

Regular Session, 2014

HOUSE BILL NO. 941

BY REPRESENTATIVE LEGER

SCHOOLS/FINANCE: Provides for allocations of certain public school funds to building renovation and replacement purposes in certain school districts

1 AN ACT

2 To enact R.S. 17:100.11, relative to public school facilities in certain public school districts;

3 to provide relative to the allocation and dedication of funds to the replacement,

4 repair, and improvement of such facilities; to provide for powers, duties, and

5 responsibilities of the Department of Education, the school boards of affected school

6 districts, individual schools, and the Recovery School District with respect to such

7 facilities and funds; to require the establishment of certain offices and accounts; to

8 establish procedures governing the allocation and use of funds; to provide with

9 respect to the allocation of funds to charter schools in the district and to the duties

10 and responsibilities of the school board and the Recovery School District with

11 respect to public facilities occupied or used by charter schools; to provide for fees

12 and charges; to provide relative to leases of school facilities; to provide relative to

13 outstanding obligations of school boards and future obligations; and to provide for

14 related matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. R.S. 17:100.11 is hereby enacted to read as follows:

17 §100.11. School facilities preservation; certain districts

18 A. Prior to any other allocation or transfer of minimum foundation program

19 formula funds on behalf of students attending schools within the geographic

20 boundaries of a local school district, the department shall calculate an amount which

1 shall be seven hundred seventy-five dollars per student attending school in a facility
2 owned by the school board based on the October first membership count. For the
3 purposes of this Section, facilities owned by the school board include facilities
4 controlled by the Recovery School District pursuant to R.S. 17:1990(B)(4)(b)(i).
5 Funds in an amount so calculated shall be dedicated to purposes relating to the
6 preservation of school facilities and shall be allocated, transferred, and used in
7 accordance with this Section.

8 B.(1) The department shall calculate the amounts from funds dedicated to
9 the purposes of this Section, which amounts are hereinafter referred to as "facility
10 funds". The school board shall continue to withhold from the Recovery School
11 District and charter schools the amount of local revenue collected for the purpose of
12 making annual debt payments, annual debt payments, if any, on bonds outstanding
13 on July 1, 2014, as required by R.S. 17:1990(C)(2)(a)(i) and 3982(B)(1).

14 (2) The school board shall not refinance bonds that are outstanding on July
15 1, 2014, nor shall it take any action which would delay the retirement of such bonds.
16 It is the intention of this Subsection that such bonds be paid no later than the dates
17 specified by the payment schedule in existence on the effective date of this
18 Subsection.

19 C. The local school board shall transfer to the Recovery School District an
20 amount derived from the calculation provided for in Subsection A of this Section less
21 the amount of local revenue collected by the local school board for the purpose of
22 making annual debt payments as provided in Subsection B of this Section, as
23 calculated by the department and hereinafter referred to as "facility funds". The
24 proportion of facility funds to be transferred to the Recovery School District shall be
25 equal to the proportion of students attending school in buildings controlled by the
26 Recovery School District pursuant to R.S. 17:1990(B)(4)(b)(i) to the total number
27 of students attending school in buildings controlled by the school board and the
28 Recovery School District combined, based on the October first membership count.
29 The amount transferred to the Recovery School District shall be included as a

1 schedule to the annual financial statements of the school board and audited by its
2 certified public accountant in the same manner as provided for in R.S.
3 17:1990(C)(2)(a)(iii)(dd).

4 D. The school board and the Recovery School District shall each allocate and
5 use facility funds it receives in accordance with the following:

6 (1) The school board and the Recovery School District shall each create a
7 facilities office to exercise its respective responsibilities as more specifically
8 provided in Subsection F of this Section. From facility funds received an amount of
9 six thousand dollars per campus controlled, or whatever lesser amount is available,
10 shall be used to fund the facilities office. The school board and the Recovery School
11 District may adjust this amount on an annual basis by the lesser of an increase in the
12 federal cost of living adjustment or the minimum foundation program funds.

13 (2) The school board and the Recovery School District shall each establish
14 an emergency repair account. From facility funds received beyond that allocated in
15 accordance with Paragraph (1) of this Subsection, the school board and the Recovery
16 School District shall each allocate and deposit an amount to its respective account
17 to be used for emergency repairs as more specifically provided in Subsection G of
18 this Section. Until all bonds as provided in Subsection B of this Section are retired,
19 seven million dollars total, or whatever lesser amount is available, shall be allocated
20 to the Recovery School District and the school board and the amount received by
21 each shall be deposited into their respective emergency repair accounts. The
22 proportion of the seven million dollars, or whatever lesser amount is available, to be
23 allocated to the Recovery School District and the school board, for deposit into their
24 respective emergency repair accounts shall be equal to the proportion of students
25 attending school in buildings controlled by each entity, based on the October first
26 membership count. Once such bonds are retired, the maximum amount to be
27 deposited into each such account is twenty percent of all facility funds that would
28 have been allocated and transferred to the school board or the Recovery School

1 District respectively prior to the application of credits for the facility capital
2 improvement financing process as specified in Subsection E of this Section.

3 (3) The school board and the Recovery School District shall each establish
4 a planned capital replacements account and deposit all remaining facility funds
5 received beyond those allocated in accordance with Paragraphs (1) and (2) of this
6 Section, into this account. Funds in this account shall be used for capital
7 replacements as more specifically provided in Subsection H of this Section.

8 E.(1) The school board and the Recovery School District shall each establish
9 a facility capital improvement financing process as more specifically provided by
10 this Subsection.

11 (2) A charter school may be credited up to five hundred dollars per pupil
12 against the per pupil amount specified in Subsection A of this Section for making
13 improvements to its campus if all of the following conditions are met:

14 (a) The project was approved by the Recovery School District or school
15 board as applicable.

16 (b) The improvements are made to a facility constructed prior to September
17 1, 2005, that has not received a renovation since that date exceeding half the value
18 of the facilities replacement cost.

19 (c) The improvements have not been scheduled and are not anticipated to be
20 scheduled to receive funds from the capital replacement plan provided in Subsection
21 H of this Section.

22 (d) The improvements expand or create classroom, laboratory, career
23 technical education, physical education, athletic, or performance space.

24 (e) The improvements comply with all state and local building requirements,
25 and all construction, zoning, or other necessary permits are obtained.

26 (f) The improvements are estimated to cost between two hundred thousand
27 and three million dollars.

28 (g) The project adheres to the disadvantaged business enterprises policies of
29 the Recovery School District or school board, as applicable.

1 (h) The charter school demonstrates that it will still meet financial risk
2 assessment requirements and financial performance indicators required by its
3 authorizer.

4 (3) The school board and the Recovery School District shall allocate for this
5 purpose up to fifteen percent of the total facility funds that it respectively would have
6 received prior to credits for this process being applied to the amount, as specified
7 below.

8 (4) The school board or the Recovery School District, as applicable, shall
9 notify the department of any credit for an improvement approved pursuant to this
10 Subsection, and the department shall transfer the amount of any credit to the charter
11 school and deduct the amount of such credit from the facility funds that would
12 otherwise be transferred to the school board or Recovery School District.

13 (5) The provisions of this Subsection shall be implemented beginning with
14 the 2016-2017 school year.

15 F.(1) The facilities office is responsible for managing building leases and
16 administering the emergency repairs, planned capital replacements, and facility
17 capital improvement credit programs as provided for by this Section.

18 (2) The facilities office may offer additional facilities services to charter
19 schools and charge fees for such services pursuant to a written agreement.

20 G.(1) Funds in the emergency response account shall be used to pay for
21 emergency repairs, replacements, or contingency preparations. The per incident
22 limit on expenditures from such account is one hundred fifty thousand dollars, which
23 amount shall be adjusted every five years based on the proportionate change in the
24 federal construction index. Funds in this account shall not be commingled with
25 revenue from any other source.

26 (2) The school board and the Recovery School District shall develop policies
27 governing the expenditure of monies in the account, including but not limited to:

28 (a) A process for requesting and completing emergency repairs.

1 (b) A reimbursement process for charter schools that perform their own
2 emergency repairs.

3 (c) A schedule of priorities for selecting projects should need exceed
4 funding.

5 H.(1) Funds in the planned capital replacement account shall be used for
6 planned, large-scale, capital campus repairs or replacement to permanent facilities,
7 including but not limited to the preemptive replacement of major building
8 components, such as roofs and heating, ventilation, and air conditioning systems,
9 repainting, refinishing floors, or replacing other infrastructure on a recurring
10 schedule. Such funds may also be used for emergency repairs and replacements if
11 such exceed the per incident limit specified in Subsection G of this Section, or funds
12 in the emergency response account have been depleted.

13 (2) Each expenditure from the school board account shall be approved by a
14 two-thirds vote of the school board, and each expenditure from a Recovery School
15 District account shall be approved by a two-thirds vote of the State Board of
16 Elementary and Secondary Education. The respective board may approve slates of
17 expenditures, but shall approve no more than one slate per year.

18 I. The school board and the Recovery School District shall have written
19 agreements with each charter school occupying a campus it controls, which shall
20 specify all of the following:

21 (1) The right for the school board or Recovery School District, as applicable,
22 to inspect and monitor the campus.

23 (2) The required facility services such as maintenance, upkeep, and facility
24 inspection requirements.

25 (3) Processes for addressing areas of required facilities services
26 noncompliance, including notice of noncompliance to the charter school, opportunity
27 for the charter school to remedy the noncompliance, and authority for the school
28 board or Recovery School District to address the noncompliance and charge the

1 charter school costs plus a fifteen percent service fee should the charter school fail
2 to remedy the noncompliance.

3 (4) Process and requirements for a charter school making improvements
4 outside of financing process provided for in Subsection E of this Section.

5 J. For purposes of this Section, the following terms shall have the meaning
6 ascribed:

7 (1) "Campus" means a school building owned by the school board and all
8 facilities otherwise part of the school, recognized as part of the facilities, and
9 typically available to the school, its students, and faculty and staff. A single campus
10 may include more than one neighboring school building. Generally, a single campus
11 includes all facilities sharing a single legal address. In some cases, more than one
12 school may occupy a single campus, and in other cases, a single school may occupy
13 more than one campus. A campus may be currently occupied or vacant, but if
14 vacant, shall have formerly been used for educating students and intended to be used
15 to educate students in the future.

16 (2) "Department" means the Louisiana Department of Education.

17 (3) "Emergency" means an event or unanticipated major system failure that
18 causes the need for one or more repairs or replacements that is urgent in nature and
19 necessary to resume normal school operations.

20 (4) "School" means any public school with a unique site code assigned by
21 the department.

22 (5) "School board" means the school board that governs a school district.

23 (6) "School district" means any local school district where schools have been
24 transferred to the Recovery School District, pursuant to R.S. 17:10.7.

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)]

Leger

HB No. 941

Abstract: Provides for the dedication of \$775 per pupil attending schools owned by the school board of certain school districts to various funds and purposes related to the preservation and improvement of school facilities.

Proposed law provides for the dedication of \$775 per pupil attending schools owned by the school board of certain school districts to various funds and purposes related to the preservation and improvement of school facilities. Proposed law applies to school districts where schools have been transferred to the Recovery School District (RSD), pursuant to specified present law.

Provides that such funds shall first be used for existing debt service until current debts are retired. Prohibits the school board from refinancing such debt.

Provides for the allocation and use of the funds derived from the \$775 per pupil calculation and remaining after such debt payments are made; such funds are referred to as "facility funds".

Requires the school board to transfer to the RSD a proportion of facility funds based on the proportion of students in school buildings it controls.

Requires both the school board and the RSD to do all of the following:

- (1) Create a facilities office. Proposed law specifies amounts of facility funds that shall be used to fund the facilities offices. Provides that the office is responsible for managing building leases and administering the programs established by proposed law. Authorizes the office to offer additional facilities services to charter schools and charge fees for such services pursuant to a written agreement.
- (2) Establish an emergency repair account. Proposed law specifies amounts of facility funds that shall be deposited into such account. Requires that money in the account be used to pay for emergency repairs, replacements, or contingency preparations up to a prescribed per incident maximum. Requires policies governing the expenditure of money in the account.
- (3) Establish a planned capital replacements account. Proposed law requires the deposit of all remaining facility funds received into this account. Money in this account is to be used for planned, large-scale, capital campus repairs or replacement to permanent facilities including preemptive replacement of major building components. Requires approval of each expenditure of money in this accounts by a two-thirds vote of the school board or BESE, as applicable.
- (4) Establish a facility capital improvement financing process. Proposed law provides that a charter school may be credited up to \$5,000 per pupil for making improvements to its campus. Provides conditions on receipt of such credits and provides relative to the amount of facility funds that is to be used for this purpose.

Proposed law requires the school board and the RSD to have written agreements with each charter school occupying a campus it controls, which agreements shall specify terms such as the right for the school board or RSD to inspect and monitor the campus; requirements for maintenance and inspection; procedures for addressing noncompliance with facilities requirements.

(Adds R.S. 17:100.11)