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I N S E N A T E

February 25, 2010

Introduced by Sen. OPPENHEIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to charter schools

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

1 Section 1. Paragraph (c) of subdivision 2 of section 2851 of the
2 education law, as added by chapter 4 of the laws of 1998, is amended to
3 read as follows:

4 (c) The proposed governance structure of the school, including a list
5 of members of the initial board of trustees, a description of the quali-
6 fications, terms and method of appointment or election of trustees, the
7 organizational structure of the school, A PROCEDURE FOR CONDUCTING AND
8 PUBLICIZING MONTHLY BOARD OF TRUSTEE MEETINGS AT EACH CHARTER SCHOOL,
9 and the processes to be followed by the school to promote parental and
10 staff involvement in school governance.

11 S 2. Paragraph (v) of subdivision 2 of section 2851 of the education
12 law, as added by chapter 4 of the laws of 1998, is amended to read as
13 follows:

14 (v) A code of ethics for the charter school, setting forth for the
15 guidance of its trustees, officers and employees the standards of
16 conduct expected of them INCLUDING STANDARDS WITH RESPECT TO DISCLOSURE
17 OF CONFLICTS OF INTEREST REGARDING ANY MATTER BROUGHT BEFORE THE BOARD
18 OF TRUSTEES.

19 S 3. Subdivision 4 of section 2851 of the education law is amended by
20 adding a new paragraph (e) to read as follows:

21 (E) A DEMONSTRATION OF THE EFFORTS TAKEN BY THE CHARTER SCHOOL TO
22 ATTRACT AND RETAIN HIGH-NEED STUDENTS, INCLUDING STUDENTS AT RISK OF
23 EDUCATIONAL FAILURE OR STUDENTS WHO ARE OTHERWISE IN NEED OF SPECIAL
24 ASSISTANCE AND SUPPORT WHICH SHALL BE CONSIDERED BY THE CHARTER ENTITY
25 PRIOR TO APPROVING SUCH CHARTER SCHOOL'S APPLICATION FOR RENEWAL.

26 S 4. Paragraph (c) of subdivision 1 of section 2854 of the education
27 law, as amended by chapter 267 of the laws of 2005, is amended to read
28 as follows:

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

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1 (c) A charter school shall be subject to the financial audits, the
2 audit procedures, and the audit requirements set forth in the charter
3 and shall be subject to audits of the comptroller [as set forth in
4 section thirty-three of the general municipal law] OF THE STATE OF NEW
5 YORK AT HIS OR HER DISCRETION. Such procedures and standards shall be
6 consistent with generally accepted accounting and audit standards. Inde-
7 pendent fiscal audits shall be required at least once annually.

8 S 5. Subdivision 1 of section 2854 of the education law is amended by
9 adding a new paragraph (f) to read as follows:

10 (F) A CHARTER SCHOOL SHALL BE SUBJECT TO THE PROVISIONS OF SECTIONS
11 EIGHT HUNDRED, EIGHT HUNDRED ONE, EIGHT HUNDRED TWO, EIGHT HUNDRED
12 THREE, EIGHT HUNDRED FOUR, EIGHT HUNDRED FOUR-A, EIGHT HUNDRED FIVE,
13 EIGHT HUNDRED FIVE-A, EIGHT HUNDRED FIVE-B AND EIGHT HUNDRED SIX OF THE
14 GENERAL MUNICIPAL LAW TO THE SAME EXTENT SUCH SECTIONS APPLY TO SCHOOL
15 DISTRICTS.

16 S 6. Paragraph (b) of subdivision 2 of section 2854 of the education
17 law, as amended by section 5 of part D-2 of chapter 57 of the laws of
18 2007, is amended to read as follows:

19 (b) Any child who is qualified under the laws of this state for admis-
20 sion to a public school is qualified for admission to a charter school.
21 APPLICATIONS FOR ADMISSION TO A CHARTER SCHOOL SHALL BE SUBMITTED ON A
22 UNIFORM APPLICATION FORM CREATED BY THE DEPARTMENT AND SHALL BE MADE
23 AVAILABLE BY A CHARTER SCHOOL IN LANGUAGES PREDOMINATELY SPOKEN IN THE
24 COMMUNITY IN WHICH SUCH CHARTER SCHOOL IS LOCATED. The school shall
25 enroll each eligible student who submits a timely application by the
26 first day of April each year, unless the number of applications exceeds
27 the capacity of the grade level or building. In such cases, students
28 shall be accepted from among applicants by a random selection process,
29 provided, however, that an enrollment preference shall be provided to
30 pupils returning to the charter school in the second or any subsequent
31 year of operation and pupils residing in the school district in which
32 the charter school is located, and siblings of pupils already enrolled
33 in the charter school. THE COMMISSIONER SHALL ESTABLISH REGULATIONS TO
34 REQUIRE THAT THE RANDOM SELECTION PROCESS CONDUCTED PURSUANT TO THIS
35 PARAGRAPH BE PERFORMED IN A TRANSPARENT AND EQUITABLE MANNER AND TO
36 REQUIRE THAT THE TIME AND PLACE OF THE RANDOM SELECTION PROCESS BE
37 PUBLICIZED IN A MANNER CONSISTENT WITH THE REQUIREMENTS OF SECTION ONE
38 HUNDRED FOUR OF THE PUBLIC OFFICERS LAW AND BE OPEN TO THE PUBLIC. For
39 the purposes of this paragraph and paragraph (a) of this subdivision,
40 the school district in which the charter school is located shall mean,
41 for the city school district of the city of New York, the community
42 district in which the charter school is located.

43 S 7. Paragraph (a) of subdivision 2 of section 2854 of the education
44 law, as amended by section 5 of part D-2 of chapter 57 of the laws of
45 2007, is amended to read as follows:

46 (a) A charter school shall be nonsectarian in its programs, admission
47 policies, employment practices, and all other operations and shall not
48 charge tuition or fees; provided that a charter school may require the
49 payment of fees on the same basis and to the same extent as other public
50 schools. A charter school shall not discriminate against any student,
51 employee or any other person on the basis of ethnicity, national origin,
52 gender, or disability or any other ground that would be unlawful if done
53 by a school. Admission of students shall not be limited on the basis of
54 intellectual ability, measures of achievement or aptitude, athletic
55 ability, disability, race, creed, gender, national origin, religion, or
56 ancestry; provided, however, that nothing in this article shall be

1 construed to prevent the establishment of a single-sex charter school or
2 a charter school designed to provide expanded learning opportunities for
3 students at-risk of academic failure OR STUDENTS WHO ARE OTHERWISE IN
4 NEED OF SPECIAL ASSISTANCE AND SUPPORT SUCH AS STUDENTS WITH DISABILI-
5 TIES AND ENGLISH LANGUAGE LEARNERS; and provided, further, that the
6 charter school shall demonstrate good faith efforts to attract and
7 retain a comparable or greater enrollment of students with disabilities
8 and limited English proficient students when compared to the enrollment
9 figures for such students in the school district in which the charter
10 school is located. A charter shall not be issued to any school that
11 would be wholly or in part under the control or direction of any reli-
12 gious denomination, or in which any denominational tenet or doctrine
13 would be taught.

14 S 8. Subdivision 2 of section 2857 of the education law, as amended by
15 section 7 of part D-2 of chapter 57 of the laws of 2007, is amended to
16 read as follows:

17 2. Each charter school shall submit to the charter entity and to the
18 board of regents an annual report. Such report shall be issued no later
19 than the first day of August of each year for the preceding school year
20 AND SHALL BE MADE PUBLICLY AVAILABLE BY SUCH DATE AND SHALL BE POSTED ON
21 THE CHARTER SCHOOL'S WEBSITE. The annual report shall be in such form
22 as shall be prescribed by the commissioner and shall include at least
23 the following components:

24 (a) a charter school report card, which shall include measures of the
25 comparative academic and fiscal performance of the school, as prescribed
26 by the commissioner in regulations adopted for such purpose. Such meas-
27 ures shall include, but not be limited to, graduation rates, dropout
28 rates, performance of students on standardized tests, college entry
29 rates, total spending per pupil and administrative spending per pupil.
30 Such measures shall be presented in a format that is easily comparable
31 to similar public schools. In addition, the charter school shall ensure
32 that such information is easily accessible to the community INCLUDING
33 MAKING IT PUBLICLY AVAILABLE BY TRANSMITTING IT TO LOCAL NEWSPAPERS OF
34 GENERAL CIRCULATION AND MAKING IT AVAILABLE FOR DISTRIBUTION AT BOARD OF
35 TRUSTEE MEETINGS.

36 (b) discussion of the progress made towards achievement of the goals
37 set forth in the charter.

38 (c) a certified financial statement setting forth, by appropriate
39 categories, the revenues and expenditures for the preceding school year,
40 including a copy of the most recent independent fiscal audit of the
41 school AND ANY AUDIT CONDUCTED BY THE COMPTROLLER OF THE STATE OF NEW
42 YORK.

43 S 9. Subdivision 2 of section 2857 of the education law, as amended by
44 section eight of this act, is amended to read as follows:

45 2. Each charter school shall submit to the charter entity and to the
46 board of regents an annual report. Such report shall be issued no later
47 than the first day of August of each year for the preceding school year
48 and shall be made publicly available by such date and shall be posted on
49 the charter school's website. The annual report shall be in such form
50 as shall be prescribed by the commissioner and shall include at least
51 the following components:

52 (a) a charter school report card, which shall include measures of the
53 comparative academic and fiscal performance of the school, as prescribed
54 by the commissioner in regulations adopted for such purpose. Such meas-
55 ures shall include, but not be limited to, graduation rates, dropout
56 rates, performance of students on standardized tests, college entry

1 rates, total spending per pupil and administrative spending per pupil.
2 Such measures shall be presented in a format that is easily comparable
3 to similar public schools. In addition, the charter school shall ensure
4 that such information is easily accessible to the community including
5 making it publicly available by transmitting it to local newspapers of
6 general circulation and making it available for distribution at board of
7 trustee meetings.

8 (b) discussion of the progress made towards achievement of the goals
9 set forth in the charter.

10 (c) a certified financial statement setting forth, by appropriate
11 categories, the revenues and expenditures for the preceding school year,
12 including a copy of the most recent independent fiscal audit of the
13 school and any audit conducted by the comptroller of the state of New
14 York.

15 (D) EFFORTS TAKEN BY THE CHARTER SCHOOL IN THE EXISTING SCHOOL YEAR,
16 AND A PLAN FOR EFFORTS TO BE TAKEN IN THE SUCCEEDING SCHOOL YEAR, TO
17 ATTRACT AND RETAIN HIGH-NEED STUDENTS, INCLUDING STUDENTS AT RISK OF
18 EDUCATIONAL FAILURE OR STUDENTS WHO ARE OTHERWISE IN NEED OF SPECIAL
19 ASSISTANCE AND SUPPORT.

20 S 10. Subdivision 3 of section 2857 of the education law is amended by
21 adding a new paragraph (a-1) to read as follows:

22 (A-1) A LIST INCLUDING THE NUMBER OF CHARTER SCHOOLS CLOSED DURING THE
23 PRECEDING YEAR, AND A BRIEF DESCRIPTION OF THE REASONS THEREFOR INCLUD-
24 ING, BUT NOT LIMITED TO, NON-RENEWAL OF THE CHARTER OR REVOCATION OF THE
25 CHARTER;

26 S 11. Section 2857 of the education law is amended by adding a new
27 subdivision 5 to read as follows:

28 5. THE BOARD OF REGENTS SHALL ON AN ANNUAL BASIS REVIEW AND MAKE
29 AVAILABLE TO SCHOOL DISTRICTS BEST EDUCATIONAL PRACTICES EMPLOYED BY
30 CHARTER SCHOOLS.

31 S 12. Severability clause. If any clause, sentence, paragraph, subdi-
32 vision, section or part of this act shall be adjudged by any court of
33 competent jurisdiction to be invalid, such judgment shall not affect,
34 impair, or invalidate the remainder thereof, but shall be confined in
35 its operation to the clause, sentence, paragraph, subdivision, section
36 or part thereof directly involved in the controversy in which such judg-
37 ment shall have been rendered. It is hereby declared to be the intent of
38 the legislature that this act would have been enacted even if such
39 invalid provisions had not been included herein.

40 S 13. This act shall take effect immediately; provided, however, that
41 sections three, six and nine of this act shall take effect July 1, 2011.