

HOUSE SUMMARY OF SENATE AMENDMENTS

House Bill No. 976 by Representative Carter

SCHOOLS/CHOICE: Provides relative to the Student Scholarships for Educational Excellence Program, parent petitions for certain schools to be transferred to the RSD, charter school authorizers, and course providers

Synopsis of Senate Amendments

1. Relative to parent petitions for transferring schools to the RSD, changes applicability from schools with a letter grade of "F" or any variation thereof, to those with a letter grade of "D" or "F" or any variation thereof, and changes petition requirements from "fifty-one percent" to "a majority".
2. Permits BESE to rescind a charter issued by a local charter authorizer if the chartering group has a pattern of abuse, neglect, and mistreatment of students.
3. Makes nonprofit corporations certified as local charter authorizers subject to the open meetings law, the public records law, and the ethics code.
4. Requires nonprofit corporations certified as local charter authorizers annually to submit annual financial audits to the state Dept. of Education and the legislative auditor.
5. Relative to assets that become the property of local charter authorizers, requires BESE to first afford the local school district within whose boundaries the assets are located the option to purchase or acquire the assets.
6. Deletes proposed law condition permitting charter schools to hire persons convicted of certain crimes if approved by specified authorities.

Digest of Bill as Finally Passed by Senate

Parent Petitions for Transferring Schools to the RSD

Proposed law (R.S. 17:10.5(F)) provides for a public school to be transferred to the Recovery School District (RSD) if such transfer is approved by BESE and both of the following conditions are met:

- (1) Parents or legal guardians representing at least a majority of the students attending the school sign a petition requesting the transfer.
- (2) The school has received a letter grade of "D" or "F" or any variation thereof, for three consecutive years.

Requires BESE to adopt rules and regulations for implementation of the petition process, including a petition format and submission process, signature validation procedures, and student transfer procedures. Requires the state Dept. of Education to maintain records regarding petition contents and outcomes. Provides that parents/legal guardians shall be free from harassment, threats, and intimidation related to the circulation or signing of petitions. Prohibits the use of school and district resources to support or oppose any effort by petitioning parents/legal guardians to gather signatures or sign petitions.

Provides that proposed law shall be in addition to present law (R.S. 17:10.5(A)) process for transferring certain schools to the RSD.

Charter Schools

Present law provides generally for charter schools, which are public schools that operate somewhat independently of the local school board but pursuant to a charter agreement. Generally, a nonprofit organization that wishes to run a charter school, the "chartering group", applies to the local school board or to the State Board of Elementary and Secondary Education (BESE), the "chartering authority", for permission to operate a school. If the application is approved, the chartering authority enters an agreement with the chartering group, and the agreement specifies the goals and objectives and terms and conditions applicable to the particular school.

Proposed law amends the chartering process (see **Chartering Process** in this digest); provides for a new type of chartering authority (see **Local Charter Authorizers** in this digest); and provides for the chartering of providers of individual courses other than schools (see **Course Providers** in this digest).

Chartering Process

Proposed law requires that BESE approve a common charter application, developed by the Dept. of Education, for use by all chartering authorities including school boards and BESE pursuant to present law and local charter authorizers pursuant to proposed law.

Proposed law requires that BESE recruit chartering groups that offer programs that address regional workforce needs; such programs may include vocational and technical education and industry-based certifications.

Present law provides for the duties of local school boards in chartering schools. Proposed law amends present law as follows:

- (1) Present law requires the school board to determine whether a proposed charter is valid, complete, financially well-structured, and educationally sound, whether it provides for a master plan for improving behavior and discipline in accordance with present law, whether it provides a plan for collecting data in accordance with present law, and whether it offers potential for fulfilling the purposes of the charter school law. Requires a transparent application review process that complies with standards established by the National Association of Charter School Authorizers. Requires that school boards post specified information regarding charter applications on their websites. Proposed law retains present law.
- (2) Present law requires an independent evaluation of the charter proposal by a third party with educational, organizational, legal, and financial expertise. Present law requires that prior to final consideration by the school board, the chartering group be afforded an opportunity to revise and resubmit an application in response to the independent evaluation. Proposed law removes requirement for opportunity to revise and resubmit and provides instead for opportunity to submit a written response and that such a response shall be available to the independent reviewer before it makes its final recommendation.
- (3) Present law authorizes school boards to accept charter applications until Feb. 28 each year and requires school boards to act upon charter applications within 90 days after submission and in the order of submission. Proposed law requires instead that school boards act within time lines established by BESE that are consistent with national best practices. Provides that the BESE time lines shall provide for an annual charter application process and afford school boards at least 90 days to evaluate applications. Proposed law further requires that each school board use the common charter application developed by the department and approved by BESE, but authorizes the school board to request additional information.

- (4) Present law provides that if an applicant has not received a decision from the school board after 90 days, the chartering group may apply to BESE for a charter. Proposed law removes this provision and provides instead that if a local board fails to comply with present law and proposed law regarding application for charters, the charter applicant may submit its proposal to BESE. Requires BESE to determine whether the local board failed to comply with present law and proposed law, and if it so determines, it may review the charter proposal.

Relative to the evaluation of charter proposals by BESE, proposed law requires that BESE create a process for authorizing multiple charter schools for chartering groups that have a demonstrated record of success including groups that do not operate any schools in La. A group that meets qualifications established by BESE may enter agreements with BESE to operate more than one charter school under a single agreement.

Present law provides that a charter may be approved subject to other conditions if the parties agree. Proposed law additionally provides that if the local board or local charter authorizer seeks to amend the charter agreement in a manner that is unacceptable to the charter school or if the charter school finds requested terms for charter renewal to be unacceptable, the charter school may apply to BESE for a charter. Requires BESE to notify the local board or local charter authorizer of the request and permit the local board to respond prior to any action.

Present law provides that if a school system is academically in crisis, a charter application that would otherwise be made to the local school board may be made to BESE. Proposed law retains present law and provides that if the local school system has received a "D" or an "F" under the school and district accountability system, the chartering group may apply directly to BESE.

Relative to admission requirements for proposed charters, present law requires that such charters contain or provide for a system for admission decisions that prohibits exclusion of students based on race, religion, special education needs, and other specified factors. Permits admission requirements related to a school's mission such as auditions for performing arts schools and academic achievement for college preparatory schools. Proposed law retains present law except deletes present law allowance for inclusion of academic achievement for college preparatory schools and provides instead that schools chartered prior to July 1, 2012, with certain academic achievement as part of the admission requirements may continue to use such requirements. Proposed law further adds an allowance for proficiency in a foreign language for schools with a language immersion mission.

Present law requires that all charter schools, except those in the Recovery School District, employ teachers certified by the state board or the French Ministry of Education for at least 75% of the instructional staff. Provides that the remaining staff shall meet one of the following requirements:

- (1) Be authorized under law or BESE regulation to teach temporarily while seeking a regular teaching certificate.
- (2) Have at least a bachelor's degree or at least 10 years of experience related to the teaching position, demonstrate exemplary skills in his field of expertise, and be providing instruction under the supervision of a certified teacher.

With respect to charter schools in the Recovery School District, present law requires each school:

- (1) Beginning no later than the second school year of operation, have not less than the percentage of BESE-certified teachers than was the case in the school prior to its transfer to the Recovery School District.

- (2) Beginning no later than the third school year of operation, have a BESE-certified teacher teaching every core subject.
- (3) Other instructional staff shall meet the same requirements that other types of charter schools are required to meet.

Proposed law removes these requirements and requires that all instructional staff at a charter school have at least a baccalaureate degree.

Present law provides that approved charters are valid for an initial period of five years. Proposed law provides that the initial period is four years but the initial period may be extended for an additional year. Present law provides that after the initial period, a charter may be renewed for periods of not less than three nor more than 10 years. Proposed law retains present law.

Present law provides that the process for renewing a charter shall be the same as for initial charter approval, with a written report being provided annually to the chartering authority regarding the school's academic progress that year. Proposed law removes present law.

Present law requires that each charter school provide a comprehensive report to its chartering authority after three years of operation. If the school is achieving its goals, the charter is extended for an additional two years. Proposed law requires instead that the chartering authority review each charter school after three years; if the school is meeting its goals, the initial charter period may be extended to include the fifth year; if not, the charter expires at the end of the fourth year.

Present law provides that a charter is automatically renewed if the school has met or exceeded for the three preceding years the benchmarks established for it in accordance with present law, has demonstrated growth in student academic achievement for the three preceding schools years, and has had no significant audit findings during the term of the charter agreement. Proposed law provides that the chartering group that qualifies for automatic renewal and has received a letter grade of "A" or "B" or any variation thereof is eligible to open and operate two additional schools that serve the same grade levels and the same enrollment boundaries without formal application. Requires that the chartering group notify the chartering authority of its intent to open additional charter schools at least 120 calendar days prior to enrolling students and enter a charter agreement at least 90 calendar days prior to enrolling students.

Present law requires BESE to review information regarding the laws, regulations, and policies from which charter schools are exempt to determine if the exemptions assisted or impeded the charter schools in meeting their stated goals and objectives. Further requires BESE to report to the governor and to the legislative education committees, no later than Jan. 1, 2001, on its findings. Requires that the report include statistical analysis of performance. Proposed law repeals present law.

Proposed law prohibits persons convicted of or having pled nolo contendere to specified crimes listed in present law (R.S. 15:587.1(C)) from being hired by a charter school as a teacher, substitute teacher, bus driver, substitute bus driver, or janitor, or as a temporary, part-time, or permanent school employee of any kind. Present law crimes include but are not limited to first and second degree murder, aggravated rape, sexual battery, aggravated kidnaping, incest, carnal knowledge of a juvenile, molestation of a juvenile, prostitution, crime against nature, child desertion, cruelty to the infirmed, obscenity, and distribution or possession with intent to distribute certain narcotic drugs.

Local Charter Authorizers

Proposed law requires that BESE establish procedures for certifying other entities, other than BESE itself and local school boards, as "local charter authorizers". State agencies and nonprofit corporations with an educational mission may be certified as local charter

authorizers. An entity which has been certified by BESE as a local charter authorizer may accept, evaluate, and approve applications for charter schools from chartering groups.

With respect to the local charter authorizers, proposed law provides that BESE:

- (1) Shall not certify a nonprofit corporation as a charter authorizer unless it has been in existence for at least three years and it has not less than \$500,000 in assets.
- (2) Shall not certify a chartering group as a local charter authorizer.
- (3) Shall not certify more than five local charter authorizers to operate in any Regional Labor Market Area, as defined by the La. Workforce Commission, at any given time.

Proposed law provides for monitoring and standards for local charter authorizers and the schools they charter by BESE.

Proposed law provides that the initial certification of a local charter authorizer shall be for a period of five years. Certification may be renewed for periods of not less and three and not more than 10 years. Proposed law requires BESE to conduct a thorough review of schools chartered by the local charter authorizer every three years, renewal of certification and continuing authority to authorize charter schools are dependent on the grades received by the schools chartered by the authorizer. If a local charter authorizer loses its certification, its schools are transferred to BESE or the Recovery School District as charter schools.

Proposed law authorizes BESE to rescind a charter issued by a local charter authorizer if BESE finds that the local charter authorizer failed to comply with procedures and requirements in approving the charter or if the chartering group has had a pattern of abuse, neglect, and mistreatment of students.

Proposed law prohibits the certification of any local charter authorizer which has an officer, administrator, director, or any person having managerial authority who has been convicted of or has pled nolo contendere to any crime defined as a felony or has been convicted under the laws of any other state or of the U.S. or of any foreign government or country of a crime which, if committed in this state, would be a felony. Provides that this prohibition shall not apply to any person who has been pardoned or if more than 15 years have elapsed after the date of the completion of his original sentence.

Proposed law generally provides that a local charter authorizer is subject to the same requirements regarding the process for charter applications and evaluations as present law and proposed law provides for local school boards (see discussion of duties of local school boards in chartering schools under Chartering Process in this digest).

Proposed law subjects nonprofit corporations certified as local charter authorizers to the open meetings law, the public records law, and the ethics code, all in accordance with present law. Requires these authorizers annually to submit financial audits to the state Dept. of Education and the legislative auditor.

Proposed law provides that local charter authorizers may charter new schools or existing schools which convert to charter schools; any such school is referred to as a Type 1B charter school. Provides that pupils who reside within the state are eligible to attend as provided in the charter.

Present law provides that a state chartered school is a local education agency for purposes of special education funding and that the local school board is the local education agency for charter schools it has authorized. Proposed law provides that a school authorized by a local charter authorizer is a local education agency.

Present law provides that assets acquired by a charter school (except Type 4) are the property of that school for the duration of that school's charter agreement. Proposed law retains

present law and makes it applicable to charter schools authorized by local charter authorizers. Proposed law requires that assets that become the property of a local charter authorizer be used solely for purposes of operating charter schools. Requires BESE to first afford the local school district where the assets are located the option to purchase or acquire the assets.

Present law requires that charter schools adopt budgets in accordance with the La. Local Government Budget Act. Proposed law retains present law and makes it applicable to charter schools authorized by local charter authorizers. Requires that such schools submit their budgets to their local charter authorizer.

Present law establishes the La. Charter School Start-Up Loan Fund to provide no-interest loans to assist charter schools get started. Proposed law provides that schools authorized by local charter authorizers are eligible for loans from the fund.

Course Providers

Proposed law (R.S. 17:4002.1-4002.6) provides for the Course Choice Program. Requires the State Board of Elementary and Secondary Education (BESE) to create a process for authorizing course providers, including online or virtual providers, postsecondary education institutions, and corporations that offer vocational or technical courses. Provides that the process shall include certain required information to be provided by proposed authorizers, including the administration of state assessments, the parishes or school systems where the provider will operate, the proposed courses offered, and the alignment of the courses with any approved La. diploma. Provides for an initial authorization period of three years and provides for reauthorization for additional periods of three to five years.

Requires BESE to adopt rules for implementation of proposed law. Provides for monitoring and evaluation of course providers by BESE. Further requires BESE to create a common course numbering process and course catalogue for all courses and a reciprocal teacher certification process for certain teachers residing in other states who are employed by course providers. Requires local school systems to establish policies and procedures for counting credits earned by and administering state tests to eligible students and for all services to be provided to eligible students, including those with Individual Education Plans.

Specifies that course providers shall receive a per course amount for each eligible funded student which shall be 1/6 of 90% of the annual Minimum Foundation Program (MFP) per pupil amount. Requires any remaining funds (with certain exceptions) to be returned to the state or the local school system according to the pro rata share for the annual MFP per pupil amount for the school system in which the student resides. Further requires 10% of the per pupil amount according to such pro rata share to remain with the local school system in which the student is enrolled full time to be used to finance any administrative or operational costs to support students enrolled in courses offered by course providers as determined by BESE. For eligible students who receive scholarships pursuant to present law and proposed law (R.S. 17:4011-4025), requires that the course provider shall receive payment only for the courses in which the student is enrolled pursuant to proposed law and the remaining funds for each student, up to the maximum amount as determined by the MFP, stay with the participating school in which the student is enrolled.

Allows course providers to charge tuition to eligible participating students in an amount determined by the provider. Provides that 51% of the tuition to be paid or transferred through the MFP to the course provider shall be done so upon student enrollment in a course, and 51% shall be paid or transferred upon course completion. Provides that under specified circumstances, the course provider shall receive 40% of the course amount if the student fails to complete the course in the time required by the provider.

Defines eligible students as those enrolled in certain public schools, home study programs, and nonpublic schools. Provides that certain test scores of eligible students shall be counted in the school performance score for the school where the student is enrolled full time. Requires the state Dept. of Education to publish such test scores on its website.

Student Scholarships for Educational Excellence Program

Present law provides for the Student Scholarships for Educational Excellence Program for eligible K-six students. Provides that eligible students shall be those in Orleans Parish from families with a total income not exceeding 250% of the current federal poverty guidelines. Provides for scholarships to be awarded to eligible students to attend public and nonpublic schools in Orleans Parish that volunteer to participate in the program and meet certain eligibility requirements including that public schools be academically acceptable. Limits enrollment of scholarship recipients at a nonpublic school that has been in operation for less than two years to 20% of total enrollment but permits waivers of this limitation by the state Dept. of Education.

Provides for a random selection process coordinated by the department and conducted by participating schools when there are more program applicants than seats available. Permits participating schools to give enrollment preferences to siblings of students already enrolled in the participating school. Permits scholarship recipients to remain eligible to receive scholarships in each succeeding year that they remain enrolled in a participating school through grade 12 unless determined ineligible by the department. Requires notice from schools seeking to participate. Requires participating nonpublic schools to ensure that scholarship recipients are administered all examinations required pursuant to the state's school and district accountability program.

Provides for scholarship amounts equivalent to 90% of the per pupil amount for Orleans Parish school system from combined state and local sources (or the amount of tuition and fees for participating nonpublic schools) and provides for an added amount for special education services. Prohibits participating public schools from receiving any MFP funds for scholarship recipients. Specifies that funding shall be provided by legislative appropriation from the state general fund. Requires the department to remit scholarship payments to participating schools on behalf of the parents/legal guardians who shall assign the full value of the scholarship to the participating school.

Provides for administration of the program by the state Dept. of Education in accordance with rules and regulations adopted by the State Board of Elementary and Secondary Education (BESE). Requires the department annually to report to the House and Senate education committees and the Joint Legislative Committee on the Budget on the implementation of the program including specified information.

Proposed law changes the program as follows:

- (1) Eligible students shall be those residing in La. (instead of Orleans Parish only) from families with a total income not exceeding 250% of the current federal poverty guidelines who are entering kindergarten, were enrolled in a La. public school on Feb. 1 of the previous year that had a letter grade of C, D, or F or any variation thereof, or received a scholarship the previous school year. Specifies that those students entering kindergarten shall have enrolled in the local school system where the public school they otherwise would have attended is located or in an RSD school.
- (2) Eligible participating schools shall be those throughout La. (instead of in Orleans Parish only) that meet program requirements. Adds that public school participation shall be subject to any applicable court-ordered desegregation plans.
- (3) Provides that the state Dept. of Education shall conduct the random selection process until each seat is filled. Authorizes the department to give enrollment preferences to siblings and to students enrolled in the Nonpublic School Early Childhood Development Program at the participating school, students transferring from an ineligible school, and students residing in parishes as may be specified by eligible participating schools. Permits a unified enrollment system administered by the Recovery School District to be the random selection process.

- (4) Requires that only after students from "D" and "F" public schools are placed in participating schools indicated on the students' applications, students from "C" schools shall be entered into the random selection process and shall be provided an equal opportunity for selection into that particular participating school.
- (5) Requires the principal of an eligible public school to submit the notice of intent for program participation with the local superintendent's approval and further requires the local school board to delegate the authority to participate in the program to the local superintendent. Requires that the notice include the number of seats available per grade and whether the school will offer enrollment preferences to students based on the parishes where they reside.
- (6) Changes/updates notification deadlines for participating schools.
- (7) Requires that applications from parents/legal guardians shall indicate their choices of participating schools and requires that scholarship recipients be placed according to the indicated preferences.
- (8) Deletes requirements that the department annually verify student eligibility status.
- (9) Relative to nonpublic schools accepting scholarship students as more than 20% of total enrollment, requires that the school has to have been approved, provisionally approved, or probationally approved for more than two years instead of in operation for such time and removes authority for the department to waive this requirement.
- (10) Deletes eligibility requirement that a public school be academically acceptable and instead requires that the school have a letter grade of A or B or any variation thereof, for the most recent school year.
- (11) Deletes that a scholarship recipient already participating in the program may be determined ineligible and disqualified from participating in the program in subsequent years.
- (12) Specifies that if a scholarship recipient remains enrolled in a school after the school withdraws from the program, it shall be at no cost to the state or the parents.
- (13) Excludes scholarship recipients attending participating nonpublic schools from present law that requires local school boards to provide free transportation to students who reside more than one mile from school.
- (14) Requires the department annually to publish certain student test result data, a list of public schools with certain letter grades, cohort graduation rates, retention rates, and parental satisfaction rates for participating schools as applicable. Requires participating schools to inform parents of certain test result data compiled and received from the department.
- (15) Deletes requirement that the scholarship amount for participating schools be 90% of the per pupil amount or applicable tuition costs and instead requires BESE annually to allocate from the MFP to each participating school, an amount equal to the amount allocated per pupil to the local school system in which the participating student resides. Provides that such amount shall be counted toward the equitable allocation of funds appropriated to local school systems as provided in present constitution (Art. 8, §13). For participating schools that charge tuition, provides that under certain circumstances, any remaining funds shall be returned to the state or to the local public school system according to the pro rata share for the annual per pupil amount as determined by the MFP.
- (16) Requires transfers of scholarship payments to be made by the department to participating schools on behalf of the responsible local school districts and prohibits

- the transfer of any locally levied school district tax revenues to any participating school located outside of the school district where the tax is levied or any participating nonpublic school within the district.
- (17) Provides that scholarship recipients shall be considered public school students for MFP funding purposes.
 - (18) For program funding purposes, requires students entering kindergarten to enroll in their local public school system or in an RSD school and requires school systems and the RSD to conduct and report their annual kindergarten enrollment in accordance with a time line specified by the department prior to the program enrollment process.
 - (19) Deletes the requirement that federal special education funding be added for special education students receiving scholarships, the prohibition on participating schools receiving any MFP funds for scholarship recipients, and the requirement that funding be provided by legislative appropriation from the state general fund.
 - (20) Provides that parents of scholarship recipients in participating nonpublic schools who are entitled to special education services shall acknowledge their acceptance of only such services that are available to all students enrolled in the nonpublic school. Permits the parents to make a parental placement to receive the services from a nonpublic school that has demonstrated capacity to offer the services. Allows participating nonpublic schools to charge higher tuition for special education students. Requires that to be determined to have demonstrated capacity to offer special education services, a participating nonpublic school shall meet certain criteria including having had provided special education services for at least two years under specified conditions.
 - (21) Requires BESE annually to allocate from the MFP to each participating school a per pupil amount equal to a special education tuition amount which is in addition to the nonpublic school's maximum scholarship payment. Prohibits the total of the payment and the special education tuition from exceeding the amount allocated for that student to the local school system.
 - (22) Prohibits a participating nonpublic school from discriminating against a child with special educational needs during the program admissions process. Specifies that a participating school is required to offer only those services that it already provides or those that it can provide with minor adjustments. Permits a nonpublic school to partner with the local school system to provide special education services. Requires the department to make available to parents information regarding the services a participating school will provide, the services the local school system will provide, and the services the local school system currently provides to children with special needs who are enrolled in a nonpublic school.
 - (23) Requires the department, by Aug. 1, 2012, to develop criteria for participation that includes an accountability system for participating students at participating schools and prohibits any change to such system except by an act of the legislature.
 - (24) Provides for severability if any provision of present law or proposed law is held invalid, unlawful, or unconstitutional.

Judicial Review

Proposed law provides that if any part of present law and proposed law is legally challenged, the courts are urged to minimize all unnecessary delays, give preferential docketing, and expedite judicial review, and may suspend all applicable rules of court for this limited purpose.

(Amends R.S. 17:22(7)(a), 158(A)(1), 3973(3)-(6), 3981(4), 3982(A)(1)(a) and (2) and (B),

3983(A)(2)(a)(i), (3)(a), and (4)(a), (b), and (d), (B)(2), and (D), 3991(B)(3) and (13), (C)(1)(c)(iv) and (6), (D)(2)(a)(i), and (H), 3992(A)(1), 3995(A)(1)(intro. para.) and (c) and (4)(a), 3996(C) and (G), 3998, 4001(A) and (C)(1) and (2), and 4011-4025; Adds R.S. 17:10.5(F), 3973(2)(b)(vi) and (7), 3981(7) and (8), 3981.1, 3981.2, 3982(A)(3), 3983(A)(2)(a)(iii) and (d) and (3)(d) and (E)(3), 3992(D), and 4002.1-4002.6; Repeals R.S. 17:3991(B)(9) and 3996(A)(16) and (B)(4))