

By: Senator(s) Nunnelee

To: Education;
Appropriations

SENATE BILL NO. 2951

1 AN ACT TO CREATE A NEW PROCESS FOR ESTABLISHING CHARTER
2 SCHOOLS; TO AUTHORIZE A CHARTER SCHOOL TO BE FORMED BY CREATING A
3 NEW SCHOOL OR BY CONVERSION OF A PUBLIC SCHOOL TO CHARTER STATUS
4 BY THE LOCAL SCHOOL DISTRICT; TO PRESCRIBE CERTAIN REQUIREMENTS
5 FOR CHARTER SCHOOLS; TO ESTABLISH ADMISSION REQUIREMENTS AND
6 POWERS AND DUTIES OF CHARTER SCHOOLS; TO SPECIFY THE TERMS
7 REQUIRED TO BE INCLUDED IN A SCHOOL'S CHARTER; TO ESTABLISH THE
8 PROCESS FOR APPLYING FOR CHARTER SCHOOL STATUS; TO REQUIRE THE
9 AUTOMATIC RENEWAL OF CHARTERS; TO PROVIDE THAT CHARTER SCHOOLS ARE
10 EXEMPT FROM ALL EDUCATION STATUTES, UNLESS STATED OTHERWISE, AND
11 RULES AND REGULATIONS OF THE STATE BOARD OF EDUCATION AND LOCAL
12 SCHOOL DISTRICTS; TO PROVIDE FOR THE EMPLOYMENT OF TEACHERS BY
13 CHARTER SCHOOLS; TO PROHIBIT UNLAWFUL REPRISALS AGAINST SCHOOL
14 DISTRICT EMPLOYEES WHO ARE INVOLVED IN AN APPLICATION FOR CHARTER
15 SCHOOL STATUS; TO PROVIDE FOR STATE AND LOCAL FUNDING OF CHARTER
16 SCHOOLS; TO AUTHORIZE SCHOOL DISTRICTS TO LEASE SPACE TO CHARTER
17 SCHOOLS; TO REQUIRE CHARTER SCHOOLS TO HAVE A TRANSPORTATION PLAN;
18 TO ESTABLISH THE CHARTER SCHOOLS STIMULUS REVOLVING LOAN FUND IN
19 THE STATE TREASURY TO PROVIDE SUPPORT TO CHARTER SCHOOLS FOR
20 START-UP COSTS; TO PROVIDE FOR THE ELECTION OF THE BOARD OF
21 DIRECTORS OF A CHARTER SCHOOL; TO REQUIRE THE STATE DEPARTMENT OF
22 EDUCATION TO DISSEMINATE INFORMATION ON HOW TO CREATE AND HOW TO
23 ENROLL STUDENTS IN CHARTER SCHOOLS; TO PROHIBIT CHARTER SCHOOLS
24 FROM LEVYING TAXES OR ISSUING BONDS SECURED BY TAX REVENUES; AND
25 FOR RELATED PURPOSES.

26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

27 SECTION 1. The Legislature declares that the following are
28 the purposes of this act:

29 (a) To provide increased opportunities in the public
30 school system for students to learn in an educational environment
31 that best meets their needs;

32 (b) To provide new forms of accountability for schools;

33 (c) To encourage increased involvement of parents and
34 teachers in the operation and decision-making of a local public
35 school;

36 (d) To encourage innovative and effective teaching
37 methods; and

38 (e) To create new professional opportunities for
39 teachers.

40 SECTION 2. For purposes of this act, the term "charter
41 school" means a school that is operating under the terms of a
42 charter granted by a local school district or the State Board of
43 Education.

44 SECTION 3. (1) A charter school may be formed in one (1) of
45 the following manners:

46 (a) By creating a new school, upon application for a
47 new charter school made by any person, group of persons,
48 organization or public institution; or

49 (b) By a local school board, on its own motion,
50 converting one or more of its schools to charter status.

51 (2) The organizers of a proposed charter school may apply
52 to, and the school may be sponsored by, the school board of the
53 school district in which the proposed charter school is to be
54 located or the State Board of Education.

55 SECTION 4. In order for a school to be granted and to
56 maintain charter status, the school must satisfy the following
57 requirements:

58 (a) The school may not charge tuition;

59 (b) The school may not discriminate on the basis of
60 ethnicity, national origin, gender, income level, disabling
61 condition, proficiency in the English language or athletic
62 ability;

63 (c) The school must meet all applicable health, safety
64 and civil rights requirements;

65 (d) The school must be subject to financial audits in
66 the same manner as public school districts;

67 (e) The school must be nonsectarian in its programs,
68 admission policies, employment practices and all other operations;

69 (f) The school must be accountable to public authority
70 for performance as required under this act; and

71 (g) The school must issue annual reports to parents and
72 the sponsor of the charter school and must make the reports
73 available to the public. These reports must include a financial
74 statement, a description of the school's progress in reaching
75 academic goals and a measure of parental satisfaction. The school
76 shall submit a copy of the annual report to the State Department
77 of Education.

78 SECTION 5. (1) A charter school sponsored by a local school
79 district must be open to admission to all students residing in
80 that district. Students from outside the school district may be
81 admitted if the sponsoring district and the charter school agree
82 to and establish a procedure for the enrollment and admission of
83 such students in the school's charter. If a student from outside
84 the school district enrolls in the charter school, the school
85 district from which the student comes may submit an amount equal
86 to that student's pro rata share of the school district's local
87 funds to the charter school.

88 (2) A charter school sponsored by the State Board of
89 Education must be open to any student residing in the state.

90 (3) A charter school is subject to any desegregation court
91 orders in effect in the school district in which the charter
92 school is located.

93 (4) A charter school must enroll an eligible student who
94 submits a timely application for enrollment unless the number of
95 applications for enrollment exceeds the capacity of a program,
96 class, grade level or school building. If an excess number of
97 applications are received by the charter school, all applicants
98 must have an equal chance of being admitted under the following
99 guidelines:

100 (a) The school may not limit admission to students on
101 the basis of intellectual ability, measure of achievement or

102 aptitude or athletic ability. However, the school may screen
103 students in areas such as academic aptitude, academic achievement
104 or need if the screening is related to the school's academic
105 mission.

106 (b) The school may give preference in enrollment in the
107 school's first year of operation to children of the founders and
108 teachers of the charter school. In subsequent years, preference
109 may be given to children of teachers and siblings of students
110 enrolled at the school during the previous year and who will be
111 enrolled in the current school year.

112 (c) The number of students given preference in
113 enrollment may not exceed fifty percent (50%) of the enrollment
114 capacity of a program, class, grade level or school building.

115 (d) Charter schools may determine enrollment by a
116 random selection method. An applicant for enrollment in a
117 preference category is eligible for inclusion in the general
118 selection process if the applicant is not selected from the
119 preference category before the enrollment capacity is met.

120 (5) School districts may not assign students to a charter
121 school.

122 SECTION 6. (1) A charter school must organize as a
123 nonprofit corporation. In addition, before the organizers of a
124 proposed charter school submit an application for a charter, the
125 organizers must have begun the process of applying for tax-exempt
126 status under 501(c)(3) of the Internal Revenue Code.

127 (2) A charter school may sue and be sued.

128 (3) A charter school may borrow funds and invest funds.
129 Funds received and earnings from investments on gifts from
130 nongovernmental entities may be accounted for separately. If a
131 charter school closes, all unspent government funds, unspent
132 earnings from those funds and assets purchased with government
133 funds will revert to the state. Unspent funds from
134 nongovernmental sources, unspent earnings from those funds, assets

135 purchased with those funds and debts of the school (unless
136 otherwise provided for in the charter or debt instrument) shall
137 revert to the nonprofit entity created to operate the school and
138 may be disposed of according to applicable laws for nonprofit
139 corporations. A government entity shall not be liable for any
140 debt of the charter school unless that entity explicitly
141 authorized the debt and agreed to be liable for nonpayment of the
142 debt. A sponsor's approval of a charter school budget that
143 includes debt does not constitute the sponsor's liability for that
144 debt.

145 (4) Members of a local school board or the State Board of
146 Education are immune from civil or criminal liability with respect
147 to all activities of a charter school approved or sponsored by the
148 local school board or State Board of Education. The local school
149 board or the State Board of Education, in its official capacity as
150 sponsor of a charter school, may be held liable only for matters
151 with which the respective board has been involved directly.

152 SECTION 7. (1) The term of an initial charter shall be five
153 (5) school years. A charter may be renewed for a term not
154 exceeding five (5) school years.

155 (2) The terms of a charter must include the following:

156 (a) Assurances that:

157 (i) The school will not charge tuition or other
158 fees except in those instances when tuition or fees are allowed by
159 law to be charged by public school districts;

160 (ii) The school will comply with federal, state
161 and local rules, regulations and statutes relating to safety,
162 civil rights and insurance. The State Department of Education
163 shall publish a list of relevant rules, regulations and statutes
164 to notify charter schools of their responsibilities under this
165 item;

166 (iii) The school will be nonsectarian in programs,
167 admission policies, employment practices and all other operations;

168 (iv) The school will comply with the same audit
169 requirements as public school districts and will cooperate fully
170 in audits conducted under the direction of the State Auditor; and

171 (v) The school will comply with all federal and
172 state laws relating to the education of children with disabilities
173 in the same manner as public school districts;

174 (b) A description of the governing body that is
175 responsible for the policy and operational decisions of the
176 charter school, including the names of that body's initial members
177 and a description of the method by which subsequent members will
178 be elected and the method by which fairness and objectivity of
179 those elections will be assured;

180 (c) A description of the objective method or methods
181 that will be used to measure student progress. Assessment tests
182 required by the State Board of Education in the public schools
183 will be at least one (1) component of the measurement of student
184 progress;

185 (d) A description of the school's plan for the
186 transportation of students;

187 (e) A description of the school's plan for handling
188 disruptive students;

189 (f) A description of the school's plan to publicize the
190 existence, nature and application requirements of the charter
191 school to as many of the citizens, as reasonably possible, of the
192 school district in which the school will be located. This
193 publicity must include at least one (1) informational meeting to
194 which the public is invited;

195 (g) Any other matters required by this act to be
196 included in a charter; and

197 (h) Any other matters that the sponsor and charter
198 school agree to include. Failure to agree on such additional
199 matters shall not constitute grounds for rejection of a charter
200 application.

201 (3) The charter must include the following attachments:

202 (a) A description of the program of instruction. A
203 charter school must provide a comprehensive program of instruction
204 for at least one (1) complete grade level of kindergarten,
205 elementary or secondary education. A school may offer this
206 program of instruction with an emphasis on a specific learning
207 philosophy, style or certain subject area. If the school is a
208 high school, the program of instruction must ensure that in order
209 to be eligible for graduation, a student must have earned the
210 minimum number of units required for graduation from public high
211 schools by the State Board of Education. A school may add grade
212 levels during any year of the charter, if notice of the additional
213 grade levels is submitted to the sponsor of the charter school at
214 least six (6) months before the beginning of the school year in
215 which those grade levels will be offered; and

216 (b) A budget encompassing all necessary items for
217 operating the school, based on one or more projections of the
218 number of students the school anticipates serving in the year for
219 which the budget is prepared.

220 (4) Provisions of the charter may be amended at any time by
221 agreement between the sponsor of the charter school and the
222 school. The attachments must be submitted to the sponsor by the
223 school on an annual basis and may not be revised by the sponsor
224 unless the information in the submissions indicates a violation of
225 this act or any other law.

226 SECTION 8. (1) An application for a charter consists of a
227 proposed charter and all attachments required under Section 7 of
228 this act.

229 (2) The State Board of Education or a local school board to
230 which an application for a charter has been submitted must respond
231 to the application within thirty (30) days after receiving the
232 application. The response may be in the form of approval of the
233 application as submitted, rejection, or approval of the

234 application subject to negotiation of details, which negotiation
235 must be conducted in good faith.

236 (3) An application for a charter must be approved unless:

237 (a) The application does not contain all items required
238 by this act;

239 (b) One or more of the application's provisions are not
240 in compliance with applicable law; or

241 (c) The sponsor determines that the applicants are
242 incompetent to carry out one or more of the plans described in the
243 application, in which case the incompetence must be documented by
244 the State Board of Education or the local school district to which
245 the application was submitted.

246 (4) A rejection of an application for a charter must be
247 submitted in writing to the applicants when the rejection occurs
248 and accompanied by the reasons for the rejection.

249 (5) The rejection of an application by the State Board of
250 Education or by a local school district to which the application
251 was submitted does not bar submission of the same application to a
252 different chartering authority. The State Board of Education must
253 provide technical assistance to an applicant whose application has
254 been rejected.

255 SECTION 9. (1) At the end of a charter school's fourth year
256 of operation, the sponsor of the school must renew the agreement,
257 with any modifications that are the product of a good faith
258 negotiation, for an additional five (5) years if the following
259 conditions have been met:

260 (a) The school substantially has met the requirements
261 for student performance stated in the agreement; and

262 (b) The school substantially has complied with other
263 provisions of the charter.

264 (2) A charter issued under this act may be revoked by the
265 sponsor, and the charter school must be closed, if the sponsor
266 determines that one or more of the following have occurred:

267 (a) Repeated or substantial failure of the charter
268 school to maintain applicable safety standards;
269 (b) Substantial failure of the charter school to meet
270 auditing or other financial standards as required under this act;
271 (c) Blatant and recurrent violations of provisions of
272 the charter or failure to comply with provisions of the charter;
273 or
274 (d) The existence of one or more grounds for revocation
275 as specified in the charter.

276 (3) If a charter is revoked, the charter school must remain
277 open until the end of the school year in which the revocation
278 takes effect unless the State Department of Education determines
279 that an extreme emergency situation that jeopardizes the safety
280 and security of the students of the school exists.

281 (4) The revocation or nonrenewal of a charter must be
282 accompanied by a list of specific reasons for the action. The
283 charter school may seek judicial review of the decision to revoke
284 or not to renew a charter.

285 SECTION 10. (1) Except as otherwise provided under
286 subsection (2) of this section, all schools chartered under this
287 act are exempt from those statutes applicable to the public
288 schools and the rules, regulations, policies and procedures of the
289 State Board of Education and the local school district. However,
290 a charter school may elect to comply with one or more statutory
291 provisions or rules, regulations, policies and procedures of the
292 State Board of Education and the local school district. A charter
293 school must comply with general health and safety standards.

294 (2) Charter schools are not exempt from the following
295 statutes:

296 (a) Section 37-9-75, which relates to teacher strikes;

297 (b) Section 37-11-20, which prohibits acts of
298 intimidation intended to keep a student from attending school;

299 (c) Section 37-11-21, which prohibits parental abuse of
300 school staff;

301 (d) Section 37-11-23, which prohibits the willful
302 disruption of school and school meetings;

303 (e) Sections 37-11-29 and 37-11-31, which relate to
304 reporting requirements regarding unlawful or violent acts on
305 school property; and

306 (f) Section 37-19-53, which prohibits false reporting
307 of student counts by school officials.

308 SECTION 11. (1) A charter school must select the teachers
309 to be employed by the school, and the teachers must agree to be
310 employed by the charter school. A school district may not assign
311 teachers employed by the district to a charter school.

312 (2) Teachers in charter schools are employees of the school.

313 (3) The governing body of a charter school must disclose the
314 qualifications of the teachers in the charter school to the
315 student's parents.

316 (4) Charter school teachers are eligible for the same health
317 and retirement benefits as other public school teachers. Charter
318 schools may pay for all or part of a teacher's health insurance
319 premiums, including family coverage, as part of the teacher's
320 compensation package.

321 SECTION 12. (1) A school district, school district employee
322 or any other person who has control over personnel actions may not
323 take unlawful reprisal against an employee of the school district
324 because the employee is directly or indirectly involved in an
325 application to establish a charter school. A school district
326 employee may not take unlawful reprisal against an educational
327 program of the school or the school district because an
328 application to establish a charter school proposes the conversion
329 of all or a portion of the educational program to a charter
330 school.

331 (2) As used in this section, the term "unlawful reprisal"
332 means:

333 (a) With respect to a school district employee, an
334 action that is taken by another school district employee as a
335 direct result of a lawful application to establish a charter
336 school and which is adverse to the employee and results in one or
337 more of the following for the employee:

338 (i) Disciplinary or corrective action;

339 (ii) Detail, transfer or reassignment;

340 (iii) Suspension, demotion or dismissal;

341 (iv) An unfavorable performance evaluation;

342 (v) A reduction in pay, benefits or awards;

343 (vi) Elimination of the employee's position

344 without a reduction in force by reason of lack of monies or work;

345 or

346 (vii) Other significant changes in duties or

347 responsibilities which are inconsistent with the employee's salary

348 or employment classification; and

349 (b) With respect to an educational program, an action
350 that is taken by a school district employee as a direct result of
351 a lawful application to establish a charter school and which is
352 adverse to the educational program and results in one or more of
353 the following:

354 (i) Suspension or termination of the program;

355 (ii) Transfer or reassignment of the program to a
356 less favorable department;

357 (iii) Relocation of the program to a less
358 favorable site within the school or school district; or

359 (iv) Significant reduction or termination of
360 funding for the program.

361 SECTION 13. (1) A charter school's funding must be based on
362 the number of students enrolled in and in attendance at the
363 school.

364 (2) For a school sponsored by a local district, local
365 funding must be negotiated between the school district and the
366 school. State funding shall be calculated by multiplying the
367 average daily attendance at the charter school by the state's
368 portion of the district's per-pupil expenditures two (2) school
369 years preceding the school year being funded. Federal funds must
370 be distributed as dictated by federal law.

371 (3) A charter school sponsored by the State Board of
372 Education shall notify and request state, local and federal funds
373 from each school district in which a student attending the school
374 resides. Those school districts shall include such students in
375 their average daily attendance reports in a manner determined by
376 the State Board of Education. The charter school also shall send
377 a copy of each notification and request for funding to the State
378 Department of Education. Local and state per-pupil funding shall
379 be equal to the local and state portion, respectively, of the
380 per-pupil expenditures two (2) school years preceding the school
381 year being funded in the district in which the student resides.

382 (4) The State Department of Education shall define the means
383 by which a school district may require verification of residency
384 and attendance at a charter school. A district must remit
385 requested funds in a timely fashion, as defined by the State Board
386 of Education. When contributions are not forwarded in a timely
387 manner, the state shall assess a ten percent (10%) penalty payable
388 to the charter school for failure to forward the contribution.

389 (5) For a new charter school, pre-enrollment or other
390 reasonable information shall be the basis for initial funding.
391 The State Board of Education shall define the types of information
392 that may be used for this purpose, as well as methods of
393 correcting any discrepancies between the original estimates on
394 which funding is based and the actual average daily attendance.

395 (6) The charter school may receive gifts and grants from any
396 public or private sources.

397 SECTION 14. (1) A school district may lease space or sell
398 services to a charter school. A school district must make unused
399 buildings available to a charter school and must bargain in good
400 faith over the terms of the lease.

401 (2) A charter school may lease space or secure services from
402 another public body, nonprofit organization or private
403 organization or individual.

404 SECTION 15. The charter school must include a transportation
405 plan for its students as part of the charter. The state will
406 provide transportation funds to the charter school at the same
407 rate as provided for other public school students.

408 SECTION 16. (1) A sponsor may issue a charter to a charter
409 school applicant before the applicant has secured space, equipment
410 and personnel if the applicant indicates authorization is
411 necessary for the school to raise working capital.

412 (2) There is established in the State Treasury a fund to be
413 known as the "Charter Schools Stimulus Revolving Loan Fund." The
414 purpose of the fund is to provide financial support to charter
415 school applicants and charter schools for start-up costs and costs
416 associated with renovating or remodeling existing buildings and
417 structures. The fund shall consist of monies appropriated by the
418 Legislature, repaid loans from borrowers and grants, gifts,
419 devises and donations from any public or private source. The
420 State Department of Education shall administer the fund.

421 (3) The State Board of Education shall adopt rules and
422 regulations necessary for the implementation of this section,
423 including application and notification requirements. If
424 sufficient funds are available for this purpose, monies from the
425 Charter Schools Stimulus Revolving Loan Fund shall be distributed
426 to qualifying charter school applicants and charter schools in the
427 following manner:

428 (a) Each qualifying charter school applicant or charter
429 school shall be awarded an initial loan of not more than Fifty

430 Thousand Dollars (\$50,000.00) before or during the first year of
431 the charter school's operation. This loan must be repaid over a
432 period of no more than five (5) years. If any applicant for a
433 charter school receives an initial loan pursuant to this paragraph
434 and fails to begin operating a charter school within the following
435 eighteen (18) months, the applicant shall reimburse the State
436 Board of Education for the amount of the initial loan plus
437 interest calculated at a rate of ten percent (10%) per year.

438 (b) Applicants for charter schools and charter schools
439 that receive initial loans pursuant to paragraph (a) of this
440 subsection may apply for an additional loan of not more than Fifty
441 Thousand Dollars (\$50,000.00). If an applicant for a charter
442 school receives an additional loan pursuant to this paragraph and
443 fails to begin operating a charter school within the following
444 eighteen (18) months, the applicant shall reimburse the State
445 Board of Education for the amount of the additional loan, plus
446 interest calculated at a rate of ten percent (10%) per year. A
447 reimbursement required by this paragraph is in addition to any
448 reimbursement required under paragraph (a).

449 SECTION 17. (1) The initial board of directors of a charter
450 school must be designated by the applicants who have been granted
451 the charter. This initial board shall govern the school's first
452 year of operation.

453 (2) Not less than six (6) months before the beginning of the
454 charter school's second school year, the school shall hold an
455 election for members of the school's board of directors. The term
456 of office for this board shall be set according to the charter.

457 (3) Administrative and instructional personnel of the
458 charter school and all parents of children enrolled in the school
459 shall be eligible to participate in any election of members of the
460 board of directors.

461 (4) Meetings of the charter school's board of directors will
462 be subject to Sections 25-41-1 through 25-41-17 governing open
463 meetings.

464 SECTION 18. The State Department of Education must
465 disseminate information to the public, directly and through
466 sponsors, on how to form and operate a charter school and how
467 students can enroll in charter schools once they are created.

468 SECTION 19. A charter school may not levy taxes or issue
469 bonds secured by tax revenues.

470 SECTION 20. This act shall take effect and be in force from
471 and after July 1, 2001.