

By: Representative Warren

To: Education;
Appropriations

HOUSE BILL NO. 238
(As Sent to Governor)

1 AN ACT TO REENACT SECTIONS 37-28-1 THROUGH 37-28-19,
2 MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE ESTABLISHMENT AND
3 OPERATION OF CHARTER SCHOOLS; TO REENACT AND AMEND SECTION
4 37-28-21, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER ON
5 THOSE SECTIONS; TO ESTABLISH A COMMISSION TO STUDY AND REPORT ON
6 THE FEASIBILITY OF THE CHARTER SCHOOL CONCEPT IN MISSISSIPPI; AND
7 FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 37-28-1, Mississippi Code of 1972, is
10 reenacted as follows:

11 37-28-1. It is the intent of the Legislature that this
12 chapter provide a means whereby local public schools may choose to
13 substitute a binding academic or vocational, or both, performance
14 based contract approved by the State Board of Education and the
15 school board of the school district in which the school is
16 located, called a "charter," for rules, regulations, policies and
17 procedures of the State Board of Education and the local school
18 district and, except as otherwise provided, the provisions of
19 Title 37 of the Mississippi Code of 1972 which are applicable to
20 schools and school districts and their employees and students.

21 **SECTION 2.** Section 37-28-3, Mississippi Code of 1972, is
22 reenacted as follows:

23 37-28-3. For purposes of this chapter, the following words
24 and phrases shall have the meanings respectively ascribed in this
25 section unless the context clearly indicates otherwise:

26 (a) "Charter" means an academic or vocational, or both,
27 performance based contract between the State Board of Education,
28 the school board of the local school district, and a local school
29 which exempts the school from rules, regulations, policies and

30 procedures of the State Board of Education and the local school
31 district and, except as otherwise provided, the provisions of
32 Title 37 of the Mississippi Code of 1972 which are applicable to
33 schools and school districts and their employees and students.

34 (b) "Charter school" means a school that is operating
35 under the terms of a charter granted by the State Board of
36 Education.

37 (c) "Local school" means a public school in Mississippi
38 which is under the management and control of the school board of
39 the school district in which the school is located.

40 (d) "Petition" means a proposal to enter into an
41 academic or vocational, or both, performance based contract
42 between the State Board of Education and a local school whereby
43 the local school obtains charter school status.

44 **SECTION 3.** Section 37-28-5, Mississippi Code of 1972, is
45 reenacted as follows:

46 37-28-5. Any local school may submit a petition to the State
47 Board of Education requesting charter school status. The petition
48 must:

49 (a) Be approved by the school board of the school
50 district in which the school is located;

51 (b) Be agreed to freely by a majority of the faculty
52 and instructional staff members, by secret ballot, at the school
53 initiating the petition;

54 (c) Be agreed to by a majority of the parents of
55 students enrolled in the school who are present at a meeting
56 called for the specific purpose of deciding whether or not to
57 initiate the petition;

58 (d) Describe a plan for school improvement that
59 addresses how the school proposes to work toward improving student
60 learning and meeting state education goals;

61 (e) Outline proposed academic or vocational, or both,
62 performance criteria that will be used during the initial period

63 of the charter to measure progress of the school in improving
64 student learning and in meeting state education goals;

65 (f) Describe how the faculty, instructional staff and
66 parents of students enrolled in the school have been involved in
67 developing the petition and will be involved in developing and
68 implementing the improvement plan and identifying academic or
69 vocational, or both, performance criteria; and

70 (g) Describe how the concerns of faculty, instructional
71 staff and parents of students enrolled in the school will be
72 solicited and addressed in evaluating the effectiveness of the
73 improvement plan.

74 **SECTION 4.** Section 37-28-7, Mississippi Code of 1972, is
75 reenacted as follows:

76 37-28-7. (1) The State Board of Education shall establish
77 rules and regulations for the submission of petitions for charter
78 school status and criteria and procedures for the operation of
79 charter schools. The board shall receive and review petitions for
80 charter school status from local public schools and may approve
81 petitions and grant charter school status, on a pilot program
82 basis, to up to six (6) local schools throughout the state. One
83 (1) local public school in each congressional district, as such
84 districts exist on the effective date of this chapter, and at
85 least one (1) local public school situated in the Delta region of
86 the state shall be granted charter school status by the board,
87 unless there are no petitions submitted from a particular
88 congressional district or the Delta region, as the case may be,
89 which are proper under the terms of this chapter and the rules and
90 regulations established by the board under this subsection. At
91 least three (3) local public schools that are granted charter
92 school status shall be in school districts having an accreditation
93 level of three (3) or below at the time the school submits its
94 initial petition for charter school status unless there are no
95 petitions submitted from such schools which are proper under the

96 terms of this chapter and the rules and regulations established by
97 the board. In order to be approved, a petition for charter school
98 status, in the opinion of the State Board of Education, must
99 adequately include:

100 (a) A plan for improvement at the school level for
101 improving student learning and for meeting state education goals;

102 (b) A set of academic or vocational, or both,
103 performance based objectives and student achievement based
104 objectives for the term of the charter and the means for measuring
105 those objectives on no less than an annual basis;

106 (c) An agreement to provide a yearly report to parents,
107 the community, the school board of the school district in which
108 the charter school is located, and the State Board of Education
109 which indicates the progress made by the charter school in the
110 previous year in meeting the academic or vocational, or both,
111 performance objectives; and

112 (d) A proposal to directly and substantially involve
113 the parents of students enrolled in the school as well as the
114 faculty, instructional staff and the broader community in the
115 process of modifying the petition, if necessary for approval, and
116 carrying out the terms of the charter.

117 (2) The State Board of Education may allow local schools to
118 resubmit petitions for charter school status if the original
119 petition, in the opinion of the board, is deficient in one or more
120 respects. The State Department of Education may provide technical
121 assistance to the faculty and instructional staff of local schools
122 in the creation or modification of the petitions.

123 **SECTION 5.** Section 37-28-9, Mississippi Code of 1972, is
124 reenacted as follows:

125 37-28-9. The terms of each charter shall include the
126 following:

127 (a) A mechanism for declaring the charter null and void
128 if a majority of the faculty, instructional staff of the school,

129 and parents of students enrolled in the school who are present at
130 a meeting called for the specific purpose of deciding whether or
131 not to declare the charter null and void request the State Board
132 of Education to withdraw the charter;

133 (b) A mechanism for declaring the charter null and void
134 if, at any time, in the opinion of the State Board of Education,
135 the school operating under charter status fails to fulfill the
136 terms of the charter;

137 (c) Clear academic or vocational, or both, performance
138 based and student achievement based objectives and the means to
139 measure those objectives on no less than an annual basis;

140 (d) A mechanism for updating the terms of each charter,
141 agreed to by all parties and subject to the approval of a majority
142 of the faculty, instructional staff and parents of students
143 enrolled in the school who are present at a meeting called for the
144 specific purpose of updating the terms of the charter, based upon
145 the yearly progress reports submitted to the State Board of
146 Education by the charter school;

147 (e) A provision that the charter school shall not have
148 any authority to request an ad valorem tax levy independent of
149 such authority exercised by the school district in which the
150 charter school is located;

151 (f) A provision that no person shall be denied
152 admission to the charter school on the basis of race, color, creed
153 or national origin;

154 (g) A provision to exempt the school from the rules,
155 regulations, policies and procedures of the State Board of
156 Education and the local school board and from the provisions of
157 Title 37 of the Mississippi Code of 1972 which are not included in
158 this act, unless the code sections are specifically made
159 applicable to charter schools by the State Board of Education in
160 the charter;

161 (h) A provision that the performance variables
162 established by the State Board of Education, acting through the
163 Commission on School Accreditation, in the performance based
164 accreditation system are fully applicable to the charter school;
165 and

166 (i) A provision to exempt the charter school from
167 process standards.

168 **SECTION 6.** Section 37-28-11, Mississippi Code of 1972, is
169 reenacted as follows:

170 37-28-11. Any request for a petition to obtain charter
171 school status sent by a local school to the school board of the
172 school district in which the school is located shall be forwarded
173 by the local school board to the State Board of Education. If a
174 local school board disapproves of a local school's request for a
175 petition, the local school board shall inform the faculty of the
176 local school of the reasons for the disapproval and shall forward
177 a copy of the reasons to the State Board of Education. The State
178 Board of Education, in its discretion, may request a hearing to
179 receive further information from the local school board and the
180 faculty of the local school.

181 **SECTION 7.** Section 37-28-13, Mississippi Code of 1972, is
182 reenacted as follows:

183 37-28-13. Initial charters issued by the State Board of
184 Education shall be on a pilot program basis and for a term of four
185 (4) years. Thereafter, the State Board of Education may renew
186 charters on a one-year or multiyear basis, not to exceed four (4)
187 years, for local schools, if all parties to the original charter
188 approve the renewal with a vote of a majority of the faculty,
189 instructional staff and parents of students enrolled in the school
190 who are present at a meeting called for the specific purpose of
191 deciding whether or not to renew the charter.

192 **SECTION 8.** Section 37-28-15, Mississippi Code of 1972, is
193 reenacted as follows:

194 37-28-15. (1) A charter school may be funded by: federal
195 grants, grants, gifts, devises or donations from any private
196 sources; and state funds appropriated for the support of the
197 charter school; and any other funds that may be received by the
198 school district. Schools applying for charter status and charter
199 schools are encouraged to apply for federal funds appropriated
200 specifically for the support of charter schools under the Omnibus
201 Consolidated Appropriations Act, 1997 (Public Law No. 104-208
202 [H.R. 3610] (1996)).

203 (2) The State Board of Education may give charter schools
204 special preference when allocating grant funds other than state
205 funds for alternative school programs, classroom technology,
206 school improvement programs, mentoring programs or other grant
207 programs designed to improve local school performance.

208 **SECTION 9.** Section 37-28-17, Mississippi Code of 1972, is
209 reenacted as follows:

210 37-28-17. Employees of a charter school shall be considered
211 employees of the school district in which the charter school is
212 located. Charter school employees shall be entitled to the same
213 rights, privileges and benefits to which all other employees of
214 the school district are entitled.

215 **SECTION 10.** Section 37-28-19, Mississippi Code of 1972, is
216 reenacted as follows:

217 37-28-19. Before January 1, 1999, and each year thereafter,
218 the State Board of Education shall submit a report to the
219 Legislature on the status of the charter school program. This
220 report minimally shall include: (a) a review and compilation of
221 comprehensive reports and evaluations issued by local school
222 boards concerning successes or failures of charter schools and
223 formulated recommendations; (b) a comparison of the academic
224 performance of charter school students with the performance of
225 ethnically and economically comparable groups of students in other
226 public schools who are enrolled in academically comparable

227 courses; (c) the current and projected impact of charter schools
228 on the delivery of services by the public schools; (d) an
229 assessment of the students' academic progress in the charter
230 school as measured, where available, against the academic year
231 immediately preceding the first year of the charter school's
232 operation; and (e) the best practices resulting from charter
233 school operations.

234 **SECTION 11.** Section 37-28-21, Mississippi Code of 1972, is
235 reenacted and amended as follows:

236 37-28-21. Sections 37-28-1 through 37-28-21 shall stand
237 repealed from and after July 1, 2007.

238 **SECTION 12.** (1) There is created a commission to study and
239 report on the feasibility of the charter school concept in the
240 State of Mississippi through best practiced innovations. The
241 commission's study and report shall include, at a minimum:

242 (a) An assessment of the educational, economical,
243 cultural and social impact of establishing a comprehensive charter
244 school system for Mississippi's traditional public schools;

245 (b) An evaluation of the specific standards applied
246 during the application process of a charter school system;

247 (c) A comparison and an analysis of other states'
248 charter school programs; and

249 (d) An analysis of the cost impact that a charter
250 school program will have upon state and local budgets.

251 (2) The commission shall be composed of the following
252 thirteen (13) members:

253 (a) The Chairman of the Education Committee of the
254 Mississippi House of Representatives;

255 (b) Two (2) members of the Education Committee of the
256 Mississippi House of Representatives, to be appointed by the
257 Speaker of the House;

258 (c) The Chairman of the Appropriations Committee of the
259 Mississippi House of Representatives;

260 (d) The Chairman of the Education Committee of the
261 Mississippi Senate;

262 (e) Two (2) members of the Education Committee of the
263 Mississippi Senate, to be appointed by the Lieutenant Governor;

264 (f) The Chairman of the Appropriations Committee of the
265 Mississippi Senate;

266 (g) The State Superintendent of Education, or his
267 designee;

268 (h) Two (2) superintendents of education, to be
269 appointed by the State Board of Education, one (1) to be a
270 superintendent of a county public school district in this state
271 and one (1) to be a superintendent of a municipal public school
272 district in this state; and

273 (i) Two (2) parents of children enrolled in public
274 schools in this state, to be appointed by the Governor.

275 (3) Appointments shall be made within thirty (30) days after
276 the effective date of this act, and the commission shall meet and
277 organize within fifteen (15) days after appointment of the
278 members, on a day to be designated jointly by the Speaker of the
279 House and the Lieutenant Governor. All subsequent meetings of the
280 commission shall be called on a day to be designated by the
281 commission. At its first meeting, the commission shall elect a
282 chairman and vice chairman from its membership, and shall adopt
283 rules for transacting its business and keeping records. All
284 meetings of the commission shall be open to the public and shall
285 provide an opportunity for any interested citizen to be heard and
286 to participate. Notice of the time, date and place of any meeting
287 of the commission shall be announced and made available to the
288 news media at least seven (7) days before the meeting.

289 (4) All agencies, departments, divisions, boards, bureaus,
290 commissions or institutions of the state, or of any political
291 subdivision thereof, at the request of the chairman of the
292 commission, shall provide to the commission such facilities,

293 assistance and data as will enable the commission to properly
294 carry out its duties.

295 (5) Members of the commission may not be compensated for the
296 performance of their duties.

297 (6) The commission shall complete and submit a report of its
298 work and recommendations to the Legislature and to the Governor on
299 or before December 1, 2005. After the presentation of its report
300 to the Legislature and the Governor, the commission shall be
301 dissolved.

302 **SECTION 13.** This act shall take effect and be in force from
303 and after its passage.