

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, No. 3083

**STATE OF NEW JERSEY**

Sponsored by Assemblywoman JASEY and Assemblymen COUTINHO, FUENTES, and  
WOLFE

AN ACT concerning the authorization of charter schools, amending  
P.L.2000, c.142, and amending and supplementing P.L.1995,  
c.426.

**BE IT ENACTED** *by the Senate and General Assembly of the State  
of New Jersey:*

1. (New section) The Legislature finds and declares that:

a. The “Charter School Program Act of 1995,” P.L.1995, c.426  
(C.18A:36A-1 et seq.), has provided students in this State with high  
quality public school choice while advancing overall academic  
excellence and closing the achievement gap among students.

b. The demand for public school choice consistently exceeds  
the supply of such choice.

c. National research and experience have documented that  
quality charter schools best fulfill their potential when they have the  
resources, autonomy, and accountability they need to succeed.

d. The time has come therefore to improve and update the  
provisions of the “Charter School Program Act of 1995” in order to  
meet the current and future educational needs of students and their  
families.

2. (New section) As used in this act, “charter school authorizer”  
means an entity charged with granting, renewing, and revoking  
charters for charter schools established pursuant to the provisions of  
P.L.1995, c.426 (C.18A:36A-1 et seq.). A charter school authorizer  
is also responsible for the ongoing monitoring of the charter schools  
it has authorized.

A charter school authorizer shall include the Commissioner of  
Education and up to three four-year public institutions of higher

**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.**

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education approved by the State Board of Education as charter school authorizers.

3. (New section) a. The State Board of Education shall establish an application process for the designation of up to three four-year public institutions of higher education as charter school authorizers. The governing board of each four-year public institution of higher education shall be eligible to apply to the State board for designation as a charter school authorizer.

b. The application process shall require each applicant institution to demonstrate:

(1) its capacity to oversee the academic, operational, and fiscal operations of a charter school, including the organizational infrastructure necessary to act as a charter school authorizer;

(2) a knowledge and understanding of the legal and regulatory issues associated with charter schools;

(3) an application and review process to be used to make decisions regarding the granting of charters;

(4) a public hearing process to allow the community in which a charter school will be located to comment on a charter school application in order to inform the charter school authorizer's evaluation of the application;

(5) a process for negotiating and executing performance contracts with approved charter schools that clearly articulate the rights and responsibilities of each party regarding charter school autonomy, any exemptions to State regulations granted pursuant to section 11 of P.L.1995, c.426 (C.18A:36A-11), expected student outcomes, measures for evaluating the success or failure of a charter school, and performance consequences;

(6) a process for providing on-going oversight of a charter school consistent with performance contract expectations, and assurances that charter schools are complying with all applicable State laws and regulations; and

(7) a plan for administering the authorizing responsibilities established pursuant to law.

c. Upon approval by the State board, a four-year public institution of higher education may act as a charter school authorizer.

4. (New section) a. A charter school authorizer approved by the State Board of Education pursuant to section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill), shall establish a charter authorizer office and review board. The charter school authorizer shall select the members of the charter authorizer review board who shall be individuals with knowledge in at least one of the following areas:

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(1) research about, and experience in, student learning, quality teaching, and the evaluation and accountability of successful schools;

(2) the skills associated with the start-up and operation of a fiscally sound enterprise, including leadership, management, budgeting, and accounting;

(3) the educational, social, and economic development needs of the State; and

(4) the needs and interests of students and parents in the State and strategies for involving parents and other members of the community in individual schools.

A person employed by a charter school located in the State shall not be eligible to be a member or employee of a charter authorizer office or review board.

b. The members of the charter authorizer review board shall select a chair from among their members. The chair shall be selected annually or when requested by a majority vote of the members of the board. The board shall meet at the call of the chair and in accordance with the requirements of the "Open Public Meetings Act," P.L.1975 c.231 (C.10:4-6 et seq.). A majority of the membership of the board shall constitute a quorum to conduct the business of the board. Members of the charter authorizer review board shall serve without compensation, but shall be reimbursed for necessary expenditures incurred in the performance of their duties as members of the board.

c. Subject to such rules as may be established by the charter authorizer review board, the chair may appoint and set the salary of an executive director and such other personnel as the chair determines to be necessary.

d. Any start-up expenses of a charter authorizer office and review board shall be paid from such funds as may be available to the Department of Education.

e. A charter authorizer review board shall:

(1) conduct a comprehensive review of charter school applications submitted to the institution;

(2) conduct effective oversight of charter schools approved by the institution;

(3) provide ongoing oversight and evaluation of a charter school approved by the institution. The board shall provide enhanced oversight for a charter school with identified deficiencies; and

(4) establish a requirement for dissemination of best practices with school districts.

f. A charter authorizer review board shall retain an independent outside auditor who is a certified public accountant to conduct an annual audit of the board's financial accounts in accordance with nationally recognized auditing and accounting standards, which audit shall be completed by December 5. The report of each annual

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audit shall be filed by the accountant, with his recommendations, with the charter authorizer review board and the governing board of the institution, and within five days thereafter the accountant shall file a duplicate copy certified under his signature with the State board and the commissioner.

g. A charter authorizer review board shall submit an annual report to the governing board of the institution and to the commissioner and State board no later than August 1, and shall also present the report to the State board at a public meeting of the State board and to the Joint Committee on the Public Schools at a public meeting of the committee.

h. The governing boards of the four-year public institutions of higher education approved by the State board as charter school authorizers pursuant to section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill), may terminate the designation of the institution as a charter school authorizer upon providing one year's written notice to the State board.

In the event that a governing board terminates the designation of the institution as a charter school authorizer pursuant to this subsection, the oversight of its charter schools shall transfer to a different charter school authorizer in accordance with an agreement entered into between the charter school and the subsequent charter school authorizer. In the absence of such agreement, the commissioner shall provide oversight of the charter school.

i. A charter school authorizer and a charter school office and review board shall not be liable for legal or equitable relief to any party for any action or inaction taken in good faith in the discharge of the duties of a charter school authorizer.

5. (New section) a. (1) A charter school authorizer may charge a charter school a fee for oversight of the charter school in an amount not to exceed 3% of the base per pupil amount established pursuant to section 7 of P.L.2007, c.260 (C.18A:7F-49) for each student enrolled in the charter school. The fee shall be assessed in accordance with an agreement approved by the State Board of Education that is entered into between the charter school authorizer and the charter school.

(2) For each student who is resident in a school district and is enrolled in a charter school, the commissioner shall deduct from the State aid payable to that district an amount equal to the fee established pursuant to paragraph (1) of this subsection, and the per pupil amount required to be paid by the resident school district to the charter school pursuant to section 12 of P.L.1995, c.426 (C.18A:36A-12) shall be adjusted by the commissioner to reflect the State aid reduction made pursuant to this paragraph.

b. A charter school that has been approved or is operating prior to the effective date of P.L. , c. (C. ) (pending before the

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Legislature as this bill), shall begin to pay the fee required pursuant to subsection a. of this section by January 1, 2012 or upon the renewal of its charter or upon transfer to a different charter school authorizer pursuant to the provisions of either subsection h. of section 4 or subsection c. of section 6 of P.L. , c. (C. ) (pending before the Legislature as this bill), whichever occurs first.

6. a. The State Board of Education shall be responsible for the on-going oversight of the performance and effectiveness of each charter school authorizer. The State Board of Education may at any time take corrective action against a charter school authorizer, including suspending or terminating designation as an authorizer for:

- (1) failure to adequately discharge the responsibilities of a charter school authorizer established pursuant to the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill);
- (2) unsatisfactory performance as a charter school authorizer;
- (3) failure to provide appropriate oversight of one or more charter schools;
- (4) the persistent unsatisfactory performance of the authorizer's portfolio of charter schools;
- (5) failure to comply with the provisions of any authorizer contract entered into with the State board or any contract entered into with a charter school; or
- (6) any other good cause as determined by the State board.

b. In the event that the State board suspends or terminates a charter school authorizer pursuant to subsection a. of this section, the State board may also suspend any fees paid to the authorizer pursuant to section 5 of P.L. , c. (C. ) (pending before the Legislature as this bill).

c. In the event that the State board terminates an authorizer's designation as a charter school authorizer pursuant to subsection a. of this section, the oversight of its charter schools shall transfer to a different charter school authorizer in accordance with an agreement entered into between the charter school and the subsequent charter school authorizer. In the absence of such agreement, the Commissioner of Education shall provide oversight of the charter school.

7. Section 3 of P.L.1995, c.426 (C.18A:36A-3) is amended to read as follows:

3. a. The Commissioner of Education shall establish a charter school program which shall provide for the approval and granting of charters to charter schools pursuant to the provisions of this act. A charter school shall be a public school operated under a charter granted by [the commissioner] a charter school authorizer, which is operated independently of a local board of education and is

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managed by a board of trustees. The board of trustees, upon receiving a charter from the [commissioner] charter school authorizer, shall be deemed to be public agents authorized by the State Board of Education to supervise and control the charter school.

b. The program shall authorize the establishment of not more than 135 charter schools during the 48 months following the effective date of this act. A minimum of three charter schools shall be allocated to each county. The commissioner shall actively encourage the establishment of charter schools in urban school districts with the participation of institutions of higher education. (cf: P.L.1995, c.426, s.3)

8. Section 4 of P.L.1995, c.426 (C.18A:36A-4) is amended to read as follows:

4. a. A charter school may be established by teaching staff members, parents with children attending the schools of the district, or a combination of teaching staff members and parents. A charter school may also be established by an institution of higher education or a private entity located within the State in conjunction with teaching staff members and parents of children attending the schools of the district, a teachers' union, a parent-teacher organization, a nonprofit community-based organization, a nonprofit business or corporate entity, a nonprofit charter school operator, a nonprofit education management organization, a nonprofit educational collaborative, a consortia of these entities, or other nonprofit entities authorized by the commissioner. If the charter school is established by a private entity, representatives of the private entity shall not constitute a majority of the trustees of the school, and the charter shall specify the extent to which the private entity shall be involved in the operation of the school. The name of the charter school shall not include the name or identification of the private entity, and the private entity shall not realize a net profit from its operation of a charter school. A private or parochial school shall not be eligible for charter school status.

b. A currently existing public school is eligible to become a charter school if the following criteria are met:

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

(2) At least 51% of the parents or guardians of pupils attending that public school shall have signed a petition in support of the school becoming a charter school.

c. A charter school authorizer shall accept applications at least twice each year. An application to establish a charter school shall be submitted to [the commissioner] a charter school authorizer and the local board of education or State district superintendent, in the case

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of a [State-operated school district, in the school year preceding the school year in which the charter school will be established] school district under full State intervention. Notice of the filing of the application shall be [sent] posted immediately on the charter school authorizer's website and communicated via email within 15 business days by the [commissioner] charter school authorizer to the members of the State Legislature, school superintendents, and mayors and governing bodies of all legislative districts, school districts, or municipalities in which there are students who will be eligible for enrollment in the charter school and to the commissioner if he is not the recipient of the application. The board of education or State district superintendent shall review the application and forward a recommendation to the [commissioner] charter school authorizer within 60 days of receipt of the application. The [commissioner] charter school authorizer shall have final authority to grant or reject a charter application and shall make a decision on an application within 150 days of receipt of the application.

A charter school authorizer shall not grant a charter to an applicant who has been denied a charter by another authorizer within one year of the date of the denial.

d. The local board of education or a charter school applicant may appeal the decision of the [commissioner] charter school authorizer to the [State Board of Education. The State board shall render a decision within 30 days of the date of the receipt of the appeal. If the State board does not render a decision within 30 days, the decision of the commissioner shall be deemed final] Appellate Division of the Superior Court.

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

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

(cf: P.L.2002, c.123, s.1)

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

5. The application for a charter school shall include the following information:

- a. The identification of the charter applicant;
- b. The name of the proposed charter school;
- c. The proposed governance structure of the charter school including a list of the proposed members of the board of trustees of the charter school or a description of the qualifications and method for the appointment or election of members of the board of trustees;
- d. The educational goals of the charter school, the curriculum to be offered, and the methods of assessing whether students are meeting educational goals. Charter school students shall be required to meet the same testing and academic performance standards as established by law and regulation for public school students. Charter school students shall also meet any additional assessment indicators which are included within the charter approved by the [commissioner] charter school authorizer;
- e. The admission policy and criteria for evaluating the admission of students which shall comply with the requirements of section 8 of this act;
- f. The age or grade range of students to be enrolled, with an estimate of the charter school's total enrollment and of the schools of the charter school's district of residence;
- g. The school calendar and school day schedule;
- h. A description of the charter school staff responsibilities and the proposed qualifications of teaching staff;
- i. A description of the procedures to be implemented to ensure significant parental involvement in the operation of the school;
- j. A description of, and address for, the physical facility in which the charter school will be located;
- k. Information on the manner in which community groups will be involved in the charter school planning process;
- l. The financial plan for the charter school and the provisions which will be made for auditing the school pursuant to the provisions of N.J.S.18A:23-1;
- m. A description of and justification for any waivers of regulations which the charter school will request; [and]
- n. The mission, purpose, and specialized focus of the proposed charter school;
- o. The innovative methods to be used in the charter school and the manner in which they differ from those of the district of residence of the charter school;
- p. Whether the charter school's proposed educational program or model is being successfully implemented in the charter school's district of residence;
- q. A student recruitment and retention plan;

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r. Information on the educational program, instructional methodology, and services to be offered to students, including research on how the proposed program may improve the academic performance of student subgroups listed in the recruitment and retention plan;

s. If applicable, the charter school's capacity to address the needs of limited English proficient students, if applicable, to learn English and content matter;

t. If applicable, any proposed contract with an organization that will manage or operate the charter school;

u. Procedures for the evaluation and professional development of charter school teachers and administrators; and

v. Such other information as the [commissioner] charter school authorizer may require.

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

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

8. a. Preference for enrollment in a charter school shall be given to students who reside in the school district in which the charter school is located. If there are more applications to enroll in the charter school than there are spaces available, the charter school shall select students to attend using a random selection process. A charter school shall not charge tuition to students who reside in the district.

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

c. A charter school may give enrollment priority to a sibling of a student enrolled in the charter school.

d. If available space permits, a charter school may enroll non-resident students. The terms and condition of the enrollment shall be outlined in the school's charter and approved by the [commissioner] charter school authorizer.

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

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

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

9. A student may withdraw from a charter school at any time. A student may be expelled from a charter school based on criteria determined by the board of trustees, which are consistent with the provisions of N.J.S.18A:37-2, and approved by the [commissioner]

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charter school authorizer as part of the school's charter. Any expulsion shall be made upon the recommendation of the charter school principal, in consultation with the student's teachers.

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

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

16. a. The [commissioner] charter school authorizer shall annually assess whether each charter school under its authority is meeting the goals of its charter, and shall conduct a comprehensive review prior to granting a renewal of the charter. A charter school shall submit an application to its charter school authorizer for renewal of its charter six months prior to the expiration of its current charter. The renewal application shall include, but need not be limited to:

(1) a report on the progress of the charter school in achieving the educational objectives set forth in its charter;

(2) a detailed financial statement that sets forth the costs of administration, instruction, and other spending categories of the charter school in such manner as to allow a comparison of these costs with other public schools and with nonpublic schools;

(3) a copy of the annual reports required pursuant to subsection b. of this section; and

(4) indications of parent and student satisfaction with the charter school.

A charter school authorizer may waive the six month deadline for good cause.

The executive county superintendent of schools of the county in which the charter school is located shall have on-going access to the records and facilities of the charter school to ensure that the charter school is in compliance with its charter and that State board regulations concerning assessment, testing, civil rights, and student health and safety are being met.

b. In order to facilitate the [commissioner's] review required pursuant to subsection a. of this section, each charter school shall submit an annual report to the local board of education, the executive county superintendent of schools, and [the commissioner] its charter school authorizer in the form prescribed by the [commissioner] charter school authorizer. The report shall be received annually by the local board, the executive county superintendent, and the [commissioner] charter school authorizer no later than August 1.

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

c. By April 1, 2001, the commissioner shall hold public hearings in the north, central, and southern regions of the State to

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receive input from members of the educational community and the public on the charter school program.

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

e. The commissioner shall submit to the Governor, the Legislature, and the State Board of Education by October 1, 2001 an evaluation of the charter school program based upon the public input required pursuant to subsection c. of this section and the independent study required pursuant to subsection d. of this section. The evaluation shall include, but not be limited to, consideration of the following elements:

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

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

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

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

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

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

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

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

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

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

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

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

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

(cf: P.L.2000, c.142, s.3)

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

17. A charter granted by [the commissioner] a charter school authorizer pursuant to the provisions of this act shall be granted for a [four-year] five-year period and may be renewed for a [five-year] period of not more than ten years. The [commissioner] charter school authorizer may revoke a school's charter if the school has not fulfilled any condition imposed by the [commissioner] charter school authorizer in connection with the granting of the charter or if the school has violated any provision of its charter. The [commissioner] charter school authorizer may place the charter school on probationary status to allow the implementation of a remedial plan after which, if the plan is unsuccessful, the charter may be summarily revoked. The [commissioner] charter school authorizer shall develop procedures and guidelines for the revocation and renewal of a school's charter.

Any determination of a charter school authorizer concerning the renewal or revocation of a school's charter, the placement of a charter school on probationary status, or any other dispute arising pursuant to this section, may be appealed to the Appellate Division of the Superior Court.

(cf: P.L.1995, c.426, s.17)

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14. Section 4 of P.L.2000, c.142 (C.18A:36A-17.1) is amended to read as follows:

4. a. If at any time the [commissioner] charter school authorizer determines that a board of trustees is in jeopardy of losing its charter or an applicant is in jeopardy of not being granted a charter, the [commissioner] charter school authorizer shall so notify the board of trustees or the applicant. The board of trustees or the applicant shall, within 48 hours of receipt of such notification, provide to the [commissioner] charter school authorizer, in writing, a complete list of the names and addresses of all students and staff currently enrolled and working in the school, or in the case of an applicant, a complete list of the names and

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addresses of all students and staff intending to enroll or work at the school, so the [commissioner] charter school authorizer may send the appropriate notice to the parents or guardians and staff.

b. In the event that a charter school authorizer other than the commissioner takes any action pursuant to subsection a. of this section, the charter school authorizer shall notify the commissioner of such action.

(cf: P.L.2000, c.142, s.4)

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

18. [The State Board of Education shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the provisions of this act] Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) or any other law to the contrary, the commissioner may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the commissioner deems necessary to implement the provisions of P.L.1995, c.426 (C.18A:36A-1 et seq.) , which shall be effective for a period not to exceed 12 months following the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill). The regulations shall thereafter be amended, adopted, or readopted by the State Board of Education in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

(cf: P.L.1995, c.426, s.18)

2. This act shall take effect immediately.

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Provides for the designation of new charter school authorizers.

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