

First Extraordinary Session, 2005

HOUSE BILL NO. 121

BY REPRESENTATIVES CRANE, ALARIO, DEWITT, DORSEY, HAMMETT,
SALTER, AND SCALISE AND SENATORS DUPLESSIS, HEITMEIER, HINES,
MOUNT, CHAISSON, DARDENNE, QUINN, THEUNISSEN, AND ULLO

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), 3983(A)(1)(g), and 3997(A)(1)(c), relative to the
5 Recovery School District; to provide for the transfer of certain schools to the
6 recovery district; to provide for the operation and management of such schools; to
7 require the development and approval of a plan for the operation of all schools
8 transferred and to specify the contents of such plan; to provide for the duration and
9 continuation of the transfer; to require the recovery district to make certain reports
10 relative to the recovery district; to subject the administration of the recovery district
11 to the approval of the State Board of Elementary and Secondary Education; to
12 authorize the recovery district to manage and retain certain funding, including the
13 authorization for retaining fund balances; to specify that the expenditure of certain
14 funds by the recovery district is subject to the requirements of the approved
15 Minimum Foundation Program formula; to provide with regard to the authority of
16 the recovery district to contract with for-profit providers; to provide for the exercise
17 of limited rights of ownership over property of transferred schools by the recovery
18 district; to provide for the transfer of certain funding to the recovery district; to
19 provide for the process for the transfer of such funds and for a limitation on the
20 transfer of such funds; to provide for the expenditure of certain retained funds by
21 certain city, parish, or other local public school systems; to provide for the eligibility
22 of a student to attend a school operated under the jurisdiction of the recovery district;
23 to provide for the obligations of the recovery district in providing services to

1 students; to expand the definition of a Type 5 charter school to include charters
 2 involving certain schools transferred to the recovery district; to provide for the
 3 review of Type 5 charter proposals in compliance with certain standards; to provide
 4 prohibitions relative to the membership of the governing or management boards of
 5 certain recovery district charter schools; to prohibit certain local school boards from
 6 considering or acting on Type 1 charter school applications under certain
 7 circumstances; to provide with regard to the authority of the governing authority of
 8 a Type 5 charter school to bargain and enter into a collectively bargained contract;
 9 to authorize the state Department of Education to enter into a charter to operate a
 10 charter school under certain circumstances; to provide for effectiveness; and to
 11 provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 17:1990(A), (B)(1), (2)(a), and (4), (C)(1)(a), (2)(a), and (3),
 14 3973(2)(b)(v)(aa), 3982(A)(1), and 3983(A)(2)(a) are hereby amended and reenacted and
 15 R.S. 17:10.7, 1990(F)(3), 3973(2)(b)(v)(cc), 3983(A)(1)(g), and 3997(A)(1)(c) are hereby
 16 enacted to read as follows:

17 §10.7. School and district accountability; schools in districts in academic crisis;
 18 transfer to Recovery School District

19 A.(1) Each elementary or secondary school that participates in a Spring cycle
 20 of student testing and has a baseline school performance score below the state
 21 average and each alternative school, established pursuant to R.S. 17:100.5, that
 22 provides educational services to students a majority of whose test scores are reported
 23 back to such an elementary or secondary school under a uniform statewide program
 24 of school accountability established pursuant to rules adopted under authority of law
 25 by the State Board of Elementary and Secondary Education, referred to in this
 26 Section as "the state board", that is a school in or granted a charter by a city, parish,
 27 or other local public school system that has been declared to be academically in
 28 crisis pursuant to R.S. 17:10.6, and that has at least one school eligible to transfer to
 29 the Recovery School District pursuant to R.S. 17:10.5, shall be designated a failing
 30 school and shall be transferred to the jurisdiction of the Recovery School District

1 established in R.S. 17:1990. The Recovery School District, referred to in this
2 Section as "the recovery district", shall provide all educational services required of
3 any city, parish, or other local public school system in order to meet the educational
4 needs of all students residing in the jurisdiction of the transferring local school
5 system who were attending a transferred school or who would have been eligible to
6 attend such transferred school because of the residential location of the student or as
7 the result of any other option or program available to the student.

8 (2) On and after November 15, 2008, no additional schools shall be
9 transferred to the jurisdiction of the recovery district pursuant to this Section.

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

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

23 (ii) However, the recovery district shall provide for and ensure that schools
24 of appropriate grade that have open enrollment policies are operating and available
25 for the enrollment of students in reasonable proximity to the neighborhoods where
26 concentrations of students reside. The recovery district shall use the best information
27 available to make the determinations of the location of such neighborhoods. The
28 requirements of this Item shall be reflected in all planning, presenting, reviewing,
29 and approving required by Subparagraph (b) of this Paragraph.

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

5 **(ii) The plan required in this Subparagraph shall address each of the**
6 **following:**

7 **(aa) The educational needs of all students.**

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

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

17 **(iii) The requirements of this Subparagraph shall not preclude the operation**
18 **of a limited number of schools prior to completion and approval of the required plan**
19 **provided that such schools are operated in direct response to the present needs of**
20 **students and provided that the operation of such schools is approved by the state**
21 **board after a review by the board of the data presented by the recovery district**
22 **supporting the operation of the schools and review and consideration by the board**
23 **of the efforts made by the recovery district to seek and consider input from the**
24 **community and its leaders and the input gained from those efforts.**

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

28 **C.(1) The recovery district shall retain jurisdiction over any school**
29 **transferred to it for a period of not less than five school years not including the**

1 school year in which the transfer occurred if the transfer occurred during a school
2 year.

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

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

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

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

11 (aa) Continued in the recovery district pursuant to its reported operational
12 status.

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

15 (cc) Closed and the reasons therefor.

16 (dd) Returned to the administration and management of the transferring
17 system with proposed stipulations and conditions for the return.

18 (3) No later than six months prior to the expiration of the five-year period,
19 the state board shall take action on the recommendations of the recovery district.
20 Any action that results in an affirmative agreement to maintain the school in the
21 recovery district shall retain the school in the recovery district for an additional five-
22 year period, unless a lesser time is adopted by the state board. The report and the
23 action required in this Paragraph shall occur no later than six months prior to each
24 period of continuation.

25 D. At the time of the transfer of a school to the recovery district, the parent
26 or guardian with responsibility for decisions regarding the education of any student
27 attending a transferred school or any student who would be assigned to attend a
28 transferred school shall be able to continue to have their child enrolled in and attend
29 a school under the jurisdiction of the recovery district or may exercise an option, if
30 one is made available by the city, parish, or other local public school board from

1 approval of the state board of the plan submitted pursuant to R.S. 17:10.7(B)(2)(b).
 2 The district shall not contract with any for-profit private provider for the general
 3 operation of any school under its jurisdiction ~~or for the general provision of~~
 4 ~~instructional services in any such school.~~ The district may contract with for-profit
 5 providers for any needed services for a school operated under its jurisdiction.

6 * * *

7 (4)(a) The school district shall have the right to use any school building and
 8 all facilities and property otherwise part of the school and recognized as part of the
 9 facilities or assets of the school prior to its placement in the school district and shall
 10 have access to such additional facilities as are typically available to the school, its
 11 students, and faculty and staff prior to its placement in the school district. Such use
 12 shall be unrestricted, except that the school district shall be responsible for and
 13 obligated to provide for routine maintenance and repair such that the facilities and
 14 property are maintained in as good an order as when the right of use was acquired
 15 by the district. There shall be no requirement for the district to provide for the type
 16 of extensive repair to buildings or facilities that would be considered to be a capital
 17 expense. Such extensive repairs shall be provided by the governing authority of the
 18 city, parish, or other local public school system or other public entity which is
 19 responsible for the facility.

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

1 (2)(a)(i) In addition to the appropriation required in Paragraph (1) of this
 2 Subsection, any city, parish, or other local public school board which had jurisdiction
 3 of a school prior to its transfer to this district annually shall ~~either; (i) Allocate~~
 4 allocate and transfer to the school district an amount of money equal to the number
 5 of students enrolled in such a school times the local per pupil amount received ~~in the~~
 6 as provided in the
 7 Minimum Foundation Program approved formula, excluding any portion which has
 8 been specifically dedicated by the legislature or by voter approval to capital outlay
 9 or debt service or which was actually expended by the school board for facilities
 10 acquisition and construction as reported to the state Department of Education:

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

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

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

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

21 (bb) In the case that there are insufficient funds available to provide the total
 22 due the school district under this Paragraph if all state funds are reduced and
 23 allocated to the school district, the prior system shall transfer a sufficient amount of
 24 money remaining from the sources provided in Item (i) of this Subparagraph to the
 25 school district. In the case that the prior system's local revenues are insufficient to
 26 allow for the allocation to the school district and to allow the prior system to
 27 maintain a minimum balance of ten percent of state Minimum Foundation Program
 28 funding and ten percent of the local revenues listed in Item (i) of this Subparagraph,
 29 local revenues otherwise required to be allocated to the school district shall be
 30 reduced to an amount necessary to allow the prior system to maintain such balances.

1 Such maintained minimum balances shall be applied firstly to the prior system's
2 retiree health insurance costs and secondly to the prior system's board administrative
3 costs.

4 * * *

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

10 (b) Notwithstanding the requirements of Subparagraph (a) of this Paragraph,
11 in the case that schools are transferred pursuant to R.S. 17:10.7 to the school district,
12 monies appropriated to the school district that are attributable to the transfer of the
13 schools from a prior system and monies allocated or transferred from the prior
14 system to the school district shall be expended on the provision of services to the
15 students who were in attendance at such schools or who would have been eligible to
16 attend such schools transferred from the prior system to the jurisdiction of the district
17 without regard to expending amounts on or in any particular school provided that
18 such services are provided in compliance with the requirements of R.S.
19 17:10.7(B)(2)(b).

20 * * *

21 F.

22 * * *

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

27 * * *

1 §3973. Definitions

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

5 * * *

6 (2)

7 * * *

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

9 * * *

10 (v)(aa) Type 5, which means a preexisting public school transferred to the
11 Recovery School District pursuant to R.S. 17:10.5 or 10.7 and operated as the result
12 of and pursuant to a charter between a nonprofit corporation and the State Board of
13 Elementary and Secondary Education, or between a nonprofit corporation and a city,
14 parish, or other local school board or other public entity in the case of the renewal
15 of a Type 5 charter of a school that has been transferred back to the jurisdiction of
16 the local school board or other public entity pursuant to R.S. 17:10.5(C). The
17 chartering authority shall review each Type 5 charter proposal in compliance with
18 the Principles and Standards for Quality Charter School Authorizing as promulgated
19 by the National Association of Charter School Authorizers. ~~Notwithstanding~~ Except
20 as otherwise provided in R.S. 17:10.7 or 1990, and notwithstanding the provisions
21 of R.S. 17:3991(B)(1), within such Type 5 charter school, only pupils who would
22 have been eligible to enroll in or attend the preexisting school under the jurisdiction
23 of the city, parish, or other local public school board or other public school entity
24 prior to its transfer to the Recovery School District may attend. However, all such
25 pupils shall be eligible to attend notwithstanding any other provision of this Chapter
26 to the contrary.

27 * * *

28 (cc)(aaa) No member of the State Board of Elementary and Secondary
29 Education shall be a member of the governing or management board of any Type 5
30 charter school. No member of any city, parish, or other local public school board

1 shall be a member of the governing or management board of any Type 5 charter
2 school within the jurisdictional area of such city, parish, or other local public school
3 board.

4 (bbb) No member of a governing or management board of any Type 5
5 charter school shall be an elected official as defined by R.S. 42:1102(9). No member
6 of such a board shall have been an elected official for a period of at least one year
7 prior to appointment to such board.

8 * * *

9 §3982. Local school boards; duties

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

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

25 * * *

26 §3983. Chartering process by type; eligibility; limitations; faculty approval; parental
27 approval

28 A.(1) Any of the following may form a nonprofit corporation for the purpose
29 of proposing a charter as provided in this Subsection, provided that the group

1 submitting the charter school proposal includes three or more persons holding valid
2 and current Louisiana teaching certificates:

3 * * *

4 (g) The state Department of Education, subject to the approval of the state
5 board.

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

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

19 * * *

20 §3997. Charter school employees

21 A.(1)

22 * * *

23 (c) The governing authority of any Type 5 charter school may bargain and
24 enter into a collectively bargained contract on behalf of all or any group of its
25 employees. The provisions of this Subparagraph supersede the provisions of R.S.
26 17:3996(D) as it relates to Type 5 charter schools.

27 * * *

28 Section 2. This Act shall become effective upon signature by the governor or, if not
29 signed by the governor, upon expiration of the time for bills to become law without signature
30 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____