

2015 Regular Session

HOUSE BILL NO. 537

BY REPRESENTATIVES SMITH AND JAMES

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

SCHOOLS: Provides for use of certain school property

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AN ACT

To amend and reenact R.S. 17:1990(B)(4)(a) and 3991(H) and to enact R.S. 17:1990(B)(4)(b)(v) and (c), relative to the use of property by and between the Recovery School District, charter schools, and local public schools; to provide relative to the right of use by the Recovery School District; to provide for the maintenance and repair of the property; to provide in the event of underutilization of the property; to govern use by a charter school of school buildings built or renovated with public funds in certain circumstances; to provide definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:1990(B)(4)(a) and 3991(H) are hereby amended and reenacted and R.S. 17:1990(B)(4)(b)(v) and (c) are hereby enacted to read as follows:

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

\* \* \*

B.

\* \* \*

(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

1 students, and faculty and staff prior to its placement in the school district. Such use  
 2 shall be unrestricted, except that the school district shall be responsible for and  
 3 obligated to provide for routine maintenance and repair such that the facilities and  
 4 property are maintained in as good an order as when the right of use was acquired  
 5 by the district. ~~There shall be no requirement for the district to~~ and provide for the  
 6 type of extensive repair to buildings or facilities that would be considered to be a  
 7 capital expense. ~~Such extensive repairs shall be provided by the governing authority~~  
 8 ~~of the city, parish, or other local public school system or other public entity which~~  
 9 ~~is responsible for the facility.~~

10 (b)

11 \* \* \*

12 (v) The provisions of this Subparagraph shall apply only to those schools  
 13 transferred pursuant to R.S. 17:10.7.

14 (c)(i) In the case of the transfer of a school pursuant to R.S. 17:10.5, the right  
 15 of use provided for in Subparagraph (a) of this Paragraph shall confer in favor of the  
 16 school district the use of the school building and all facilities and property, which  
 17 right does not include the abuse of the building, facility, or property in any manner  
 18 of alienation such as sale, lease, exchange, or destruction.

19 (ii) If the school district does not plan to use a school building for  
 20 educational purposes during an academic year or did not use a school building for  
 21 an educational purpose for a majority of the previous academic year, the use of such  
 22 building reverts to the school system from which such right of use was originally  
 23 transferred. Any attempt by the district to exceed the legal parameters governing  
 24 right of use or the failure of the district to maintain or repair the building creates a  
 25 presumption that the district lacks an educational purpose for the building.

26 (iii) A school building which has reverted to the school district pursuant to  
 27 the provisions of R.S. 17:3991(H)(2) and which is not being used for educating  
 28 students in the grade level or levels for which the building was originally acquired  
 29 or transferred shall be returned to the local school system if the building was

1 originally transferred from the school system or if the building was acquired or  
2 renovated by the school district or the charter school with public funds.

3 (iv)(aa) For purposes of this Subparagraph "educational purpose" means the  
4 actual teaching and education of students, including use as a classroom, academic or  
5 special education facility, as a gymnasium, or other similar use but does not include  
6 use for administrative or storage purposes.

7 (bb) For purposes of this Subparagraph and R.S. 17:3991(H)(2), "school  
8 building" or "building" includes: structures used for instruction, including  
9 classrooms, laboratories, libraries, research facilities, and administrative facilities;  
10 school eating facilities and kitchens; gymnasiums or other facilities used for athletic  
11 or recreational activities, or for courses in physical education; dormitories or other  
12 living areas or residential schools; and maintenance, storage, or utility facilities  
13 essential to the operation of the facilities described in this Subparagraph.

14 (v) The provisions of this Subparagraph shall apply only to those schools  
15 transferred pursuant to R.S. 17:10.5.

16 \* \* \*

17 §3991. Charter schools; requirements; limitations; renewal; amendment; revocation;  
18 assets

19 \* \* \*

20 H.(1) Any assets acquired by a Type 1, 1B, 2, 3, 3B, or 5 charter school are  
21 the property of that charter school for the duration of that school's charter agreement.  
22 Any assets acquired by a Type 4 charter school are the property of the local school  
23 board. If the charter agreement of any Type 1, 1B, 2, 3, 3B, or 5 charter school is  
24 revoked or the school otherwise ceases to operate, all assets purchased with any  
25 public funds become the property of the chartering authority. Assets that become the  
26 property of a local charter authorizer pursuant to this Subsection shall be used solely  
27 for purposes of operating charter schools. Charter schools are to maintain records  
28 of any assets acquired with any private funds which remain the property of the  
29 nonprofit group operating the charter school.

1           (2) Notwithstanding the provisions of Paragraph (1) of this Subsection, any  
 2           school building built or renovated with public funds, including a school building  
 3           which was transferred to a charter school, shall be used for the same grade or grade  
 4           levels for which the building was originally acquired or transferred and any building  
 5           not so used shall become the property or otherwise under the control of the  
 6           chartering authority and shall be used solely for purposes of educating charter school  
 7           students in the grade level or levels for which the building was originally acquired  
 8           or transferred.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 537 Original

2015 Regular Session

Smith

**Abstract:** Specifies relative to "right of use" of a school building and requires maintenance and repair of such property by the RSD, provides for return of school property to the local school system in cases of underutilization or neglect of such property by the RSD, and further requires charter schools to use a school building for the grade levels for which the building was originally purchased or transferred.

Recovery School District

Present law provides for the creation, governance, and operation of the Recovery School District (RSD). Further provides that the RSD is 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 which has been transferred to its jurisdiction pursuant to present law.

Present law provides for two types of transfers to the school district; one for failing schools (R.S. 17:10.5) and the other for schools in districts in academic crisis (an R.S. 17:10.7, which are schools limited to Orleans Parish). Proposed law retains present law.

Present law provides that for both an R.S. 17:10.5 and an R.S. 17:10.7 transfer, the school district is granted the right to use any school building and all facilities and property otherwise part of the school and have access to such additional facilities as are typically available to the school, its students, faculty, and staff. Proposed law retains present law.

Proposed law further provides that the right of use of school facilities is unrestricted, except that the school district must provide routine maintenance and repair as needed but extensive repairs must be provided by the public school system from which the property was transferred. Proposed law requires that all repairs, including extensive repairs, are the responsibility of the school district.

Present law provides additional authorities regarding property used pursuant to an R.S. 17:10.7 transfer. Proposed law retains and specifies the applicability of present law to only the R.S. 17:10.7 transfers.

Proposed law sets forth the legal limitations inherent in the right of use of property (including buildings and facilities) conferred under an R.S. 17:10.5 transfer by specifying that such right does not include the alienation of the property such as selling, leasing, exchanging, or destroying the property.

Proposed law provides that for transfers made pursuant to R.S. 17:10.5, when a school building is not being used for educational purposes, the right of use of the building reverts to the school system from which it came. Proposed law defines "educational purpose" and "building". Proposed law provides that any attempt by the school district to exceed the extent of its right of use or fails to maintain or repair the property creates a presumption that the district lacks an educational purpose for the building.

#### Charter Schools

Present law, relative to assets of charter schools, provides that any asset acquired by a charter school is the property of the school for the duration of the school's charter agreement. Provides, if a school's charter agreement is revoked or the school otherwise ceases to operate, that any asset purchased with public funds become the property of the chartering authority. (The "chartering authority" is a local school board, a local charter authorizer, or the State Board of Elementary and Secondary Education (BESE). A local charter authorizer is an entity certified by BESE to enter into agreements with chartering groups to establish a charter school.) Provides that assets that become the property of a local charter authorizer pursuant to present law must be used solely for purposes of operating charter schools. Present law does not apply to Type 4 charter schools, which are chartered by local school boards and assets acquired by a Type 4 charter school are the property of the local school board.

Proposed law provides that a school building of a charter school which was purchased or renovated with public funds, including a school building transferred for use to a charter school, must be used for the same grade or grade levels for which the building was originally acquired or transferred. Proposed law further provides that a school building not so used becomes the property or otherwise under the control of the chartering authority and must be used solely for charter school students in the grade level or levels for which the school building was originally acquired or transferred. In the case of a Type 5 school (preexisting public school transferred to the Recovery School District) which is not being used by the local charter authorizer for educating students in the grade level or levels for which the building was originally acquired or transferred, such building is to be returned to the local public school system.

(Amends R.S. 17:1990(B)(4)(a) and 3991(H); Adds R.S. 17:1990(B)(4)(b)(v) and (c))