

1473

2009-2010 Regular Sessions

I N   S E N A T E

February 2, 2009

---

Introduced by Sen. SALAND -- 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 approval of applications of charter schools

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

1     Section 1. Subdivision 2 of section 2851 of the education law is  
2     amended by adding a new paragraph (y) to read as follows:  
3     (Y) THE PUBLIC SCHOOL DISTRICT WHERE THE CHARTER SCHOOL IS TO BE  
4     LOCATED.  
5     S 2. Subdivisions 3 and 4 of section 2851 of the education law, as  
6     added by chapter 4 of the laws of 1998, paragraph (a) of subdivision 3  
7     as amended by section 6 of part B of chapter 57 of the laws of 2008, are  
8     amended to read as follows:  
9     3. An applicant shall submit the application to [a] THE BOARD OF  
10    EDUCATION OF THE SCHOOL DISTRICT AND IN A CITY HAVING A POPULATION OF  
11    ONE MILLION OR MORE TO THE CHANCELLOR, WHERE THE CHARTER SCHOOL WILL BE  
12    LOCATED AND THE charter entity for approval. For purposes of this arti-  
13    cle, a charter entity shall be:  
14    (a) The board of education of a school district eligible for an appor-  
15    tionment of aid under subdivision four of section thirty-six hundred two  
16    of this chapter, provided that a board of education shall not approve an  
17    application for a school to be operated outside the school district's  
18    geographic boundaries and further provided that in a city having a popu-  
19    lation of one million or more, the chancellor of any such city school  
20    district shall be the charter entity established by this paragraph;  
21    (b) The board of trustees of the state university of New York; or  
22    (c) The board of regents.  
23    The board of regents shall be the only entity authorized to issue a  
24    charter pursuant to this article. Notwithstanding any provision of this  
25    subdivision to the contrary, an application for the conversion of an

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

LBD07267-01-9

existing public school to a charter school shall be submitted to, and may only be approved by, the charter entity set forth in paragraph (a) of this subdivision. Any such application for conversion shall be consistent with this section, and the charter entity shall require that the parents or guardians of a majority of the students then enrolled in the existing public school vote in favor of converting the school to a charter school.

4. Charters WHICH ARE ISSUED PRIOR TO APRIL FIRST, TWO THOUSAND EIGHT, may be renewed, upon application, for a term of up to five years BY THE CHARTER ENTITY WHICH ORIGINALLY APPROVED THE CHARTER. CHARTERS ISSUED AFTER APRIL FIRST, TWO THOUSAND EIGHT MAY BE RENEWED UPON APPLICATION FOR A TERM OF UP TO FIVE YEARS in accordance with the provisions of this article for the issuance of such charters pursuant to section twenty-eight hundred fifty-two of this article; provided, however, that [a] ALL renewal [application] APPLICATIONS shall include:

(a) A report of the progress of the charter school in achieving the educational objectives set forth in the charter.

(b) A detailed financial statement that discloses the cost of administration, instruction and other spending categories for the charter school that will allow a comparison of such costs to other schools, both public and private. Such statement shall be in a form prescribed by the board of regents.

(c) Copies of each of the annual reports of the charter school required by subdivision two of section twenty-eight hundred fifty-seven of this article, including the charter school report cards and the certified financial statements.

(d) Indications of parent and student satisfaction.

Such renewal application shall be submitted to the charter entity no later than six months prior to the expiration of the charter; provided, however, that the charter entity may waive such deadline for good cause shown.

S 3. Subdivisions 1, 3 and 7 of section 2852 of the education law, subdivisions 1 and 7 as amended by section 2 of part D2 of chapter 57 of the laws of 2007 and subdivision 3 as added by chapter 4 of the laws of 1998, are amended to read as follows:

1. A CHARTER ENTITY SHALL NOT ACT ON AN APPLICATION UNLESS THE SCHOOL BOARD OF THE SCHOOL DISTRICT WHERE THE CHARTER SCHOOL IS TO BE LOCATED HAS VOTED AND APPROVED THE CHARTER APPLICATION. IN A CITY OF MORE THAN ONE MILLION INHABITANTS, THE CHANCELLOR SHALL ACT AS THE APPROVAL AUTHORITY FOR ANY CHARTER APPLICATIONS TO BE LOCATED WITHIN SUCH CITY BEFORE A CHARTER ENTITY SHALL ACT ON THE APPLICATION. EACH SCHOOL DISTRICT THAT RECEIVES AN APPLICATION FOR APPROVAL OF A CHARTER SCHOOL SHALL ACT ON EACH REQUEST RECEIVED PRIOR TO JULY FIRST OF A CALENDAR YEAR ON OR BEFORE OCTOBER FIRST OF THAT CALENDAR YEAR. WITHIN SEVEN DAYS OF APPROVING A CHARTER APPLICATION, THE SCHOOL BOARD, OR CHANCELLOR WHERE APPROPRIATE, SHALL FORWARD THE APPLICATION TO THE APPROPRIATE CHARTER ENTITY ALONG WITH A FORM TO BE DEVELOPED BY THE COMMISSIONER WHICH STATES THAT THE SCHOOL BOARD, OR THE CHANCELLOR WHERE APPROPRIATE, HAS ACTED TO APPROVE THE CHARTER APPLICATION. THE DENIAL OF AN APPLICATION FOR A CHARTER SCHOOL BY A SCHOOL BOARD OR CHANCELLOR WHERE APPROPRIATE SHALL BE IN WRITING AND SHALL STATE THE REASONS FOR THE DENIAL. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, SUCH DENIAL IS FINAL AND SHALL NOT BE REVIEWABLE IN ANY COURT OR BY ANY ADMINISTRATIVE BODY. A charter entity that receives an application [for approval] of a charter school WHICH HAS BEEN APPROVED BY A SCHOOL BOARD OR CHANCELLOR shall act on each [request] CHARTER SCHOOL APPLICATION received FROM A

1 SCHOOL BOARD OR CHANCELLOR prior to July first of a calendar year on or  
2 before January first of the succeeding calendar year, and a proposed  
3 charter between the applicant and the charter entity resulting from such  
4 application AND SCHOOL BOARD OR CHANCELLOR APPROVAL shall be executed on  
5 or before February first of such succeeding year. Nothing in this  
6 subdivision shall be construed to prevent a charter entity from receiv-  
7 ing or acting upon an application at any time PROVIDED THAT SUCH APPLI-  
8 CATION MUST HAVE THE APPROVAL OF THE SCHOOL BOARD, OR CHANCELLOR WHERE  
9 APPROPRIATE, WHERE THE CHARTER SCHOOL IS TO BE LOCATED.

10 3. A charter entity is not required to approve a charter and may  
11 require an applicant to modify or supplement an application as a condi-  
12 tion of approval. ANY MODIFICATION OR SUPPLEMENT SHALL FIRST BE  
13 APPROVED BY THE SCHOOL BOARD, OR CHANCELLOR WHERE APPROPRIATE, BEFORE A  
14 CHARTER ENTITY MAY ACT ON THE CHARTER SCHOOL APPLICATION. An existing  
15 private school shall not be eligible to convert to a charter school. In  
16 determining whether an application involves the conversion of an exist-  
17 ing private school, the charter entity and the board of regents shall  
18 consider such factors as: (a) whether the charter school would have the  
19 same or substantially the same board of trustees and/or officers as an  
20 existing private school; (b) whether a substantial proportion of employ-  
21 ees of the charter school would be drawn from such existing private  
22 school; (c) whether a substantial portion of the assets and property of  
23 such existing private school would be transferred to the charter school;  
24 (d) whether the charter school would be located at the same site as such  
25 existing private school; (e) upon renewal only, whether such private  
26 school closed within one year of establishment of the charter school;  
27 and (f) upon renewal only, whether a substantial portion of the charter  
28 school's students were drawn from such existing private school.

29 7. (a) A revision of a charter shall be made only upon the approval of  
30 the SCHOOL BOARD OF THE SCHOOL DISTRICT WHERE THE CHARTER SCHOOL IS TO  
31 BE LOCATED, OR THE CHANCELLOR WHERE APPROPRIATE, charter entity and the  
32 board of regents in accordance with the provisions of subdivisions  
33 five-a and five-b of this section.

34 (b) When a revision of a charter involves the relocation of a charter  
35 school to a different school district, the proposed new school district  
36 shall be given at least forty-five days notice of the proposed relo-  
37 cation. In addition, the applicant shall provide an analysis of the  
38 community support for such relocation and of the projected programmatic  
39 and fiscal impact of the charter school on the proposed new school  
40 district of location and other public and nonpublic schools in the area.

41 S 4. Subdivision 2 of section 2853 of the education law, as added by  
42 chapter 4 of the laws of 1998, is amended to read as follows:

43 2. The board of regents, THE SCHOOL BOARD OF THE SCHOOL DISTRICT WHERE  
44 THE CHARTER SCHOOL IS TO BE LOCATED, and charter entity shall oversee  
45 each school approved by such entity, and may visit, examine into and  
46 inspect any charter school, including the records of such school, under  
47 its oversight. Oversight by a charter entity and the board of regents  
48 shall be sufficient to ensure that the charter school is in compliance  
49 with all applicable laws, regulations and charter provisions.

50 S 5. This act shall take effect immediately.