

6339

2009-2010 Regular Sessions

I N S E N A T E

December 11, 2009

Introduced by Sens. SMITH, ESPADA -- read twice and ordered printed, and
when printed to be committed to the Committee on Rules

AN ACT to amend the education law, in relation to increasing the cap on
the total number of charter schools in the state to four hundred;
permitting charter schools to house grades at additional sites; and in
relation to the authorized period of incorporation

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 9 of section 2852 of the education law, as
2 amended by section 2 of part D-2 of chapter 57 of the laws of 2007, is
3 amended to read as follows:
4 9. The total number of charters issued pursuant to this article shall
5 not exceed [two] FOUR hundred. [One] TWO hundred of such charters shall
6 be issued on the recommendation of the charter entity described in para-
7 graph (b) of subdivision three of section twenty-eight hundred fifty-one
8 of this article, and [one] TWO hundred of such charters shall be issued
9 on the recommendation of the other charter entities set forth in subdivi-
10 sion three of section twenty-eight hundred fifty-one of this article,
11 provided that up to fifty of the additional charters authorized to be
12 issued by [the] chapter FIFTY-SEVEN of the laws of two thousand seven
13 [which amended this subdivision effective July first, two thousand
14 seven] shall be reserved for a city school district of a city having a
15 population of one million or more. The failure of any body to issue the
16 regulations authorized pursuant to this article shall not [effect]
17 AFFECT the authority of a charter entity to propose a charter to the
18 board of regents or the board of regents' authority to grant such char-
19 ter. A conversion of an existing public school to a charter school or
20 the renewal or extension of a charter shall not be counted toward the
21 numerical limits established by this subdivision.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 S 2. Paragraph (b-1) of subdivision 1 of section 2853 of the education
2 law, as added by chapter 4 of the laws of 1998, is amended to read as
3 follows:

4 (b-1) An education corporation operating a charter school shall not be
5 authorized to operate more than one school [or] BUT MAY BE AUTHORIZED TO
6 house any grade at more than one site[, provided that:

7 (A) a]. A CHARTER SCHOOL HOUSING TWO OR MORE GRADES AT MORE THAN ONE
8 SITE SHALL HAVE EACH SUCH ADDITIONAL SITE DEEMED AS A CHARTER ISSUED FOR
9 THE PURPOSES OF SUBDIVISION NINE OF SECTION TWENTY-EIGHT HUNDRED FIFTY-
10 TWO OF THIS ARTICLE. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAP-
11 TER, APPROVAL OF REVISIONS TO A CHARTER OR CHARTERS TO AUTHORIZE AN
12 EDUCATION CORPORATION TO HOUSE ANY GRADE OR GRADES AT MORE THAN ONE
13 SITE, INCLUDING THE MERGER OR CONSOLIDATION OF EXISTING EDUCATION CORPO-
14 RATIONS OPERATING CHARTER SCHOOLS TO A SINGLE EDUCATION CORPORATION,
15 SHALL BE MADE IN ACCORDANCE WITH PARAGRAPH (A) OF SUBDIVISION SEVEN OF
16 SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO OF THIS ARTICLE. UPON SUCH MERGER
17 OR CONSOLIDATION, THE SURVIVING OR CONSOLIDATED EDUCATION CORPORATION,
18 PLUS ANY SUCH ADDITIONAL SITES, SHALL EACH BE COUNTED AS A CHARTER
19 ISSUED FOR THE PURPOSES OF SUBDIVISION NINE OF SECTION TWENTY-EIGHT
20 HUNDRED FIFTY-TWO OF THIS ARTICLE. IF A CHARTER SCHOOL HAS EMPLOYEES WHO
21 ARE MEMBERS OF A COLLECTIVE BARGAINING ORGANIZATION PURSUANT TO ARTICLE
22 FOURTEEN OF THE CIVIL SERVICE LAW THAT MERGES OR CONSOLIDATES WITH A
23 CHARTER SCHOOL WHOSE EMPLOYEES ARE NOT MEMBERS OF A COLLECTIVE BARGAIN-
24 ING ORGANIZATION, EMPLOYEES OF THE MERGED OR CONSOLIDATED CHARTER SCHOOL
25 SHALL BE MEMBERS OF THE COLLECTIVE BARGAINING ORGANIZATION THAT REPRESENTED
26 LIKE POSITIONS, IF ANY, PRIOR TO THE MERGER OR CONSOLIDATION. A
27 charter school may operate in more than one building at a single site;
28 and

29 [(B)] a charter school which provides instruction to its students at
30 different locations for a portion of their school day shall be deemed to
31 be operating at a single site; AND A CHARTER SCHOOL OPERATING AT MORE
32 THAN ONE SITE BUT WHICH HOUSES EACH GRADE AT A SINGLE SITE SHALL BE
33 DEEMED TO BE OPERATING AT A SINGLE SITE.

34 S 3. Paragraph (a) of subdivision 1 of section 2853 of the education
35 law, as added by chapter 4 of the laws of 1998, is amended to read as
36 follows:

37 (a) Upon the approval of a charter by the board of regents, the board
38 of regents shall incorporate the charter school as an education corpo-
39 ration for a term not to exceed five SCHOOL years IN WHICH INSTRUCTION
40 IS PROVIDED TO PUPILS, PLUS THE PERIOD COMMENCING WITH THE EFFECTIVE
41 DATE OF THE CHARTER AND ENDING WITH THE OPENING OF THE SCHOOL FOR
42 INSTRUCTION. Such certificate of incorporation shall not modify or
43 limit any terms of the charter approved by the board of regents. Upon
44 approval of an application to renew a charter, the board of regents
45 shall extend the certificate of incorporation for a term not to exceed
46 five SCHOOL years, PLUS THE PERIOD, IF ANY, COMMENCING WITH THE EFFEC-
47 TIVE DATE OF THE RENEWAL CHARTER AND ENDING WITH THE FIRST DAY OF THE
48 FIRST FULL SCHOOL YEAR IN WHICH INSTRUCTION IS PROVIDED UNDER THE
49 RENEWAL CHARTER. Upon termination or nonrenewal of the charter of a
50 charter school pursuant to section twenty-eight hundred fifty-five of
51 this article, the certificate of incorporation of the charter school
52 shall be revoked by the board of regents pursuant to section two hundred
53 nineteen of this chapter, provided that compliance with the notice and
54 hearing requirements of such section twenty-eight hundred fifty-five of
55 this article shall be deemed to satisfy the notice and hearing require-
56 ments of such section two hundred nineteen. It shall be the duty of the

1 trustees of the charter school to obtain federal tax-exempt status no
2 later than one year following approval of a charter school by the board
3 of regents. For purposes of this article, "certificate of incorporation"
4 shall mean the provisional charter issued by the board of regents to
5 form the charter school as an educational corporation pursuant to
6 sections two hundred sixteen and two hundred seventeen of this chapter.

7 S 4. Paragraph (p) of subdivision 2 of section 2851 of the education
8 law, as added by chapter 4 of the laws of 1998, is amended to read as
9 follows:

10 (p) The term of the proposed charter, which shall not exceed five
11 SCHOOL years IN WHICH INSTRUCTION IS PROVIDED TO PUPILS, PLUS ANY ADDI-
12 TIONAL PERIOD AUTHORIZED PURSUANT TO PARAGRAPH (A) OF SUBDIVISION ONE OF
13 SECTION TWENTY-EIGHT HUNDRED FIFTY-THREE OF THIS ARTICLE.

14 S 5. Paragraph h of subdivision 4 of section 1950 of the education law
15 is amended by adding a new subparagraph 8 to read as follows:

16 (8) TO ENTER INTO CONTRACTS WITH CHARTER SCHOOLS AUTHORIZED BY ARTICLE
17 FIFTY-SIX OF THIS CHAPTER, TO PROVIDE SERVICES AS AUTHORIZED BY THIS
18 SECTION.

19 S 6. This act shall take effect on the ninetieth day after it shall
20 have become a law; provided that section one of this act shall take
21 effect July 1, 2010.