

Regular Session, 2013

HOUSE BILL NO. 661

BY REPRESENTATIVE WESLEY BISHOP

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

SCHOOLS/CHARTER: Creates and provides for Type 3B charter schools and provides for charter school funding

1 AN ACT

2 To amend and reenact R.S. 17:3973(2)(a) and (b)(v)(aa), 3991(B)(1)(d) and (23) and (H),
3 3995(A)(1)(introductory paragraph) and (c) and (B), and 3996(C) and (G) and to
4 enact R.S. 17:3973(2)(b)(v)(dd) and (vii) and 3995(A)(3), (H), (I), and (J), relative
5 to charter schools; to create a Type 3B charter school; to provide relative to charter
6 school funding including funding for Type 3B charter schools; to provide for the
7 applicability of certain provisions to Type 3B schools including student enrollment,
8 acquired assets, and budget submission; to provide that a Type 5 charter school shall
9 be considered the local education agency for funding purposes; to provide for rules
10 adopted by the State Board of Elementary and Secondary Education; to provide for
11 definitions; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 17: R.S. 17:3973(2)(a) and (b)(v)(aa), 3991(B)(1)(d) and (23) and
14 (H), 3995(A)(1)(introductory paragraph) and (c) and (B), and 3996(C) and (G) are hereby
15 amended and reenacted and R.S. 17:3973(2)(b)(v)(dd) and (vii) and 3995(A)(3), (H), (I), and
16 (J) are hereby enacted to read as follows:

17 §3973. Definitions

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

21 * * *

1 (2)(a) "Charter school" means an independent public school that provides a
 2 program of elementary or secondary education, or both, established pursuant to and
 3 in accordance with the provisions of this Chapter to provide a learning environment
 4 that will improve pupil achievement. Nothing in this Chapter shall be construed to
 5 prohibit a Type 1, Type 1B, Type 2, Type 3, Type 3B, or Type 4 charter school from
 6 having a residential component.

7 (b)

8 * * *

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

26 * * *

27 (dd) A Type 5 charter school that is transferred from the Recovery School
 28 District to the administration and management of the transferring local school system

1 pursuant to R.S. 17:10.5 or 10.7 and rules adopted by the state board shall no longer
2 be determined to be failing and shall be converted to a Type 3B charter school.

3 * * *

4 (vii) Type 3B, which means a former Type 5 charter school transferred from
5 the Recovery School District to the administration and management of the
6 transferring local school system pursuant to R.S. 17:10.5 or 10.7 and rules adopted
7 by the state board. The local school board shall permit a Type 3B charter school to
8 remain in the facility in which it was located at the time of transfer or shall provide
9 the Type 3B charter school with another facility for use. Pursuant to rules and
10 regulations adopted by the state board, the state board may require a Type 3B charter
11 school to participate in unified processes common to other public schools located in
12 the same parish or school district boundaries that are critical to providing equity and
13 access to students and families, such as processes for student enrollment, expulsion,
14 and transportation.

15 * * *

16 §3991. Charter schools; requirements; limitations; renewal; amendment; revocation

17 * * *

18 B. Each proposed charter shall contain or make provision for the following:

19 (1)

20 * * *

21 (d) The provisions of ~~R.S. 17:3991(B)(1) and (3)~~ this Paragraph and
22 Paragraph (3) of this Subsection shall not apply to Type 5 or 3B charters.

23 * * *

24 (23) Provisions regarding the security of the school. If a local school board
25 provides security services for its schools then it shall make such services available
26 to any of its ~~type~~ Type 1, 3, 3B, or 4 charter schools on terms as provided within the
27 charter agreement.

28 * * *

1 (H) Any assets acquired by a Type 1, 1B, 2, 3, 3B, or 5 charter school are the
 2 property of that charter school for the duration of that school's charter agreement.
 3 Any assets acquired by a Type 4 charter school are the property of the local school
 4 board. If the charter agreement of any Type 1, 1B, 2, 3, 3B, or 5 charter school is
 5 revoked or the school otherwise ceases to operate, all assets purchased with any
 6 public funds become the property of the chartering authority. Assets that become the
 7 property of a local charter authorizer pursuant to this Subsection shall be used solely
 8 for purposes of operating charter schools. Charter schools are to maintain records
 9 of any assets acquired with any private funds which remain the property of the
 10 nonprofit group operating the charter school.

11 * * *

12 §3995. Charter school funding

13 A.(1) For the purpose of funding, a Type 1, Type 3, Type 3B, and Type 4
 14 charter school shall be considered an approved public school of the local school
 15 board entering into the charter agreement and shall receive a per pupil amount each
 16 year from the local school board based on the October first membership count of the
 17 charter school. Type 1B and Type 2 charter schools shall receive a per pupil amount
 18 each year authorized by the state board each year as provided in the ~~Minimum~~
 19 ~~Foundation Program~~ minimum foundation program approved formula. The per pupil
 20 amount provided to a Type 1, 1B, 2, 3, 3B, or 4 charter school shall be computed
 21 annually and shall be equal to no less than the per pupil amount received by the
 22 school district in which the charter school is located from the following sources
 23 based on the district's October first membership count:

24 * * *

25 (c) The provisions of this Paragraph permitting the calculation of the per
 26 pupil amount to be provided to a Type 1, 1B, 2, 3, 3B, or 4 charter school to exclude
 27 any portion of local revenues specifically dedicated by the legislature or by voter
 28 approval to capital outlay or debt service, shall be applicable only to a charter school

1 housed in a facility or facilities provided by the district in which the charter school
2 is located.

3 * * *

4 (3) Notwithstanding Paragraph (1) of this Subsection, a district with one or
5 more Type 3B charter schools shall distribute minimum foundation program formula
6 funds to each Type 1, 3, 3B, and 4 charter school using the weighted allocations
7 provided for in the most recently adopted minimum foundation program formula,
8 except that any school board in a parish that contains a municipality with a
9 population of three hundred thousand or more persons according to the latest federal
10 decennial census shall use the allocation method provided for in this Paragraph no
11 earlier than the 2018-2019 fiscal year for all Type 1 and 3 charter schools authorized
12 by the school board and in operation prior to the 2013-2014 school year. Until that
13 time, those schools shall be funded as provided in Paragraph (1) of this Subsection.
14 For all other Type 1, 3, and 4 charter schools in such a parish, the school board may
15 request the use of a differentiated distribution methodology to be approved by the
16 state Department of Education prior to implementation.

17 * * *

18 B. For each pupil enrolled in a charter school who is entitled to special
19 education services, any state special education funding beyond that provided in the
20 minimum foundation program and any federal funds for special education for that
21 pupil that would have been allocated for that pupil shall be allocated to the charter
22 school which the pupil attends. ~~Any Type 2 charter school shall be considered the~~
23 ~~local education agency for the purposes of any special education funding or statutory~~
24 ~~definitions, while the local school board shall remain the local education agency for~~
25 ~~any Type 1, 3, or 4 charter school.~~

26 * * *

27 H. Any Type 1B, 2, or 5 charter school shall be considered the local
28 education agency for funding purposes and statutory definitions pursuant to rules
29 adopted by the state board.

1 I. The local school board shall remain the local education agency for any
2 Type 1, 3, or 4 charter school.

3 J. A Type 5 charter school shall have the option to remain its own local
4 education agency for funding purposes and statutory definitions upon conversion to
5 a Type 3B charter school pursuant to rules adopted by the state board. Pursuant to
6 this Subsection, the state board shall adopt rules for a Type 3B charter school
7 considered its own local education agency and such rules shall:

8 (1) Provide for the delineation of financial and programmatic obligations of
9 the charter school related to the receipt of funds as a local education agency.

10 (2) Authorize the state Department of Education to retain one quarter of one
11 percent of the maximum two percent annual fee provided for in this Section from the
12 charter school for administrative overhead costs incurred by the department for
13 providing financial oversight and monitoring.

14 (3) Authorize the state superintendent of education to rescind the local
15 education agency status of a charter school should the charter school fail to meet the
16 financial and programmatic obligations approved by the state board pursuant to this
17 Subsection.

18 §3996. Charter schools; exemptions; requirements

19 * * *

20 C. A charter school established and operated in accordance with the
21 provisions of this Chapter shall comply with state and federal laws and regulations
22 otherwise applicable to public schools with respect to civil rights and individuals
23 with disabilities. ~~Any Type 1B, Type 2, or Type 5 charter school shall be considered~~
24 ~~the local education agency for the purposes of any special education funding or~~
25 ~~statutory definitions, while the local school board shall remain the local education~~
26 ~~agency for any Type 1, 3, or 4 charter school.~~

27 * * *

28 G. All charter schools established and operated in accordance with the
29 provisions of this Chapter shall comply with the provisions of R.S. 39:1301 through

1 1315. Each Type 1, 3, 3B, and 4 charter school annually shall submit its budget to
 2 the local school board that approved its charter, and such board shall submit the
 3 charter school's budget to the state superintendent of education in accordance with
 4 the provisions of R.S. 17:88. Each Type 1B charter school annually shall submit its
 5 budget to its authorizer. Each Type 2 and Type 5 charter school annually shall
 6 submit its budget directly to the state superintendent of education.

7 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Wesley Bishop

HB No. 661

Abstract: Provides that a Type 5 charter school transferred to the Recovery School District and returned to the transferring local school system shall be converted to a Type 3B charter school and may be considered the local education agency for funding purposes. Provides relative to funding for charter schools including Type 3B schools.

Present law defines Types 1, 1B, 2, 3, 4, and 5 charter schools. Defines a Type 5 as a preexisting public school that is a failing school transferred to the Recovery School District (RSD) pursuant to present law (R.S. 17:10.5 or 10.7) and operated pursuant to a charter between a nonprofit corporation and the State Board of Elementary and Secondary Education (BESE) or between a nonprofit corporation and a city, parish, or other local school board or other public entity in the case of the renewal of a Type 5 charter of a school that has been transferred back to the jurisdiction of the local school board or other public entity. Proposed law retains present law definition except deletes provision permitting a Type 5 to be operated pursuant to charter between a nonprofit corporation and a local school board. Proposed law adds definition for a Type 3B charter school to mean a former Type 5 school transferred from the RSD to the transferring local system. Provides that the local school board shall permit a Type 3B charter school to remain in the facility in which it was located at the time of transfer or shall provide the Type 3B charter school with another facility for use. Authorizes BESE to require a Type 3B charter school to participate in unified processes common to other public schools located in the same parish or school district boundaries that are critical to providing equity and access to students and families, such as processes for student enrollment, expulsion, and transportation. Further provides that a Type 5 charter school transferred from the RSD to the transferring local school system shall no longer be determined to be failing and shall be converted to a Type 3B charter school.

Relative to exemptions and requirements for charter schools:

Present law permits charter schools (except Type 5 schools) to have a residential component. Proposed law adds that present law also applies to Types 1B and 3B schools.

Present law requires local school boards to make security services available to certain types of charter schools under certain circumstances. Provides that assets acquired by a charter school (except Type 4 schools) are the property of that charter school. Further provides for

the status of assets when a charter agreement is revoked or the school ceases to operate and provides for use and records with regard to the assets. Requires certain charter schools annually to submit their budgets to the local school boards and requires local boards to submit the budgets to the state superintendent of education. Proposed law provides that present law also applies to Type 3B schools.

Present law provides certain requirements for charter schools (except Type 5 schools) relative to the enrollment of at-risk students. Proposed law additionally exempts Type 3B schools from this requirement.

Relative to charter school funding:

Present law provides that Type 1, Type 3, and Type 4 charter schools shall be considered approved public schools of the local school board entering into the charter agreement and shall receive a per pupil amount each year from the local school board based on the Oct. 1 membership count of the charter school. Provides that Type 1B and Type 2 charter schools shall receive a per pupil amount each year from the minimum foundation program (MFP) approved formula. Provides that except for Type 5 charter schools, the per pupil amount shall be computed annually and shall be equal to no less than the per pupil amount received by the school district in which the charter school is located based on the district's Oct. 1 membership count. Permits the calculation of the per pupil amount provided to charter schools (except Type 5 schools) to exclude any portion of local revenues specifically dedicated by the legislature or by voter approval to capital outlay or debt service, but specifies that this shall apply only to a charter school housed in a facility provided by the district in which the charter school is located. Proposed law provides that present law also applies to Type 3B schools. Further provides that a district with one or more Type 3B charter schools shall distribute MFP funds to each Type 1, 3, 3B, and 4 charter school using the weighted allocations provided for in the most recently adopted MFP formula, except that any school board in a parish that contains a municipality of 300,000 or more persons shall use the allocation method provided for in proposed law no earlier than the 2018-2019 fiscal year for Type 1 and 3 charter schools in operation prior to the 2013-2014 school year. Specifies that until that time, those schools shall be funded as provided in present law. Further specifies that for all other Type 1, 3, and 4 charter schools in such a parish, the school board may request the use of a differentiated distribution methodology to be approved by the state Dept. of Education prior to implementation.

Present law requires that for each special education student enrolled in a charter school, any state special education funding beyond that provided in the MFP and any federal funds for special education that would have been allocated for that student shall be allocated to the charter school which the student attends. Provides that Type 1B, Type 2, and Type 5 charter schools shall be considered the local education agency for the purposes of any special education funding or statutory definitions and the local school board shall remain the local education agency for Type 1, Type 3, and Type 4 charter schools. Requires charter schools to comply with state and federal laws and regulations otherwise applicable to public schools with respect to civil rights and individuals with disabilities. Proposed law retains present law except provides that Type 1B, Type 2, and Type 5 charter schools shall be considered the local education agency for the purposes of any funding or statutory definitions. Proposed law further provides that a Type 5 charter school may choose to remain its own local education agency for funding purposes and statutory definitions upon conversion to a Type 3B charter school. Requires BESE to adopt rules for a Type 3B charter school considered its own local education agency that:

- (1) Provide for the delineation of financial and programmatic obligations of the charter school regarding the receipt of funds as a local education agency.
- (2) Authorize the state Dept. of Education to retain 0.25% of the maximum 2% annual fee from the charter school for administrative overhead costs incurred by the department for providing financial oversight and monitoring.

- (3) Authorize the state superintendent of education to rescind the local education agency status of the charter school if the charter school fails to meet the financial and programmatic obligations approved by BESE.

Present law (R.S. 17:10.5 and 10.7) provides for the transfer of a failed school to the RSD. Provides that the RSD shall retain jurisdiction over any school transferred to it for a period of not less than five school years not including the school year in which the transfer occurred if the transfer occurred during a school year. Provides that at the end of the initial transfer period, the school may be returned to the system from which it was transferred unless the school is continued in the RSD in accordance with present law.

(Amends R.S. 17:3973(2)(a) and (b)(v)(aa), 3991(B)(1)(d) and (23) and (H), 3995(A)(1)(intro. para.) and (c) and (B), and 3996(C) and (G); Adds R.S. 17:3973(2)(b)(v)(dd) and (vii) and 3995(A)(3), (H), (I), and (J))

Summary of Amendments Adopted by House

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

1. Adds to proposed law definition of a Type 3B charter school provisions relative to the facilities provided to such schools and provisions relative to participation in unified processes.
2. Deletes proposed law that requires a district with one or more Type 3B charter schools to allocate MFP formula funds to each school directly operated or authorized by the school district using a differentiated per-pupil funding formula and instead requires such a district to distribute MFP funds to each Type 1, 3, 3B, and 4 charter school using the weighted allocations provided for in the most recently adopted MFP formula.
3. Adds a requirement that the Orleans Parish School Board use the allocation method provided for in proposed law no earlier than the 2018-2019 fiscal year for all Type 1 and 3 charter schools in operation prior to the 2013-2014 school year and specifies that until that time, those schools shall be funded as provided in present law.
4. Adds that for all other Type 1, 3, and 4 charter schools in Orleans Parish, the school board may request the use of a differentiated distribution methodology to be approved by the state Dept. of Education prior to implementation.
5. Deletes proposed law requirement that a Type 5 charter school transferred to the RSD and returned to the transferring local school system pursuant to present law (R.S. 17:10.7 - applies to Orleans only) shall be considered the local education agency for all funding purposes.

House Floor Amendments to the engrossed bill.

1. Relative to methods and time lines for the distribution of MFP funds to certain types of charter schools, deletes references to Orleans Parish and the Orleans Parish School Board and refers instead to any school board in a parish containing a municipality of 300,000 or more persons.