

# ASSEMBLY, No. 1877

## STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

**Sponsored by:**

**Assemblyman PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Assemblyman PETER J. BARNES, III**

**District 18 (Middlesex)**

**Assemblyman JOHN S. WISNIEWSKI**

**District 19 (Middlesex)**

**Assemblyman RALPH R. CAPUTO**

**District 28 (Essex)**

**Assemblyman REED GUSCIORA**

**District 15 (Hunterdon and Mercer)**

**Assemblywoman MILA M. JASEY**

**District 27 (Essex and Morris)**

**Co-Sponsored by:**

**Assemblywoman Stender, Assemblymen Green, O'Donnell, McKeon, Coughlin, Assemblywoman Wagner, Assemblyman Conaway, Assemblywoman Tucker, Assemblymen Chivukula, Johnson and Assemblywoman Watson Coleman**

**SYNOPSIS**

Requires voter approval at the annual school election or by the board of school estimate prior to designation as charter school district of residence or expansion of a charter school.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel

(Sponsorship Updated As Of: 2/3/2012)

1 AN ACT concerning the establishment and expansion of charter  
2 schools and amending 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. Section 4 of P.L.1995, c.426 (C.18A:36A-4) is amended to  
8 read as follows:

9 4. a. A charter school may be established by teaching staff  
10 members, parents with children attending the schools of the district,  
11 or a combination of teaching staff members and parents. A charter  
12 school may also be established by an institution of higher education  
13 or a private entity located within the State in conjunction with  
14 teaching staff members and parents of children attending the  
15 schools of the district. If the charter school is established by a  
16 private entity, representatives of the private entity shall not  
17 constitute a majority of the trustees of the school, and the charter  
18 shall specify the extent to which the private entity shall be involved  
19 in the operation of the school. The name of the charter school shall  
20 not include the name or identification of the private entity, and the  
21 private entity shall not realize a net profit from its operation of a  
22 charter school. A private or parochial school shall not be eligible  
23 for charter school status.

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

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

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

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

**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 the application. **【The】** Except as otherwise provided pursuant to  
2 paragraph (2) of this subsection, the commissioner shall have final  
3 authority to grant or reject a charter application.

4 (2) The commissioner shall not approve an application for the  
5 establishment of a charter school unless the designation of a school  
6 district as the charter school district of residence or inclusion of the  
7 district in the charter school region of residence has been approved  
8 by the voters of the district at the annual school election in the case  
9 of a charter school to be established in a Type II district, or the  
10 board of school estimate in the case of a charter school to be  
11 established in a Type I district or a Type II district with a board of  
12 school estimate. In the event that a subset of school districts  
13 included in the region of residence of a proposed charter school  
14 does not approve of the inclusion, the charter school applicant may  
15 submit a revised application to the commissioner that does not  
16 include the school districts in which the inclusion was not  
17 approved.

18 d. The local board of education or a charter school applicant  
19 may appeal the decision of the commissioner to the **【State Board of**  
20 **Education. The State board shall render a decision within 30 days**  
21 **of the date of the receipt of the appeal. If the State board does not**  
22 **render a decision within 30 days, the decision of the commissioner**  
23 **shall be deemed final】** Appellate Division of the Superior Court.

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

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

39 A charter school may petition the commissioner to amend its  
40 charter to expand the number of grade levels that it operates.  
41 Notice of the filing of the petition to amend the charter shall be sent  
42 immediately by the commissioner to the board of education of the  
43 charter school district of residence or to the board of education of  
44 each district included in the charter school region of residence. The  
45 commissioner shall not approve a petition for the expansion of a  
46 charter school unless the expansion has been approved by the voters  
47 of the district at the annual school election in the case of a charter

1 school in a Type II district, or the board of school estimate in the  
2 case of a charter school in a Type I district or a Type II school  
3 district with a board of school estimate. In the case of a charter  
4 school with a region of residence, the expansion shall be deemed  
5 approved if each district included in the charter school region of  
6 residence approves the expansion.

7 f. Upon receipt of a notice of the filing of a charter school  
8 application or a petition to expand the number of grade levels that  
9 the charter school operates, a local board of education of a Type II  
10 district shall submit to the voters at the next annual school election  
11 a question regarding the approval of its designation as the charter  
12 school district of residence, its inclusion in the charter school region  
13 of residence, or the expansion of the number of grade levels that the  
14 charter school operates, as applicable.

15 g. As used in this section, "region of residence" means the  
16 contiguous school districts in which a charter school operates  
17 pursuant to its charter or proposes to operate in the application  
18 submitted to the commissioner.

19 (cf: P.L.2002, c.123, s.1)

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

23 8. a. Preference for enrollment in a charter school shall be  
24 given to students who reside in the charter school district [in which  
25 the charter school is located] of residence. If there are more  
26 applications to enroll in the charter school than there are spaces  
27 available, the charter school shall select students to attend using a  
28 random selection process. A charter school shall not charge tuition  
29 to students who reside in the charter school district of residence.

30 b. A charter school shall allow any student who was enrolled in  
31 the school in the immediately preceding school year to enroll in the  
32 charter school in the appropriate grade unless the appropriate grade  
33 is not offered at the charter school.

34 c. A charter school may give enrollment priority to a sibling of  
35 a student enrolled in the charter school.

36 d. If available space permits, a charter school may enroll non-  
37 resident students. The terms and condition of the enrollment shall  
38 be outlined in the school's charter and approved by the  
39 commissioner.

40 e. The admission policy of the charter school shall, to the  
41 maximum extent practicable, seek the enrollment of a cross section  
42 of the community's school age population including racial and  
43 academic factors.

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

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

1       13. The students who reside in the charter school district [in  
2 which the charter school is located] of residence shall be provided  
3 transportation to the charter school on the same terms and  
4 conditions as transportation is provided to students attending the  
5 schools of the district. Non-resident students shall receive  
6 transportation services pursuant to regulations established by the  
7 State board.

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

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10       4. This act shall take effect immediately.

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STATEMENT

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15       This bill provides that the Commissioner of Education may not  
16 approve an application for the establishment of a charter school  
17 unless the designation of a district as the charter school district of  
18 residence or inclusion in the region of residence has been approved  
19 by the voters of the district or the board of school estimate, as  
20 appropriate. The bill amends current law to permit a local board of  
21 education or charter school applicant to appeal the decision of the  
22 commissioner to the Appellate Division of the Superior Court.  
23 Current law requires the appeal to be filed with the State Board of  
24 Education.

25       The bill also provides that the commissioner may not approve the  
26 expansion of the number of grade levels offered by a charter school  
27 district unless the expansion has been approved by the voters of the  
28 school district or board of school estimate, as appropriate. The  
29 expansion shall be deemed approved only if it is approved by each  
30 district in the charter school region of residence.

31       A "region of residence" is defined as the contiguous school  
32 districts in which a charter school operates pursuant to its charter or  
33 proposes to operate in the application submitted to the  
34 commissioner.