

# ASSEMBLY, No. 4167

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JUNE 23, 2011

**Sponsored by:**

**Assemblyman JAY WEBBER**  
**District 26 (Morris and Passaic)**

**SYNOPSIS**

Provides for the designation of new charter school authorizers and additional modifications of the charter school program.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning charter schools and amending P.L.2000, c.142  
2 and amending and supplementing P.L.1995, c.426.

3

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

6

7 1. (New section) As used in P.L.1995, c.426 (C.18A:36A-1 et  
8 seq.):

9 “Approved operator” means an entity that has met criteria  
10 established by the commissioner that demonstrate a high-level of  
11 student achievement. Designation as an approved operator may be  
12 made by the commissioner upon application by the entity. An  
13 approved operator may enter into contracts to provide goods and  
14 services to charter schools under the provisions of P.L.1995, c.426  
15 (C.18A:36A-1 et seq.).

16 “Charter school authorizer” means an entity, including the  
17 Commissioner of Education, charged with reviewing charter  
18 applications, granting, renewing, and revoking charters for charter  
19 schools established pursuant to the provisions of P.L.1995, c.426  
20 (C.18A:36A-1 et seq.), and entering into contracts with those  
21 granted charters. A charter school authorizer shall be responsible  
22 for the ongoing monitoring and oversight of the charter schools it  
23 has authorized.

24 “Designated enrollment region” means the district or  
25 combination of districts designated in the charter school  
26 application.

27 “District of residence” means the school district in which a  
28 charter school student resides and is eligible to attend the schools.

29 “Eligible authorizer applicant” includes a public institution of  
30 higher education in New Jersey or a local board of education in  
31 New Jersey.

32 “High performing charter school” means a charter school that  
33 has met criteria established by the commissioner that demonstrate a  
34 high-level of student achievement. Designation as a high  
35 performing charter school may be made by the commissioner.

36

37 2. (New section) a. The commissioner shall establish an  
38 application process for the designation of an eligible authorizer  
39 applicant as a charter school authorizer. The governing board of  
40 each eligible authorizer applicant shall be eligible to apply for  
41 designation as a charter school authorizer.

42 The application process shall require each eligible authorizer  
43 applicant to submit to the commissioner an application that  
44 includes, but is not limited to, the following elements:

45 (1) the applicant’s strategic vision for chartering;

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 (2) a plan to support the vision presented, including an  
2 explanation and evidence of the applicant's budget and personnel  
3 capacity and commitment to execute the responsibilities of quality  
4 charter authorizing;

5 (3) a description of the processes the applicant will use in  
6 conformance with applicable law in its role as a charter school  
7 authorizer, including a description of the application process,  
8 contracting process, ongoing oversight and evaluation processes,  
9 and renewal and revocation;

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

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

18 b. The commissioner may designate one or more eligible  
19 authorizer applicants to serve as charter school authorizers.

20 c. The commissioner shall execute an authorizing contract with  
21 each approved charter school authorizer. The authorizing contract  
22 shall specify each approved entity's agreement to serve as a charter  
23 school authorizer and shall specify additional performance terms  
24 based on the applicant's proposal and plan for charter authorizing.  
25 No approved charter school authorizer shall commence charter  
26 authorizing without an authorizing contract in effect.

27  
28 3. (New section) The commissioner shall establish the  
29 responsibilities of charter school authorizers, which shall include,  
30 but need not be limited to:

31 a. soliciting charter school applications;

32 b. evaluating charter school applications that are received by the  
33 charter school authorizer;

34 c. denying or approving charter school applications that are  
35 received by the charter school authorizer, and only within the  
36 geographic limits of the local school district when the local board of  
37 education is the charter school authorizer;

38 d. negotiating and executing performance contracts with  
39 approved charter schools that clearly articulate the rights and  
40 responsibilities of each party regarding school autonomy and any  
41 exemptions granted pursuant to section 11 of P.L.1995, c.426  
42 (C.18A:36A-11), expected student outcomes, measures for  
43 evaluating success or failure, and performance consequences;

44 e. conducting oversight of charter schools that evaluates  
45 performance, monitors compliance, informs intervention and charter  
46 renewal and revocation decisions, and ensures autonomy;

1 f. designing and implementing a transparent and rigorous process  
2 that uses comprehensive data to make merit-based renewal and  
3 revocation decisions; and

4 g. reporting to the commissioner on any data or information  
5 which he may request.

6  
7 4. (New section) A charter school authorizer shall annually  
8 submit to the commissioner and to the Legislature, pursuant to  
9 section 2 of P.L.1991, c.164 (C.52:14-19.1), a report summarizing:

10 a. the academic and financial performance of all operating  
11 charter schools overseen by the authorizer;

12 b. the status of the authorizer's charter school portfolio,  
13 identifying all charters that have been granted, renewed, transferred,  
14 or revoked, and all applications that have been denied or which are  
15 pending; and

16 c. its costs and expenses relating to its function as an authorizer  
17 detailed in annual audited financial statements that conform with  
18 generally accepted accounting principles.

19  
20 5. (New section) a. The commissioner shall be responsible for  
21 the ongoing oversight of the performance and effectiveness of each  
22 charter school authorizer that he designates and shall have the  
23 authority to:

24 (1) revoke a charter granted by an authorizer; and

25 (2) review and amend charter school performance contracts  
26 entered into by an authorizer.

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

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

33 (2) persistently unsatisfactory performance of a charter school  
34 authorizer's portfolio of charter schools;

35 (3) failure to comply with the authorizing contract or a charter  
36 school performance contract;

37 (4) unsatisfactory performance as an authorizer; or

38 (5) other good cause as determined by the commissioner.

39 c. If the commissioner terminates an authorizer's designation as  
40 an authorizer pursuant to subsection b. of this section, a charter  
41 school formerly under the oversight of the terminated authorizer  
42 shall be overseen by a different authorizer, subject to a mutual  
43 agreement between the charter school and that replacement  
44 authorizer. In the absence of an agreement the charter school shall  
45 be overseen by the commissioner.

46  
47 6. (New section) a. An employee or agent of a charter school  
48 authorizer who participates in the review or approval of charter

1 school applications shall not provide substantive assistance in the  
2 development of charter school applications submitted to that  
3 authorizer.

4 b. An employee or agent or member of the board of a charter  
5 school authorizer who participates in the review, approval,  
6 oversight, evaluation, or charter renewal process of charter schools  
7 shall be ineligible to serve as an employee, agent, or member of the  
8 board of trustees of any school granted a charter by that authorizer.

9  
10 7. (New section) The commissioner shall be the charter school  
11 authorizer for charter schools and charter school applicants that:

12 a. limit admission to a particular gender;

13 b. focus on providing opportunities and specialized programs  
14 and settings for children with individualized education programs, or  
15 seek to advance the academic, behavioral, and social skills of  
16 diverse learners; and

17 c. focus on on-line learning as the primary component of its  
18 educational model.

19

20 8. Section 2 of P.L.1995, c.426 (C.18A:36A-2) is amended to  
21 read as follows:

22 2. The Legislature finds and declares that the establishment of  
23 charter schools as part of this State's program of public education  
24 can assist in promoting comprehensive educational reform by  
25 providing a mechanism for the implementation of a variety of  
26 educational approaches which may not be available in the  
27 traditional public school classroom. Specifically, charter schools  
28 offer the potential to improve pupil learning; increase for students  
29 and parents the educational choices available when selecting the  
30 learning environment which they feel may be the most appropriate;  
31 encourage the use of different and innovative learning methods;  
32 establish a new form of accountability for schools; require the  
33 measurement of learning outcomes; make the school the unit for  
34 educational improvement; and establish new professional  
35 opportunities for teachers.

36 The Legislature further finds that charter schools should be  
37 afforded the utmost flexibility to ensure their greatest impact on  
38 improving education. This flexibility will allow for greater  
39 innovation and choice that are sought by both parents and students.  
40 Charter schools should be permitted to operate specialized schools  
41 with a focus on special education. This would benefit students  
42 receiving special education services as well as other students  
43 through the sharing of best practices. By allowing flexibility with  
44 teacher certification, charter schools will be able to more easily  
45 recruit the talent they seek. This flexibility will facilitate the  
46 operations of the charter school, and ultimately improve the  
47 education of all New Jersey students.

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1 The Legislature further finds that the establishment of a charter  
2 school program is in the best interests of the students of this State  
3 and it is therefore the public policy of the State to encourage and  
4 facilitate the development of charter schools.

5 (cf: P.L.1995, c.426, s.2)

6

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

9 3. a. The Commissioner of Education shall establish a charter  
10 school program which shall provide for the approval and granting of  
11 charters to charter schools pursuant to the provisions of this act. A  
12 charter school shall be a public school operated under a charter  
13 granted by ~~the commissioner, which is operated independently of a~~  
14 ~~local board of education and is managed by a board of trustees~~ a  
15 charter school authorizer. The board of trustees, upon receiving a  
16 charter from the ~~commissioner~~ charter school authorizer, shall be  
17 deemed to be public agents authorized by the State Board of  
18 Education to supervise and control the charter school.

19 b. The program shall authorize the establishment of not more  
20 than 135 charter schools during the 48 months following the  
21 effective date of this act. A minimum of three charter schools shall  
22 be allocated to each county. The commissioner shall actively  
23 encourage the establishment of charter schools in urban school  
24 districts with the participation of institutions of higher education.

25 (cf: P.L.1995, c.426, s.3)

26

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

29 4. a. A charter school may be established by:

30 (1) teaching staff members, parents with children attending the  
31 schools of the district, or a combination of teaching staff members  
32 and parents. A charter school may also be established by an  
33 institution of higher education or a private entity located within the  
34 State in conjunction with teaching staff members and parents of  
35 children attending the schools of the district who either reside or  
36 are employed in the State;

37 (2) community residents who reside in the State;

38 (3) a public institution of higher education, except that a charter  
39 school authorizer which is an institution of higher education shall  
40 be prohibited from reviewing and approving a charter application  
41 submitted by that same institution of higher education;

42 (4) a private entity that is either for-profit or not-for-profit;

43 (5) a charter school that is currently operating in the State; or

44 (6) a combination of any of the above.

45 If the charter school is established by a private entity,  
46 representatives of the private entity shall not constitute a majority  
47 of the trustees of the school, and the charter shall specify the extent

1 to which the private entity shall be involved in the operation of the  
2 school. [The name of the charter school shall not include the name  
3 or identification of the private entity, and the private entity shall not  
4 realize a net profit from its operation of a charter school. A private  
5 or parochial school shall not be eligible for charter school status.]

6 b. (1) A currently existing public school is eligible to become a  
7 charter school if one of the following criteria are met:

8 (a) [At least 51% of the teaching staff in the school shall have  
9 signed a petition in support of the school becoming a charter  
10 school; and] The local board of education or State district  
11 superintendent authorizes the conversion of the school to a charter  
12 school and designates an authorizer. The authorizer shall designate  
13 a founder for the charter school from the list of approved operators.  
14 The designation of the founder shall be subject to a veto by the  
15 local board of education. Charter schools originating under this  
16 process shall not be required to apply to or be approved by a charter  
17 school authorizer, and shall be monitored by the commissioner; or

18 (b) At least 51% of the parents or guardians of pupils attending  
19 that public school [shall have signed] sign a petition in support of  
20 the school becoming a charter school. The petition shall designate a  
21 founder or founders. Charter schools originating under this process  
22 shall be required to apply to and be approved by a charter school  
23 authorizer; or

24 (c) The commissioner determines to convert a failing public  
25 school to a charter school.

26 (2) The governing body of a nonpublic school shall be eligible  
27 to submit an application to a charter school authorizer to convert the  
28 school to a charter school if the following criteria are met:

29 (a) The application certifies that upon conversion to charter  
30 school status the school shall prohibit religious instruction, events  
31 and activities that promote religious views, and the display of  
32 religious symbols; and

33 (b) The name of the proposed charter school shall not include  
34 any religious reference.

35 c. (1) An application to establish a charter school [shall] may  
36 be submitted at any time during the school year to [the  
37 commissioner and the local board of education or State  
38 superintendent, in the case of a State-operated school district, in the  
39 school year preceding the school year in which the charter school  
40 will be established] a charter school authorizer. Notice of the filing  
41 of the application shall be [sent immediately by the commissioner  
42 to the members of the State Legislature, school superintendents, and  
43 mayors and governing bodies of all legislative districts, school  
44 districts, or municipalities in which there are students who will be  
45 eligible for enrollment in the charter school. The board of education  
46 or State superintendent shall review the application and forward a  
47 recommendation to the commissioner within 60 days of receipt of

1 the application] immediately posted on a public website that is  
2 maintained by the charter school authorizer and notice, either  
3 through the mail or electronically, shall be provided by the charter  
4 school authorizer to the school district superintendents and boards  
5 of education of districts in which there are students who will be  
6 eligible for enrollment in the charter school. The [commissioner]  
7 charter school authorizer shall have final authority to grant or reject  
8 a charter application and shall make a decision on an application  
9 within 150 days of receipt of the application. The charter school  
10 authorizer shall provide notice, either through the mail or  
11 electronically, of its final decision on an application to the school  
12 district superintendents and boards of education of districts in  
13 which there are students who will be eligible for enrollment in the  
14 charter school.

15 (2) A charter school authorizer shall not approve a charter  
16 school application that has been denied by another authorizer within  
17 six months of the date of the denial.

18 (3) A charter school applicant shall be eligible to establish a  
19 charter school according to a streamlined application process if the  
20 following criteria are met:

21 (a) A founder of the charter school applicant has established a  
22 charter school that has been designated as a “high performing  
23 charter school” by the commissioner; or

24 (b) A founder of the charter school applicant has been  
25 designated as an “approved operator” by the commissioner.

26 d. The local board of education of the district that the charter  
27 applicant is located within or a charter school applicant may appeal  
28 the decision of [the commissioner to the State Board of Education.  
29 The State board shall render a decision within 30 days of the date of  
30 the receipt of the appeal. If the State board does not render a  
31 decision within 30 days, the decision of the commissioner shall be  
32 deemed final] a charter school authorizer to the commissioner,  
33 except that, in the case in which the commissioner is the charter  
34 school authorizer, the appeal shall be to the State Board of  
35 Education.

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

43 Any two charter schools within the same public school district  
44 [that are not operating the same grade levels] may petition [the  
45 commissioner] their respective charter school authorizers to amend  
46 their charters and consolidate into one school. The [commissioner]  
47 charter school authorizers may approve an amendment to



1 consolidate[, provided that the basis for consolidation is to  
2 accommodate the transfer of students who would otherwise be  
3 subject to the random selection process pursuant to section 8 of  
4 P.L.1995, c.426 (C.18A:36A-8)]. If the charters were approved by  
5 different authorizers, the charter schools shall petition the  
6 commissioner in order to amend their charters to consolidate.  
7 (cf: P.L.2002, c.123)

8  
9 11. Section 5 of P.L.1995, c.426 (C.18A:36A-5) is amended to  
10 read as follows:

11 5. The application for a charter school, except for a streamlined  
12 application made pursuant to section 4 of P.L.1995, c.426  
13 (C.18A:36A-4), shall include the following information:

14 a. The identification of the charter applicant;

15 b. The name of the proposed charter school;

16 c. The proposed governance structure of the charter school  
17 including a list of the proposed members of the board of trustees of  
18 the charter school or a description of the qualifications and method  
19 for the appointment or election of members of the board of trustees;

20 d. The educational goals of the charter school, the curriculum  
21 to be offered, and the methods of assessing whether students are  
22 meeting educational goals. Charter school students shall be required  
23 to meet the same testing and academic performance standards as  
24 established by law and regulation for public school students.  
25 Charter school students shall also meet any additional assessment  
26 indicators which are included within the charter approved by the  
27 **【commissioner】** charter school authorizer or in the performance  
28 contract between the charter school authorizer and charter school,  
29 or in both;

30 e. The admission policy and criteria for evaluating the  
31 admission of students which shall comply with the requirements of  
32 section 8 of this act;

33 f. The age or grade range of students to be enrolled;

34 g. The school calendar and school day schedule;

35 h. A description of the charter school staff responsibilities and  
36 the proposed qualifications of teaching staff;

37 i. A description of the procedures to be implemented to ensure  
38 significant parental involvement in the operation of the school;

39 j. A description of, and address for, the physical facility in  
40 which the charter school will be located, or a sworn statement of  
41 assurance that a physical facility will be obtained for the charter  
42 school no later than June 30 of the year in which the charter school  
43 will open. In the case of an on-line charter, the application shall  
44 indicate where the charter school's office will be located;

45 k. **【Information on the manner in which community groups**  
46 **will be involved in the charter school planning process】** (Deleted by

1 amendment, P.L. .c. ) (pending before the Legislature as this  
2 bill);

3 l. The financial plan for the charter school and the provisions  
4 which will be made for auditing the school pursuant to the  
5 provisions of N.J.S.18A:23-1;

6 m. A description of and justification for **any waivers of**  
7 **regulations which the charter school will request** expected or  
8 anticipated reliance on exemptions as detailed in subsection a. of  
9 section 11 of P.L.1995, c.426 (C.18A:36A-11); **[and]**

10 n. Such other information as the **[commissioner]** charter  
11 school authorizer may require; and

12 o. A description of the designated enrollment region for the  
13 charter school.

14 (cf: P.L.1995, c.426, s.5)

15

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

18 7. A charter school shall be open to all students on a space  
19 available basis and shall not discriminate in its admission policies  
20 or practices on the basis of intellectual or athletic ability, measures  
21 of achievement or aptitude, status as a **[handicapped]** person with a  
22 disability, proficiency in the English language, or any other basis  
23 that would be illegal if used by a school district; however, a charter  
24 school may limit admission to a particular grade level, gender, or to  
25 areas of concentration of the school, such as mathematics, science,  
26 or the arts. A charter school may establish reasonable criteria to  
27 evaluate prospective students which shall be outlined in the school's  
28 charter.

29 The Commissioner of Education shall actively encourage the  
30 establishment of charter schools that: focus on scientifically-based  
31 inclusive practices that advance the academic, behavioral, and  
32 social skills of diverse learners in all classrooms, including students  
33 with individualized education programs; and assist in the return of  
34 students from out-of-district segregated placements into public  
35 school settings.

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

37

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

40 8. a. Preference for enrollment in a charter school shall be given  
41 to students who reside in the **[school district]** designated  
42 enrollment region in which the charter school is located. If there  
43 are more applications to enroll in the charter school than there are  
44 spaces available, the charter school shall select students to attend  
45 using a random selection process. A charter school shall not charge  
46 tuition to students who **[reside in the district]** are residents of the  
47 State.

1       b. A charter school shall allow any student who was enrolled in  
2 the school in the immediately preceding school year to enroll in the  
3 charter school in the appropriate grade unless the appropriate grade  
4 is not offered at the charter school.

5       c. A charter school may give enrollment priority to:

6       (1) a sibling of a student enrolled in the charter school;

7       (2) a student whose parent or legal guardian is a founder of the  
8 charter school; or

9       (3) a student whose parent or legal guardian is a teaching staff  
10 member of the charter school.

11       d. If available space permits, a charter school may enroll non-  
12 resident students. **【The terms and condition of the enrollment shall**  
13 **be outlined in the school's charter and approved by the**  
14 **commissioner.】**

15       e. The admission policy of the charter school shall, to the  
16 maximum extent practicable, seek the enrollment of a cross section  
17 of the community's school age population including racial and  
18 academic factors.

19       f. In the case of a nonpublic school that converts to a charter  
20 school pursuant to the provisions of section 4 of P.L.1995, c.426  
21 (C.18A:36A-4), students enrolled in the nonpublic school in the  
22 school year preceding its conversion to a charter school shall be  
23 eligible to continue enrollment at the school after its conversion.  
24 Preference for any remaining enrollment spaces for the charter  
25 school for its first year, and for all enrollment spaces in each  
26 successive year, shall be provided pursuant to the provisions of this  
27 section.

28 (cf: P.L.1995, c.426, s.8)

29  
30       14. Section 9 of P.L.1995, c.426 (C.18A:36A-9) is amended to  
31 read as follows:

32       9. A student may withdraw from a charter school at any time.  
33 A student may be expelled from a charter school based on criteria  
34 determined by the board of trustees, which are consistent with the  
35 provisions of N.J.S.18A:37-2, and approved by the **【commissioner】**  
36 charter school authorizer as part of the school's charter. Any  
37 expulsion shall be made upon the recommendation of the charter  
38 school principal, in consultation with the student's teachers.

39 (cf: P.L.1995, c.426, s.9)

40  
41       15. Section 10 of P.L.1995, c.426 (C.18A:36A-10) is amended  
42 to read as follows:

43       10. a. A charter school may be located in part of an existing  
44 public school building, in space provided on a public work site, in a  
45 public building, or any other suitable location. In the case of a  
46 public or nonpublic school that converts to a charter school  
47 pursuant to the provisions of section 4 of P.L.1995, c.426  
48 (C.18A:36A-4), the charter school may be located in the same

1 school building in which the public or nonpublic school was  
2 located. The facility shall be exempt from public school facility  
3 regulations except those pertaining to the health or safety of the  
4 pupils. A charter school shall not construct a facility with public  
5 funds other than federal funds.

6 b. Except as otherwise provided pursuant to section 14 of  
7 P.L.2007, c.137 (C.18A:7G-45), a charter school shall have the  
8 right of first refusal to purchase or lease at or below fair market  
9 value, a closed public school facility or property. In the case of  
10 multiple charter schools with facilities in a district that is selling or  
11 leasing property, a lottery shall be held to determine the order of  
12 priority for the right of first refusal, and the right of first refusal  
13 shall be non-negotiable.

14 c. The Department of Education, with the cooperation of local  
15 school districts, shall maintain and publish on the website of the  
16 department a list of all local school districts in which a public  
17 school facility or property has been advertised for sale or lease.

18 (cf: P.L.2002, c.10)

19

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

22 11. a. **[A]** Except as otherwise provided pursuant to this  
23 section, a charter school shall operate in accordance with its charter  
24 [and the provisions of law and regulation which govern other public  
25 schools; except that, upon the request of the board of trustees of a  
26 charter school, the commissioner may exempt the school from State  
27 regulations concerning public schools, except those pertaining to  
28 assessment, testing, civil rights and student health and safety, if the  
29 board of trustees satisfactorily demonstrates to the commissioner  
30 that the exemption will advance the educational goals and  
31 objectives of the school] and performance contract, notwithstanding  
32 any State law, rule, or regulation to the contrary. Except as may be  
33 otherwise specifically provided for in the performance contract, a  
34 charter school established and operated in accordance with the  
35 provisions of P.L.1995, c.426 (C.18A:36A-1 et seq.), as well as the  
36 school's officers and employees, shall be exempt from all State  
37 laws, rules, and regulations of the State board, and rules and  
38 regulations of any local board of education, that are applicable to  
39 public schools and to public school officers and employees, except  
40 that in no case shall a charter school be exempt from those  
41 pertaining to academic standards, assessment, testing, civil rights  
42 excluding any potential restriction of a single-gender school under  
43 the "Law Against Discrimination," P.L.1945, c. 169 (C.10:5-1 et  
44 seq.), and student health and safety, and P.L.1963, c.73 (C.47:1A-1  
45 et seq.). The exemptions as set forth in this subsection shall not  
46 affect the ability of a charter school to receive State funding.

47 A charter school in existence on the effective date of P.L. ,  
48 c. (C. ) (pending before the Legislature as this bill), shall operate

1 in accordance with the exemptions applicable to that charter school  
2 on that date. The charter school may thereafter request exemptions  
3 in accordance with this subsection upon a request to amend its  
4 charter or at the time of charter renewal.

5 b. A charter school shall comply with the provisions of chapter  
6 46 of Title 18A of the New Jersey Statutes concerning the provision  
7 of services to **[handicapped]** students with a disability; except that  
8 the fiscal responsibility for any student currently enrolled in or  
9 determined to require a private day or residential school shall  
10 remain with the district of residence.

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

17 c. A charter school shall comply with applicable State and  
18 federal anti-discrimination statutes. This provision shall not,  
19 however, restrict the ability to create a single-gender charter school  
20 or a charter school focused on serving the needs of special  
21 education students.

22 d. A charter school shall comply with all requests for  
23 information or data made by the commissioner.

24 (cf: P.L.2007, c.260, s.57)

25

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

28 12. a. (Deleted by amendment, P.L.2007, c.260).

29 b. **[The]** A school district of residence shall pay directly to the  
30 charter school for each student enrolled in the charter school who  
31 resides in **[the]** that district an amount equal to 90% of the sum of  
32 the budget year equalization aid per pupil and the prebudget year  
33 general fund tax levy per pupil inflated by the CPI rate most recent  
34 to the calculation. In addition, the student's school district of  
35 residence shall pay directly to the charter school the security  
36 categorical aid attributable to the student and a percentage of the  
37 district's special education categorical aid equal to the percentage of  
38 the district's special education students enrolled in the charter  
39 school and, if applicable, 100% of preschool education aid. The  
40 district of residence shall also pay directly to the charter school any  
41 federal funds attributable to the student.

42 The commissioner shall have the authority to appropriately  
43 adjust this amount to lower than 90% of the sum of the budget year  
44 equalization aid per pupil and the prebudget year general fund tax  
45 levy per pupil inflated by the CPI rate most recent to the  
46 calculation, for a charter school that focuses on on-line learning as  
47 the primary component of its educational model.

48 c. (Deleted by amendment, P.L.2007, c.260).

1 d. Notwithstanding the provisions of subsection b. of this  
2 section, in the case of a student who was not included in the  
3 district's projected resident enrollment for the school year, the State  
4 shall pay 100% of the amount required pursuant to subsection b. of  
5 this section for the first year of the student's enrollment in the  
6 charter school.

7 e. The State shall make payments required pursuant to  
8 subsection d. of this section directly to the charter school.

9 f. Any district of residence that fails to make payments  
10 according to this section in a timely fashion may be subject to the  
11 withholding of State aid payments by the Department of Education  
12 until such time as any late payments have been made.

13 (cf: P.L.2007, c.260, s.58)

14  
15 18. Section 13 of P.L.1995, c.426 (C.18A:36A-13) is amended  
16 to read as follows:

17 13. **【**The students who reside in the school district in which the  
18 charter school is located shall be provided transportation to the  
19 charter school on the same terms and conditions as transportation is  
20 provided to students attending the schools of the district. Non-  
21 resident students shall receive transportation services pursuant to  
22 regulations established by the State board **】** Transportation or aid-in-  
23 lieu-of transportation shall be provided to an elementary school  
24 pupil who lives more than two miles from the charter school and to  
25 a secondary school pupil who lives more than two and one-half  
26 miles from the charter school, provided the charter school is not  
27 more than 20 miles from the residence of the pupil. Transportation  
28 or aid-in-lieu of transportation shall be the responsibility of a  
29 district of residence. At the discretion of the board of trustees of  
30 the charter school, courtesy transportation may be provided to  
31 students enrolled in the school at the expense of the charter school.

32 (cf: P.L.1995, c.426, s.13)

33  
34 19. Section 14 of P.L.1995, c.426 (C.18A:36A-14) is amended  
35 to read as follows:

36 14. a. The board of trustees of a charter school shall have the  
37 authority to decide matters related to the operations of the school  
38 including budgeting, curriculum, and operating procedures, subject  
39 to the school's charter. The board shall provide for appropriate  
40 insurance against any loss or damage to its property or any liability  
41 resulting from the use of its property or from the acts or omissions  
42 of its officers and employees.

43 b. **【**In the case of a currently existing public school which  
44 becomes a charter school pursuant to the provisions of subsection b.  
45 of section 4 of this act, all school employees of the charter school  
46 shall be deemed to be members of the bargaining unit defined in the  
47 applicable agreement and shall be represented by the same majority  
48 representative organization as the employees covered by that

1 agreement. In the case of other charter schools, the] The board of  
2 trustees of a charter school shall have the authority to employ,  
3 discharge and contract with necessary teachers and [nonlicensed]  
4 employees subject to the school's charter [.The board of trustees  
5 may choose whether or not to offer the terms of any collective  
6 bargaining agreement already established by the school district for  
7 its employees, but the board shall adopt any health and safety  
8 provisions of the agreement. The charter school and its employees  
9 shall be subject to the provisions of the "New Jersey Employer-  
10 Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.). A  
11 charter school shall not set a teacher salary lower than the minimum  
12 teacher salary specified pursuant to section 7 of P.L.1985, c.321  
13 (C.18A:29-5.6) nor higher than the highest step in the salary guide  
14 in the collective bargaining agreement which is in effect in the  
15 district in which the charter school is located] and performance  
16 contract.

17 c. [All classroom teachers and professional support staff shall  
18 hold appropriate New Jersey certification. The commissioner shall  
19 make appropriate adjustments in the alternate route program in  
20 order to expedite the certification of persons who are qualified by  
21 education and experience.] (Deleted by amendment, P.L. ,  
22 c. (C. ) (pending before the Legislature as this bill)

23 d. A public school employee, tenured or non-tenured, may  
24 request a leave of absence of up to three years from the local board  
25 of education or State district superintendent in order to work in a  
26 charter school. Approval for a leave of absence shall not be  
27 unreasonably withheld. Employees on a leave of absence as  
28 provided herein shall remain in, and continue to make contributions  
29 to, their retirement plan during the time of the leave and shall be  
30 enrolled in the health benefits plan of the district in which the  
31 charter school is located. The charter school shall make any  
32 required employer's contribution to the district's health benefits  
33 plan.

34 e. Public school employees on a leave shall not accrue tenure  
35 in the public school system but shall retain tenure, if so applicable,  
36 and shall continue to accrue seniority, if so applicable, in the public  
37 school system if they return to their non-charter school when the  
38 leave ends. An employee of a charter school shall not accrue tenure  
39 pursuant to N.J.S.18A:17-2, N.J.S.18A:17-3, or N.J.S.18A:28-5 [,  
40 but shall acquire streamline tenure pursuant to guidelines  
41 promulgated by the commissioner, and the charter shall specify the  
42 security and protection to be afforded to the employee in  
43 accordance with the guidelines].

44 f. Any public school employee who leaves or is dismissed  
45 from employment at a charter school within three years shall have  
46 the right to return to the employee's former position in the public

1 school district which granted the leave of absence, provided the  
2 employee is otherwise eligible for employment in the public school.

3 g. In the case of a nonpublic school that converts to a charter  
4 school pursuant to the provisions of section 4 of P.L.1995, c.426  
5 (C.18A:36A-4), teaching staff and other employees of the nonpublic  
6 school may continue employment at the charter school upon its  
7 conversion, in accordance with the provisions of this section.

8 h. A former public school employee whose teaching certificate  
9 has been revoked or is currently suspended is not eligible for  
10 employment at a charter school.

11 (cf: P.L.1995, c.426, s.14)

12

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

15 16. a. The **[commissioner]** charter school authorizer shall  
16 annually assess whether each charter school under its authority is  
17 meeting the goals of its charter, and shall conduct a comprehensive  
18 review prior to granting a renewal of the charter. The **[county**  
19 **superintendent of schools of the county in which the charter school**  
20 **is located]** Department of Education shall have on-going access to  
21 the records and facilities of the charter school to ensure that the  
22 charter school is in compliance with its charter and the performance  
23 contract and that **[State board]** regulations concerning academic  
24 standards, assessment, testing, civil rights, and student health and  
25 safety are being met.

26 b. In order to facilitate the **[commissioner's]** review required  
27 pursuant to subsection a. of this section, each charter school shall  
28 submit an annual report to the **[local board of education, the county**  
29 **superintendent of schools,]** Department of Education and the  
30 **[commissioner]** charter school authorizer in the form prescribed by  
31 the commissioner. The report shall be received annually by the  
32 **[local board, the county superintendent,]** department and the  
33 **[commissioner]** charter school authorizer no later than August 1.

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

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

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

46 e. The commissioner shall submit to the Governor, the  
47 Legislature, and the State Board of Education by October 1, 2001



1 an evaluation of the charter school program based upon the public  
2 input required pursuant to subsection c. of this section and the  
3 independent study required pursuant to subsection d. of this section.

4 The evaluation shall include, but not be limited to, consideration of  
5 the following elements:

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

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

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

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

17 (5) the comparative demographics of student enrollments in  
18 school districts of residence and the charter schools located within  
19 those districts. The comparison shall include, but not be limited to,  
20 race, gender, socioeconomic status, enrollment of special education  
21 students, enrollment of students of limited English proficiency, and  
22 student progress toward meeting the core curriculum content  
23 standards as measured by student results on Statewide assessment  
24 tests;

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

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

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

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

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

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

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

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

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

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

3       17. A charter granted by **the commissioner** a charter school  
4 authorizer pursuant to the provisions of this act shall be granted for  
5 a four-year period and may be renewed for a **five-year** period not  
6 less than five years and not more than ten years. The  
7 **commissioner** charter school authorizer may revoke a school's  
8 charter if the school has not fulfilled any condition imposed by the  
9 **commissioner** charter school authorizer in connection with the  
10 granting of the charter or if the school has violated any provision of  
11 its charter. **The commissioner** Pursuant to any performance  
12 contract entered into by the charter school, the charter school  
13 authorizer may place the charter school on probationary status to  
14 allow the implementation of a remedial plan after which, if the plan  
15 is unsuccessful, the charter may be summarily revoked. The  
16 **commissioner** charter school authorizer shall develop procedures  
17 and guidelines for the revocation and renewal of a school's charter.  
18 Any determination by the charter school authorizer concerning the  
19 revocation or renewal of a school's charter, or concerning the  
20 placement of a charter school on probationary status, or any  
21 disputes arising pursuant to this section, may be appealed to the  
22 commissioner, except that, in the case in which the commissioner is  
23 the charter school authorizer, the appeal shall be to the State Board  
24 of Education.

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

26

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

29       4. a. If at any time the **commissioner** charter school  
30 authorizer determines that a board of trustees is in jeopardy of  
31 losing its charter or an applicant is in jeopardy of not being granted  
32 a charter, the **commissioner** charter school authorizer shall so  
33 notify the board of trustees or the applicant. The board of trustees  
34 or the applicant shall, within 48 hours of receipt of such  
35 notification, provide to the **commissioner** charter school  
36 authorizer, in writing, a complete list of the names and addresses of  
37 all students and staff currently enrolled and working in the school,  
38 or in the case of an applicant, a complete list of the names and  
39 addresses of all students and staff intending to enroll or work at the  
40 school, so the **commissioner** charter school authorizer may send  
41 the appropriate notice to the parents or guardians and staff.

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

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

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

3 18. [The State Board of Education shall adopt rules and  
4 regulations pursuant to the "Administrative Procedure Act,"  
5 P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the  
6 provisions of this act.] Notwithstanding any provision of P.L.1968,  
7 c. 410 (C.52:14B-1 et seq.) or any other law to the contrary, the  
8 commissioner may adopt, immediately upon filing with the Office  
9 of Administrative Law, such rules and regulations as the  
10 commissioner deems necessary to implement the provisions of  
11 P.L.1995, c. 426 (C.18A:36A-1 et seq.), which shall be effective for  
12 a period not to exceed 12 months following the effective date of  
13 P.L. , c. (C. ) (pending before the Legislature as this bill).  
14 The regulations shall thereafter be amended, adopted, or readopted  
15 by the commissioner in accordance with the provisions of P.L.1968,  
16 c.410 (C.52:14B-1 et seq.); and the commissioner shall, at a  
17 minimum, hold at least one public hearing in each of the north,  
18 central, and southern regions of the State within 60 days of the  
19 public notice of any regulations proposed by the commissioner to be  
20 amended, adopted, or readopted pursuant to that act.

21 (cf: P.L.1995, c.426, s.18)

22

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

25

26

27

#### STATEMENT

28

29 Under the "Charter School Program Act of 1995," P.L.1995,  
30 c.426 (C.18A:36A-1 et seq.), the Commissioner of Education is  
31 granted the authority to approve applications for the establishment  
32 of charter schools and to regulate and oversee their operations. This  
33 bill would permit public institutions of higher education in New  
34 Jersey to also act as charter school authorizers. Local boards of  
35 education would also be permitted to act as charter school  
36 authorizers, but only for charter schools which would be located  
37 within the geographic boundaries of the district.

38 Under the bill, the commissioner must establish an application  
39 process for the designation of eligible authorizer applicants as  
40 charter school authorizers. The commissioner may designate one or  
41 more eligible authorizer applicants to serve as charter school  
42 authorizers and must execute an authorizing contract with each  
43 approved charter school authorizer prior to that entity commencing  
44 charter school authorizing.

45 The commissioner will establish the responsibilities of charter  
46 school authorizers. Those responsibilities will include:

- 47 • soliciting charter school applications;
- 48 • denying or approving charter school applications;

- 1 • negotiating and executing performance contracts with
- 2 approved charter schools that articulate the rights and
- 3 responsibilities of each party;
- 4 • conducting oversight of charter schools; and
- 5 • designing and implementing a process that uses
- 6 comprehensive data to make merit-based renewal and
- 7 revocation decisions regarding charter schools.

8 The commissioner has responsibility for the ongoing oversight of  
9 the performance and effectiveness of the charter school authorizers,  
10 and may at any time take corrective action against an authorizer,  
11 including terminating an authorizer's designation as an authorizer.  
12 The commissioner may also revoke a charter granted by an  
13 authorizer and may review and amend charter school performance  
14 contracts entered into by the authorizer.

15 The bill specifies that the commissioner will be the sole  
16 authorizer option for charter schools and charter school applicants  
17 that: 1) limit admission to a single gender; 2) focus on providing  
18 programs and settings for children with individualized education  
19 programs or seek to advance the skills of diverse learners; and 3)  
20 focus on on-line learning as the primary component of their  
21 educational model.

22 The bill expands the list of entities that may establish a charter  
23 school, including private entities that would realize a profit from the  
24 operation of the charter school. Nonpublic schools under the bill  
25 would also be able to convert to charter school status if certain  
26 criteria are met, including a certification by the charter school  
27 applicant that the school would prohibit religious instruction,  
28 events, and activities that promote religious views. The bill would  
29 also permit a local board of education to convert a district school to  
30 a charter school, and the commissioner to convert a failing public  
31 school to a charter school.

32 An application to establish a charter school may be submitted at  
33 any time during the school year to the charter school authorizer.  
34 Notice of the filing of the application must be posted immediately  
35 on the charter school authorizer's website. Notice of the  
36 application filing must also be provided, either through the mail or  
37 electronically, to the school district superintendents and boards of  
38 education in which there are students who will be eligible for  
39 enrollment in the charter school. The charter school authorizer  
40 must make a decision on the application within 150 days of receipt  
41 of the application, and provide notice of its final decision to the  
42 same entities to which it provided notice of the filing of the  
43 application. A charter school authorizer is prohibited from  
44 approving a charter school application if another authorizer has  
45 denied that application within the prior six months. The bill also  
46 provides that certain charter school applicants will be eligible for a  
47 streamlined application process. A charter school applicant will be  
48 eligible for this process if the charter school founder has been

1 designated a “high performing charter school” by the commissioner,  
2 or if the charter school founder is designated as an “approved  
3 operator” by the commissioner.

4 The bill also does the following:

- 5 • eliminates the current requirement that all classroom  
6 teachers and professional support staff at a charter school  
7 hold the appropriate New Jersey certification;
- 8 • eliminates streamline tenure for charter school employees;
- 9 • provides that a charter school renewal may be for a period of  
10 not less than five years and not more than ten years, instead  
11 of the current five-year renewal period;
- 12 • requires the Commissioner of Education to actively  
13 encourage the establishment of charter schools that focus on  
14 scientifically-based inclusive practices that advance the  
15 academic, behavioral, and social skills of diverse learners in  
16 all classrooms, and assist in the return of students from out-  
17 of-district segregated placements into public school settings;
- 18 • provides that a priority for enrollment in a charter school  
19 may be given to a student whose parent or guardian is a  
20 founder of the charter school or a student whose parent or  
21 guardian is a teaching staff member of the charter school;
- 22 • provides that if a nonpublic school converts to a charter  
23 school, the students enrolled in the nonpublic school prior to  
24 the conversion will be eligible to continue enrollment at the  
25 school after its conversion;
- 26 • gives charter schools the right of first refusal to purchase or  
27 lease at or below fair market value a closed public school  
28 facility or property, and requires the department to maintain  
29 on its website a list of all school districts where a public  
30 school facility or property has been advertised as for sale or  
31 lease;
- 32 • exempts new charter schools from all State laws and  
33 regulations and any regulations of the local district that are  
34 applicable to public schools and public school officers and  
35 employees, except those pertaining to academic standards,  
36 assessment, testing, civil rights, the open public records act,  
37 and student health and safety;
- 38 • authorizes the commissioner to adjust the amount of funds  
39 that a school district is required by law to pay to a charter  
40 school, if that charter school focuses on on-line learning as  
41 the primary component of its educational model; and
- 42 • provides that it will be the district of residence’s  
43 responsibility to provide transportation or aid-in-lieu-of  
44 transportation to charter school pupils attending an  
45 elementary school more than two miles from the pupil’s  
46 home, and for high school pupils living more than two and

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22

- 1 one half miles from school, provided the charter school is
- 2 not more than 20 miles from the pupil's home.