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< RS 17:1990 >



PART VII. RECOVERY SCHOOL DISTRICT

§1990. Recovery School District; creation; governance; operation

A.(1) The Recovery School District, referred to as the "school district" or the "district", is hereby established to provide an appropriate education for children attending any public elementary or secondary school operated under the jurisdiction and direction of any city, parish, or other local public school board or any other public entity, referred to in this Section as "the prior system", which has been transferred to its jurisdiction pursuant to R.S. 17:10.5 or 10.7.

(2) The school district shall be administered by the state Department of Education, subject to the approval of the State Board of Elementary and Secondary Education, referred to in this Section as "the state board".

B.(1)(a) The school district shall be considered an intermediate educational unit, subject to the limitations of such units which shall include no authority to levy a tax, but which shall include authority to seek, expend, manage, and retain federal funding and grant funding and to otherwise seek, obtain, expend, manage, and retain funding with all the same authority of any city, parish, or other local public school board or other public entity operating a public school, including the right to maintain and manage fund balances.

(b) The expenditure of funds shall be subject to the requirements of the approved Minimum Foundation Program formula that apply to a city, parish, or other local public school system and shall be subject to audit in the same manner.

(c) The school district shall have the same authority and autonomy afforded to city, parish, and other local public school systems under state law regarding the procurement of services, including but not limited to personal, professional, consulting, and social services; the procurement of immovable property; and the leasing of movable property.

(d) The school district shall not be required to utilize or obtain the approval of any state agency, including but not limited to the division of administration or any office within the division of administration or any procurement support team or similar group, when procuring data processing and telecommunications goods or services or in the procurement of materials, supplies, or major repairs or in the disposition of property; however, the school district shall comply with all other applicable provisions of Title 39 of the Louisiana Revised Statutes of 1950 regarding such procurement and disposition of property. Furthermore, notwithstanding any provision of law to the contrary, the school district shall be required to receive the prior approval of the Joint Legislative Committee on the Budget for one or more change orders that cause an excess of one hundred thousand dollars in the aggregate per month to a contract for a project undertaken that would be considered a capital expense.

(e) The school district shall not be required to utilize any selection board, including but not limited to the Louisiana Architects Selection Board, the Louisiana Engineers Selection Board, or the Louisiana Landscape Architects Selection Board when contracting for any public work or professional service, or when contracting for any other service. However, the school district shall comply with all other applicable provisions of Title 38 of the Louisiana Revised Statutes of 1950.

(2)(a) The school district may provide for the supervision, management, and operation of a school placed under its jurisdiction and receive, control, and expend the local, state, and federal funding attributable to that school, with all the same power and authority as the prior system from which it was transferred subject to the requirements of this Section, R.S. 17:10.5, or 10.7, or with any other power and authority otherwise granted to the district by law. As it relates to schools transferred pursuant to R.S. 17:10.7, the authority of the school district is also subject to the approval by the state board of the plan submitted pursuant to R.S. 17:10.7(B)(2)(b). The district may contract with for-profit providers for the general operation of and any needed services for a school under its jurisdiction.

(b) In providing for the operation of schools within its jurisdiction, at any time the district seeks participation by a college or university or a consortium of colleges and universities to provide for the operation of any school or group of schools, colleges, and universities that historically were established to provide education for African American students in the state shall be included in any opportunity to participate.

(3) The school district may require any city, parish, or other local public school board to provide school support or student support services for a school transferred from its jurisdiction including but not limited to student transportation, school food service, or student assessment for special education eligibility that are compliant with all laws and regulations governing such services. In such case, the school district shall reimburse the actual cost to the system providing such services. If a dispute arises between the school district and the system providing such services regarding the cost of such services to be reimbursed, the commissioner of administration or his designee shall determine the cost to be reimbursed.

(4)(a) The school district shall have the right to use any school building and all facilities and property

otherwise part of the school and recognized as part of the facilities or assets of the school prior to its placement in the school district and shall have access to such additional facilities as are typically available to the school, its students, and faculty and staff prior to its placement in the school district. Such use shall be unrestricted, except that the school district shall be responsible for and obligated to provide for routine maintenance and repair such that the facilities and property are maintained in as good an order as when the right of use was acquired by the district. There shall be no requirement for the district to provide for the type of extensive repair to buildings or facilities that would be considered to be a capital expense. Such extensive repairs shall be provided by the governing authority of the city, parish, or other local public school system or other public entity which is responsible for the facility.

(b)(i) In the case of the transfer of schools pursuant to R.S. 17:10.7, the school district may, at the discretion of the administering agency and notwithstanding the provisions of Subparagraph (a) of this Paragraph, acquire with the transfer of the schools all the rights and responsibilities of ownership regarding all land, buildings, facilities, and other property that is part of the school being transferred, except that the school district may not transfer the ownership of the land or usable buildings constructed on the land to another, other than in the manner and under the circumstances provided for in Item (iv) of this Subparagraph, save returning the land and such buildings to the stewardship of the prior system. The district may lease land or property, dispose of property other than the land as is necessary to properly manage the operation of the schools, rebuild school buildings, or renovate school buildings.

(ii) No building shall be destroyed pursuant to the authority of the school district unless the destruction of the building has been approved by the office of facility planning in the division of administration.

(iii) In the case that the rights and responsibilities provided for in this Subparagraph are acquired by the school district, the school district, through its administering agency, shall be the exclusive authority to receive, manage, and expend any and all state, local, or federal funding dedicated to or available for the purpose of repairing, renovating, or rebuilding, or building a school building or facility and any and all insurance proceeds attributable to damage done to any property, except that portion of such insurance proceeds used to pay debt owed by the prior system. A portion of all revenues available to the prior system which are dedicated to the repair, maintenance, or capital projects regarding a transferred school whether such revenue is available from tax proceeds, was borrowed, bonded, or was otherwise acquired shall be transferred by the system to the recovery district in an amount equal to the proportion that the number of schools transferred from such school system bears to the total number of schools operated by the school system during the school year immediately proceeding the school year in which the transfer occurred.

(iv) The school district may sell, exchange, or lease any property or building which the school district determines will not be used for providing educational services on or before August 29, 2006 to the governing authority of any independent secondary school which has operated a school approved by the State Board of Elementary and Secondary Education, pursuant to R.S. 17:11, for not less than twenty-five years prior to August 29, 2005, in an area subject to an emergency declaration of the governor as a result of devastation resulting from a hurricane and which is in need of property or facilities in which to locate a school because its prior school building was rendered uninhabitable by the hurricane and cannot be restored to a habitable condition prior to the beginning of the next semester following the hurricane. However, the school district shall not exercise such authority to sell, exchange, or lease any property or building unless it first offers such property or building without cost to the local public school board to which the property belonged prior to its being under the control of the school district and such local public school board refuses at a public meeting to accept the return of the property or building. Property sold, leased, or exchanged under the authority of this Item shall be sold at a price or leased or exchanged based on a value that is determined by averaging the market value appraisals of three appraisers, one selected by the administering agency of the Recovery School District, one selected by the governing authority of the independent secondary school, and a third appraiser selected by the two appraisers selected by the school district and the independent secondary school. The costs of determining the value shall be borne by the independent secondary school. Property sold or exchanged under the authority of this Item shall remain the property of the governing authority to which it was sold or exchanged by the school district regardless of the return of any school under the jurisdiction of the school district to the city, parish, or other local public school system from which it was originally transferred. However, any property sold or exchanged by the school district as authorized in this Item shall, if ever offered for sale or exchange by the governing authority of the independent school, first be offered to the city, parish, or other local public school board to which the property belonged prior to its being under the control of the Recovery School District. The authority granted in this Item may be exercised without compliance with any bidding requirements otherwise required by law. Any proceeds resulting from a lease or sale as provided in this Item shall be directed to the city, parish, or other local public school board to which the property belonged, regardless of it being under the control of the Recovery School District.

C.(1)(a) The state shall annually appropriate sufficient monies to fund any school in the school district created in this Part in an amount equal to but not less than the school's student membership count times one hundred percent of the state share per student as provided in the Minimum Foundation Program approved formula for the city, parish, or other local public school system in which each school placed under the jurisdiction of the district is located as contained in the Minimum Foundation Program budget letter approved by the State Board of Elementary and Secondary Education. The appropriation shall be made to the administering agency for the district and may be expended by the agency for the provision of services to students in the district.

(b) No public monies shall be used to discriminate against protected classes or have the effect of discriminating in providing and ensuring equal education opportunities in Louisiana.

(2)(a)(i) In addition to the appropriation required in Paragraph (1) of this Subsection, any city, parish, or other local public school board which had jurisdiction of a school prior to its transfer to this district annually shall allocate and transfer to the school district an amount of money equal to the number of students enrolled in such a school times the local per pupil amount received by the school system from all of the following sources as provided in the Minimum Foundation Program approved formula, excluding any portion which has been specifically dedicated by the legislature or by voter approval to capital outlay or debt service

or which was actually expended by the school board for facilities acquisition and construction as reported to the state Department of Education:

(aa) Sales and use taxes, less any tax collection fee paid by the school system.

(bb) Ad valorem taxes, less any tax collection fee paid by the school system.

(cc) Earnings from sixteenth section lands owned by the school system.

(ii)(aa) Such allocation and transfer shall be accomplished by a reduction in the amount of state funds otherwise to be allocated to the city, parish, or other local public school system as contained in the Minimum Foundation Program budget letter approved by the State Board of Elementary and Secondary Education equal to the amount provided in this Paragraph which reduction shall be allocated to the school district.

(bb) In the case that there are insufficient funds available to provide the total due the school district under this Paragraph if all state funds are reduced and allocated to the school district, the prior system shall transfer a sufficient amount of money remaining from the sources provided in Item (i) of this Subparagraph to the school district. In the case that the prior system's local revenues are insufficient to allow for the allocation to the school district and to allow the prior system to maintain a minimum balance of ten percent of state Minimum Foundation Program funding and ten percent of the local revenues listed in Item (i) of this Subparagraph, local revenues otherwise required to be allocated to the school district shall be reduced to an amount necessary to allow the prior system to maintain such balances. Such maintained minimum balances shall be applied firstly to the prior system's retiree health insurance costs and secondly to the prior system's board administrative costs.

(iii)(aa) In addition to the exclusions allowed pursuant to Item (i) of this Subparagraph, when calculating the amount of money a city, parish, or other local public school board is required to allocate and transfer to the school district relative to schools transferred to the district, the Orleans Parish School Board shall allocate and transfer the share of the local revenue due the district by forward funding the monthly pro rata amount of such revenue due the district each month to the school district, including authorized charter schools in the district, and shall be allowed to exclude an amount equal to the actual amount expended by the board for the following items:

(I) Costs incurred on workers' compensation claims filed against the board prior to August 29, 2005, including related administrative costs.

(II) Costs to defend legal claims arising against the board prior to August 29, 2005, and legal claims against the board after August 29, 2005, that are directly attributable to Hurricane Katrina or Act 35 of the 2005 First Extraordinary Session of the Legislature of Louisiana.

(III) Employer's cost of health insurance for retired participants in the board's plan as of July 1, 2009, which shall not exceed twenty-five percent of the total premium cost.

(IV) A supplement of two hundred dollars per month for health insurance premiums for retired participants in the board's plan as of July 1, 2009.

(V) Costs of short-term borrowing, including but not limited to attorney fees and interest, to provide stabilized cash flow to the Recovery School District and charter schools.

(VI) A fee of one-tenth of one percent of total ad valorem and sales taxes collected.

(bb) The total amount of the exclusions provided for in Subitem (aa) of this Item shall not exceed six million dollars annually. Actual expenditures in excess of six million dollars in any year shall be carried forward for recapture in future years, if available.

(cc) The exclusions provided for in Subitem (aa) of this Item shall expire upon the extinguishment of the costs associated therewith, upon any action of the board to reduce the constitutional millage from the level in effect for Fiscal Year 2009-2010, except as required pursuant to a property reassessment, twelve months following the full settlement of Orleans Parish School Board Special Community Disaster Loans, or twenty tax years from the roll forward millage adoption, whichever occurs first.

(dd) The excluded costs enumerated in Subitem (aa) of this Item shall be included as a schedule to the annual financial statements of the Orleans Parish School Board and audited by its certified public accountant. The contents of the schedule shall be determined jointly by the Orleans Parish School Board and the state Department of Education. The audited financial statements and the schedule shall be submitted to the state Department of Education, to account for any monies so excluded, within one hundred eighty days of the end of each fiscal year. Any audit adjustments to these exclusions shall be added to or deducted from, as the case may be, the subsequent year's exclusions.

(b) In addition to the appropriation required in Paragraph (1) of this Subsection, any public entity, other than a city, parish, or other local public school board which had jurisdiction of a school prior to its transfer to this district shall transfer to the school district an amount of money equal to the average per pupil amount appropriated or allocated for all students times the number of students enrolled in the school transferred from its jurisdiction to the school district from self-generated funds or any other appropriated state funds that exceeds the per pupil amount appropriated pursuant to Paragraph (1) of this Subsection.

(c) All amounts to be appropriated or allocated and transferred pursuant to this Paragraph and Paragraph (B)(3) of this Section shall be estimated or calculated by the state Department of Education based on the most recent local revenue data and projected student counts available. Allocations to be transferred shall be adjusted during the year as necessary to reflect actual student counts and actual prior year local revenue collections.

(3)(a) Except for administrative costs, monies appropriated to the Recovery School District that are attributable to the transfer of a school from a prior school system and monies allocated or transferred from the prior system to the recovery district shall be expended solely on the operation of schools transferred from the prior system to the jurisdiction of the district.

(b) Notwithstanding the requirements of Subparagraph (a) of this Paragraph, in the case that schools are transferred pursuant to R.S. 17:10.7 to the school district, monies appropriated to the school district that are attributable to the transfer of the schools from a prior system and monies allocated or transferred from the prior system to the school district shall be expended on the provision of services to the students who were in attendance at such schools or who would have been eligible to attend such schools transferred from the prior system to the jurisdiction of the district without regard to expending amounts on or in any particular school provided that such services are provided in compliance with the requirements of R.S. 17:10.7(B)(2)(b).

D.(1) The Recovery School District may employ such staff members as it deems necessary. At the time of the transfer of a school to the school district, any certified teacher with regular and direct responsibility for providing classroom instruction to students who is employed in the transferred school by the prior system shall be given priority consideration for employment in the same or a comparable position by the school district.

(2) Any person employed by the prior system in a transferred school may choose to remain in the employ of the prior system and, in that case, the prior system shall retain and reassign such person consistent with its contractual obligations or policies regarding the retention and reassignment of employees.

E.(1)(a) Except as otherwise provided by law for the operation of the school as a Type 5 charter school, benefits and privileges of any person employed in a school by the school district who was employed by the prior system at the time a school is transferred to the district's jurisdiction shall be the same as those required by law for employees in the city, parish, or other local public school systems of this state.

(b) Notwithstanding any provision of Subparagraph (a) of this Paragraph to the contrary, any person employed by the district in a school who was employed by the prior system at the time a school is transferred to the district's jurisdiction, for the purposes of permanent status and the retention upon return to employment in the prior system of any employment benefit right which requires continuous service or which becomes vested based on years of service, or both, shall be granted an approved leave of absence from the prior system for the period of time the school is under the jurisdiction of the district in order to be employed by the district. The period of time any employee is on such leave shall be considered service time by the prior system at any time the employee returns to the prior system's employment. Such approved leave shall not require the prior system to provide for benefits during the time the employee on leave is employed by the district.

(2) Except as otherwise provided by law for the operation of a Type 5 charter school, the benefits and privileges of any person employed in a school by the district or employed by any operator of a district school pursuant to any agreement with the district who was not employed by the prior system at the time the school was transferred to the jurisdiction of the district shall be those determined by the district or the operator at the time of such employment in compliance with any requirement of any applicable contract or requirement of law.

F.(1) Except as otherwise provided in this Subsection, only students who would have been eligible to enroll in or attend the pre-existing school under the jurisdiction of the city, parish, or other local public school board or other public school entity prior to its transfer to the Recovery School District may attend. However, all such students shall be eligible to attend notwithstanding any other provision of law to the contrary.

(2) In addition to students who are eligible to enroll pursuant to the provisions of Paragraph (1) of this Subsection, any student who is eligible to participate in a school choice program established by the prior system shall be permitted to enroll in any school operated under the jurisdiction of the Recovery School District which has capacity for another student in the appropriate grade. Maximum capacity by grade shall be determined by the State Board of Elementary and Secondary Education.

(3) In addition, in the case that schools are transferred to the district pursuant to R.S. 17:10.7 and notwithstanding other requirements of this Subsection, the school district may permit any student eligible to attend any school in the prior system to attend a school operated by the school district in the area of the transferring system.

(4)(a) Notwithstanding any other provision of law to the contrary, the school district and each city, parish, or other local public school board that has had one or more schools transferred to the school district shall enter into a cooperative agreement to allow any student enrolled in a school under its respective jurisdiction to enroll in a school under the jurisdiction of the other, provided the school in which the student seeks to enroll has sufficient capacity at the appropriate grade level.

(b) The chartering authority of any charter school under the jurisdiction of the school district or a city, parish, or other local public school board that enters into a cooperative agreement pursuant to this Paragraph also shall be bound by the terms of such agreement.

(c) The provisions of this Paragraph shall not abridge or contravene the authority of the school district or a city, parish, or other local public school board to establish attendance zones for the schools under its respective jurisdiction in accordance with established policy and any federal court order, judgment, or consent decree.

G. Notwithstanding any provision of this Part, the school district shall not violate any federal court order, judgment, or consent decree.

H. The Recovery School District shall terminate pursuant to Part XII of Chapter 1 of Title 49 of the Louisiana Revised Statutes of 1950 at the same time and subject to the same provisions for re-creation as statutory entities made a part of the Department of Education by law.

I.(1) The superintendent of the Recovery School District shall develop a community outreach plan to engage parents and community leaders in the successful operation and academic improvement of all schools under its jurisdiction and to solicit input on any proposed changes in school governance regarding the establishment of any new school site.

(2) The plan shall be submitted to the State Board of Elementary and Secondary Education and the Senate and House committees on education not later than September 30, 2011, and shall be implemented for use in the 2011-2012 school year and thereafter.

Acts 2003, No. 9, §1, eff. Nov. 6, 2003; Acts 2005, 1st Ex. Sess., No. 35, §1, eff. Nov. 30, 2005; Acts 2006, No. 455, §1, eff. June 15, 2006; Acts 2007, No. 207, §1, eff. June 27, 2007; Acts 2008, No. 220, §7, eff. June 14, 2008; Acts 2008, No. 485, §1; Acts 2008, No. 767, §1; Acts 2010, No. 640, §1, eff. June 29, 2010; Acts 2010, No. 735, §1; Acts 2011, No. 215, §1, eff. June 27, 2011; Acts 2014, No. 748, §1, eff. June 19, 2014.