

By: Senator(s) Chaney, King, Brown,
Carmichael, Jackson (15th), Nunnelee, Clarke,
Wilemon, Hyde-Smith

To: Education;
Appropriations

SENATE BILL NO. 2376

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; TO
25 AUTHORIZE THE CONTINUED OPERATION OF CHARTER SCHOOLS ESTABLISHED
26 UNDER THE ORIGINAL CHARTER SCHOOL STATUTES; TO REPEAL SECTIONS
27 37-28-1 THROUGH 37-28-21, MISSISSIPPI CODE OF 1972, WHICH
28 ESTABLISH A MEANS FOR EXISTING PUBLIC SCHOOLS TO APPLY FOR CHARTER
29 STATUS; AND FOR RELATED PURPOSES.

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

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

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

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

37 (c) To encourage increased involvement of parents and
38 teachers in the operation and decision-making of a local public
39 school;

40 (d) To encourage innovative and effective teaching
41 methods; and

42 (e) To create new professional opportunities for
43 teachers.

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

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

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

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

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

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

62 (a) The school may not charge tuition;

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

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

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

70 (e) The school must be nonsectarian in its programs,
71 admission policies and employment practices;

72 (f) The school must be accountable to the chartering to
73 authority for performance as required under this act; and

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

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

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

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

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

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

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

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

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

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

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

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

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

137 debt of the charter school unless that entity explicitly
138 authorized the debt and agreed to be liable for nonpayment of the
139 debt. A sponsor's approval of a charter school budget that
140 includes debt does not constitute the sponsor's liability for that
141 debt.

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

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

151 (2) The charter must include the following:

152 (a) Assurances that:

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

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

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

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

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

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

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

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

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

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

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

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

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

198 (a) A description of the program of instruction. A
199 charter school must provide a comprehensive program of instruction
200 for at least one complete grade level of kindergarten, elementary
201 or secondary education. A school may offer this program of
202 instruction with an emphasis on a specific learning philosophy,

203 style or certain subject area. If the school is a high school,
204 the program of instruction must ensure that in order to be
205 eligible for graduation, a student must have earned the minimum
206 number of units required for graduation from public high schools
207 by the State Board of Education. A school may add grade levels
208 during any year of the charter, if notice of the additional grade
209 levels is submitted to the sponsor of the charter school at least
210 six (6) months before the beginning of the school year in which
211 those grade levels will be offered; and

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

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

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

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

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

233 (a) The application does not contain all items required
234 by this act;

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

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

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

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

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

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

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

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

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

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

267 (c) Blatant and recurrent violations of provisions of
268 the charter; or

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

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

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

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

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

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

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

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

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

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

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

300 **SECTION 11.** (1) A school district may not assign teachers
301 employed by the district to a charter school. A charter school
302 may hire the teachers to be employed by the school and negotiate
303 contracts.

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

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

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

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

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

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

330 (i) Disciplinary or corrective action;

331 (ii) Detail, transfer or reassignment;

332 (iii) Suspension, demotion or dismissal;

333 (iv) An unfavorable performance evaluation;
334 (v) A reduction in pay, benefits or awards;
335 (vi) Elimination of the employee's position
336 without a reduction in force by reason of lack of monies or work;
337 or

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

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

346 (i) Suspension or termination of the program;

347 (ii) Transfer or reassignment of the program to a
348 less favorable department;

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

351 (iv) Significant reduction or termination of
352 funding for the program.

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

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

363 (3) A charter school sponsored by the State Board of
364 Education shall notify and request state, local and federal funds
365 from each school district in which a student attending the school

366 resides. Those school districts shall include such students in
367 their average daily attendance reports in a manner determined by
368 the State Board of Education. The charter school also shall send
369 a copy of each notification and request for funding to the State
370 Department of Education. Local and state per-pupil funding shall
371 be equal to the local and state portion, respectively, of the
372 per-pupil expenditures two (2) school years preceding the school
373 year being funded in the district in which the student resides.

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

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

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

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

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

396 (3) A sponsor may issue a charter to a charter school
397 applicant before the applicant has secured space, equipment and

398 personnel if the applicant indicates authorization is necessary
399 for the school to raise working capital.

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

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

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

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

431 loan plus interest calculated at a rate of ten percent (10%) per
432 year.

433 (b) Applicants for charter schools and charter schools
434 that receive initial loans pursuant to paragraph (a) of this
435 subsection may apply for an additional loan of not more than Fifty
436 Thousand Dollars (\$50,000.00). This loan must be repaid over a
437 period of no more than five (5) years. If an applicant for a
438 charter school receives an additional loan pursuant to this
439 paragraph and fails to begin operating a charter school within the
440 following eighteen (18) months, the applicant shall reimburse the
441 Charter Schools Stimulus Revolving Loan Fund for the amount of the
442 additional loan, plus interest calculated at a rate of ten percent
443 (10%) per year. A reimbursement required by this paragraph is in
444 addition to any reimbursement required under paragraph (a).

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

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

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

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

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

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

466 **SECTION 20.** Any charter school that is operating under the
467 terms of a charter granted under the authority of Sections 37-28-1
468 through 37-28-21 may continue to operate under the terms of that
469 charter for the duration of its term, notwithstanding the repeal
470 of Sections 37-28-1 through 37-28-21. Upon the expiration of the
471 charter, the charter school's sponsor may seek to renew the
472 school's charter by modifying the charter so that the school fully
473 complies with the requirements for being awarded, maintaining and
474 renewing charter status under Sections 1 through 20 of Senate Bill
475 No. _____, 2004 Regular Session.

476 **SECTION 21.** Sections 37-28-1, 37-28-3, 37-28-5, 37-28-7,
477 37-28-9, 37-28-11, 37-28-13, 37-28-15, 37-28-17, 37-28-19 and
478 37-28-21, Mississippi Code of 1972, which establish a means for
479 existing public schools to apply for charter status, are repealed.

480 **SECTION 22.** This act shall take effect and be in force from
481 and after July 1, 2004.