jurisdiction of the district.

28 (b) Notwithstanding the requirements of Subparagraph (a) of this Paragraph,
29 in the case that schools are transferred pursuant to R.S. 17:10.7 to the school district,

1 monies appropriated to the school district that are attributable to the transfer of the
 2 schools from a prior system and monies allocated or transferred from the prior
 3 system to the school district shall be expended on the provision of services to the
 4 students who were in attendance at such schools or who would have been eligible to
 5 attend such schools transferred from the prior system to the jurisdiction of the district
 6 without regard to expending amounts on or in any particular school provided that
 7 such services are provided in compliance with the requirements of R.S.
 8 17:10.7(B)(2)(b).

9 * * *

10 F.

11 * * *

12 (3) In addition, in the case that schools are transferred to the district pursuant
 13 to R.S. 17:10.7 and notwithstanding other requirements of this Subsection, the school
 14 district may permit any student eligible to attend any school in the prior system to
 15 attend a school operated by the school district in the area of the transferring system.

16 * * *

17 §3973. Definitions

18 As used in this Chapter, the following words, terms, and phrases shall have
 19 the meaning ascribed to them in this Section except when the context clearly
 20 indicates a different meaning:

21 * * *

22 (2)

23 * * *

24 (b) Charter schools shall be one of the following types:

25 * * *

26 (v)(aa) Type 5, which means a preexisting public school transferred to the
 27 Recovery School District pursuant to R.S. 17:10.5 or 10.7 and operated as the result
 28 of and pursuant to a charter between a nonprofit corporation and the State Board of
 29 Elementary and Secondary Education, or between a nonprofit corporation and a city,

1 parish, or other local school board or other public entity in the case of the renewal
 2 of a Type 5 charter of a school that has been transferred back to the jurisdiction of
 3 the local school board or other public entity pursuant to R.S. 17:10.5(C).
 4 ~~Notwithstanding~~ Except as otherwise provided in R.S. 17:10.7 or 1990, and
 5 notwithstanding the provisions of R.S. 17:3991(B)(1), within such Type 5 charter
 6 school, only pupils who would have been eligible to enroll in or attend the
 7 preexisting school under the jurisdiction of the city, parish, or other local public
 8 school board or other public school entity prior to its transfer to the Recovery School
 9 District may attend. However, all such pupils shall be eligible to attend
 10 notwithstanding any other provision of this Chapter to the contrary.

11 * * *

12 §3982. Local school boards; duties

13 A.(1)(a) Local school boards shall comply with R.S. 17:3983 and shall
 14 review and formally act upon each proposed charter within thirty days of its
 15 submission and in the order in which submitted. In doing such review, the local
 16 school board shall determine whether each proposed charter complies with the law
 17 and rules, whether the proposal is valid, complete, financially well-structured, and
 18 educationally sound, and whether it offers potential for fulfilling the purposes of this
 19 Chapter.

20 (b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph,
 21 school boards which govern a local system that has been declared to be in academic
 22 crisis, as defined in R.S. 17:10.6, shall not consider, review, or act upon charter
 23 applications for a Type 1 charter school and shall notify the proponents of any
 24 pending Type 1 charter proposal or any newly submitted Type 1 charter proposal that
 25 the board is ineligible to act on such applications and that each such application may,
 26 therefore, be submitted to the state board as a Type 2 proposal pursuant to R.S.
 27 17:3983(A)(2)(a)(ii).

28 * * *

1 §3983. Chartering process by type; eligibility; limitations; faculty approval;
2 parental approval

3 A.(1) Any of the following may form a nonprofit corporation for the purpose
4 of proposing a charter as provided in this Subsection, provided that the group
5 submitting the charter school proposal includes three or more persons holding valid
6 and current Louisiana teaching certificates:

7 * * *

8 (g) The state Department of Education, subject to the approval of the state
9 board.

10 (2)(a)(i) Each proposal for a ~~type~~ Type 1 or ~~type~~ Type 3 charter school shall
11 first be made to the local school board with jurisdiction where the school is to be
12 located, except in the case of a local system in academic crisis as provided for in
13 Item (ii) of this Subparagraph, involving the submission of a written proposal. If,
14 after review as required by R.S. 17:3982, the local school board denies the proposal,
15 or if conditions placed on the proposal by the local school board, as provided in
16 Paragraph (B)(2) of this Section, are not acceptable to those proposing the charter,
17 then a proposal for a type 2 charter school may be made to the State Board of
18 Elementary and Secondary Education.

19 (ii) A proposal for a Type 1 charter school that would otherwise be made to
20 a local school board except that the local system is in academic crisis shall, in the
21 discretion of the proponents of the proposal, be made to the state board as a Type 2
22 proposal.

23 * * *

24 Section 2. This Act shall become effective upon signature by the governor or, if not
25 signed by the governor, upon expiration of the time for bills to become law without signature
26 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
27 vetoed by the governor and subsequently approved by the legislature, this Act shall become
28 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

Crane

HB No. 121

Abstract: Provides for the transfer of certain schools in school systems that are academically in crisis to the Recovery School District. Provides for the operation and management of such schools by the recovery district. Provides for the duration and continuance of such transfer. Requires certain reports by the state superintendent of education relative to the recovery district. Authorizes the recovery district to manage and retain certain funding and to provide relative to the expenditure of certain funds by the recovery district. Expands the definition of a Type 5 charter school to include charters involving certain schools transferred to the recovery district.

Present law (R.S. 17:10.5) provides for the transfer, subject to approval by the State Board of Elementary and Secondary Education (BESE), of schools that have been labeled academically unacceptable for four consecutive years or failed schools for which the school board has failed to present or implement an acceptable reconstitution plan under the school and district accountability plan established by rule by BESE from their local school board to the Recovery School District.

Present law (R.S. 17:1990) establishes and provides for the Recovery School District as an intermediate educational unit which has no authority to levy taxes, but which may otherwise generally operate with the same authority as a local public school system regarding the schools in its jurisdiction.

Present law (R.S. 17:10.6) provides for the transfer of significant school board authority from the local school board to the local superintendent when a system is academically in crisis which is defined as the local system having 30 or more schools that are academically unacceptable or more than 50% of its students attending schools that are academically unacceptable.

Proposed law retains, without change, the provisions of present law (R.S. 17:10.5), regarding the transfer of schools which have been academically unacceptable for four years or for which an acceptable reconstitution plan has not been provided or implemented to the Recovery School District. Retains, without change, the provisions of present law (R.S. 17:10.6), providing for the transfer of authority from the school board to the local superintendent when a school system is academically in crisis.

Proposed law adds provisions designating a school that participates in a spring cycle of student testing which has a school performance score below the state average that is in a school system that is academically in crisis and that has at least one school eligible to transfer to the recovery district as provided in present law as a failed school and requiring that all such schools be transferred to the Recovery School District. Specifically includes alternative schools that report a majority of their student's scores back to such schools and charter schools chartered by such systems. Requires the district to provide educational services that are required of local school systems to all students who attended the transferred school or who would have been eligible to attend the transferred school without regard to attendance zones related to such schools prior to the transfer.

Authorizes the Recovery School District to reorganize and operate such schools as determined most likely to improve student performance. Authorizes the district to determine what schools to operate, close, relocate, or rebuild and what range of grades to operate. Requires the state Dept. of Education, as the administering agency, not less than six months

after the transfer of a school, to develop a plan for BESE approval for the operation of the schools. Requires the plan to include provisions for the educational needs of all students, the number and location of schools to be operated, and a method for communication among the parties.

Provides that such a transfer is for a minimum of five years which shall be renewed upon the recommendation of the state superintendent of education and BESE approval. Requires a report to BESE at least nine months prior to the termination of the transfer period containing the superintendent's recommendation.

Empowers student's parents or guardians to choose to continue to have their child enrolled in a school under the Recovery School District or to exercise any option provided by the system from which the school is transferred.

Proposed law makes the following changes and additions to present law provisions regarding the Recovery School District:

- (1) Adds provisions for the required transfer of schools that are designated as failed because they are below the state average and in a system academically in crisis.
- (2) Adds BESE approval for the administration of the Recovery School District by the state Dept. of Education as the administering agency.
- (3) Adds authority for the district to manage and retain their funding, including maintaining fund balances.
- (4) Authorizes the Recovery School District to enter into contracts with private for-profit providers for any needed services.
- (5) In the case of the transfer of schools that are designated as failed because they are below the state average and in a system academically in crisis, authorizes the Recovery School District to acquire with the transfer of the schools, all the rights and responsibilities of ownership regarding all land, buildings, facilities, and other property that is part of the school being transferred, except to prohibit the transfer of the ownership of any land or usable buildings constructed on the land to any entity or person other than to return it to the stewardship of the local school system from which it was originally transferred.
- (6) Specifically authorizes the Recovery School District to lease land or property, dispose of property other than the land, including buildings unusable for any purpose necessary to the provision of educational services by the district, or as necessary to properly manage the operation of the schools, rebuild school buildings, or renovate school buildings.
- (7) Provides that when such ownership rights transfer, the Recovery School District is the exclusive authority to receive, manage, and expend any and all state, local, or federal funding dedicated to or available for the purpose of repairing, renovating, or rebuilding or building a school building or facility, including any and all insurance proceeds payable to the prior system as a result of damage done to the property, except for such proceeds used to pay debt owed by the prior system and money dedicated to such purpose, whether available from tax proceeds, borrowing or otherwise. Provides that the money available to the prior system shall be transferred in a share proportional to the number of transferred schools as compared to all schools operated by the school system in the school year immediately preceding the school year.
- (8) Reverses the order of the means for allocating local money owed to the Recovery School District from the local school system to the Recovery School District from

the local system transferring the amount due directly or, if not, suffering a reduction in the allocation of state MFP funds to providing as the first means the reduction in state MFP funds following by a transfer from the system of local funds to make up any deficit in the amount available in state MFP funds.

- (9) Provides that in case there are insufficient MFP funds available, to provide all that is due the recovery district, the prior system must transfer a sufficient amount to make up the deficit. Provides for the maintenance of a budget for the prior system that is 10% of the prior system's state MFP funding and 10% of its local funding. Requires such amount be spent first on the prior system's retiree health insurance costs and second on the prior system's board administrative cost.
- (10) Provides an exception to present law requirement that monies allocated or transferred from the prior system to the recovery district be expended solely on the operation of schools transferred by providing, in the case of schools that are designated as failed because they are below the state average and in a system academically in crisis, the Recovery School District may expend funds on providing educational services without regard to expending amounts on or in any particular school.
- (11) Authorizes the recovery district to permit any student eligible to attend a school anywhere in the prior system to attend a school operated for students from the prior system.

Proposed law makes the following change to the Charter School Law to accommodate the transfer of schools to the Recovery School District and provide for the school's operation:

- (1) Adds the transfer of schools that are designated as failed because they are below the state average and in a system academically in crisis (R.S. 17:10.7) to those which may be recreated as a Type 5 charter by the Recovery School District.
- (2) Authorizes the state Dept. of Ed. to enter into charters in the same fashion as present law authorizes for colleges and universities.
- (3) Prohibits a local school system in academic crisis that has transferred schools to the recovery district from considering or acting on Type 1 charter school applications.
- (4) Permits a Type 1 charter school application made to a local board in academic crisis that is ineligible to consider it to be made to BESE.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 17:1990(A), (B)(1), (2)(a), and (4), (C)(1)(a), (2)(a), and (3), 3973(2)(b)(v)(aa), 3982(A)(1), and 3983(A)(2)(a); Adds R.S. 17:10.7, 1990(F)(3), and 3983(A)(1)(g))