

By: Senator(s) Chaney

To: Education;
Appropriations

SENATE BILL NO. 2850

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 OR BY CONVERSION OF A HEAD START
5 PROGRAM TO CHARTER STATUS; TO PRESCRIBE CERTAIN REQUIREMENTS FOR
6 CHARTER SCHOOLS; TO ESTABLISH ADMISSION REQUIREMENTS AND POWERS
7 AND DUTIES OF CHARTER SCHOOLS; TO SPECIFY THE TERMS REQUIRED TO BE
8 INCLUDED IN A SCHOOL'S CHARTER; TO ESTABLISH THE PROCESS FOR
9 APPLYING FOR CHARTER SCHOOL STATUS; TO REQUIRE THE AUTOMATIC
10 RENEWAL OF CHARTERS; TO PROVIDE THAT CHARTER SCHOOLS ARE EXEMPT
11 FROM ALL EDUCATION STATUTES, UNLESS STATED OTHERWISE, AND RULES
12 AND REGULATIONS OF THE STATE BOARD OF EDUCATION AND LOCAL SCHOOL
13 DISTRICTS; TO PROVIDE FOR THE EMPLOYMENT OF TEACHERS BY CHARTER
14 SCHOOLS; TO PROHIBIT UNLAWFUL REPRISALS AGAINST SCHOOL DISTRICT
15 EMPLOYEES WHO ARE INVOLVED IN AN APPLICATION FOR CHARTER SCHOOL
16 STATUS; TO PROVIDE FOR STATE AND LOCAL FUNDING OF CHARTER SCHOOLS;
17 TO AUTHORIZE SCHOOL DISTRICTS TO LEASE SPACE TO CHARTER SCHOOLS;
18 TO REQUIRE CHARTER SCHOOLS TO HAVE A TRANSPORTATION PLAN; TO
19 ESTABLISH THE CHARTER SCHOOLS STIMULUS REVOLVING LOAN FUND IN THE
20 STATE TREASURY TO PROVIDE SUPPORT TO CHARTER SCHOOLS FOR START-UP
21 COSTS; TO PROVIDE FOR THE ELECTION OF THE BOARD OF DIRECTORS OF A
22 CHARTER SCHOOL; TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO
23 DISSEMINATE INFORMATION ON HOW TO CREATE AND HOW TO ENROLL
24 STUDENTS IN CHARTER SCHOOLS; TO PROHIBIT CHARTER SCHOOLS FROM
25 LEVYING TAXES OR ISSUING BONDS SECURED BY TAX REVENUES; TO
26 AUTHORIZE THE CONTINUED OPERATION OF CHARTER SCHOOLS ESTABLISHED
27 UNDER THE ORIGINAL CHARTER SCHOOL STATUTES; TO REPEAL SECTIONS
28 37-28-1 THROUGH 37-28-21, MISSISSIPPI CODE OF 1972, WHICH
29 ESTABLISH A MEANS FOR EXISTING PUBLIC SCHOOLS TO APPLY FOR CHARTER
30 STATUS; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

56 (c) By a Head Start program, on the motion of its board
57 of directors, to convert its program into a public kindergarten
58 program for kindergarten-age students.

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

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

66 (a) The school may not charge tuition;

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

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

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

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

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

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

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

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

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

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

101 (5) A charter school must enroll an eligible student who
102 submits a timely application for enrollment unless the number of
103 applications for enrollment in a program, class, grade level or
104 school building exceeds the capacity of that program, class, grade
105 level or school building. If an excess number of applications are

106 received by the charter school, all applicants must have an equal
107 chance of being admitted under the following guidelines:

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

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

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

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

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

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

129 (3) A charter school may borrow funds and invest funds.
130 Funds received and earnings from investments on gifts from
131 nongovernmental entities may be accounted for separately. If a
132 charter school closes, all unspent government funds, unspent
133 earnings from those funds and assets purchased with government
134 funds will revert to the state. Unspent funds from
135 nongovernmental sources, unspent earnings from those funds, assets
136 purchased with those funds and debts of the school (unless
137 otherwise provided for in the charter or debt instrument) shall
138 revert to the nonprofit entity created to operate the school and

139 may be disposed of according to applicable laws for nonprofit
140 corporations. A government entity shall not be liable for any
141 debt of the charter school unless that entity explicitly
142 authorized the debt and agreed to be liable for nonpayment of the
143 debt. A sponsor's approval of a charter school budget that
144 includes debt does not constitute the sponsor's liability for that
145 debt.

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

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

155 (2) The 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 and employment practices;

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
173 disabilities;

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;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

304 **SECTION 11.** (1) A school district may not assign teachers
305 employed by the district to a charter school. A charter school
306 may hire the teachers to be employed by the school and negotiate
307 contracts.

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

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

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

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

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

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

334 (i) Disciplinary or corrective action;

335 (ii) Detail, transfer or reassignment;
336 (iii) Suspension, demotion or dismissal;
337 (iv) An unfavorable performance evaluation;
338 (v) A reduction in pay, benefits or awards;
339 (vi) Elimination of the employee's position
340 without a reduction in force by reason of lack of monies or work;
341 or

342 (vii) Other significant changes in duties or
343 responsibilities which are inconsistent with the employee's salary
344 or employment classification; and

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

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

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

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

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

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

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

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

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

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

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

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

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

426 (a) Each qualifying charter school applicant or charter
427 school will be awarded an initial loan of not more than Fifty
428 Thousand Dollars (\$50,000.00) before or during the first year of
429 the charter school's operation. This loan must be repaid over a
430 period of no more than five (5) years. If any applicant for a
431 charter school receives an initial loan pursuant to this paragraph
432 and fails to begin operating a charter school within the following

433 eighteen (18) months, the applicant shall reimburse the Charter
434 Schools Stimulus Revolving Loan Fund for the amount of the initial
435 loan plus interest calculated at a rate of ten percent (10%) per
436 year.

437 (b) Applicants for charter schools and charter schools
438 that receive initial loans pursuant to paragraph (a) of this
439 subsection may apply for an additional loan of not more than Fifty
440 Thousand Dollars (\$50,000.00). This loan must be repaid over a
441 period of no more than five (5) years. If an applicant for a
442 charter school receives an additional loan pursuant to this
443 paragraph and fails to begin operating a charter school within the
444 following eighteen (18) months, the applicant shall reimburse the
445 Charter Schools Stimulus Revolving Loan Fund for the amount of the
446 additional loan, plus interest calculated at a rate of ten percent
447 (10%) per year. A reimbursement required by this paragraph is in
448 addition to any 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.** Any charter school that is operating under the
471 terms of a charter granted under the authority of Sections 37-28-1
472 through 37-28-21 may continue to operate under the terms of that
473 charter for the duration of its term, notwithstanding the repeal
474 of Sections 37-28-1 through 37-28-21. Upon the expiration of the
475 charter, the charter school's sponsor may seek to renew the
476 school's charter by modifying the charter so that the school fully
477 complies with the requirements for being awarded, maintaining and
478 renewing charter status under Sections 1 through 20 of Senate Bill
479 No. 2850, 2005 Regular Session.

480 **SECTION 21.** Sections 37-28-1, 37-28-3, 37-28-5, 37-28-7,
481 37-28-9, 37-28-11, 37-28-13, 37-28-15, 37-28-17, 37-28-19 and
482 37-28-21, Mississippi Code of 1972, which establish a means for
483 existing public schools to apply for charter status, are repealed.

484 **SECTION 22.** This act shall take effect and be in force from
485 and after July 1, 2005.