ASSEMBLY, No. 2920



STATE OF NEW JERSEY

219th LEGISLATURE



INTRODUCED FEBRUARY 20, 2020

Sponsored by:

Assemblyman JAY WEBBER

District 26 (Essex, Morris and Passaic)

SYNOPSIS

Provides for the designation of new charter school authorizers and additional modifications of the charter school program.

CURRENT VERSION OF TEXT

As introduced.



An Act concerning charter schools and 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) As used in P.L.1995, c.426 (C.18A:36A-1 et seq.):

“Approved operator” means an entity that has met criteria established by the commissioner that demonstrate a high-level of student achievement. Designation as an approved operator may be made by the commissioner upon application by the entity. An approved operator may enter into contracts to provide goods and services to charter schools under the provisions of P.L.1995, c.426 (C.18A:36A-1 et seq.).

“Charter school authorizer” means an entity, including the Commissioner of Education, charged with reviewing charter applications, 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.), and entering into contracts with those granted charters. A charter school authorizer shall be responsible for the ongoing monitoring and oversight of the charter schools it has authorized.

“Designated enrollment region” means the district or combination of districts designated in the charter school application.

“District of residence” means the school district in which a charter school student resides and is eligible to attend the schools.

“Eligible authorizer applicant” includes a public institution of higher education in New Jersey or a local board of education in New Jersey.

“High performing charter school” means a charter school that has met criteria established by the commissioner that demonstrate a high-level of student achievement. Designation as a high performing charter school may be made by the commissioner.

2. (New section) a. The commissioner shall establish an application process for the designation of an eligible authorizer applicant as a charter school authorizer. The governing board of each eligible authorizer applicant shall be eligible to apply for designation as a charter school authorizer.

The application process shall require each eligible authorizer applicant to submit to the commissioner an application that includes, but is not limited to, the following elements:

(1) the applicant’s strategic vision for chartering;

(2) a plan to support the vision presented, including an explanation and evidence of the applicant’s budget and personnel capacity and commitment to execute the responsibilities of quality charter authorizing;

(3) a description of the processes the applicant will use in conformance with applicable law in its role as a charter school authorizer, including a description of the application process, contracting process, ongoing oversight and evaluation processes, and renewal and revocation;

(4) a statement of assurance that the applicant seeks to serve as a charter school authorizer in fulfillment of the expectations, spirit, and intent of P.L.1995, c.426 (C.18A:36A-1 et seq.), and that if approved as a charter school authorizer, the applicant will fully participate in any authorizer training required by the State; and

(5) a statement of assurance that the applicant will ensure public accountability and transparency in all matters concerning its charter authorizing practices, decisions, and expenditures.

b. The commissioner may designate one or more eligible authorizer applicants to serve as charter school authorizers.

c. The commissioner shall execute an authorizing contract with each approved charter school authorizer. The authorizing contract shall specify each approved entity’s agreement to serve as a charter school authorizer and shall specify additional performance terms based on the applicant’s proposal and plan for charter authorizing. No approved charter school authorizer shall commence charter authorizing without an authorizing contract in effect.

3. (New section) The commissioner shall establish the responsibilities of charter school authorizers, which shall include, but need not be limited to:

a. soliciting charter school applications;

b. evaluating charter school applications that are received by the charter school authorizer;

c. denying or approving charter school applications that are received by the charter school authorizer, and only within the geographic limits of the local school district when the local board of education is the charter school authorizer;

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

e. conducting oversight of charter schools that evaluates performance, monitors compliance, informs intervention and charter renewal and revocation decisions, and ensures autonomy;

f. designing and implementing a transparent and rigorous process that uses comprehensive data to make merit-based renewal and revocation decisions; and

g. reporting to the commissioner on any data or information which he may request.

4. (New section) A charter school authorizer shall annually submit to the commissioner and to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a report summarizing:

a. the academic and financial performance of all operating charter schools overseen by the authorizer;

b. the status of the authorizer’s charter school portfolio, identifying all charters that have been granted, renewed, transferred, or revoked, and all applications that have been denied or which are pending; and

c. its costs and expenses relating to its function as an authorizer detailed in annual audited financial statements that conform with generally accepted accounting principles.

5. (New section) a. The commissioner shall be responsible for the ongoing oversight of the performance and effectiveness of each charter school authorizer that he designates and shall have the authority to:

(1) revoke a charter granted by an authorizer; and

(2) review and amend charter school performance contracts entered into by an authorizer.

b. The commissioner may, at any time, take corrective action against an authorizer, including terminating an authorizer’s designation as an authorizer for:

(1) failure to fulfill the responsibilities established pursuant to section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill);

(2) persistently unsatisfactory performance of a charter school authorizer’s portfolio of charter schools;

(3) failure to comply with the authorizing contract or a charter school performance contract;

(4) unsatisfactory performance as an authorizer; or

(5) other good cause as determined by the commissioner.

c. If the commissioner terminates an authorizer’s designation as an authorizer pursuant to subsection b. of this section, a charter school formerly under the oversight of the terminated authorizer shall be overseen by a different authorizer, subject to a mutual agreement between the charter school and that replacement authorizer. In the absence of an agreement the charter school shall be overseen by the commissioner.

6. (New section) a. An employee or agent of a charter school authorizer who participates in the review or approval of charter school applications shall not provide substantive assistance in the development of charter school applications submitted to that authorizer.

b. An employee or agent or member of the board of a charter school authorizer who participates in the review, approval, oversight, evaluation, or charter renewal process of charter schools shall be ineligible to serve as an employee, agent, or member of the board of trustees of any school granted a charter by that authorizer.

7. (New section) The commissioner shall be the charter school authorizer for charter schools and charter school applicants that:

a. limit admission to a particular gender;

b. focus on providing opportunities and specialized programs and settings for children with individualized education programs, or seek to advance the academic, behavioral, and social skills of diverse learners; and

c. focus on on-line learning as the primary component of its educational model.

8. Section 2 of P.L.1995, c.426 (C.18A:36A-2) is amended to read as follows:

2. The Legislature finds and declares that the establishment of charter schools as part of this State's program of public education can assist in promoting comprehensive educational reform by providing a mechanism for the implementation of a variety of educational approaches which may not be available in the traditional public school classroom. Specifically, charter schools offer the potential to improve pupil learning; increase for students and parents the educational choices available when selecting the learning environment which they feel may be the most appropriate; encourage the use of different and innovative learning methods; establish a new form of accountability for schools; require the measurement of learning outcomes; make the school the unit for educational improvement; and establish new professional opportunities for teachers.

The Legislature further finds that charter schools should be afforded the utmost flexibility to ensure their greatest impact on improving education. This flexibility will allow for greater innovation and choice that are sought by both parents and students. Charter schools should be permitted to operate specialized schools with a focus on special education. This would benefit students receiving special education services as well as other students through the sharing of best practices. By allowing flexibility with teacher certification, charter schools will be able to more easily recruit the talent they seek. This flexibility will facilitate the operations of the charter school, and ultimately improve the education of all New Jersey students.

The Legislature further finds that the establishment of a charter school program is in the best interests of the students of this State and it is therefore the public policy of the State to encourage and facilitate the development of charter schools.

(cf: P.L.1995, c.426, s.2)

9. 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, which is operated independently of a local board of education and is managed by a board of trustees**]** a charter school authorizer. 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)

10. 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:

(1) 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**]** who either reside or are employed in the State;

(2) community residents who reside in the State;

(3) a public institution of higher education, except that a charter school authorizer which is an institution of higher education shall be prohibited from reviewing and approving a charter application submitted by that same institution of higher education;

(4) a private entity that is either for-profit or not-for-profit;

(5) a charter school that is currently operating in the State; or

(6) a combination of any of the above.

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.**]**

b. (1) A currently existing public school is eligible to become a charter school if one of 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)**]** (a) The local board of education or State district superintendent authorizes the conversion of the school to a charter school and designates an authorizer. The authorizer shall designate a founder for the charter school from the list of approved operators. The designation of the founder shall be subject to a veto by the local board of education. Charter schools originating under this process shall not be required to apply to or be approved by a charter school authorizer, and shall be monitored by the commissioner; or

(b) At least 51% of the parents or guardians of pupils attending that public school **[**shall have signed**]** sign a petition in support of the school becoming a charter school. The petition shall designate a founder or founders. Charter schools originating under this process shall be required to apply to and be approved by a charter school authorizer; or

(c) The commissioner determines to convert a failing public school to a charter school.

(2) The governing body of a nonpublic school shall be eligible to submit an application to a charter school authorizer to convert the school to a charter school if the following criteria are met:

(a) The application certifies that upon conversion to charter school status the school shall prohibit religious instruction, events and activities that promote religious views, and the display of religious symbols; and

(b) The name of the proposed charter school shall not include any religious reference.

c. (1) An application to establish a charter school **[**shall**]** may be submitted at any time during the school year to **[**the commissioner and the local board of education or State district superintendent, in the case of a school district under full State intervention, in the school year preceding the school year in which the charter school will be established**]** a charter school authorizer. Notice of the filing of the application shall be **[**sent immediately by the commissioner 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. The board of education or State district superintendent shall review the application and forward a recommendation to the commissioner within 60 days of receipt of the application**]** immediately posted on a public website that is maintained by the charter school authorizer and notice, either through the mail or electronically, shall be provided by the charter school authorizer to the school district superintendents and boards of education of districts in which there are students who will be eligible for enrollment in the charter school. 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. The charter school authorizer shall provide notice, either through the mail or electronically, of its final decision on an application to the school district superintendents and boards of education of districts in which there are students who will be eligible for enrollment in the charter school.

(2) A charter school authorizer shall not approve a charter school application that has been denied by another authorizer within six months of the date of the denial.

(3) A charter school applicant shall be eligible to establish a charter school according to a streamlined application process if the following criteria are met:

(a) A founder of the charter school applicant has established a charter school that has been designated as a “high performing charter school” by the commissioner; or

(b) A founder of the charter school applicant has been designated as an “approved operator” by the commissioner.

d. The local board of education of the district that the charter applicant is located within or a charter school applicant may appeal the decision of **[**the commissioner**]** a charter school authorizer to the commissioner, except that, in the case in which the commissioner is the charter school authorizer, the appeal shall be to the 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 respective 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)**]** . If the charters were approved by different authorizers, the charter schools shall petition the commissioner in order to amend their charters to consolidate.

(cf: P.L.2011, c.140, s.2)

11. 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, except for a streamlined application made pursuant to section 4 of P.L.1995, c.426 (C.18A:36A-4), 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 or in the performance contract between the charter school authorizer and charter school, or in both;

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;

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, or a sworn statement of assurance that a physical facility will be obtained for the charter school no later than June 30 of the year in which the charter school will open. In the case of an on-line charter, the application shall indicate where the charter school’s office will be located;

k. **[**Information on the manner in which community groups will be involved in the charter school planning process**]** (Deleted by amendment, P.L. ,c. ) (C. ) (pending before the Legislature as this bill);

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**]** expected or anticipated reliance on exemptions as detailed in subsection a. of section 11 of P.L.1995, c.426 (C.18A:36A-11); **[**and**]**

n. Such other information as the **[**commissioner**]** charter school authorizer may require; and

o. A description of the designated enrollment region for the charter school.

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

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

7. A charter school shall be open to all students on a space available basis and shall not discriminate in its admission policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a person with a disability, proficiency in the English language, or any other basis that would be illegal if used by a school district; however, a charter school may limit admission to a particular grade level, gender, or to areas of concentration of the school, such as mathematics, science, or the arts. A charter school may establish reasonable criteria to evaluate prospective students which shall be outlined in the school's charter.

The Commissioner of Education shall actively encourage the establishment of charter schools that: focus on scientifically-based inclusive practices that advance the academic, behavioral, and social skills of diverse learners in all classrooms, including students with individualized education programs; and assist in the return of students from out-of-district segregated placements into public school settings.

(cf: P.L.2017, c.131, s.26)

13. 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**]** designated enrollment region 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**]** are residents of the State.

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:

(1) a sibling of a student enrolled in the charter school;

(2) a student whose parent or legal guardian is a founder of the charter school; or

(3) a student whose parent or legal guardian is a teaching staff member of 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.**]**

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.

f. In the case of a nonpublic school that converts to a charter school pursuant to the provisions of section 4 of P.L.1995, c.426 (C.18A:36A-4), students enrolled in the nonpublic school in the school year preceding its conversion to a charter school shall be eligible to continue enrollment at the school after its conversion. Preference for any remaining enrollment spaces for the charter school for its first year, and for all enrollment spaces in each successive year, shall be provided pursuant to the provisions of this section.

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

14. 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. Except as otherwise provided in section 1 of P.L.2016, c.45 (C.18A:37-2a), 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**]** 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.2016, c.45, s.3)

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

10. a. A charter school may be located in part of an existing public school building, in space provided on a public work site, in a public building, or any other suitable location. In the case of a public or nonpublic school that converts to a charter school pursuant to the provisions of section 1 of P.L.2011, c.140 (C.18A:36A-4.1) or section 4 of P.L.1995, c.426 (C.18A:36A-4), the charter school may be located in the same school building in which the public or nonpublic school was located. The facility shall be exempt from public school facility regulations except those pertaining to the health or safety of the pupils. A charter school shall not construct a facility with public funds other than federal funds.

b. Except as otherwise provided pursuant to section 14 of P.L.2007, c.137 (C.18A:7G-45), a charter school shall have the right of first refusal to purchase or lease at or below fair market value, a closed public school facility or property. In the case of multiple charter schools with facilities in a district that is selling or leasing property, a lottery shall be held to determine the order of priority for the right of first refusal, and the right of first refusal shall be non-negotiable.

c. The Department of Education, with the cooperation of local school districts, shall maintain and publish on the website of the department a list of all local school districts in which a public school facility or property has been advertised for sale or lease.

(cf: P.L.2011, c.140, s.3)

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

11. a. **[**A**]** Except as otherwise provided pursuant to this section, a charter school shall operate in accordance with its charter **[**and the provisions of law and regulation which govern other public schools; except that, upon the request of the board of trustees of a charter school, the commissioner may exempt the school from State regulations concerning public schools, except those pertaining to assessment, testing, civil rights and student health and safety, if the board of trustees satisfactorily demonstrates to the commissioner that the exemption will advance the educational goals and objectives of the school**]** and performance contract, notwithstanding any State law, rule, or regulation to the contrary. Except as may be otherwise specifically provided for in the performance contract, a charter school established and operated in accordance with the provisions of P.L.1995, c.426 (C.18A:36A-1 et seq.), as well as the school’s officers and employees, shall be exempt from all State laws, rules, and regulations of the State board, and rules and regulations of any local board of education, that are applicable to public schools and to public school officers and employees, except that in no case shall a charter school be exempt from those pertaining to academic standards, assessment, testing, civil rights excluding any potential restriction of a single-gender school under the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.), and student health and safety, and P.L.1963, c.73 (C.47:1A-1 et seq.). The exemptions as set forth in this subsection shall not affect the ability of a charter school to receive State funding.

A charter school in existence on the effective date of P.L.    , c.   (C. ) (pending before the Legislature as this bill), shall operate in accordance with the exemptions applicable to that charter school on that date. The charter school may thereafter request exemptions in accordance with this subsection upon a request to amend its charter or at the time of charter renewal.

b. A charter school shall comply with the provisions of chapter 46 of Title 18A of the New Jersey Statutes concerning the provision of services to students with disabilities; except that the fiscal responsibility for any student currently enrolled in or determined to require a private day or residential school shall remain with the district of residence.

Within 15 days of the signing of the individualized education plan, a charter school shall provide notice to the resident district of any individualized education plan which results in a private day or residential placement. The resident district may challenge the placement within 30 days in accordance with the procedures established by law.

c. A charter school shall comply with applicable State and federal anti-discrimination statutes. This provision shall not, however, restrict the ability to create a single-gender charter school or a charter school focused on serving the needs of special education students.

d. A charter school shall comply with all requests for information or data made by the commissioner.

(cf: P.L.2017, c.131, s.27)

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

12. a. (Deleted by amendment, P.L.2007, c.260).

b. **[**The**]** A school district of residence shall pay directly to the charter school for each student enrolled in the charter school who resides in **[**the**]** that district an amount equal to 90% of the sum of the budget year equalization aid per pupil, the prebudget year general fund tax levy per pupil inflated by the CPI rate most recent to the calculation, and the employer payroll tax per pupil that is transferred to the school district pursuant to subsection d. of section 1 of P.L.2018, c.68. In addition, the student’s school district of residence shall pay directly to the charter school the security categorical aid attributable to the student and a percentage of the district's special education categorical aid equal to the percentage of the district's special education students enrolled in the charter school and, if applicable, 100% of preschool education aid. The district of residence shall also pay directly to the charter school any federal funds attributable to the student.

The commissioner shall have the authority to appropriately adjust this amount to lower than 90% of the sum of the budget year equalization aid per pupil and the prebudget year general fund tax levy per pupil inflated by the CPI rate most recent to the calculation, for a charter school that focuses on on-line learning as the primary component of its educational model.

c. (Deleted by amendment, P.L.2007, c.260).

d. Notwithstanding the provisions of subsection b. of this section, in the case of a student who was not included in the district's projected resident enrollment for the school year, the State shall pay 100% of the amount required pursuant to subsection b. of this section for the first year of the student's enrollment in the charter school.

e. The State shall make payments required pursuant to subsection d. of this section directly to the charter school.

f. Any district of residence that fails to make payments according to this section in a timely fashion may be subject to the withholding of State aid payments by the Department of Education until such time as any late payments have been made.

(cf: P.L.2018, c.68, s.2)

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

13. **[**The students who reside in the school district in which the charter school is located shall be provided transportation to the charter school on the same terms and conditions as transportation is provided to students attending the schools of the district. Non-resident students shall receive transportation services pursuant to regulations established by the State board**]** Transportation or aid-in-lieu-of transportation shall be provided to an elementary school pupil who lives more than two miles from the charter school and to a secondary school pupil who lives more than two and one-half miles from the charter school, provided the charter school is not more than 20 miles from the residence of the pupil. Transportation or aid-in-lieu of transportation shall be the responsibility of a district of residence. At the discretion of the board of trustees of the charter school, courtesy transportation may be provided to students enrolled in the school at the expense of the charter school.

(cf: P.L.1995, c.426, s.13)

19. Section 14 of P.L.1995, c.426 (C.18A:36A-14) is amended to read as follows:

14. a. The board of trustees of a charter school shall have the authority to decide matters related to the operations of the school including budgeting, curriculum, and operating procedures, subject to the school's charter. The board shall provide for appropriate insurance against any loss or damage to its property or any liability resulting from the use of its property or from the acts or omissions of its officers and employees.

b. **[**In the case of a currently existing public school which becomes a charter school pursuant to the provisions of subsection b. of section 4 of this act, all school employees of the charter school shall be deemed to be members of the bargaining unit defined in the applicable agreement and shall be represented by the same majority representative organization as the employees covered by that agreement. In the case of other charter schools, the**]** The board of trustees of a charter school shall have the authority to employ, discharge and contract with necessary teachers and **[**nonlicensed**]** employees subject to the school's charter **[**.The board of trustees may choose whether or not to offer the terms of any collective bargaining agreement already established by the school district for its employees, but the board shall adopt any health and safety provisions of the agreement. The charter school and its employees shall be subject to the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.). A charter school shall not set a teacher salary lower than the minimum teacher salary specified pursuant to section 7 of P.L.1985, c.321 (C.18A:29-5.6) nor higher than the highest step in the salary guide in the collective bargaining agreement which is in effect in the district in which the charter school is located**]** and performance contract.

c. **[**All classroom teachers and professional support staff shall hold appropriate New Jersey certification. The commissioner shall make appropriate adjustments in the alternate route program in order to expedite the certification of persons who are qualified by education and experience.**]** (Deleted by amendment, P.L.    , c.   (C.       ) (pending before the Legislature as this bill)

d. A public school employee, tenured or non-tenured, may request a leave of absence of up to three years from the local board of education or State district superintendent in order to work in a charter school. Approval for a leave of absence shall not be unreasonably withheld. Employees on a leave of absence as provided herein shall remain in, and continue to make contributions to, their retirement plan during the time of the leave and shall be enrolled in the health benefits plan of the district in which the charter school is located. The charter school shall make any required employer's contribution to the district's health benefits plan.

e. Public school employees on a leave shall not accrue tenure in the public school system but shall retain tenure, if so applicable, and shall continue to accrue seniority, if so applicable, in the public school system if they return to their non-charter school when the leave ends. An employee of a charter school shall not accrue tenure pursuant to N.J.S.18A:17-2, N.J.S.18A:17-3, or N.J.S.18A:28-5 **[**, but shall acquire streamline tenure pursuant to guidelines promulgated by the commissioner, and the charter shall specify the security and protection to be afforded to the employee in accordance with the guidelines**]**.

f. Any public school employee who leaves or is dismissed from employment at a charter school within three years shall have the right to return to the employee's former position in the public school district which granted the leave of absence, provided the employee is otherwise eligible for employment in the public school.

g. In the case of a nonpublic school that converts to a charter school pursuant to the provisions of section 4 of P.L.1995, c.426 (C.18A:36A-4), teaching staff and other employees of the nonpublic school may continue employment at the charter school upon its conversion, in accordance with the provisions of this section.

h. A former public school employee whose teaching certificate has been revoked or is currently suspended is not eligible for employment at a charter school.

(cf: P.L.1995, c.426, s.14)

20. 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. The **[**county superintendent of schools of the county in which the charter school is located**]** Department of Education 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 the performance contract and that **[**State board**]** regulations concerning academic standards, 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 county superintendent of schools,**]** Department of Education and the **[**commissioner**]** charter school authorizer in the form prescribed by the commissioner. The report shall be received annually by the **[**local board, the county superintendent,**]** department 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 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

(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)

21. 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 period and may be renewed for a **[**five-year**]** period not less than five years and 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**]** Pursuant to any performance contract entered into by the charter school, the 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 by the charter school authorizer concerning the revocation or renewal of a school’s charter, or concerning the placement of a charter school on probationary status, or any disputes arising pursuant to this section, may be appealed to the commissioner, except that, in the case in which the commissioner is the charter school authorizer, the appeal shall be to the Appellate Division of the Superior Court.

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

22. 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 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 the action.

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

23. 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 commissioner in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.); and the commissioner shall, at a minimum, hold at least one public hearing in each of the north, central, and southern regions of the State within 60 days of the public notice of any regulations proposed by the commissioner to be amended, adopted, or readopted pursuant to that act.

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

24. This act shall take effect on the 180th day after the date of enactment.

STATEMENT

Under the “Charter School Program Act of 1995,” P.L.1995, c.426 (C.18A:36A-1 et seq.), the Commissioner of Education is granted the authority to approve applications for the establishment of charter schools and to regulate and oversee their operations. This bill would permit public institutions of higher education in New Jersey to also act as charter school authorizers. Local boards of education would also be permitted to act as charter school authorizers, but only for charter schools which would be located within the geographic boundaries of the district.

Under the bill, the commissioner must establish an application process for the designation of eligible authorizer applicants as charter school authorizers. The commissioner may designate one or more eligible authorizer applicants to serve as charter school authorizers and must execute an authorizing contract with each approved charter school authorizer prior to that entity commencing charter school authorizing.

The commissioner will establish the responsibilities of charter school authorizers. Those responsibilities will include:

* soliciting charter school applications;
* denying or approving charter school applications;
* negotiating and executing performance contracts with approved charter schools that articulate the rights and responsibilities of each party;
* conducting oversight of charter schools; and
* designing and implementing a process that uses comprehensive data to make merit-based renewal and revocation decisions regarding charter schools.

The commissioner has responsibility for the ongoing oversight of the performance and effectiveness of the charter school authorizers, and may at any time take corrective action against an authorizer, including terminating an authorizer’s designation as an authorizer. The commissioner may also revoke a charter granted by an authorizer and may review and amend charter school performance contracts entered into by the authorizer.

The bill specifies that the commissioner will be the sole authorizer option for charter schools and charter school applicants that: 1) limit admission to a single gender; 2) focus on providing programs and settings for children with individualized education programs or seek to advance the skills of diverse learners; and 3) focus on on-line learning as the primary component of their educational model.

The bill expands the list of entities that may establish a charter school, including private entities that would realize a profit from the operation of the charter school. Nonpublic schools under the bill would also be able to convert to charter school status if certain criteria are met, including a certification by the charter school applicant that the school would prohibit religious instruction, events, and activities that promote religious views. The bill would also permit a local board of education to convert a district school to a charter school, and the commissioner to convert a failing public school to a charter school.

An application to establish a charter school may be submitted at any time during the school year to the charter school authorizer. Notice of the filing of the application must be posted immediately on the charter school authorizer’s website. Notice of the application filing must also be provided, either through the mail or electronically, to the school district superintendents and boards of education in which there are students who will be eligible for enrollment in the charter school. The charter school authorizer must make a decision on the application within 150 days of receipt of the application, and provide notice of its final decision to the same entities to which it provided notice of the filing of the application. A charter school authorizer is prohibited from approving a charter school application if another authorizer has

denied that application within the prior six months. The bill also provides that certain charter school applicants will be eligible for a streamlined application process. A charter school applicant will be eligible for this process if the charter school founder has been designated a “high performing charter school” by the commissioner, or if the charter school founder is designated as an “approved operator” by the commissioner.

The bill also does the following:

* eliminates the current requirement that all classroom teachers and professional support staff at a charter school hold the appropriate New Jersey certification;
* eliminates streamline tenure for charter school employees;
* provides that a charter school renewal may be for a period of not less than five years and not more than ten years, instead of the current five-year renewal period;
* requires the Commissioner of Education to actively encourage the establishment of charter schools that focus on scientifically-based inclusive practices that advance the academic, behavioral, and social skills of diverse learners in all classrooms, and assist in the return of students from out-of-district segregated placements into public school settings;
* provides that a priority for enrollment in a charter school may be given to a student whose parent or guardian is a founder of the charter school or a student whose parent or guardian is a teaching staff member of the charter school;
* provides that if a nonpublic school converts to a charter school, the students enrolled in the nonpublic school prior to the conversion will be eligible to continue enrollment at the school after its conversion;
* gives charter schools the right of first refusal to purchase or lease at or below fair market value a closed public school facility or property, and requires the department to maintain on its website a list of all school districts where a public school facility or property has been advertised as for sale or lease;
* exempts new charter schools from all State laws and regulations and any regulations of the local district that are applicable to public schools and public school officers and employees, except those pertaining to academic standards, assessment, testing, civil rights, the open public records act, and student health and safety;
* authorizes the commissioner to adjust the amount of funds that a school district is required by law to pay to a charter school, if that charter school focuses on on-line learning as the primary component of its educational model; and
* provides that it will be the district of residence’s responsibility to provide transportation or aid-in-lieu-of transportation to charter school pupils attending an elementary school more than two miles from the pupil’s home, and for high school pupils living more than two and one half miles from school, provided the charter school is not more than 20 miles from the pupil’s home.