

By: Senator(s) Nunnelee

To: Education;
Appropriations

SENATE BILL NO. 2631

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 PROVIDE THAT
9 CHARTER SCHOOLS ARE EXEMPT FROM ALL EDUCATION STATUTES, UNLESS
10 STATED OTHERWISE, AND RULES AND REGULATIONS OF THE STATE BOARD OF
11 EDUCATION AND LOCAL SCHOOL DISTRICTS; TO PROVIDE FOR THE
12 EMPLOYMENT OF TEACHERS BY CHARTER SCHOOLS; TO PROHIBIT UNLAWFUL
13 REPRISALS AGAINST SCHOOL DISTRICT EMPLOYEES WHO ARE INVOLVED IN AN
14 APPLICATION FOR CHARTER SCHOOL STATUS; TO PROVIDE FOR STATE AND
15 LOCAL FUNDING OF CHARTER SCHOOLS; TO AUTHORIZE SCHOOL DISTRICTS TO
16 LEASE SPACE TO CHARTER SCHOOLS; TO REQUIRE CHARTER SCHOOLS TO HAVE
17 A TRANSPORTATION PLAN; TO ESTABLISH THE CHARTER SCHOOLS STIMULUS
18 REVOLVING LOAN FUND IN THE STATE TREASURY TO PROVIDE SUPPORT TO
19 CHARTER SCHOOLS FOR START-UP COSTS; TO PROVIDE FOR THE ELECTION OF
20 THE BOARD OF DIRECTORS OF A CHARTER SCHOOL; TO REQUIRE THE STATE
21 DEPARTMENT OF EDUCATION TO DISSEMINATE INFORMATION ON HOW TO
22 CREATE AND HOW TO ENROLL STUDENTS IN CHARTER SCHOOLS; TO PROHIBIT
23 CHARTER SCHOOLS FROM LEVYING TAXES OR ISSUING BONDS SECURED BY TAX
24 REVENUES; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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



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

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

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

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

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

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

57 (a) The school may not charge tuition;

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

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

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

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

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

70 (g) The school must issue annual reports to parents and
71 the sponsor of the charter school and must make the reports



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

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

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

89 (3) School districts may not assign students to a charter
90 school.

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

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

101 (a) The school may not limit admission to students on
102 the basis of intellectual ability, measure of achievement or
103 aptitude unless directly related to the school's academic mission
104 as identified in the charter.



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

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

114 (d) The school shall determine enrollment by a random
115 selection method. An applicant for enrollment in a preference
116 category is eligible for inclusion in the general selection
117 process if the applicant is not selected from the preference
118 category.

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

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

123 (3) A charter school may borrow funds and invest funds.
124 Funds received and earnings from investments on gifts from
125 nongovernmental entities may be accounted for separately. If a
126 charter school closes, all unspent government funds, unspent
127 earnings from those funds and assets purchased with government
128 funds will revert to the state. Unspent funds from
129 nongovernmental sources, unspent earnings from those funds, assets
130 purchased with those funds and debts of the school (unless
131 otherwise provided for in the charter or debt instrument) shall
132 revert to the nonprofit entity created to operate the school and
133 may be disposed of according to applicable laws for nonprofit
134 corporations. A government entity shall not be liable for any
135 debt of the charter school unless that entity explicitly
136 authorized the debt and agreed to be liable for nonpayment of the
137 debt. A sponsor's approval of a charter school budget that



138 includes debt does not constitute the sponsor's liability for that
139 debt.

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

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

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

150 (a) Assurances that:

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

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

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

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

165 (v) The school will comply with all applicable
166 federal and state laws relating to the education of children with
167 disabilities;

168 (b) A description of the governing body that is
169 responsible for the policy and operational decisions of the
170 charter school, including the names of that body's initial members



171 and a description of the method by which subsequent members will
172 be elected and the method by which fairness and objectivity of
173 those elections will be assured;

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

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

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

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

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

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

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

196 (a) A description of the program of instruction. A
197 charter school must provide a comprehensive program of instruction
198 for at least one (1) complete grade level of kindergarten,
199 elementary or secondary education. A school may offer this
200 program of instruction with an emphasis on a specific learning
201 philosophy, style or certain subject area. If the school is a
202 high school, the program of instruction must ensure that in order
203 to be eligible for graduation, a student must have earned the



204 minimum number of units required for graduation from public high
205 schools by the State Board of Education. A school may add grade
206 levels during any year of the charter, if notice of the additional
207 grade levels is submitted to the sponsor of the charter school at
208 least six (6) months before the beginning of the school year in
209 which those grade levels will be offered; and

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

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

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

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

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

231 (a) The application does not contain all items required
232 by this act;

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

235 (c) The sponsor determines that the applicants are
236 incompetent to carry out one or more of the plans described in the



237 application, in which case the incompetence must be documented by
238 the State Board of Education or the local school district to which
239 the application was submitted.

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

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

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

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

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

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

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

263 (b) Substantial failure of the charter school to meet
264 auditing or other financial standards as required under this act;

265 (c) Blatant and recurrent violations of provisions of
266 the charter; or

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



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

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

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

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

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

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

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

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

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

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

298 **SECTION 11.** (1) A school district may not assign teachers
299 employed by the district to a charter school. A charter school
300 has the authority to hire the teachers to be employed by the
301 school, and to negotiate contracts.



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

303 (3) The governing body of a charter school must disclose the
304 qualifications of the teachers in the charter school to the
305 student's parents.

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

311 **SECTION 12.** (1) A school district, school district employee
312 or any other person who has control over personnel actions may not
313 take unlawful reprisal against an employee of the school district
314 because the employee is directly or indirectly involved in an
315 application to establish a charter school. A school district
316 employee may not take unlawful reprisal against an educational
317 program of the school or the school district because an
318 application to establish a charter school proposes the conversion
319 of all or a portion of the educational program to a charter
320 school.

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

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

- 328 (i) Disciplinary or corrective action;
329 (ii) Detail, transfer or reassignment;
330 (iii) Suspension, demotion or dismissal;
331 (iv) An unfavorable performance evaluation;
332 (v) A reduction in pay, benefits or awards;



333 (vi) Elimination of the employee's position
334 without a reduction in force by reason of lack of monies or work;
335 or

336 (vii) Other significant changes in duties or
337 responsibilities which are inconsistent with the employee's salary
338 or employment classification; and

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

344 (i) Suspension or termination of the program;

345 (ii) Transfer or reassignment of the program to a
346 less favorable department;

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

349 (iv) Significant reduction or termination of
350 funding for the program.

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

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

361 (3) A charter school sponsored by the State Board of
362 Education shall notify and request state, local and federal funds
363 from each school district in which a student attending the school
364 resides. Those school districts shall include such students in
365 their average daily attendance reports in a manner determined by



366 the State Board of Education. The charter school also shall send
367 a copy of each notification and request for funding to the State
368 Department of Education. Local and state per-pupil funding shall
369 be equal to the local and state portion, respectively, of the
370 per-pupil expenditures two (2) school years preceding the school
371 year being funded in the district in which the student resides.

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

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

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

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

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

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



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

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

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

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



431 (b) Applicants for charter schools and charter schools
432 that receive initial loans pursuant to paragraph (a) of this
433 subsection may apply for an additional loan of not more than Fifty
434 Thousand Dollars (\$50,000.00). The loan must be repaid over a
435 period of no more than five (5) years. If an applicant for a
436 charter school receives an additional loan pursuant to this
437 paragraph and fails to begin operating a charter school within the
438 following eighteen (18) months, the applicant shall reimburse the
439 Charter Schools Stimulus Revolving Loan Fund for the amount of the
440 additional loan, plus interest calculated at a rate of ten percent
441 (10%) per year. A reimbursement required by this paragraph is in
442 addition to any reimbursement required under paragraph (a).

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

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

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

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

458 **SECTION 18.** The State Department of Education must
459 disseminate information to the public, directly and through
460 sponsors, on how to form and operate a charter school and how
461 students can enroll in charter schools once they are created.

462 **SECTION 19.** A charter school may not levy taxes or issue
463 bonds secured by tax revenues.



464 **SECTION 20.** This act shall take effect and be in force from
465 and after July 1, 2003.

