ASSEMBLY, No. 2147

STATE OF NEW JERSEY

215th LEGISLATURE

INTRODUCED JANUARY 30, 2012

Sponsored by:
Assemblyman ALBERT COUTINHO
District 29 (Essex)
Assemblywoman MILA M. JASEY
District 27 (Essex and Morris)
Assemblywoman BONNIE WATSON COLEMAN
District 15 (Hunterdon and Mercer)
Assemblyman DANIEL R. BENSON
District 14 (Mercer and Middlesex)
Assemblyman CRAIG J. COUGHLIN
District 19 (Middlesex)

Co-Sponsored by:
Assemblyman McKeon

SYNOPSIS

Modifies various aspects of charter school program including student enrollment procedures, revocation of charter, monitoring of charter schools, and collaboration between school districts and charter schools.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 11/19/2013)

AN ACT concerning charter schools 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 based on experience since the enactment of the "Charter School Program Act of 1995," P.L.1995, c.426, which established a charter school program in New Jersey, it is necessary to establish additional standards and safeguards to ensure that the charter school program: is operated in an effective and accountable manner; provides educational programs to address the special needs of particular students or subgroups of students; and contributes to the overall improvement of public education for all students served by charter schools.

2. 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 district of residence as approved by the commissioner. A charter school shall select students to attend **[**using a random selection process**]** through a lottery. The name of each student who is enrolled in the charter school district of residence shall be placed in the lottery. In the event that the parents or guardians of a student who is selected for admission to the charter school through the lottery determine not to enroll the student in the charter school, then the charter school shall fill that enrollment space with a student from the waiting list maintained pursuant to subsection g. of this section.

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.

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.

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] the student demographics of the charter school district of residence including race, ethnicity, eligibility for the federal free lunch program, eligibility for the federal reduced price lunch program, limited English proficient students, special education services students in respective special education classifications, and other appropriate academic factors.

f. A charter school shall file with the commissioner and the charter school district of residence a report on the student enrollment demographics of the charter school no later than October 15 of each year. The report shall be in a form prescribed by the commissioner and shall be posted on the websites of the Department of Education, the charter school, and the charter school district of residence.

g. A charter school shall maintain a waiting list for admission to the school and shall annually submit the number and demographics of students, consistent with subsection f. of this section, on the waiting list to the commissioner. The Department of Education and the charter school shall post the number on their websites and shall update the number as appropriate.

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

3. 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 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. The charter school shall provide the student's parent or guardian with information on how to transfer the student to the student's school district of residence and shall forward all student records to the district of residence.

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

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

11. a. 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.

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

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 handicapped students; 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.

(cf: P.L. 2007, c.260, s.57)

5. 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**]** (1) Except as otherwise provided pursuant to paragraph (2) of this subsection, the school district of residence shall pay directly to the charter school for each student enrolled in the charter school who resides in the district an amount equal to 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. In addition, the 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.

(2) In the event that the general fund tax levy for a proposed budget of the school district of residence is rejected by the voters or the board of school estimate, as applicable, and the municipal governing body or bodies of the municipalities included within the district or the board of school estimate, as applicable, reduces the amount of the general fund tax levy, the per pupil general fund tax levy amount calculated pursuant to paragraph (1) of this subsection shall be reduced in proportion to the reduction made by the municipal governing body or bodies or board of school estimate to the general fund tax levy.

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.

(cf: P.L.2007, c.260, s.58)

6. 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**]** charter school district of residence 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.

At the discretion of the board of trustees of a charter school, the charter school may provide courtesy busing services at its own expense to students enrolled in the charter school.

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

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

16. a. The commissioner shall annually assess whether each charter school is meeting the goals of its charter**[**, and**]**. The annual assessment shall be in writing and shall be posted on the department's website no later than October 15. The assessment shall include, but not be limited to, the number of students who enrolled in and withdrew from the charter school during the year and the student demographics of the charter school.

The commissioner shall conduct a comprehensive review prior to granting a renewal of the charter. The findings of the review shall be submitted in writing to the charter school no later than six months prior to the commissioner's decision on the renewal of the charter.

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, as well as regulations concerning student discipline, special education, and bilingual education in the event that the charter school is not exempt pursuant to the provisions of subsection a. of section 11 of P.L.1995, c.426 (C.18A:36A-11).

b. In order to facilitate the commissioner's review, each charter school shall submit an annual report to the local board of education, the executive county superintendent of schools, and the commissioner in the form prescribed by the commissioner. The report shall be received annually by the local board, the executive county superintendent, and the commissioner 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.

In addition to the information required by the commissioner to be included in the annual report, the annual report shall include information on the number of students who left the charter school during the preceding school year by withdrawal, expulsion, other disciplinary action, or any other circumstance, and the educational placements of students after leaving 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)

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

17. a. A charter granted by the commissioner pursuant to the provisions of this act shall be granted for a four-year period and may be renewed for a five-year period. The commissioner may revoke a school's charter if the school:

(1) has not fulfilled any condition imposed by the commissioner in connection with the granting of the charter **[**or if the school has violated any provision of its charter**]**;

(2) fails to achieve the core curriculum content standards or fails to meet any performance standard set forth in the school's charter;

(3) engages in a practice and pattern of discrimination in violation of federal or State law or violates any federal or State law;

(4) violates any provision of its charter, including provisions concerning fiscal responsibility; or

(5) fails to make adequate yearly progress for five consecutive school years in accordance with the provisions of the "No Child Left Behind Act of 2001," Pub.L.107-110.

b. The commissioner 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 shall develop procedures and guidelines for the revocation and renewal of a school's charter which shall be in accordance with the provisions of subsection a. of this section.

c. Upon the revocation of its charter, the charter school shall provide the following information to the commissioner and to the parents or guardians of the charter school's students:

(1) the effective date of the closure;

(2) the name and contact information of the person to whom reasonable inquiries may be made regarding the closure; and

(3) the district of residence for the student.

d. Upon the revocation of its charter, the charter school shall also provide the parents or guardians with information on how to transfer the student to the student's school district of residence. The charter school shall forward all student records to a student's school district of residence.

e. A charter school shall cause an independent final audit of the school's accounts and financial transactions to be made by a public school accountant within six months following the closure of the school. The audit shall include, but not be limited to:

(1) an accounting of all financial assets, including accounts receivable, and an inventory of property, equipment, and other items of material value;

(2) an accounting of the liabilities, including accounts payable; and

(3) an assessment of the disposition of any restricted funds received by or due to the charter school.

f. A charter school shall dispose of any net assets remaining after all liabilities of the charter school have been paid or otherwise addressed including, but not limited to, the following:

(1) the return of any grant funds and restricted categorical funds to their source in accordance with the terms of the grant or State and federal law, as appropriate, which may include submission of final expenditure reports for entitlement grants and the filing of any required final expenditure reports and final performance reports; and

(2) the return of any donated materials and property in accordance with any conditions established when the donation of the materials or property was accepted.

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

9. (New section) In order to enroll in a charter school, the student must first be registered in the school district in which the student resides. For any student who applies for enrollment in a charter school, the board of education of the school district in which the charter school applicant resides shall process the registration of the student for the subsequent school year upon submission of the registration forms. The board of education shall process the

registration in a timely manner, including the assessment of residency and the subsequent transfer to the charter school, and shall identify the specific categorical aid for which the student qualifies.

10. (New section) A charter school shall annually submit its budget for the upcoming school year to the commissioner for review. The budget shall be submitted in such format, and by such date, as determined by the commissioner and shall include information on revenues received from private or philanthropic sources, expenses supported by those revenues, and any in-kind contributions received by the charter school. The commissioner shall post the charter school's budget on the department's website.

11. (New section) A board of education and a charter school may enter into a written agreement to conduct collaborative education programs or implement shared services if the arrangement will serve to improve any of the following for all students in the charter school and the district of residence:

a. teacher quality;

b. professional development opportunities for teachers and principals;

c. school leadership;

d. programs and services for students with limited English proficiency and students with disabilities;

e. drop-out rates and achievement gaps among students; and

f. data collection and program evaluation.

12. (New section) A charter school shall be subject to review and evaluation under the New Jersey Quality Single Accountability Continuum in the five key components of effectiveness established pursuant to section 10 of P.L.1975, c.212 (C.18A:7A-10). The commissioner shall determine a charter school's capacity and effectiveness using quality performance indicators comprised of standards for each of the five key components. Based on a charter school's compliance with the quality performance indicators, the commissioner shall assess the charter school's capacity and effectiveness and place the charter school on a performance continuum that will determine the type and level of oversight and technical assistance and support the charter school receives.

13. This act shall take effect immediately.

STATEMENT

This bill implements certain measures to improve the oversight and accountability of charter schools. The bill does the following:

(1) provides that students will be selected for enrollment in a charter school through a lottery. The name of each student who is enrolled in the charter school's district of residence will be placed in the lottery. If the parents or guardians of a student who is selected through the lottery decide not enroll the student, then the charter school will fill that enrollment space with a student from the waiting list. Under current law, a random selection process is only used if there are more applicants than there are openings in the charter school. The routine use of lotteries will help to ensure that a charter school's enrollment reflects the demographics of its district of residence;

(2) requires a charter school to file with the Commissioner of Education and its district of residence a report on the student enrollment demographics of the charter school by October 15 of each year. The report is to be posted on the websites of the Department of Education, the charter school, and the charter school district of residence;

(3) requires a charter school to maintain a waiting list for admission to the school and to annually submit the number and demographics of students on the waiting list to the commissioner. The department and the charter school will post the number and student demographics on their websites and update the number as appropriate;

(4) requires the adjustment of the per pupil tax levy amount that a district of residence must send to a charter school if the district's budget is defeated by the voters or disapproved by the board of school estimate and the district's tax levy is reduced. The per pupil adjustment will reflect the reduced tax levy;

(5) requires that a charter school's annual report required under current law include information on the students who have left the charter school during the preceding school year through withdrawal, expulsion, other disciplinary action, or any other circumstance;

(6) requires that the commissioner's annual assessment of a charter school required under current law be in writing and posted on the department's website no later than October 15;

(7) requires that the findings of the commissioner's comprehensive review of a charter school required under current law prior to granting a renewal of the charter be provided in writing to the charter school no later than six months prior to the commissioner's decision on the renewal of the charter;

(8) establishes the following additional grounds for which the commissioner may revoke a school's charter:

- the charter school fails to achieve the core curriculum content standards or fails to meet any performance standard set forth in the school's charter;

- the charter school engages in a practice and pattern of discrimination in violation of federal or State law or violates any federal or State law;

- the charter school violates any provision of its charter concerning fiscal responsibility; or

- the charter school fails to make adequate yearly progress for five consecutive school years under the provisions of the "No Child Left Behind Act of 2001;"

(9) requires the commissioner to post a charter school's approved budget on the department's website;

(10) permits a board of education and a charter school to enter into a written agreement to conduct collaborative education programs or implement shared services if the arrangement will lead to improvement for all students in areas such as teacher quality and student achievement;

(11) requires that a charter school, upon the revocation of its charter, provide the commissioner and the parents or guardians of its students with information on how to transfer the student to the student's school district of residence, and to forward all student records to that district;

(12) provides that a charter school must cause an independent final audit to be conducted of the school's accounts and financial transactions within six months following the closure of the school; and,

(13) requires charter schools to be subject to review and evaluation under the New Jersey Quality Single Accountability Continuum (NJ QSAC).