

2016 Regular Session

SENATE BILL NO. 260

BY SENATOR MORRISH

SCHOOLS. Provides relative to local charter authorizers and Type 1B charter schools. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 17:3973(2)(a) and (3), 3982(B)(1) and (2)(a), 3983(A)(4)(a) and

3 (d) and (B)(2), 3991(H), the introductory paragraph of 3995(A)(1) and (c), (3)(b),

4 and (4)(a)(i) and (H), 3996(G), and 4001(A) and (C)(1) and (2) and to repeal R.S.

5 17:3973(2)(b)(vi) and (4), 3974(A), 3981.1, 3981.2, and 3983(A)(2)(d), (D)(2), and

6 (E)(3), relative to charter schools; to revise the definition of a chartering authority;

7 to remove the authority of the State Board of Elementary and Secondary Education

8 to certify certain entities as local charter authorizers; to remove the authority of local

9 charter authorizers to approve charter proposals and to enter into charters; to

10 eliminate certain types of charter schools; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 17:3973(2)(a) and (3), 3982(B)(1) and (2)(a), 3983(A)(4)(a) and (d)

13 and (B)(2), 3991(H), the introductory paragraph of 3995(A)(1) and (c), (3)(b), and (4)(a)(i)

14 and (H), 3996(G), and 4001(A) and (C)(1) and (2) are hereby amended and reenacted to read

15 as follows:

16 §3973. Definitions

17 As used in this Chapter, the following words, terms, and phrases shall have

1 the meanings ascribed to them in this Section except when the context clearly  
2 indicates a different meaning:

3 \* \* \*

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

10 \* \* \*

11 (3) "Chartering authority" means either a local school board, ~~a local charter~~  
12 ~~authorizer~~, or the State Board of Elementary and Secondary Education.

13 \* \* \*

14 §3982. Local school boards; duties; Orleans Parish School Board; immovable  
15 property; sale or lease

16 \* \* \*

17 B.(1) Local school boards shall make available to chartering groups any  
18 vacant school facilities or any facility slated to be vacant for lease or purchase up to  
19 fair market value. In the case of a ~~Type 1B~~ or a Type 2 charter school created as a  
20 result of a conversion, the facility and all property within the existing school shall  
21 be made available to that chartering group. In return for the use of the facility and its  
22 contents, the chartering group shall pay a proportionate share of the local school  
23 board's bonded indebtedness to be calculated in the same manner as set forth in R.S.  
24 17:1990(C)(2)(a)(I). If such facilities were constructed at no cost to the local school  
25 board, then such facilities including all equipment, books, instructional materials,  
26 and furniture within such facilities shall be provided to the charter school at no cost.

27 (2)(a) The Orleans Parish School Board shall make available to chartering  
28 groups, for lease or purchase up to fair market value, any school facility or other  
29 immovable property, whether improved or unimproved, that is owned by the school

1 board and that is vacant or slated to be vacant. In the case of a ~~Type 1B~~ or a Type 2  
 2 charter school created as a result of a conversion, the immovable property, including  
 3 any unimproved property, and all other school board property within the existing  
 4 school shall be made available to that chartering group. In return for the use of the  
 5 facility and its contents, the chartering group shall pay a proportionate share of the  
 6 local school board's bonded indebtedness to be calculated in the same manner as set  
 7 forth in R.S. 17:1990(C)(2)(a)(I). If such facilities were constructed at no cost to the  
 8 local school board, then such facilities including all equipment, books, instructional  
 9 materials, and furniture within such facilities shall be provided to the charter school  
 10 at no cost.

11 \* \* \*

12 §3983. Chartering process by type; eligibility; limitations; faculty approval; parental  
 13 approval

14 A.

15 \* \* \*

16 (4)(a) A local school board ~~and a local charter authorizer~~ may enter into any  
 17 charter it finds valid, complete, financially well-structured, and educationally sound  
 18 after meeting the requirements of this Chapter. Each such charter entered into shall  
 19 be reported by the local school board ~~or local charter authorizer~~ to the state board not  
 20 less than two business days following the event.

21 \* \* \*

22 (d) Prior to the consideration of a charter school proposal by any local school  
 23 board, ~~a local charter authorizer~~, or the state board, each charter applicant shall be  
 24 afforded the opportunity to provide a written response to the independent evaluation  
 25 conducted in accordance with R.S. 17:3981(4), ~~3981.2(A)(1)(a)~~, or 3982(A)(1)(a)(I),  
 26 as applicable. Such response shall be available to the independent reviewers for  
 27 consideration prior to issuing a final recommendation to the chartering authority.  
 28 However, if a proposal is not approved by the local school board ~~or local charter~~  
 29 ~~authorizer~~ and then also not approved by the state board within the same approval

1 cycle, then the proposal shall be submitted to the local school board ~~or a local charter~~  
2 ~~authorizer~~ for its consideration during the next approval cycle prior to being  
3 submitted to the state board.

4 \* \* \*

5 B.

6 \* \* \*

7 (2) Additionally, each approved charter may be approved subject to whatever  
8 other resolatory or suspensive conditions the chartering authority requires provided  
9 those entering into the charter agree with the conditions. If the local board ~~or local~~  
10 ~~charter authorizer~~ seeks to amend the charter agreement in a manner that is  
11 unacceptable to the charter school or if the charter school finds requested terms for  
12 charter renewal to be unacceptable, the charter school may petition the state board  
13 to convert to a Type 2 charter school. Upon receipt of such request, the state board  
14 shall notify the local board ~~or local charter authorizer~~ of the request and shall permit  
15 the local board ~~or local charter authorizer~~ to provide a response prior to any action  
16 on such request.

17 \* \* \*

18 §3991. Charter schools; requirements; limitations; renewal; amendment; revocation

19 \* \* \*

20 H. Any assets acquired by a Type 1, ~~1B~~, 2, 3, 3B, or 5 charter school are the  
21 property of that charter school for the duration of that school's charter agreement.  
22 Any assets acquired by a Type 4 charter school are the property of the local school  
23 board. If the charter agreement of any Type 1, ~~1B~~, 2, 3, 3B, or 5 charter school is  
24 revoked or the school otherwise ceases to operate, all assets purchased with any  
25 public funds become the property of the chartering authority. ~~Assets that become the~~  
26 ~~property of a local charter authorizer pursuant to this Subsection shall be used solely~~  
27 ~~for purposes of operating charter schools.~~ Charter schools are to maintain records of  
28 any assets acquired with any private funds which remain the property of the  
29 nonprofit group operating the charter school.

\* \* \*

§3995. Charter school funding

A.(1) For the purpose of funding, a Type 1, Type 3, Type 3B not acting as its own local education agency, and Type 4 charter school shall be considered an approved public school of the local school board entering into the charter agreement. ~~Type 1B~~ and Type 2 charter schools and a Type 3B charter school acting as its own local education agency shall receive a per pupil amount each year authorized by the state board each year as provided in the approved minimum foundation program formula. The per pupil amount provided to a Type 1, ~~1B~~, 2, 3, 3B, or 4 charter school shall be computed annually and shall be equal to the per pupil amount provided through the minimum foundation program formula, determined by the allocation weights in the formula based upon student characteristics or needs, received by the school district in which the student resides from the following sources based on the district's membership count used in the minimum foundation program formula:

\* \* \*

(c) The provisions of this Paragraph permitting the calculation of the per pupil amount to be provided to a Type 1, ~~1B~~, 2, 3, 3B, or 4 charter school to exclude any portion of local revenues specifically dedicated by the legislature or by voter approval to capital outlay or debt service, shall be applicable only to a charter school housed in a facility or facilities provided by the district in which the charter school is located.

\* \* \*

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

\* \* \*

(b) 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

1 and to Type 1, ~~HB~~, 3, 3B, 4, and 5 charter schools that are located within the district shall be  
 2 allocated using a district-level computation based on student characteristics or needs as  
 3 determined by the state board. The state Department of Education shall facilitate a  
 4 collaborative process that includes representatives from the Recovery School District, the  
 5 Louisiana Association of Public Charter Schools, any affected local school board and any  
 6 organization representing its authorized charter schools, and advocates for students with  
 7 disabilities in the development of the district-level allocation policy that shall take effect on  
 8 July 1, 2016.

9 (4)(a)(i) The state board; **and** a local school board, ~~and a local charter~~  
 10 ~~authorizer~~ may annually charge each charter school they authorize a fee in an amount  
 11 equal to two percent of the total per pupil amount as defined by this Subsection that  
 12 is received by a charter school for administrative overhead costs incurred by the  
 13 chartering authority for considering the charter application and any amendment  
 14 thereto, providing monitoring and oversight of the school, collecting and analyzing  
 15 data of the school, and for reporting on school performance. Such fee amount shall  
 16 be withheld from the per pupil amount in monthly increments and shall not be  
 17 applicable to any federal money or grants received by the charter school.  
 18 Administrative overhead costs shall not include any cost incurred by the chartering  
 19 authority to provide purchased services to the charter school. As provided by  
 20 Subparagraph (b) of this Paragraph, a chartering authority or the Recovery School  
 21 District, if applicable, may provide other services for a charter school and charge the  
 22 actual cost of providing such services, but no such arrangement shall be required as  
 23 a condition for authorizing the charter school.

24 \* \* \*

25 H. Any Type ~~HB~~, 2, or 5 charter school shall be considered the local  
 26 education agency for funding purposes and statutory definitions pursuant to rules  
 27 adopted by the state board.

28 \* \* \*

29 §3996. Charter schools; exemptions; requirements

\* \* \*

G. All charter schools established and operated in accordance with the provisions of this Chapter shall comply with the provisions of R.S. 39:1301 through 1315. Each Type 1, 3, 3B, and 4 charter school annually shall submit its budget to the local school board that approved its charter, and such board shall submit the charter school's budget to the state superintendent of education in accordance with the provisions of R.S. 17:88. ~~Each Type 1B charter school annually shall submit its budget to its authorizer.~~ Each Type 2 and Type 5 charter school annually shall submit its budget directly to the state superintendent of education.

\* \* \*

§4001. Louisiana Charter School Start-Up Loan Fund; creation; purpose; distribution

A. The Louisiana Charter School Start-Up Loan Fund, hereafter referred to as the "fund", is hereby created within the state treasury for the purposes of providing a source for funding no-interest loans to assist both existing and new Type 1, ~~Type 1B~~, Type 2, or Type 3 charter schools with initial start-up funding and for funding the administrative and legal cost associated with the charter school program.

\* \* \*

C.(1) The state board shall administer the use of the monies appropriated from the fund and shall adopt rules in accordance with the Administrative Procedure Act. The adopted rules shall specify that state board approval of any Type 2 charter school proposal that includes within its budget a request for loan funding which complies with the provisions of this Section and details regarding how those loan funds are to be expended, shall constitute the approval of that loan amount. No additional loan application paperwork shall be required. ~~Any~~ **No** Type 1 or Type 3 charter school approved by ~~their~~ **its** local school board ~~and a Type 1B charter school approved by a certified local charter authorizer~~ shall be required to submit ~~no~~ more than ~~their~~ **its** approved charter proposal and a detailed budget identifying how any loan funds are to be expended and how such request complies with the provisions of

1 this Section. The state board may reject any such request which does not comply  
2 with terms of this Section. Such rules shall also note that any loan funding may be  
3 used only to purchase tangible items such as equipment, technology, instructional  
4 materials, and facility acquisition, upgrade, and repairs. Such equipment or other  
5 items shall become the property of the state if the loan is not fully repaid by virtue  
6 of the school ceasing to operate during the three years of automatic loan repayment  
7 as noted in Paragraph (3) of this Subsection.

8 (2) Loans shall be made only to Type 1, ~~Type 1B~~, Type 2, and Type 3 charter  
9 schools and shall not exceed one hundred thousand dollars to pay for charter school  
10 start-up and early operating expenses. No money lent as provided in this Section may  
11 be used to pay prior debts of the nonprofit corporation which formed the charter  
12 school, any of the natural persons principally involved in forming the charter school,  
13 or any former or current business or nonprofit venture of any such natural persons  
14 for any purchase not related to the creation of the charter school, or to pay to  
15 members of the immediate family of any such natural persons, or to make any  
16 investments.

17 \* \* \*

18 Section 2. R.S. 17:3973(2)(b)(vi) and (4), 3974(A), 3981.1, 3981.2, and  
19 3983(A)(2)(d), (D)(2), and (E)(3) are hereby repealed in their entirety.

20 Section 3. The certification of any local charter authorizer by the State Board of  
21 Elementary and Secondary Education is null and void.

22 Section 4. This Act shall become effective upon signature by the governor or, if not  
23 signed by the governor, upon expiration of the time for bills to become law without signature  
24 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
25 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
26 effective on the day following such approval.



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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Jeanne C. Johnston.

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## DIGEST

SB 260 Original

2016 Regular Session

Morrish

Present law defines a "chartering authority", relative to the establishment of charter schools, as a local school board, the State Board of Elementary and Secondary Education (BESE), or a "local charter authorizer". Defines a "local charter authorizer" as a group certified by BESE to enter into agreements with chartering groups. Authorizes any chartering authority to enter into any charter it finds valid, complete, financially well-structured, and educationally sound.

Proposed law eliminates local charter authorizers from the definition of "chartering authority" and removes the authority of local charter authorizers to enter into charters, thus providing that only local school boards and BESE have this authority.

Present law defines seven types of charter schools and provides a chartering process for each type. Defines a Type 1B charter school as a new school or a preexisting public school operated as the result of and pursuant to a charter between the nonprofit corporation created to operate the school and a local charter authorizer. Proposed law eliminates Type 1B charter schools as a type of charter school in conformity with elimination of local charter authorizers.

Present law provides for BESE's powers and duties relative to local charter authorizers, including certifying them as such, and for the powers and duties of local charter authorizers, including approving or denying charter proposals. Proposed law repeals present law and removes all other statutory references to local charter authorizers and Type 1B charter schools. Otherwise retains present law relative to charter schools.

Proposed law provides that should BESE certify any local charter authorizer, such certification is null and void.

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

(Amends R.S. 17:3973(2)(a) and (3), 3982(B)(1) and (2)(a), 3983(A)(4)(a) and (d) and (B)(2), 3991(H), 3995(A)(1)(intro para) and (c), (3)(b), and (4)(a)(i) and (H), 3996(G), and 4001(A) and (C)(1) and (2); repeals R.S. 17:3973(2)(b)(vi) and (4), 3974(A), 3981.1, 3981.2, and 3983(A)(2)(d), (D)(2), and (E)(3))