

ASSEMBLY, No. 2250

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 1, 2018

Sponsored by:

Assemblyman JAY WEBBER

District 26 (Essex, 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
11 a 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
33 the 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
2 process that uses comprehensive data to make merit-based renewal
3 and 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
17 authorizer detailed in annual audited financial statements that
18 conform with 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
40 as 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.

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.**】**

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

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

10 **【** (2) (a) 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 district
38 superintendent, in the case of a school district under full State
39 intervention, in the school year preceding the school year in which
40 the charter school will be established**】** a charter school authorizer.
41 Notice of the filing of the application shall be **【**sent immediately by
42 the commissioner to the members of the State Legislature, school
43 superintendents, and mayors and governing bodies of all legislative
44 districts, school districts, or municipalities in which there are
45 students who will be eligible for enrollment in the charter school.
46 The board of education or State district superintendent shall review
47 the application and forward a recommendation to the commissioner

1 within 60 days of receipt of the application] immediately posted on
2 a public website that is maintained by the charter school authorizer
3 and notice, either through the mail or electronically, shall be
4 provided by the charter school authorizer to the school district
5 superintendents and boards of education of districts in which there
6 are students who will be eligible for enrollment in the charter
7 school. The [commissioner] charter school authorizer shall have
8 final authority to grant or reject a charter application and shall make
9 a decision on an application within 150 days of receipt of the
10 application. The charter school authorizer shall provide notice,
11 either through the mail or electronically, of its final decision on an
12 application to the school district superintendents and boards of
13 education of districts in which there are students who will be
14 eligible for enrollment in the 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] a charter school authorizer to
29 the commissioner, except that, in the case in which the
30 commissioner is the charter school authorizer, the appeal shall be to
31 the Appellate Division of the Superior Court.

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

39 Any two charter schools within the same public school district
40 [that are not operating the same grade levels] may petition [the
41 commissioner] their respective charter school authorizers to amend
42 their charters and consolidate into one school. The [commissioner]
43 charter school authorizers may approve an amendment to
44 consolidate], provided that the basis for consolidation is to
45 accommodate the transfer of students who would otherwise be
46 subject to the random selection process pursuant to section 8 of
47 P.L.1995, c.426 (C.18A:36A-8)]. If the charters were approved by

1 different authorizers, the charter schools shall petition the
2 commissioner in order to amend their charters to consolidate.

3 (cf: P.L.2011, c.140, s.2)

4

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

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

10 a. The identification of the charter applicant;

11 b. The name of the proposed charter school;

12 c. The proposed governance structure of the charter school
13 including a list of the proposed members of the board of trustees of
14 the charter school or a description of the qualifications and method
15 for the appointment or election of members of the board of trustees;

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

26 e. The admission policy and criteria for evaluating the
27 admission of students which shall comply with the requirements of
28 section 8 of this act;

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

30 g. The school calendar and school day schedule;

31 h. A description of the charter school staff responsibilities and
32 the proposed qualifications of teaching staff;

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

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

41 k. **【Information on the manner in which community groups**
42 **will be involved in the charter school planning process】** (Deleted by
43 amendment, P.L. .c.) (C.) (pending before the Legislature as
44 this bill);

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

1 m. A description of and justification for **【any waivers of**
2 **regulations which the charter school will request】** expected or
3 anticipated reliance on exemptions as detailed in subsection a. of
4 section 11 of P.L.1995, c.426 (C.18A:36A-11); **【and】**

5 n. Such other information as the **【commissioner】** charter
6 school authorizer may require; and

7 o. A description of the designated enrollment region for the
8 charter school.

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

10
11 12. Section 7 of P.L.1995, c.426 (C.18A:36A-7) is amended to
12 read as follows:

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

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

30 (cf: P.L.2017, c.131, s.26)

31
32 13. Section 8 of P.L.1995, c.426 (C.18A:36A-8) is amended to
33 read as follows:

34 8. a. Preference for enrollment in a charter school shall be
35 given to students who reside in the **【school district】** designated
36 enrollment region in which the charter school is located. If there
37 are more applications to enroll in the charter school than there are
38 spaces available, the charter school shall select students to attend
39 using a random selection process. A charter school shall not charge
40 tuition to students who **【reside in the district】** are residents of the
41 State.

42 b. A charter school shall allow any student who was enrolled in
43 the school in the immediately preceding school year to enroll in the
44 charter school in the appropriate grade unless the appropriate grade
45 is not offered at the charter school.

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

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

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

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

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

9 e. The admission policy of the charter school shall, to the
10 maximum extent practicable, seek the enrollment of a cross section
11 of the community's school age population including racial and
12 academic factors.

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

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

23

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

26 9. A student may withdraw from a charter school at any time.
27 Except as otherwise provided in section 1 of P.L.2016, c.45
28 (C.18A:37-2a), a student may be expelled from a charter school
29 based on criteria determined by the board of trustees, which are
30 consistent with the provisions of N.J.S.18A:37-2, and approved by
31 the **【**commissioner**】** charter school authorizer as part of the school's
32 charter. Any expulsion shall be made upon the recommendation of
33 the charter school principal, in consultation with the student's
34 teachers.

35 (cf: P.L.2016, c.45, s.3)

36

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

39 10. a. A charter school may be located in part of an existing
40 public school building, in space provided on a public work site, in a
41 public building, or any other suitable location. In the case of a
42 public or nonpublic school that converts to a charter school
43 pursuant to the provisions of section 1 of P.L.2011, c.140
44 (C.18A:36A-4.1) or section 4 of P.L.1995, c.426 (C.18A:36A-4),
45 the charter school may be located in the same school building in
46 which the public or nonpublic school was located. The facility shall
47 be exempt from public school facility regulations except those
48 pertaining to the health or safety of the pupils. A charter school

1 shall not construct a facility with public funds other than federal
2 funds.

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

11 c. The Department of Education, with the cooperation of local
12 school districts, shall maintain and publish on the website of the
13 department a list of all local school districts in which a public
14 school facility or property has been advertised for sale or lease.
15 (cf: P.L.2011, c.140, s.3)

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

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

44 A charter school in existence on the effective date of P.L. _____,
45 c. (C. _____) (pending before the Legislature as this bill), shall
46 operate in accordance with the exemptions applicable to that charter
47 school on that date. The charter school may thereafter request

1 exemptions in accordance with this subsection upon a request to
2 amend its charter or at the time of charter renewal.

3 b. A charter school shall comply with the provisions of chapter
4 46 of Title 18A of the New Jersey Statutes concerning the provision
5 of services to students with disabilities; except that the fiscal
6 responsibility for any student currently enrolled in or determined to
7 require a private day or residential school shall remain with the
8 district of residence.

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

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

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

22 (cf: P.L.2017, c.131, s.27)

23

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

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

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

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

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

47 d. Notwithstanding the provisions of subsection b. of this
48 section, in the case of a student who was not included in the

1 district's projected resident enrollment for the school year, the State
2 shall pay 100% of the amount required pursuant to subsection b. of
3 this section for the first year of the student's enrollment in the
4 charter school.

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

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

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

12

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

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

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

31

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

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

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

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

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

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

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

42 f. Any public school employee who leaves or is dismissed
43 from employment at a charter school within three years shall have
44 the right to return to the employee's former position in the public
45 school district which granted the leave of absence, provided the
46 employee is otherwise eligible for employment in the public school.

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

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

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

10
11 20. Section 16 of P.L.1995, c.426 (C.18A:36A-16) is amended
12 to read as follows:

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

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

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

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

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

44 e. The commissioner shall submit to the Governor, the
45 Legislature, and the State Board of Education by October 1, 2001
46 an evaluation of the charter school program based upon the public
47 input required pursuant to subsection c. of this section and the

1 independent study required pursuant to subsection d. of this section.
2 The evaluation shall include, but not be limited to, consideration of
3 the following elements:

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

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

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

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

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

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

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

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

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

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

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

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

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

46 (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 Appellate
24 Division of the Superior Court.

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