

SENATE BILL NO. 432

BY SENATORS PETERSON, APPEL, BARROW, BISHOP, BOUDREAUX, BROWN,
CARTER, CLAITOR, COLOMB, MILLS AND MORRELL AND
REPRESENTATIVES BAGNERIS, GARY CARTER, JIMMY
HARRIS, HILFERTY, LEGER AND MORENO

1 AN ACT

2 To amend and reenact R.S. 17:3995(A)(3) and (4)(a)(ii) and (I), and 3999, and to enact R.S.
3 17:10.7.1, 100.11(I), and 3995(K), relative to the return of certain schools from the
4 Recovery School District to the transferring school system; to provide for the
5 governance, funding, and status of such schools; to provide for the return of school
6 buildings, facilities, and property; to provide relative to charter contracts and
7 enrollment and discipline policies; to provide relative to testing; to provide for the
8 duties and responsibilities of the local school board, the local school superintendent,
9 the Recovery School District, and the State Board of Elementary and Secondary
10 Education; to provide for an implementation plan and an advisory committee to help
11 develop the plan; to provide for immunity from civil liability for local school board
12 members; to provide with respect to the funding of a charter school acting as its own
13 local education agency; to provide for rules; to provide for effectiveness; to provide
14 for reporting; and to provide for related matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. R.S. 17:3995(A)(3) and (4)(a)(ii) and (I), and 3999 are hereby amended
17 and reenacted, and R.S. 17:10.7.1, 100.11(I), and 3995(K) are hereby enacted to read as
18 follows:

19 **§10.7.1. Return of certain schools from the Recovery School District to the**
20 **transferring school system; time line; conditions; funding**
21 **A. The provisions of this Section shall be applicable only to a school**
22 **system from which one or more schools have been transferred to the Recovery**
23 **School District pursuant to R.S. 17:10.7.**

1 **B. To the extent that the provisions of this Section conflict with the**
2 **provisions of Chapter 42 of Title 17 of the Louisiana Revised Statutes of 1950,**
3 **the provisions of this Section shall prevail.**

4 **C.(1) Not later than July 1, 2018, every school transferred to the**
5 **Recovery School District pursuant to R.S. 17:10.5 or 10.7 shall be returned to**
6 **the governance, administration, and jurisdiction of the local school system from**
7 **which the school was transferred.**

8 **(2)(a) Each Type 5 charter school returned to the local school system**
9 **shall be converted to a Type 3B charter school in accordance with the provisions**
10 **of R.S. 17:3973(2)(b)(vii).**

11 **(b) The initial term of the charter for such Type 3B charter school shall**
12 **be equal to the number of years remaining on the school's prior Type 5 charter**
13 **contract.**

14 **(c) Each Type 5 charter school returned to the local school system shall**
15 **remain subject to any active federal consent judgments or settlement**
16 **agreements as a Type 3B charter school under the jurisdiction of the local**
17 **school board.**

18 **D.(1) All buildings, facilities, and property owned by, or under the**
19 **control of, the Recovery School District shall be transferred to the local school**
20 **system at the time the school is returned to the governance, administration, and**
21 **jurisdiction of the local school system from which the school was transferred.**
22 **However, any assets acquired by the charter school shall remain the property**
23 **of the charter school, as provided in R.S. 17:3991(H).**

24 **(2) Notwithstanding the provisions of this Subsection, unless otherwise**
25 **agreed to by the Recovery School District and the local school system, subject**
26 **to any necessary approval by the appropriate federal agency, the following shall**
27 **apply:**

28 **(a) A school facility under the control of the Recovery School District**
29 **that is under construction or scheduled to be under construction pursuant to a**
30 **federal recovery plan, shall remain under the control of the Recovery School**

1 District until construction is substantially complete.

2 (b) The Recovery School District and the state Department of Education
3 shall continue to operate as the federal grant applicant for projects completed
4 by the Recovery School District pursuant to a federal recovery plan and shall
5 retain responsibility for the execution and administration of contractual
6 warranties, grant close-outs, and financing compliance periods for such
7 projects.

8 (c)(i) The Recovery School District shall return all buildings, facilities,
9 and property related to a school which are owned by, or under the control of,
10 the district to the local school system free of any encumbrances, including liens
11 and judgments, other than those financing transactions to which the local school
12 board is a party.

13 (ii) The local school board shall have no obligation to reimburse the
14 Recovery School District, the state Department of Education, or the State Board
15 of Elementary and Secondary Education for any maintenance, alterations, or
16 other repairs made to any of the school's buildings, facilities, or property before
17 the school's return to the local school system.

18 (d) The local school board and its individual members shall be immune
19 from civil liability for any damages arising from acts, omissions, or incidents
20 occurring during the time a school returned to the local school system was
21 under the jurisdiction of the Recovery School District.

22 (e) The local school board and its individual members shall be immune
23 from any liability or responsibility for any obligation, claim, demand for
24 reimbursement, or other indebtedness asserted by the Federal Emergency
25 Management Agency, the United States Department of Housing and Urban
26 Development, or any other federal or state governmental agency or entity, with
27 respect to construction projects managed by the Recovery School District.

28 E. Notwithstanding any law to the contrary, in order to support and
29 protect the interests and rights of the children it serves, the local school board:

30 (1) Shall adopt a policy that establishes a process to determine the

1 district-level funding allocation to be effective beginning July 1, 2017, and as
2 revised in subsequent years as appropriate, based upon student characteristics
3 or needs, as determined by the local school board, to distribute the total amount
4 of minimum foundation program formula funds allocated to the local school
5 board and to Type 1, 1B, 3, 3B, 4, and 5 charter schools that are located within
6 the geographic boundaries of the local school system.

7 (2) May use local revenues from new or repurposed taxes levied by the
8 board and approved by voters after September 1, 2016, for parish-wide
9 functions or programs specifically approved by the voters.

10 (3) Shall approve charter operating agreements for all charter schools
11 under the board's jurisdiction that are limited to provisions which are common
12 to all such charter contracts, unless terms specific to an individual school are
13 authorized pursuant to policies of the board in accordance with applicable state
14 law.

15 (4) Shall require all charter schools under the board's jurisdiction to
16 participate in the parish-wide enrollment system and student expulsion process,
17 according to policies established by the board.

18 (5) May adopt a policy for charter schools under the school board's
19 jurisdiction that are in good standing in regard to compliance with the board's
20 parish-wide enrollment system and student expulsion process policies, so that
21 such schools shall be exempted from the minimum enrollment percentages
22 required by R.S. 17:3991.

23 (6) May provide a lottery preference for enrollment at elementary and
24 middle schools under the board's jurisdiction for students residing within
25 defined geographic zones as one of the factors to determine student assignment,
26 according to policies adopted by the board. Such preference shall be applied to
27 not more than one-half of the seats available in each grade level to ensure that
28 seats in all schools are accessible to students residing outside of a school's
29 respective geographic zones. Notwithstanding the provisions of this Subsection,
30 any Type 1 or Type 3 charter school which was first authorized by the board on,

1 or prior to, July 1, 2016, and whose charter contract includes a geographic
2 preference in accordance with R.S. 17:3991, may maintain such preference with
3 the approval of the board, in accordance with board policy adopted for this
4 purpose.

5 (7) May adopt a policy for cooperatively and annually establishing
6 enrollment projections and targets for every school under the school board's
7 jurisdiction and requiring enrollment of additional or fewer students
8 throughout the school year as necessary. The policy may consider factors
9 including past trends in enrollment and school performance.

10 (8) Shall adopt a policy establishing a process which allows the local
11 superintendent to limit the percentage of system enrollment that any single
12 operator of schools or charter governing authority may serve to ensure that a
13 diverse system of schools led by multiple high quality operators exists at all
14 times.

15 (9) Shall provide for the distribution of deferred local revenues to
16 charter schools under the board's jurisdiction in any year that such revenues
17 exist. Deferred local revenues shall be defined as the amount of local revenues
18 specified in R.S. 17:3995(A)(1) for distribution to all charter schools under the
19 board's jurisdiction that vary from the total amount of local revenues
20 distributed to all charter schools pursuant to R.S. 17:3995(A)(3) due to a
21 collection of local revenues that is higher or lower than the amount projected
22 by the board. In the event that actual local revenues are lower than the amount
23 projected, the board may carry forward the amount of any loss, to be recovered
24 from deferred revenues in any future year in which such revenues exceed
25 projections, prior to distribution of such revenues to charter schools.

26 F. In order to determine quality standards for all schools and intervene
27 appropriately in instances when student needs are not being met, the local
28 superintendent shall:

29 (1)(a) Present recommendations to the local school board regarding the
30 approval, extension, renewal, or revocation of the charter for any charter school

1 under the board's jurisdiction.

2 (b) Unless rejected by a two-thirds vote of the full membership of the
3 board, the local superintendent may implement any such recommendation
4 submitted to the board.

5 (c) Any action by the board to reject a recommendation made by the
6 local superintendent pursuant to Subparagraph (b) of this Paragraph shall
7 occur no later than the first board meeting held after the meeting during which
8 the recommendation was submitted to the board.

9 (2) Monitor and require corrective actions by a charter school with
10 respect to compliance with board policy, state law, or terms of the charter
11 contract.

12 (3) Be authorized to require one or more charter schools under the
13 school board's jurisdiction to temporarily close, dismiss students, or evacuate
14 in the event that there are credible threats of terror, or an official state of
15 emergency is declared for the area in which any school under the board's
16 jurisdiction is located.

17 G. In order to ensure the appropriate level of autonomy to enable
18 educators to successfully prepare students for success in college and career:

19 (1) Unless mutually agreed to by both the charter school's governing
20 authority and the local school board pursuant to a duly authorized resolution
21 adopted by each governing entity, the local school board shall not impede the
22 operational autonomy of a charter school under its jurisdiction in the areas of
23 school programming, instruction, curriculum, materials and texts, yearly school
24 calendars and daily schedules, hiring and firing of personnel, employee
25 performance management and evaluation, terms and conditions of employment,
26 teacher or administrator certification, salaries and benefits, retirement,
27 collective bargaining, budgeting, purchasing, procurement, and contracting for
28 services other than capital repairs and facilities construction.

29 (2) Each Type 3B charter school and, with the approval of the local
30 school board, any other type of charter school under the board's jurisdiction

1 may act as its own local educational agency for one or more funding purposes
2 or statutory definitions, in accordance with R.S. 17:3995, and rules adopted by
3 the State Board of Elementary and Secondary Education.

4 (3) Beginning July 1, 2017, each charter school under the local school
5 board's jurisdiction shall provide for independent test monitoring from a
6 third-party entity approved by the school board for the testing period
7 immediately preceding the board's consideration of renewal of the charter
8 school's contract.

9 H.(1)(a) The local school superintendent shall develop a plan to effect the
10 return of schools from the Recovery School District to the local school board,
11 as provided in this Section.

12 (b) The local school superintendent, in consultation with the
13 superintendent of the Recovery School District, shall convene an advisory
14 committee to assist in the development of the plan.

15 (2) The advisory committee shall be subject to the provisions of the
16 Louisiana Open Meetings Law, the Louisiana Public Records Law, and all local
17 school board policy regarding public meetings and public documents.

18 (3) The advisory committee shall be comprised of thirteen members as
19 follows:

20 (a) The local school superintendent.

21 (b) The superintendent of the Recovery School District.

22 (c) Two members who shall represent Type 5 charter school operators,
23 appointed by the local school superintendent.

24 (d) Two members who shall represent Type 5 charter school operators,
25 appointed by the superintendent of the Recovery School District.

26 (e) Two members who shall represent either a Type 1 or Type 3 charter
27 school operator, appointed by the local school superintendent.

28 (f) One member who shall represent a school directly operated by the
29 local school board, appointed by the local school superintendent.

30 (g) One member who shall represent an educational advocacy

1 organization, appointed by the local school superintendent.

2 (h) One member who shall represent an educational advocacy
3 organization, appointed by the superintendent of the Recovery School District.

4 (i) Two members jointly appointed by the local school superintendent
5 and the superintendent of the Recovery School District.

6 (4) The local school superintendent shall submit the plan to the local
7 school board for approval by September 1, 2016. The plan shall include:

8 (a) Consideration of equitable funding for governmental functions
9 deemed appropriate for the efficient operation of a system of autonomous
10 schools under the jurisdiction of the local school board.

11 (b) An implementation time line that shall include a detailed list of tasks
12 and benchmarks that are appropriately sequenced to efficiently facilitate the
13 transfer of such functions and related funding from the Recovery School
14 District with respect to the return of schools to the local school system.

15 (5) After the local school board has approved the plan, the local school
16 superintendent shall convene the advisory committee as often as he deems
17 necessary, but at least on a quarterly basis, until all schools have been returned
18 from the Recovery School District to the local school system.

19 (6)(a) The local school superintendent shall prepare a written progress
20 report regarding implementation of the approved plan to return schools from
21 the Recovery School District to the local school system not later than
22 December 1, 2016, March 1, 2017, June 1, 2017, September 1, 2017, December
23 1, 2017, March 1, 2018, and June 1, 2018, and submit the report to the
24 following:

25 (i) The State Board of Elementary and Secondary Education.

26 (ii) The local school board.

27 (iii) The Recovery School District.

28 (iv) The state Department of Education.

29 (v) The education committees of the Senate and the House of
30 Representatives.

1 **(b) A final report shall be prepared and submitted to the entities**
 2 **enumerated in Subparagraph (a) of this Paragraph not later than August 1,**
 3 **2018.**

4 **I.(1) The final transfer of schools from the Recovery School District to**
 5 **the local school board as provided in this Section may be postponed only by a**
 6 **majority vote of the full membership of the local school board or the full**
 7 **membership of the State Board of Elementary and Secondary Education, and**
 8 **at least one of the following must apply:**

9 **(a) The local school board is not financially stable.**

10 **(b) The local school board lacks a comprehensive expulsion and reentry**
 11 **program for students.**

12 **(c) The local school board cannot assure the stability of employee**
 13 **retirement benefits.**

14 **(d) The local school board cannot ensure or provide sufficient insurance**
 15 **coverage.**

16 **(e) The local school superintendent and the superintendent of the**
 17 **Recovery School District provide written certification that it is not feasible to**
 18 **meet the time lines, tasks, and benchmarks established in the plan to effect the**
 19 **return of schools from the Recovery School District to the jurisdiction of the**
 20 **local school board as provided in Subsection H of this Section.**

21 **(f) The advisory committee, by a majority vote of its full membership,**
 22 **officially requests the local school board or the State Board of Elementary and**
 23 **Secondary Education to consider such postponement.**

24 **(2) Any action taken by the local school board or the State Board of**
 25 **Elementary and Secondary Education to postpone the final transfer of schools**
 26 **from the Recovery School District to the local school board must occur no later**
 27 **than January 31, 2018, and in no instance shall such postponement extend the**
 28 **final transfer date beyond July 1, 2019.**

29 * * *

30 §100.11. School facilities preservation; certain districts

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I.(1) Prior to July 1, 2017, the provisions of this Section shall be implemented in accordance with a plan or agreement between the school board and the Recovery School District.

(2) Beginning on July 1, 2017, the provisions of this Section shall be implemented in accordance with the plan approved pursuant to R.S. 17:10.7.1.

* * *

§3995. Charter school funding

A.(1) * * *

* * *

(3) Notwithstanding Paragraph (1) of this Subsection and unless otherwise provided for in the approved minimum foundation program formula:

~~(a) Through June 30, 2016, Type 3B charter schools shall receive funds according to the district-level allocation formula based on weights for student characteristics or needs used for Type 5 charter schools within the same geographic boundaries as determined by the state board.~~

~~(b)~~(a) Beginning July 1, 2016, for a district with one or more Type 3B charter schools in a parish that contains a municipality with a population of three hundred thousand or more persons according to the latest federal decennial census, the total amount of minimum foundation program formula funds allocated to the local school board and to Type 1, 1B, 3, 3B, 4, and 5 charter schools that are located within the district shall be allocated using a district-level computation based on student characteristics or needs as determined by the state board. The state Department of Education shall facilitate a collaborative process that includes representatives from the Recovery School District, the Louisiana Association of Public Charter Schools, any affected local school board and any organization representing its authorized charter schools, and advocates for students with disabilities in the development of the district-level allocation policy that shall take effect on July 1, 2016.

(b) The local school board shall adopt a policy that establishes a process to determine the district-level funding allocation to be effective beginning

1 July 1, 2017, and as revised in subsequent years as appropriate, based upon
 2 student characteristics or needs to distribute the total amount of minimum
 3 foundation program formula funds allocated to the local school board and to
 4 Type 1, 1B, 3, 3B, 4, and 5 charter schools that are located within the
 5 geographic boundaries of the local school system.

6 (4)(a)(i) * * *

7 (ii) The state Department of Education may withhold and retain from state
 8 funds otherwise allocated to a local public school system through the minimum
 9 foundation program formula an amount equal to one quarter of one percent of the fee
 10 amount charged to a Type 3B charter school acting as its own local education
 11 agency pursuant to Item (i) of this Subparagraph, or a Type 1, 3, or 4 charter
 12 school acting as its own education agency pursuant to R.S. 17:10.7.1, for
 13 administrative costs incurred by the department for providing financial oversight and
 14 monitoring of such charter schools.

15 * * *

16 I. The local school board shall remain the local education agency for any
 17 Type 1, 3, or 4 charter school, unless the charter school is authorized to act as its
 18 own local education agency, pursuant to R.S. 17:10.7.1.

19 * * *

20 K. The State Board of Elementary and Secondary Education shall
 21 promulgate rules in accordance with the Administrative Procedure Act
 22 regarding a charter school acting as its own local education agency, pursuant
 23 to R.S. 17:10.7.1. Such rules shall:

24 (1) Delineate the financial and programmatic obligations of the charter
 25 school as related to the receipt of public funds.

26 (2) Authorize the state superintendent of education to rescind a charter
 27 school's authority to act as its own local education agency if the school fails to
 28 meet the financial and programmatic obligations established by the board.

29 * * *

30 §3999. Application of Chapter

1 A. All charter schools shall be governed by the law in effect on August 15,
2 2003. Thereafter, if the provisions of this Chapter are amended, all charter schools
3 shall comply with the law as amended within ninety days of its effective date.

4 **B. To the extent that the provisions of this Chapter conflict with the**
5 **provisions of R.S. 17:10.7.1, the provisions of R.S. 17:10.7.1 shall prevail.**

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

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____