

6470

I N S E N A T E

January 18, 2010

Introduced by Sen. C. JOHNSON -- 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. 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 SIXTY. [One] TWO hundred THIRTY of such
6 charters shall be issued on the recommendation of the charter entity
7 described in paragraph (b) of subdivision three of section twenty-eight
8 hundred fifty-one of this article, and [one] TWO hundred THIRTY of such
9 charters shall be issued on the recommendation of the other charter
10 entities set forth in subdivision three of section twenty-eight hundred
11 fifty-one of this article[, provided that up to fifty of the additional
12 charters authorized to be issued by the chapter of the laws of two thou-
13 sand seven which amended this subdivision effective July first, two
14 thousand seven shall be reserved for a city school district of a city
15 having a population of one million or more]. The failure of any body to
16 issue the regulations authorized pursuant to this article shall not
17 [effect] AFFECT the authority of a charter entity to propose a charter
18 to the board of regents or the board of regents' authority to grant such
19 charter. A conversion of an existing public school to a charter school
20 or the renewal or extension of a charter shall not be counted toward the
21 numerical limits established by this subdivision.

22 S 2. Paragraph (c) of subdivision 2 of section 2851 of the education
23 law, as added by chapter 4 of the laws of 1998, is amended to read as
24 follows:

25 (c) The proposed governance structure of the school, including a list
26 of members of the initial board of trustees, a description of the quali-
27 fications, terms and method of appointment or election of trustees, the
28 organizational structure of the school, A PROCEDURE FOR CONDUCTING AND
29 PUBLICIZING REGULAR BOARD OF TRUSTEE MEETINGS AT EACH CHARTER SCHOOL,

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

LBD12182-02-0

1 and the processes to be followed by the school to promote parental and
2 staff involvement in school governance.

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

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

11 S 4. Paragraph (p) 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 (p) The term of the proposed charter, which shall not exceed five
15 years; PROVIDED HOWEVER, THE TERM OF SUCH PROPOSED CHARTER SHALL NOT
16 EXCEED FIVE YEARS IN WHICH INSTRUCTION IS PROVIDED TO PUPILS PLUS THE
17 PERIOD COMMENCING WITH THE EFFECTIVE DATE OF THE CHARTER AND ENDING WITH
18 THE OPENING OF THE SCHOOL FOR INSTRUCTION.

19 S 5. 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 TO BE TAKEN BY THE CHARTER SCHOOL
22 TO 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.

25 S 6. Paragraph (a) of subdivision 1 of section 2853 of the education
26 law, as added by chapter 4 of the laws of 1998, is amended to read as
27 follows:

28 (a) Upon the approval of a charter by the board of regents, the board
29 of regents shall incorporate the charter school as an education corpo-
30 ration for a term not to exceed five years, PROVIDED HOWEVER THE BOARD
31 OF REGENTS SHALL INCORPORATE THE CHARTER SCHOOL AS AN EDUCATION CORPO-
32 RATION FOR A TERM NOT TO EXCEED FIVE YEARS IN WHICH INSTRUCTION IS
33 PROVIDED TO PUPILS PLUS THE PERIOD COMMENCING WITH THE EFFECTIVE DATE OF
34 THE CHARTER AND ENDING WITH THE OPENING OF THE SCHOOL FOR INSTRUCTION.
35 Such certificate of incorporation shall not modify or limit any terms of
36 the charter approved by the board of regents. Upon approval of an appli-
37 cation to renew a charter, the board of regents shall extend the certif-
38 icate of incorporation for a term not to exceed five years. Upon termi-
39 nation or nonrenewal of the charter of a charter school pursuant to
40 section twenty-eight hundred fifty-five of this article, the certificate
41 of incorporation of the charter school shall be revoked by the board of
42 regents pursuant to section two hundred nineteen of this chapter,
43 provided that compliance with the notice and hearing requirements of
44 such section twenty-eight hundred fifty-five of this article shall be
45 deemed to satisfy the notice and hearing requirements of such section
46 two hundred nineteen. It shall be the duty of the trustees of the char-
47 ter school to obtain federal tax-exempt status no later than one year
48 following approval of a charter school by the board of regents. For
49 purposes of this article, "certificate of incorporation" shall mean the
50 provisional charter issued by the board of regents to form the charter
51 school as an educational corporation pursuant to sections two hundred
52 sixteen and two hundred seventeen of this chapter.

53 S 7. Intentionally omitted.

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

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

S 9. Paragraph (a) of subdivision 2 of section 2854 of the education law, as amended by section 5 of part D-2 of chapter 57 of the laws of 2007, is amended to read as follows:

(a) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations and shall not charge tuition or fees; provided that a charter school may require the payment of fees on the same basis and to the same extent as other public schools. A charter school shall not discriminate against any student, employee or any other person on the basis of ethnicity, national origin, gender, or disability or any other ground that would be unlawful if done by a school. Admission of students shall not be limited on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, disability, race, creed, gender, national origin, religion, or ancestry; provided, however, that nothing in this article shall be construed to prevent the establishment of a single-sex charter school or a charter school designed to provide expanded learning opportunities for students at-risk of academic failure OR STUDENTS WHO ARE OTHERWISE IN NEED OF SPECIAL ASSISTANCE AND SUPPORT SUCH AS STUDENTS WITH DISABILITIES AND ENGLISH LANGUAGE LEARNERS; and provided, further, that the charter school shall demonstrate good faith efforts to attract and retain a comparable or greater enrollment of students with disabilities and limited English proficient students when compared to the enrollment figures for such students in the school district in which the charter school is located. A charter shall not be issued to any school that would be wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine would be taught.

S 10. Subdivision 2 of section 2857 of the education law, as amended by section 7 of part D-2 of chapter 57 of the laws of 2007, is amended to read as follows:

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

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

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

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

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

S 11. Subdivision 3 of section 2857 of the education law is amended by adding a new paragraph (a-1) to read as follows:

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

S 12. Section 2857 of the education law is amended by adding a new subdivision 5 to read as follows:

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

S 13. The education law is amended by adding a new section 211-e to read as follows:

S 211-E. EDUCATIONAL MANAGEMENT ORGANIZATIONS. 1. EACH COMMON, CENTRAL, CENTRAL HIGH SCHOOL, UNION FREE, EXCEPT SPECIAL ACT SCHOOL DISTRICTS AS DEFINED IN SECTION FOUR THOUSAND ONE OF THIS CHAPTER, AND CITY SCHOOL DISTRICT SHALL BE AUTHORIZED TO ENTER INTO CONTRACTS WITH APPROVED EDUCATIONAL MANAGEMENT ORGANIZATIONS FOR THE PURPOSE OF MANAGING INDIVIDUAL SCHOOLS WITHIN THE DISTRICT IN ORDER TO TURN AROUND THE PERSISTENTLY LOWEST-ACHIEVING SCHOOLS. CONTRACTS SHALL BE SOLICITED AND AWARDED PURSUANT TO A COMPETITIVE REQUEST FOR PROPOSALS PROCESS THAT SHALL BE DEVELOPED BY THE BOARD OF EDUCATION IN CONSULTATION WITH THE SUPERINTENDENT OF SCHOOLS IN ACCORDANCE WITH COMMISSIONER'S REGULATIONS PURSUANT TO SUBDIVISION TWO OF THIS SECTION. FOR THE PURPOSES OF THIS SECTION, THE TERM "BOARD OF EDUCATION" SHALL MEAN THE TRUSTEE, TRUSTEES OR BOARD OF EDUCATION OF ANY SCHOOL DISTRICT, AND IN A CITY SCHOOL DISTRICT IN A CITY HAVING A POPULATION OF ONE MILLION OR MORE INHABITANTS THE TERM "SUPERINTENDENT OF SCHOOLS" SHALL MEAN THE COMMUNITY SUPERINTENDENT OF A COMMUNITY DISTRICT.

2. THE DEPARTMENT SHALL ESTABLISH A LIST OF APPROVED EDUCATIONAL MANAGEMENT ORGANIZATIONS SELECTED THROUGH A RIGOROUS REVIEW PROCESS. ELIGIBLE EDUCATIONAL MANAGEMENT ORGANIZATIONS SHALL INCLUDE NON-PROFIT ENTITIES WITH PROVEN SUCCESS IN RAISING THE ACHIEVEMENT OF HIGH-NEED STUDENTS AND DEMONSTRATION OF CAPACITY. THE COMMISSIONER SHALL BE AUTHORIZED TO PROMULGATE ANY REGULATIONS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION INCLUDING REGULATIONS FOR CONSISTENCY AND COMPLIANCE WITH ANY APPLICABLE FEDERAL OR STATE GUIDELINES, INCLUDING THOSE CONTAINED WITHIN THE FEDERAL AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.

S 14. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section

1 or part thereof directly involved in the controversy in which such judg-
2 ment shall have been rendered. It is hereby declared to be the intent of
3 the legislature that this act would have been enacted even if such
4 invalid provisions had not been included herein.
5 S 15. This act shall take effect immediately.