

First Extraordinary Session, 2005

HOUSE BILL NO. 121

BY REPRESENTATIVES CRANE, ALARIO, DEWITT, DORSEY, HAMMETT, AND
SALTER AND SENATORS DUPLESSIS, HEITMEIER, HINES, AND MOUNT

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), 3973(2)(b)(v)(cc), and 3983(A)(1)(g), relative to the Recovery School

5 District; to provide for the transfer of certain schools to the recovery district; to

6 provide for the operation and management of such schools; to require the

7 development and approval of a plan for the operation of all schools transferred and

8 to specify the contents of such plan; to provide for the duration and continuation of

9 the transfer; to require the recovery district to make certain reports relative to the

10 recovery district; to subject the administration of the recovery district to the approval

11 of the State Board of Elementary and Secondary Education; to authorize the recovery

12 district to manage and retain certain funding, including the authorization for

13 retaining fund balances; to specify that the expenditure of certain funds by the

14 recovery district is subject to the requirements of the approved Minimum Foundation

15 Program formula; to provide with regard to the authority of the recovery district to

16 contract with for-profit providers; to provide for the exercise of limited rights of

17 ownership over property of transferred schools by the recovery district; to provide

18 for the transfer of certain funding to the recovery district; to provide for the process

19 for the transfer of such funds and for a limitation on the transfer of such funds; to

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

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 17:1990(A), (B)(1), (2)(a), and (4), (C)(1)(a), (2)(a), and (3),
15 3973(2)(b)(v)(aa), 3982(A)(1), and 3983(A)(2)(a) are hereby amended and reenacted and
16 R.S. 17:10.7, 1990(F)(3), 3973(2)(b)(v)(cc), and 3983(A)(1)(g) are hereby enacted to read
17 as follows:

18 §10.7. School and district accountability; schools in districts in academic crisis;
19 transfer to Recovery School District
20 A. Each elementary or secondary school that participates in a Spring cycle
21 of student testing and has a baseline school performance score below the state
22 average and each alternative school, established pursuant to R.S. 17:100.5, that
23 provides educational services to students a majority of whose test scores are reported
24 back to such an elementary or secondary school under a uniform statewide program
25 of school accountability established pursuant to rules adopted under authority of law
26 by the State Board of Elementary and Secondary Education, referred to in this
27 Section as "the state board", that is a school in or granted a charter by a city, parish,
28 or other local public school system in any parish having a population of at least four
29 hundred seventy-five thousand persons according to the latest federal decennial

1 census that has been declared to be academically in crisis pursuant to R.S. 17:10.6,
2 and that has at least one school eligible to transfer to the Recovery School District
3 pursuant to R.S. 17:10.5, shall be designated a failing school and shall be transferred
4 to the jurisdiction of the Recovery School District established in R.S. 17:1990. The
5 Recovery School District, referred to in this Section as "the recovery district", shall
6 provide all educational services required of any city, parish, or other local public
7 school system in order to meet the educational needs of all students residing in the
8 jurisdiction of the transferring local school system who were attending a transferred
9 school or who would have been eligible to attend such transferred school because of
10 the residential location of the student or as the result of any other option or program
11 available to the student.

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

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

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

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

3 (aa) The educational needs of all students.

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

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

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

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

20 (2)(a) No later than nine months prior to the expiration of the five-year
21 period, the recovery district shall make a report to the state board.

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

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

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

28 (aa) Continued in the recovery district pursuant to its reported operational
29 status.

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

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

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

24 (iii) In the case that the rights and responsibilities provided for in this
25 Subparagraph are acquired by the school district, the school district, through its
26 administering agency, shall be the exclusive authority to receive, manage, and
27 expend any and all state, local, or federal funding dedicated to or available for the
28 purpose of repairing, renovating, or rebuilding, or building a school building or
29 facility and any and all insurance proceeds attributable to damage done to any

1 or debt service or which was actually expended by the school board for facilities
2 acquisition and construction as reported to the state Department of Education:

3 (aa) Sales and use taxes, less any tax collection fee paid by the school
4 system;

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

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

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

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

26 * * *

27 (3)(a) Except for administrative costs, monies appropriated to the Recovery
28 School District that are attributable to the transfer of a school from a prior school
29 system and monies allocated or transferred from the prior system to the recovery

1 district shall be expended solely on the operation of schools transferred from the
2 prior system to the jurisdiction of the district.

3 (b) Notwithstanding the requirements of Subparagraph (a) of this Paragraph,
4 in the case that schools are transferred pursuant to R.S. 17:10.7 to the school district,
5 monies appropriated to the school district that are attributable to the transfer of the
6 schools from a prior system and monies allocated or transferred from the prior
7 system to the school district shall be expended on the provision of services to the
8 students who were in attendance at such schools or who would have been eligible to
9 attend such schools transferred from the prior system to the jurisdiction of the district
10 without regard to expending amounts on or in any particular school provided that
11 such services are provided in compliance with the requirements of R.S.
12 17:10.7(B)(2)(b).

13 * * *

14 F.

15 * * *

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

20 * * *

21 §3973. Definitions

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

25 * * *

26 (2)

27 * * *

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

29 * * *

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

15 * * *

16 (cc) No member of the State Board of Elementary and Secondary Education
 17 shall be a member of the governing or management board of any Type 5 charter
 18 school. No member of any city, parish, or other local public school board shall be
 19 a member of the governing or management board of any Type 5 charter school
 20 within the jurisdictional area of such city, parish, or other local public school board.

21 * * *

22 §3982. Local school boards; duties

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

1 (b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph,
 2 school boards which govern a local system that has been declared to be in academic
 3 crisis, as defined in R.S. 17:10.6, shall not consider, review, or act upon charter
 4 applications for a Type 1 charter school and shall notify the proponents of any
 5 pending Type 1 charter proposal or any newly submitted Type 1 charter proposal that
 6 the board is ineligible to act on such applications and that each such application may,
 7 therefore, be submitted to the state board as a Type 2 proposal pursuant to R.S.
 8 17:3983(A)(2)(a)(ii).

9 * * *

10 §3983. Chartering process by type; eligibility; limitations; faculty approval;
 11 parental approval

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

16 * * *

17 (g) The state Department of Education, subject to the approval of the state
 18 board.

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

28 (ii) A proposal for a Type 1 charter school that would otherwise be made to
 29 a local school board except that the local system is in academic crisis shall, in the

1 discretion of the proponents of the proposal, be made to the state board as a Type 2
2 proposal.

3 * * *

4 Section 2. This Act shall become effective upon signature by the governor or, if not
5 signed by the governor, upon expiration of the time for bills to become law without signature
6 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
7 vetoed by the governor and subsequently approved by the legislature, this Act shall become
8 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 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. Prohibits a member of BESE from being a member of the governing or management board of any Type 5 charter school. Also prohibits members of certain school boards from also being members of the governing or management boards of certain Type 5 charter schools.

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 in any parish having a population of at least 475,000 persons according to the latest federal decennial census that has been declared to be 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 recovery district within 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 the recovery district to report to BESE at least nine months prior to the expiration of the transfer period and specifies certain elements to be included in the report. Requires BESE, no later than six months prior to the expiration of the transfer period, to take action on the recommendations of the recovery district as contained in the report. Further requires the recovery district to report annually to the House and Senate education committees concerning the status, management, and operation of any school transferred to the recovery district pursuant to proposed law.

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) Prohibits a member of BESE from being a member of the governing or management board of any Type 5 charter school. Also prohibits members of local school boards from also being members of the governing or management boards of Type 5 charter schools within the local school board's jurisdictional area.

- (3) Authorizes the state Dept. of Education to enter into charters in the same fashion as present law authorizes for colleges and universities.
- (4) 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.
- (5) 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), and (C)(1)(a), (2)(a), and (3), 3973(2)(b)(v)(aa), 3982(A)(1), 3973(2)(b)(v)(cc), and 3983(A)(2)(a); Adds R.S. 17:10.7, 1990(F)(3), 3973(2)(b)(v)(cc), and 3983(A)(1)(g))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Education to the original bill.

1. Relative to proposed law provision designating certain schools that have a school performance score below the state average in a school system that has been declared to be academically in crisis, specifies that such school system shall have been declared as academically in crisis by not later than Aug. 31, 2005.
2. Relative to the requirement that the Recovery School District, directed by its administering agency, provide all educational services required of local public school systems as provided in proposed law, deletes the language "directed by its administering agency".
3. Requires the recovery district, instead of the administering agency, to develop and present to BESE for approval a plan as provided in proposed law.
4. Requires the recovery district, instead of the state superintendent of education, to make an annual report to the House and Senate education committees as provided in proposed law.
5. Requires the recovery district, instead of the state superintendent of education, to make a report to BESE as provided in proposed law.
6. Requires BESE to take action on the recommendations of the recovery district by a specified time period instead of the recommendations of the superintendent by such specified time.
7. Adds provision prohibiting any BESE member from also being a member of the governing or management board of any Type 5 charter school.
8. Adds provision prohibiting any member of a city, parish, or other local public school board from also being a member of the governing or management board of any Type 5 charter school that is within the jurisdictional area of such local school board.

House Floor Amendments to the engrossed bill.

1. Relative to proposed law provision designating certain schools as failed schools that have a school performance score below the state average in a school system that has been declared to be academically in crisis pursuant to law, specifies that such provision is applicable to such schools in a school system in any parish having a population of at least 475,000 persons according to the latest federal decennial census rather than such schools in a school system in which such declaration occurred by not later than Aug. 31, 2005.