

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 2198

STATE OF NEW JERSEY

Sponsored by Senators RUIZ and CUNNINGHAM

AN ACT concerning the authorization of charter schools, amending P.L.2000, c.142, and amending and supplementing P.L.1995, c.426.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. (New section) As used in this act, “charter school authorizer” means an entity charged with granting, renewing, and revoking charters for charter schools established pursuant to the provisions of P.L.1995, c.426 (C.18A:36A-1 et seq.). A charter school authorizer is also responsible for the ongoing monitoring of the charter schools that it has authorized.
2. (New section) a. The commissioner shall establish an application process for the designation of a four-year public institution of higher education as a charter school authorizer. The governing board of each four-year public institution of higher education shall be eligible to apply for designation as a charter school authorizer. Until the commissioner designates one or more institutions of higher education as a charter school authorizer, the commissioner shall continue to serve as the sole charter school authorizer in the State.

The application process shall require each applicant institution of higher education to submit to the commissioner an application that includes, but is not limited to, the following elements:

 - (1) the applicant’s strategic vision for chartering;
 - (2) a plan to support the vision presented, including explanation and evidence of the applicant’s budget and personnel capacity and commitment to execute the responsibilities of quality charter authorizing;
 - (3) a description of the processes the applicant will use in its role as a charter school authorizer including a description of the

application process, contracting process, ongoing oversight and evaluation processes, and renewal and revocation processes;

(4) a statement of assurance that the applicant seeks to serve as a charter school authorizer in fulfillment of the expectations, spirit, and intent of the "Charter School Program Act of 1995," P.L.1995, c. 426, (C.18A:36A-1 et seq.), and that if approved as a charter school authorizer, the applicant will fully participate in any authorizer training provided or required by the State; and

(5) a statement of assurance that the applicant will ensure public accountability and transparency in all matters concerning its charter authorizing practices, decisions, and expenditures.

b. The commissioner shall designate one or more applicants to serve as charter school authorizers.

c. After the commissioner has designated one or more charter school authorizers pursuant to subsection b. of this section, the commissioner may determine, at such time as he deems appropriate, to cease performing any of the functions of a charter school authorizer. If the commissioner determines to cease oversight of a charter school which was granted a charter by the commissioner, then the commissioner may transfer oversight of that charter school to a charter school authorizer designated pursuant to subsection b. of this section.

3. (New section) The commissioner shall establish the responsibilities of charter school authorizers, which shall include, but need not be limited to:

a. ensuring the availability of the resources necessary for conducting its authorizing duties effectively and efficiently;

b. implementing a comprehensive application process that grants charters only to those applicants who demonstrate strong capacity for establishing and operating high-quality charter schools;

c. negotiating performance contracts with charter schools that clearly articulate the rights and responsibilities of each party regarding school autonomy, expected student outcomes, measures for evaluating success or failure, and performance consequences;

d. conducting oversight of charter schools that evaluates performance, monitors compliance, informs intervention and charter renewal decisions, and ensures autonomy;

e. designing and implementing a transparent and rigorous process that uses comprehensive data to make merit-based renewal decisions; and

f. reporting to the commissioner on any data or information which he may request.

4. (New section) A charter school authorizer shall annually submit to the commissioner and to the Legislature a report summarizing:

- a. the academic and financial performance of all operating charter schools overseen by the authorizer;
- b. the status of the authorizer's charter school portfolio, identifying all charters that have been granted, renewed, transferred, or revoked, and all applications that have been denied or which are pending; and
- c. its operating costs and expenses detailed in annual audited financial statements that conform with Generally Accepted Accounting Principles.

5. (New section) a. The commissioner shall be responsible for the ongoing oversight of each charter school authorizer that he designates.

b. The commissioner may, at any time, take corrective action against an authorizer, including terminating an authorizer's designation as an authorizer for:

(1) failure to fulfill the responsibilities established pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill); or

(2) unsatisfactory performance as an authorizer.

6. (New section) a. An employee or agent of a charter school authorizer that participates in the review or approval of charter school applications cannot provide substantive assistance in the development of charter school applications submitted to that authorizer.

b. An employee or agent of a charter school authorizer that participates in the review, approval, oversight, evaluation, or charter renewal process of charter schools shall be ineligible to serve on the board of trustees of any school chartered by that authorizer.

7. (New section) No school district or charter school shall be required to expend any State aid appropriation or general fund tax levy to support any charter school authorizer.

8. Section 3 of P.L.1995, c.426 (C.18A:36A-3) is amended to read as follows:

3. a. The Commissioner of Education shall establish a charter school program which shall provide for the approval and granting of charters to charter schools pursuant to the provisions of this act. A charter school shall be a public school operated under a charter granted by the commissioner a charter school authorizer, which is operated independently of a local board of education and is managed by a board of trustees. The board of trustees, upon receiving a charter from the commissioner charter school authorizer, shall be deemed to be public agents authorized by the

State Board of Education to supervise and control the charter school.

b. The program shall authorize the establishment of not more than 135 charter schools during the 48 months following the effective date of this act. A minimum of three charter schools shall be allocated to each county. The commissioner shall actively encourage the establishment of charter schools in urban school districts with the participation of institutions of higher education. (cf: P.L.1995, c.426, s.3)

9. Section 4 of P.L.1995, c.426 (C.18A:36A-4) is amended to read as follows:

4. a. A charter school may be established by teaching staff members, parents with children attending the schools of the district, community residents, or a combination of teaching staff members ~~and~~ parents and community residents. A charter school may also be established by an institution of higher education or a private entity that is either for-profit or not-for-profit located within the State in conjunction with teaching staff members and parents of children attending the schools of the district. If the charter school is established by a private entity, representatives of the private entity shall not constitute a majority of the trustees of the school, and the charter shall specify the extent to which the private entity shall be involved in the operation of the school. The name of the charter school shall not include the name or identification of the private entity, and the private entity shall not realize a net profit from its operation of a charter school. A private or parochial school shall not be eligible for charter school status.

b. A currently existing public school is eligible to become a charter school if the following criteria are met:

(1) At least 51% of the teaching staff in the school shall have signed a petition in support of the school becoming a charter school; and

(2) At least 51% of the parents or guardians of pupils attending that public school shall have signed a petition in support of the school becoming a charter school.

c. An application to establish a charter school ~~shall~~ may be submitted at any time during the school year to ~~the commissioner~~ a charter school authorizer and the local board of education or State district superintendent, in the case of a ~~State-operated school district, in the school year preceding the school year in which the charter school will be established~~ school district under full State intervention. Notice of the filing of the application shall be ~~sent~~ posted immediately on the charter school authorizer's website and sent by the ~~commissioner~~ charter school authorizer to the members of the State Legislature, school superintendents, and

mayors and governing bodies of all legislative districts, school districts, or municipalities in which there are students who will be eligible for enrollment in the charter school and to the commissioner if he is not the recipient of the application. The board of education or State district superintendent shall review the application and forward a recommendation to the [commissioner] charter school authorizer within 60 days of receipt of the application. The [commissioner] charter school authorizer shall have final authority to grant or reject a charter application and shall make a decision on an application within 150 days of receipt of the application.

A charter school authorizer shall not grant a charter to an applicant who has been denied a charter by another authorizer within one year of the date of the denial.

d. The local board of education or a charter school applicant may appeal the decision of the [commissioner] charter school authorizer to the [State Board of Education] commissioner, except that, in the case of a charter school application submitted to the commissioner, the local board of education or a charter school applicant may appeal the decision of the commissioner to the State Board of Education. [The State board shall render a] A decision on the appeal shall be rendered within 30 days of the date of the receipt of the appeal. [If the State board does not render a decision within 30 days, the decision of the commissioner shall be deemed final.]

e. A charter school established during the 48 months following the effective date of this act, other than a currently existing public school which becomes a charter school pursuant to the provisions of subsection b. of section 4 of this act, shall not have an enrollment in excess of 500 students or greater than 25% of the student body of the school district in which the charter school is established, whichever is less.

Any two charter schools within the same public school district that are not operating the same grade levels may petition [the commissioner] their charter school authorizers to amend their charters and consolidate into one school. The [commissioner] charter school authorizers may approve an amendment to consolidate, provided that the basis for consolidation is to accommodate the transfer of students who would otherwise be subject to the random selection process pursuant to section 8 of P.L.1995, c.426 (C.18A:36A-8).
(cf. P.L.2002, c.123, s.1)

10. Section 5 of P.L.1995, c.426 (C.18A:36A-5) is amended to read as follows:

5. A charter school applicant shall pay a nonrefundable application fee to the charter school authorizer upon submission of

the application. The application fee shall be established by the State Board of Education in an amount not to exceed \$500 per application.

The application for a charter school shall include the following information:

- a. The identification of the charter applicant;
- b. The name of the proposed charter school;
- c. The proposed governance structure of the charter school including a list of the proposed members of the board of trustees of the charter school or a description of the qualifications and method for the appointment or election of members of the board of trustees;
- d. The educational goals of the charter school, the curriculum to be offered, and the methods of assessing whether students are meeting educational goals. Charter school students shall be required to meet the same testing and academic performance standards as established by law and regulation for public school students. Charter school students shall also meet any additional assessment indicators which are included within the charter approved by the **【commissioner】** charter school authorizer;
- e. The admission policy and criteria for evaluating the admission of students which shall comply with the requirements of section 8 of this act;
- f. The age or grade range of students to be enrolled;
- g. The school calendar and school day schedule;
- h. A description of the charter school staff responsibilities and the proposed qualifications of teaching staff;
- i. A description of the procedures to be implemented to ensure significant parental involvement in the operation of the school;
- j. A description of, and address for, the physical facility in which the charter school will be located;
- k. Information on the manner in which community groups will be involved in the charter school planning process;
- l. The financial plan for the charter school and the provisions which will be made for auditing the school pursuant to the provisions of N.J.S.18A:23-1;
- m. A description of and justification for any waivers of regulations which the charter school will request; and
- n. Such other information as the **【commissioner】** charter school authorizer may require.
(cf: P.L.1995, c.426, s.5)

11. Section 7 of P.L.1995, c.426 (C.18A:36A-7) is amended to read as follows:

7. A charter school shall be open to all students on a space available basis and shall not discriminate in its admission policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a **【handicapped】** person with a

disability, proficiency in the English language, or any other basis that would be illegal if used by a school district; however, a charter school may limit admission to a particular grade level, gender, or to areas of concentration of the school, such as mathematics, science, or the arts. A charter school may establish reasonable criteria to evaluate prospective students which shall be outlined in the school's charter.

The Commissioner of Education shall actively encourage the establishment of charter schools that: focus on scientifically-based inclusive practices that advance the academic, behavioral, and social skills of diverse learners in all classrooms, including students with Individualized Education Programs in classrooms with typically developing peers; provide opportunities and specialized programs and settings for children with more profound needs; and assist in the return of students from out-of-district segregated placements into public school settings.

(cf: P.L.1995, c.426, s.7)

12. Section 8 of P.L.1995, c.426 (C.18A:36A-8) is amended to read as follows:

8. a. Preference for enrollment in a charter school shall be given to students who reside in the school district in which the charter school is located. If there are more applications to enroll in the charter school than there are spaces available, the charter school shall select students to attend using a random selection process. A charter school shall not charge tuition to students who reside in the district.
 - b. A charter school shall allow any student who was enrolled in the school in the immediately preceding school year to enroll in the charter school in the appropriate grade unless the appropriate grade is not offered at the charter school.
 - c. A charter school may give enrollment priority to a sibling of a student enrolled in the charter school.
 - d. If available space permits, a charter school may enroll non-resident students. The terms and condition of the enrollment shall be outlined in the school's charter and approved by the ~~Commissioner~~ charter school authorizer.
 - e. The admission policy of the charter school shall, to the maximum extent practicable, seek the enrollment of a cross section of the community's school age population including racial and academic factors.
- (cf: P.L.1995, c.426, s.8)

13. Section 9 of P.L.1995, c.426 (C.18A:36A-9) is amended to read as follows:

9. A student may withdraw from a charter school at any time. A student may be expelled from a charter school based on criteria

determined by the board of trustees, which are consistent with the provisions of N.J.S.18A:37-2, and approved by the [commissioner] charter school authorizer as part of the school's charter. Any expulsion shall be made upon the recommendation of the charter school principal, in consultation with the student's teachers. (cf: P.L.1995, c.426, s.9)

14. Section 11 of P.L.1995, c.426 (C.18A:36A-11) is amended to read as follows:

11. a. A charter school shall operate in accordance with its charter and the provisions of law and regulation which govern other public schools; except that, upon the request of the board of trustees of a charter school, the commissioner may exempt the school from State regulations concerning public schools, except those pertaining to assessment, testing, civil rights and student health and safety, if the board of trustees satisfactorily demonstrates to the commissioner that the exemption will advance the educational goals and objectives of the school.

b. A charter school shall comply with the provisions of chapter 46 of Title 18A of the New Jersey Statutes concerning the provision of services to [handicapped] students with a disability ; except that the fiscal responsibility for any student currently enrolled in or determined to require a private day or residential school shall remain with the district of residence.

Within 15 days of the signing of the [individualized education plan] Individualized Education Program, a charter school shall provide notice to the resident district of any [individualized education plan] Individualized Education Program which results in a private day or residential placement. The resident district may challenge the placement within 30 days in accordance with the procedures established by law.

c. A charter school shall comply with applicable State and federal anti-discrimination statutes.

d. A charter school shall comply with all requests for information or data made by the commissioner. (cf: P.L.2007, c.260, s.57)

15. Section 16 of P.L.1995, c.426 (C.18A:36A-16) is amended to read as follows:

16. a. The [commissioner] charter school authorizer shall annually assess whether each charter school under its authority is meeting the goals of its charter, and shall conduct a comprehensive review prior to granting a renewal of the charter.

The executive county superintendent of schools of the county in which the charter school is located shall have on-going access to the records and facilities of the charter school to ensure that the charter

school is in compliance with its charter and that State board regulations concerning assessment, testing, civil rights, and student health and safety are being met.

b. In order to facilitate the **Commissioner's** review required pursuant to subsection a. of this section, each charter school shall submit an annual report to the local board of education, the executive county superintendent of schools, and **the commissioner** its charter school authorizer in the form prescribed by the commissioner. The report shall be received annually by the local board, the executive county superintendent, and the **Commissioner** charter school authorizer no later than August 1.

The report shall also be made available to the parent or guardian of a student enrolled in the charter school.

c. By April 1, 2001, the commissioner shall hold public hearings in the north, central, and southern regions of the State to receive input from members of the educational community and the public on the charter school program.

d. The commissioner shall commission an independent study of the charter school program. The study shall be conducted by an individual or entity identified with expertise in the field of education and the selection shall be approved by the Joint Committee on the Public Schools. The individual or entity shall design a comprehensive study of the charter school program.

e. The commissioner shall submit to the Governor, the Legislature, and the State Board of Education by October 1, 2001 an evaluation of the charter school program based upon the public input required pursuant to subsection c. of this section and the independent study required pursuant to subsection d. of this section. The evaluation shall include, but not be limited to, consideration of the following elements:

(1) the impact of the charter school program on resident districts' students, staff, parents, educational programs, and finances;

(2) the impact of the charter school program and the increased number of schools on the economics of educational services on a Statewide basis;

(3) the fairness and the impact of the reduction of available resources on the ability of resident districts to promote competitive educational offerings;

(4) the impact of the shift of pupils from nonpublic schools to charter schools;

(5) the comparative demographics of student enrollments in school districts of residence and the charter schools located within those districts. The comparison shall include, but not be limited to, race, gender, socioeconomic status, enrollment of special education students, enrollment of students of limited English proficiency, and student progress toward meeting the core curriculum content

standards as measured by student results on Statewide assessment tests;

(6) the degree of involvement of private entities in the operation and financial support of charter schools, and their participation as members of charter school boards of trustees;

(7) verification of the compliance of charter schools with applicable laws and regulations;

(8) student progress toward meeting the goals of the charter schools;

(9) parent, community and student satisfaction with charter schools;

(10) the extent to which waiting lists exist for admission to charter schools and the length of those lists;

(11) the extent of any attrition among student and faculty members in charter schools; and

(12) the results of the independent study required pursuant to subsection d. of this section.

The evaluation shall include a recommendation on the advisability of the continuation, modification, expansion, or termination of the program. If the evaluation does not recommend termination, then it shall include recommendations for changes in the structure of the program which the commissioner deems advisable. The commissioner may not implement any recommended expansion, modification, or termination of the program until the Legislature acts on that recommendation.

(cf: P.L.2000, c.142, s.3)

16. Section 17 of P.L.1995, c.426 (C.18A:36A-17) is amended to read as follows:

17. A charter granted by ~~the commissioner~~ a charter school authorizer pursuant to the provisions of this act shall be granted for a four-year period and may be renewed for a five-year period. The ~~commissioner~~ charter school authorizer may revoke a school's charter if the school has not fulfilled any condition imposed by the ~~commissioner~~ charter school authorizer in connection with the granting of the charter or if the school has violated any provision of its charter. The ~~commissioner~~ charter school authorizer may place the charter school on probationary status to allow the implementation of a remedial plan after which, if the plan is unsuccessful, the charter may be summarily revoked. The ~~commissioner~~ charter school authorizer shall develop procedures and guidelines for the revocation and renewal of a school's charter.

(cf: P.L.1995, c.426, s.17)

17. Section 4 of P.L.2000, c.142 (C.18A:36A-17.1) is amended to read as follows:

4. a. If at any time the 【commissioner】 charter school authorizer determines that a board of trustees is in jeopardy of losing its charter or an applicant is in jeopardy of not being granted a charter, the 【commissioner】 charter school authorizer shall so notify the board of trustees or the applicant. The board of trustees or the applicant shall, within 48 hours of receipt of such notification, provide to the 【commissioner】 charter school authorizer, in writing, a complete list of the names and addresses of all students and staff currently enrolled and working in the school, or in the case of an applicant, a complete list of the names and addresses of all students and staff intending to enroll or work at the school, so the 【commissioner】 charter school authorizer may send the appropriate notice to the parents or guardians and staff.

b. In the event that a charter school authorizer other than the commissioner takes any action pursuant to subsection a. of this section, the charter school authorizer shall notify the commissioner of such action.

(cf: P.L.2000, c.142, s.4)

18. This act shall take effect on the 180th day after the date of enactment.

Provides for designation of new charter school authorizers.