To: Education; Appropriations

MISSISSIPPI LEGISLATURE
REGULAR SESSION 2002

By: Representative Warren

HOUSE BILL NO. 532

AN ACT TO CREATE A NEW PROCESS FOR ESTABLISHING CHARTER SCHOOLS; TO AUTHORIZE A CHARTER SCHOOL TO BE FORMED BY CREATING A NEW SCHOOL OR BY CONVERSION OF A PUBLIC SCHOOL TO CHARTER STATUS BY THE LOCAL SCHOOL DISTRICT; TO PRESCRIBE CERTAIN REQUIREMENTS FOR CHARTER SCHOOLS; TO ESTABLISH ADMISSION REQUIREMENTS AND POWERS AND DUTIES OF CHARTER SCHOOLS; TO SPECIFY THE TERMS REQUIRED TO BE INCLUDED IN A SCHOOL'S CHARTER; TO ESTABLISH THE PROCESS FOR APPLYING FOR CHARTER SCHOOL STATUS; TO REQUIRE THE AUTOMATIC RENEWAL OF CHARTERS; TO PROVIDE THAT CHARTER SCHOOLS ARE EXEMPT FROM ALL EDUCATION STATUTES, UNLESS STATED OTHERWISE, AND RULES AND REGULATIONS OF THE STATE BOARD OF EDUCATION AND LOCAL SCHOOL DISTRICTS; TO PROVIDE FOR THE EMPLOYMENT OF TEACHERS BY CHARTER SCHOOLS; TO PROHIBIT UNLAWFUL REPRISALS AGAINST SCHOOL DISTRICT EMPLOYEES WHO ARE INVOLVED IN AN APPLICATION FOR CHARTER SCHOOL STATUS; TO PROVIDE FOR STATE AND LOCAL FUNDING OF CHARTER SCHOOLS; TO AUTHORIZE SCHOOL DISTRICTS TO LEASE SPACE TO CHARTER SCHOOLS; TO REQUIRE CHARTER SCHOOLS TO HAVE A TRANSPORTATION PLAN; TO ESTABLISH THE CHARTER SCHOOLS STIMULUS REVOLVING LOAN FUND IN THE STATE TREASURY TO PROVIDE SUPPORT TO CHARTER SCHOOLS FOR START-UP COSTS; TO PROVIDE FOR THE ELECTION OF THE BOARD OF DIRECTORS OF A CHARTER SCHOOL; TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO DISSEminate INFORMATION ON HOW TO CREATE AND HOW TO ENROLL STUDENTS IN CHARTER SCHOOLS; TO PROHIBIT CHARTER SCHOOLS FROM LEVYING TAXES OR ISSUING BONDS SECURED BY TAX REVENUES; TO AUTHORIZE THE CONTINUED OPERATION OF CHARTER SCHOOLS ESTABLISHED UNDER THE ORIGINAL CHARTER SCHOOL STATUTES; TO AMEND SECTION 37-28-21, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE REPEAL, EFFECTIVE JULY 1, 2002, OF SECTIONS 37-28-1 THROUGH 37-28-21, MISSISSIPPI CODE OF 1972, WHICH ESTABLISH A MEANS FOR EXISTING PUBLIC SCHOOLS TO APPLY FOR CHARTER STATUS; AND FOR RELATED PURPOSES.

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

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

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

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

(c) To encourage increased involvement of parents and teachers in the operation and decision-making of a local public school;
(d) To encourage innovative and effective teaching methods; and
(e) To create new professional opportunities for teachers.

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

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

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

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

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

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

(a) The school may not charge tuition;

(b) The school may not discriminate on the basis of ethnicity, national origin, gender, income level, disabling condition or athletic ability;

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

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

(e) The school must be nonsectarian in its programs, admission policies and employment practices;
(f) The school must be accountable to the chartering to
authority for performance as required under this act; and
(g) The school must issue annual reports to parents and
the chartering authority and must make the reports available to
the public. These reports must include a financial statement, a
description of the school's progress in reaching academic goals
and a measure of parental satisfaction. The school shall submit a
copy of the annual report to the State Department of Education.

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

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

(3) A school district may not assign students to a charter
school.

(4) A charter school is subject to any desegregation court
orders in effect in the school district in which the charter
school is located.

(5) A charter school must enroll an eligible student who
submits a timely application for enrollment unless the number of
applications for enrollment in a program, class, grade level or
school building exceeds the capacity of that program, class, grade
level or school building. If an excess number of applications are
received by the charter school, all applicants must have an equal
chance of being admitted under the following guidelines:
(a) The school may not limit admission to students on the basis of intellectual ability, measure of achievement or aptitude unless directly related to the school's academic mission, as identified in the charter.

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

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

(d) Charter schools shall determine enrollment by a random selection method. An applicant in a preference category is eligible for inclusion in the general selection process if the applicant is not selected from the preference category.

SECTION 6. (1) A charter school must organize as a nonprofit corporation and must pursue, with due diligence, tax-exempt status under 501(c)(3) of the Internal Revenue Code.

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

(3) A charter school may borrow funds and invest funds. Funds received and earnings from investments on gifts from nongovernmental entities may be accounted for separately. If a charter school closes, all unspent government funds, unspent earnings from those funds and assets purchased with government funds will revert to the state. Unspent funds from nongovernmental sources, unspent earnings from those funds, assets purchased with those funds and debts of the school (unless otherwise provided for in the charter or debt instrument) shall revert to the nonprofit entity created to operate the school and may be disposed of according to applicable laws for nonprofit corporations. A government entity shall not be liable for any...
debt of the charter school unless that entity explicitly
authorized the debt and agreed to be liable for nonpayment of the
debt. A sponsor's approval of a charter school budget that
includes debt does not constitute the sponsor's liability for that
debt.

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

SECTION 7. (1) The term of a charter shall be five (5)
school years.

(2) The charter must include the following:

(a) Assurances that:

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

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

(iii) The school will be nonsectarian in programs,
admission policies and employment practices;

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

(v) The school will comply with all federal and
state laws relating to the education of children with
disabilities;
(b) A description of the governing body that is responsible for the policy and operational decisions of the charter school, including the names of that body's initial members and a description of the method by which subsequent members will be elected and the method by which fairness and objectivity of those elections will be assured;

(c) A description of the objective method or methods that will be used to measure student progress;

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

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

(f) A description of the school's plan to provide reasonable public notice of the existence, nature and application requirements of the charter school. This notice must include at least one (1) informational meeting to which the public is invited. Local school districts shall provide reasonable assistance, if requested by the charter school, in providing such notice in their districts. However, the actual expenses incurred by the districts in providing the requested assistance must be paid by the charter school;

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

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

(3) The charter must include the following attachments:

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

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

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

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

(2) The State Board of Education or a local school board to which an application for a charter has been submitted must respond to the application within thirty (30) days after receiving the application. The response may be in the form of approval of the application as submitted, rejection, or approval of the application subject to negotiation of details, which negotiation must be conducted in good faith.

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

(a) The application does not contain all items required by this act;
(b) One or more of the application's provisions are not
in compliance with applicable law; or

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

(4) If an application for a charter is rejected, the
chartering authority must provide written notice to the applicant
of the basis for the rejection.

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

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

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

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

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

(a) Repeated or substantial failure of the charter
school to maintain applicable safety standards;

(b) Substantial failure of the charter school to meet
auditing or other financial standards as required under this act;
(c) Blatant and recurrent violations of provisions of the charter; or

(d) The existence of one or more grounds for revocation as specified in the charter.

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

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

SECTION 10. (1) Except as otherwise provided under subsection (2) of this section, all schools chartered under this act are exempt from those statutes applicable to the public schools and the rules, regulations, policies and procedures of the State Board of Education and the local school district. A charter school must comply with general health and safety standards.

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

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

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

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

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

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

(f) Section 37-19-53, which prohibits false reporting of student counts by school officials.
SECTON 11.  (1) A school district may not assign teachers employed by the district to a charter school. A charter school may hire the teachers to be employed by the school and negotiate contracts.

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

(3) The governing body of a charter school must disclose the qualifications of the teachers in the charter school to the students' parents.

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

SECTON 12.  (1) A school district, school district employee or any other person who has control over personnel actions may not take unlawful reprisal against an employee of the school district because the employee is directly or indirectly involved in an application to establish a charter school. A school district employee may not take unlawful reprisal against an educational program of the school or the school district because an application to establish a charter school proposes the conversion of all or a portion of the educational program to a charter school.

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

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

(i) Disciplinary or corrective action;

(ii) Detail, transfer or reassignment;

(iii) Suspension, demotion or dismissal;
(iv) An unfavorable performance evaluation;
(v) A reduction in pay, benefits or awards;
(vi) Elimination of the employee's position without a reduction in force by reason of lack of monies or work; or
(vii) Other significant changes in duties or responsibilities which are inconsistent with the employee's salary or employment classification; and

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

   (i) Suspension or termination of the program;
   (ii) Transfer or reassignment of the program to a less favorable department;
   (iii) Relocation of the program to a less favorable site within the school or school district; or
   (iv) Significant reduction or termination of funding for the program.

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

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

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

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

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

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

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

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

(3) A sponsor may issue a charter to a charter school applicant before the applicant has secured space, equipment and
personnel if the applicant indicates authorization is necessary for the school to raise working capital.

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

SECTION 16. (1) There is established in the State Treasury a fund to be known as the "Charter Schools Stimulus Revolving Loan Fund." The purpose of the fund is to provide financial support to charter school applicants and charter schools for start-up costs and costs associated with renovating or remodeling existing buildings and structures. The fund shall consist of monies appropriated by the Legislature, repaid loans from borrowers and grants, gifts, devises and donations from any public or private source. The State Board of Education shall administer the fund and may apply for any grants from the federal government or private sources.

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

(a) Each qualifying charter school applicant or charter school will be awarded an initial loan of not more than Fifty Thousand Dollars ($50,000.00) before or during the first year of the charter school's operation. This loan must be repaid over a period of no more than five (5) years. If any applicant for a charter school receives an initial loan pursuant to this paragraph and fails to begin operating a charter school within the following eighteen (18) months, the applicant shall reimburse the Charter Schools Stimulus Revolving Loan Fund for the amount of the initial
loan plus interest calculated at a rate of ten percent (10%) per year.

(b) Applicants for charter schools and charter schools that receive initial loans pursuant to paragraph (a) of this subsection may apply for an additional loan of not more than Fifty Thousand Dollars ($50,000.00). This loan must be repaid over a period of no more than five (5) years. If an applicant for a charter school receives an additional loan pursuant to this paragraph and fails to begin operating a charter school within the following eighteen (18) months, the applicant shall reimburse the Charter Schools Stimulus Revolving Loan Fund for the amount of the additional loan, plus interest calculated at a rate of ten percent (10%) per year. A reimbursement required by this paragraph is in addition to any reimbursement required under paragraph (a).

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

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

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

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

SECTION 18. The State Department of Education must disseminate information to the public, directly and through sponsors, on how to form and operate a charter school and how students can enroll in charter schools once they are created.
SECTION 19. A charter school may not levy taxes or issue bonds secured by tax revenues.

SECTION 20. Any charter school that is operating under the terms of a charter granted under the authority of Sections 37-28-1 through 37-28-21 may continue to operate under the terms of that charter for the duration of its term, notwithstanding the repeal of Sections 37-28-1 through 37-28-21. Upon the expiration of the charter, the charter school's sponsor may seek to renew the school's charter by modifying the charter so that the school fully complies with the requirements for being awarded, maintaining and renewing charter status under Sections 1 through 20 of House Bill No. _____, 2002 Regular Session.

SECTION 21. Section 37-28-1, Mississippi Code of 1972, is amended as follows:


SECTION 22. This act shall take effect and be in force from and after July 1, 2002.