

An Analysis

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# MISSISSIPPI CHARTER SCHOOLS ACT OF 2013

*House Bill 369 will not improve public schools in Mississippi. It uses a failed school improvement strategy to improve academic achievement in students who characteristically underperform on standardized tests. Provisions in the bill will in effect privatize public education while slowly destroying a public educational system managed by duly elected boards. The adverse effects of HB 369 will create numerous equity and access problems resulting from charter schools prohibiting admission and reducing the quality of services for thousands of students.*

# ANALYSIS OF HOUSE BILL 369

## MISSISSIPPI CHARTER SCHOOLS ACT OF 2013

Representative John Moore's House Bill 369 entitled *Mississippi Charter Schools Act of 2013* is fundamentally flawed and will not improve student achievement for public school students in Mississippi. House Bill 369 (HB 369), at its core, has the same problem that Senate Bill 2189 has in using a failed school improvement strategy to improve academic achievement for underperforming students who attend charter schools. Numerous studies have shown that charter schools don't outperform public schools. Both of these bills follow the usual pattern of reforming public education utilizing the market model approach. While there are some charter schools in Mississippi following the original model which are managed by parents, teachers and community members whose bottom line is quality education for all children; HB 369 establishes charter schools that utilize the market model approach in which the school is run by self-appointed private boards comprised mostly of people from outside the community, with no parent or community participation. These market model charter boards operate like private entities doing business as a public school. They accept the least challenging students to educate children and establish admission requirements/conditions that prohibited admission of students with the greatest need. They generally do not accept special needs or ESL students. They run the schools like a business concerned about their financial bottom line with no regard for best educational practices. They increase their bottom line by paying low salaries to novice teachers, and limiting funds in classroom and student support services.

In following this pattern, both bills essentially depict the charter school model as the *panacea* for raising academic achievement levels at schools whose students historically perform poorly on state standardized tests. In reality, HB 369 and SB 2189 are not designed to improve public education. They are, however, designed to privatize public education. It should be noted that, while charter schools are run by non-profit corporations, they can hire for-profit management companies at high costs and operate schools with a higher than normal administrators who make high salaries.

In addition to using a failed strategy, HB 369 creates a new school district that does not report to the Mississippi Department of Education, which allows charter schools to operate in an unregulated environment that exempts them from numerous state policies; educational practices and policies, accountability standards, educational qualification for teachers and principals, as well as teacher and principal participation in state retirement systems. Needless to say, exempting charter schools from these important requirements guarantees that they will not improve student achievement. Such exemptions only serve to lower the cost of operating charter schools and increase their profits. Because of the exemption from the

standards and laws applied to traditional schools, this new charter school district will have lower educational standards and weaker financial and academic oversight allowing charter schools to fail for five years before they can be closed.

HB 369 prefaces its detailed description with the stated objectives of the legislation. Below, I have listed the objectives in the bill, and I have summarized why each objective is unattainable.

- A. To improve learning by creating high quality schools with high standards for student performance.

*The bill exempts charter schools from the educational requirements of the Mississippi Department of Education that would create high quality schools. Also, the market model for charter schools has no track record of perpetuating high quality learning with high standards for a large number of schools. There is no data in the bill that supports the fact that use of the charter model will create high quality schools with high standards for student performance. In fact, the bill makes no quantitative projections on how the increases will occur over time. The bill only replicates a model purporting to improve student achievement that has failed in other cities.*

- B. To close the achievement gap between high performing and low performing groups of public school students.

*There is no evidence of the charter school model closing the achievement gap on any large scale. In cities that use the charter schools, the achievement gap has closed in only a few schools. In those few schools, questions arose about the schools' admissions requirements and retention levels. The research from numerous sources does not show any distinct advantage of charter schools in closing the achievement gap.*

- C. To increase the high quality educational opportunities within the public education system for all students, especially those with a likelihood of academic failure.

*There is no clear, consistent evidence of charter schools increase high quality opportunities for all students. There are numerous reports and research that clearly indicate that charter schools have, in fact, excluded special needs students and students speaking a second language. Many charter schools accept the easiest to educate students. Presently, there are numerous complaints and court cases making these claims against charter schools' admission policies. Given the lack of or provisions for little oversight of charters in this bill, it is very probable that high quality educational opportunities for students attending charter schools in Mississippi will decrease rather than increase.*

- D. To create new professional opportunities for teachers, school administrators, and other personnel giving them a voice in the operation of their schools.

*There is no evidence within its language that the bill creates new opportunities for existing educators in Mississippi. The development of charter schools as described in the bill actually creates a new inexperienced workforce with no mandate to include them in the operation of the schools. The bill, like other market model reforms across the country, will likely employ low-cost novice teachers and untrained administrative personnel from outside of Mississippi. Quite to the contrary, these kinds of reforms replaced existing school personnel.*

- E. To introduce the use of different high quality models of teaching, governing, scheduling and other innovative techniques designed to address a variety of student needs.

*The 2009 CREDO study at Stanford University analyzed 70% of the students attending charters and compared the academic progress of those students with that of demographically matched students in nearby public schools. The report found that only 17% of charter schools reported academic gains that were significantly better than traditional public schools; 46% showed no difference from public schools; and **37% were significantly worse than their traditional public school counterparts.** I see no evidence or description in this bill of any high quality models of teaching, governing and scheduling that would counter the research by CREDO and other groups.*

- F. To allow public schools the freedom and flexibility in exchange for exceptional level of results- driven accountability.

*The bill gives autonomy to charter school operators, but gives little detail on how academic achievement will increase. HB 369 also exempts charter schools from the state requirements that enhance results-driven accountability. The bill suggests that the mere opening of charter schools, which operate free of local and/or state policy restrictions, will increase student achievement. Autonomy does not automatically create academic success; with limited or weak accountability measures for charter schools in place, the only healthy gains seem to be in the lucrative opportunities for the education industry.*

- G. To provide students, parents, community members and local entities with expanded opportunities for involvement in the public education system.

*A key component in the "original charter school model" was that positive changes could only occur if the charter school included a platform for parents, teachers, and students, as well as community, to be a part of the decision-making process of the school. In fact, many states only allow start-up funding if these conditions are agreed to in the charter school document. This bill does not provide for increased participation of students, parents or community in*

*the charter schools. HB 369 does not mandate parent or community participation on charter school boards. Additionally, neither parents nor students have a voice in the charter renewal or annual evaluation processes.*

H. Encourage replication of successful charter schools.

*The bill does not describe a process for the replication of successful charter schools. The market model approach to education creates an environment in which successful schools expand instead of replicate. Market model schools define success as increases in profit, not the sharing of any secrets of their success. They operate in a competitive mode, constantly trying to increase their market share.*

House Bill 369 and Senate Bill 2189 have similar flaws that spell disaster for the children of Mississippi. In the chart on the following pages, you will find a comparison of the major flaws in both bills with resolutions.

## FLAWS AND RESOLUTIONS IN SENATE BILL 2189 AND HOUSE BILL 369

| LINE #               | ISSUE   | FLAW   | RESOLUTION   |
|----------------------|---|--|--|
| SB – 96<br>HB – 274  | An eligible applicant for a charter school is described as an individual or a group | Because any individual can apply for a charter, public education can be turned into a personal toy or activity for a politically connected, wealthy individual.  | <b>Public education should be operated by a defined group of individuals including parents and members of the community. The defined group should be registered in the state as a non-profit corporation.</b>  |
| SB – 102<br>HB – 279 | Charter Schools can only be authorized by the state                                 | This is the first step toward losing local control. The state then controls schools in school districts, thus removing the local school board from the process. It is also the beginning of removing parents from the educational process and the creation of an unhealthy environment in which the state makes decisions concerning communities about which it knows nothing and in which it has no real vested interest. | <b>Allow local school boards to authorize charter schools, thereby permitting the local operation of schools under one plan for the community.</b>   |
| SB – 120<br>HB – 300 | Charter board composition and training  | <p>Bill does not define the composition of the charter school board.</p> <ul style="list-style-type: none"> <li>• No reference to include parents and community members.</li> <li>• Can be individuals from outside the state or even the country.</li> </ul> <p>The bill loosely defines board training around broad topics with no specific processes to adequately train novice charter board members.</p>              | <p><b>Charter boards should be:</b></p> <ul style="list-style-type: none"> <li>• a defined group that includes parents, community members, teachers, students, and education experts with,</li> <li>• a majority of its members from the school’s community and the state.</li> </ul> <p><b>Board training should be:</b></p> <ul style="list-style-type: none"> <li>• defined in detail,</li> <li>• presented within a training module that encompasses all the duties and responsibilities of a board member.</li> </ul> <p><b>MDE, the Mississippi School Boards Association, and the Mississippi Association of School Superintendents should develop and conduct this training.</b></p> |
| SB – 147<br>HB – 791 | Admission – use of lottery  | Does not include specific mention of students attending from the school’s attendance zone.   | <b>Charter schools should accept students from their attendance zone according to a specified percentage before starting a lottery.</b>  |

| LINE #                             | ISSUE   | FLAW   | RESOLUTION  |
|------------------------------------|---|--|---|
| SB – 150<br>HB – 794               | Charter school grade configuration              | No mention of the charter school assuming the same grade configuration as the conversion school. Changing the grade configuration allows the charter school to eliminate “undesirable” students.   | <b>Charter schools should offer the same grade configuration as the conversion school.</b>  |
| SB – 214<br>HB – 759               | Charter school enrollment minimum               | No mention of student retention. Without it charter schools will remove unwanted students after admission.   | <b>Charter schools should be held to fair annual retention standard (85%-90%).</b>  |
| SB – 235<br>HB – 817               | Student enrollment around specific school focus | There is no mention of prohibiting schools which violate federal and state policy relating to admitting special needs students or creating charter schools only for special needs students.  | <b>All enrollment policies and procedures should be within state and federal policy and a charter school mandate to enroll neighborhood students.</b>   |
| SB – 260<br>HB – 343<br><br>HB 340 | Charter school authorization                    | SB 2189 allows school districts with an "A" or "B" rating at the time of application, the Mississippi Public Charter School Authorizing Board may authorize public charter schools only if a majority of the members of the local school board votes at a public meeting to endorse the application. HB 369 allows school districts with a “A”, “B”, “C” rating to become charters. In both of these bills the best rated schools in the state can become charters. HB 369 is trying to charter all the public schools in Mississippi. HB 369 allows the state authorizer board to charter 15 schools per fiscal year. SB gives no limit on number of charters granted per year. | <b>Despite SB 2189 objectives to improve the academic performance of students in failing schools allows for an unlimited number of public schools to become charter schools regardless of their school ratings. HB 369 like SB 2189 schools can become charters despite their ratings. SB 2189 and HB 369 allow for conversions (public schools becoming charters). HB 369 allows charter schools to offer virtual classes. In that charter schools don’t guarantee that student achievement will improve, only public schools with a “D” or “F” rating should be allowed to become charters. Additionally there should be only one charter school allowed per congressional district with additional charter schools added if improvement is realized and there is a need.</b> |
| SB – 266<br>HB – 326               | Description of state chartering board           | Bill only describes a charter school board as an independent board with no language on to whom it reports (legislature, MDE).  | <b>Board should report to the legislature through a separate agency to insure adequate accountability.</b>  |
| SB – 321<br>HB – 469               | State charter board accepting gifts             | Accepting gifts creates an unhealthy environment ripe for corruption and unethical practices when schools contract for   | <b>Do not allow any charter authorizing board to accept gifts. This practice allows the state board to be influenced by the potential vendors from</b>  |

| LINE #               | ISSUE   | FLAW  | RESOLUTION   |
|----------------------|---|---|--|
|                      |   | the provision of goods and services from the education industry.  | the education industry.  |
| SB – 522<br>HB – 274 | Parents – Teachers                            | Bill does not require parent approval for chartering their child’s school. Schools can be chartered by the vote of local school board or state conservatory.                                | <b>The bill needs to include parents in all phases of the process. Parents are in essence the clients and taxpayers; exclusion from the charter process is not an option.</b>  |
| SB – 542<br>HB – 644 | Contracting an Education Provider             | Bill puts no cost cap on the cost of hiring an Education Provider.  | <b>Bill needs to place a cap on the cost of Education Provider goods and services that is consistent with the cost of such a vendor in public schools. Not regulating this cost opens up the opportunity for the Education Provider to overcharge, thus limiting funds in the classroom. Charter schools across the country have been victims of provider scams and have even brought legal action against such providers.</b> |
| SB – 616<br>HB – 22  | Charter license period                        | License period is five years.   | <b>Charter schools should have a three-year contract to insure quality; five years of an inadequately performing charter school could damage a generation of students.</b>   |
| SB – 656<br>HB – 655 | Conflict of Interests                         | Bill details ethics criteria with no mention of criteria matching that of local school boards.  | <b>Charter board members should have the same criteria and adhere to the same state ethics code.</b>   |
| SB – 759<br>HB – 882 | Oversight                                     | Bill has limited detail on oversight procedures (embedded assessment); additionally the plan makes no mention of parent and community complaints about the operation of the charter school. | <b>Bill needs to describe in detail its oversight procedures. Bill needs to have embedded assessment throughout the school year and not rely solely on the annual school report. It should also show how parent and community input would be addressed during the charter school operation.</b>  |
| SB – 792<br>HB – 912 | Renewal, revocations and non-renewals process | Process focuses solely on the evidence of charter school meeting its criteria, generally in a final report and examination of data by   | <b>Process should include input of parents and community. This process should be clearly defined with parental and community input</b>   |

| LINE #                 | ISSUE  | FLAW  | RESOLUTION  |
|------------------------|--|---|---|
|                        |  | the state charter authorizing board.  | being a key factor in the renewal, revocation and non-renewal of the charter.   |
| SB – 978<br>HB – 1064  | Charter school has LEA status  | Charter assumes LEA.  | Charters should report to local school boards, LEA status should be limited to duly elected/appointed boards as stated in state policy. Non-elected charter boards without any accountability to the community, defeats the democratic process.   |
| SB – 1055<br>HB – 1215 | Teacher and Administrator training                                   | Both bills allow charter schools to hire up to 25% of their teaching staff who are uncertified/untrained at the time the charter application is submitted. Additionally both bills state that within 3 years all charter school teachers must only achieve a minimal alternate certification. Additionally, there are no certification requirements for charter school administrators in either bill. | Charter schools should follow qualification requirements for employing teachers and administrators as defined by MDE. Hiring trained and certified personnel in schools follows best practices and research. Charter schools having hired untrained low-cost teachers performed academically lower than schools using trained and certified teachers. |
| SB – 1071<br>HB – 61   | Charter school employee participation in the state retirement system | Bill states that charter school employees are eligible to participate in state retirement system.   | Participation in retirement system should be mandatory for all charter school employees. <u>Non-participation jeopardizes the stability of the state retirement system for all state employees.</u>   |

One of the major problems with charter schools nationally is that they generally operate in an unregulated system with low standards and weak controls. In addition, many charter schools that don't meet their contract deliverables are allowed to remain open and provide poor learning environments for children. It is a contractor's dream not to be held accountable and still be paid despite subpar performance. House Bill 369 presents evidence of the policies giving rise to this culture which devalues the provision of a quality education for all Mississippi students.

***HB 369 policies create a great environment for charter school operators while providing sub-standard education for children.***

**HB369:**

- Removes performance-based accreditation as required by public schools from charter schools receiving state accreditation upon “approval” of charter.
- Exempts charter schools from participating in the state education department’s Health Education Programs.
- Exempts charter school employees from certain educational qualifications required of early childhood employees.
- Exempts charter schools from participating in health education programs provided by the state board of health and county health departments.
- Exempts charter school students from any screening for abnormal curvature, which may require in schools by the state board of education.
- Does not require charter schools to participate in the Alliance for Families Program.
- Exempts charter schools from reporting requirements relating to the type and amount of work performed at each grade level.
- States that requirements relating to the transportation of students and school buses are not applicable to charter schools.
- States that charter schools may contract with an accredited online course provider for the delivery of virtual courses to students enrolled in the charter school.

**HB 369** sets itself apart from SB 2189 in that it explicitly states its intention to start another public school system in Mississippi while slowly destroying public education managed by duly elected/appointed boards.

**HB 369** creates a system in which charter schools are exempt from practically all academic requirements and operational standards required in Mississippi Department of Education (MDE) policy. These charter schools will have a distinct advantage over public schools in that they will operate on different, watered down standards while lowering their overhead costs and increasing their (financial) bottom line.

**HB 369** should require charter schools to have certified teachers and administrators just as all other public schools are required to have. The hiring of trained and certified teachers and principals follows Best Practices cited in numerous studies.

**HB 369** places an unfair hardship on local school boards whose schools have been taken over by the state. These local school districts must not only restructure their budgets but also develop new education plans for their school districts. The schools in their district taken over by the state may also house educational programs that service all the students in the school district. This local school district now loses building capacity thus creating problems for the remaining students. It can also create overcrowding in other schools from parents who don't want their children in a charter school or a school that is not managed by a local board.

**HB 369** gives unquestionable autonomy to charter schools in the areas of admission, curriculum, fiscal control, and staffing and school focus. This bill states very clearly that the local school board and MDE have no authority over charter schools. However, local school boards and MDE are required to forward funds, per numbers of students enrolled, to charter schools. HB 369 creates an environment of taxation without representation throughout the state.

**HB 369** does not provide any academic projections on how long it should take for charter schools to turn failing schools to "A" or "B" rated schools. It also allows "A", "B" and "C" rated schools to become a charter school, thus allowing an unlimited number of public schools to become charters even if they are doing well as traditional public schools. HB 369 should live up to its mission to improve student achievement of students in failing schools and only a limited number of "D" or "F" rated schools should be allowed to become charters.

**HB 369** promotes failure and mediocre performance by allowing failing charter schools to remain open for five years before closing them. Five years allow a charter school to do a disservice to a generation of children. The charters should be given shorter contracts with semi-annual evaluations (embedded assessments) that could result in immediate closure if the school is failing or not meeting the deliverables in its contract.

**HB 369** creates charter schools that are undemocratic and not accountable to the public. Charter schools are run by private, self-appointed boards. They do not report to the duly elected/appointed local school board or the Mississippi Department of Education. This bill removes the "public" from the public education process and essentially gives public dollars to private boards that operate with no accountability to the taxpayer. This loss of local control means that if a parent has a problem with a charter school and can't get any relief with the charter board, the parent must now go to Jackson, MS (which can be hundreds of miles from the school) to appeal to an appointed state board who will not meet regularly or at a time that is convenient for parents. Additionally, it is highly unlikely that the state authorizing board will have any understanding of the parent's problem or the issues in the local school district. Parents can anticipate being told, *"You are here by choice in this school. You are welcome to leave."*

**HB 369** creates charter schools that will take millions of dollars from local school board budgets, which will result in massive cuts for local public schools (teacher layoffs, elimination of educational programs as well as cuts in classroom funding). Local school districts are presently operating on tight budgets to educate the children in their districts;

losing operating funds for just one school can financially ruin a local school district. The financial loss can cause some districts to file for bankruptcy or close because they will be unable to educate the remaining students.

**HB 369** language provides for minimal financial oversight of charter schools and doesn't cap administrative costs. Not having a cap on administrative costs means that charter schools can pay administrators unheard of salaries. In the New Orleans charter school system, some principals and other administrators make \$300,000 plus annually while hiring low cost novice teachers and putting less funds into classrooms or student services.

**HB 369** makes no mention of charter schools returning funds to the local school district and the state when a student leaves the charter school and returns to local school district.

**HB 369** places an unfair hardship on local school boards whose schools have been taken over by the state. These local school districts must not only restructure their budgets but also develop new education plans for their school districts. The schools that are being taken over by the state may also house education programs that service all the students in the school district. This local school district now loses building capacity, thus creating problems for the remaining students. It can also create overcrowding in other schools from parents who don't want their children in a charter school or a school that is not managed by a local board.

The adverse effects of Senate Bill 2189 will also create numerous equity and access problems with charter schools prohibiting admission and quality of services for thousands of students. These adverse effects are far-reaching and not limited to public education. The long-range effect of thousands of employees not participating in the state retirement system and health system affects every existing and retired employee from the state of Mississippi.

***Passage of HB 369 or SB 2189 is the beginning of the end for public education in Mississippi.***