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HOUSE BILL 159

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

J. Paul Taylor

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO CHARTER SCHOOLS; PROVIDING FOR ADDITIONAL LOCAL SCHOOL BOARD REQUIREMENTS WHEN DENYING AN APPLICATION OR RENEWAL OF A CHARTER FOR A CHARTER SCHOOL; PROVIDING FOR ADDITIONAL LOCAL SCHOOL BOARD REQUIREMENTS WHEN REVOKING THE CHARTER OF A CHARTER SCHOOL; PROVIDING FOR ADDITIONAL STATE BOARD OF EDUCATION CHARTER SCHOOL APPEAL AND REVIEW PROCEDURES; AMENDING THE 1999 CHARTER SCHOOLS ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 22-8B-6 NMSA 1978 (being Laws 1999, Chapter 281, Section 6) is amended to read:

"22-8B-6. CHARTER SCHOOL REQUIREMENTS-- APPLICATION PROCESS-- AUTHORIZATION. --

A. The local school board shall have the authority to approve the establishment of a charter school within the

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local school district in which it is located.

B. A charter school applicant shall apply to a local school board for a charter. An applicant shall only submit an application in the district in which the school is located. Applications shall be submitted by October 1 to be eligible for consideration for the following school year. The October 1 deadline may be waived upon agreement of the applicant and the local school board.

C. An application for a start-up school may be made by one or more teachers, parents or community members.

D. An application for a conversion school shall include a petition of support signed by not less than sixty-five percent of the employees in the school. Additionally, a petition in support of the charter school signed by a majority of the households whose children are enrolled in a proposed conversion school must accompany the application.

E. The local school board shall receive and review all applications for charter schools. The local school board shall not charge application fees. If the local school board finds the charter school application is incomplete, the local school board shall request the necessary information from the charter applicant.

F. The local school board shall hold at least one meeting to obtain information and community input to assist the local school board in its decision whether to grant a

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1 charter school application. The local school board shall rule
2 on the application for a charter school in a public meeting
3 within sixty days after receiving the application. If not
4 ruled upon within sixty days, the charter application will be
5 automatically reviewed by the state board in accordance with
6 the provisions of Section [~~7 of the 1999 Charter Schools Act~~]
7 22-8B-7 NMSA 1978. The charter applicant and the local school
8 board may, however, jointly waive the deadlines set forth in
9 this section.

10 G. If the local school board denies a charter
11 school application or imposes conditions that are unacceptable
12 to the charter applicant, the charter applicant may appeal the
13 decision to the state board pursuant to Section [~~7 of the 1999~~
14 ~~Charter Schools Act~~] 22-8B-7 NMSA 1978.

15 H. If a local school board denies a charter school
16 application, it shall state in writing its reasons for the
17 denial and provide the applicant with the written reasons for
18 the denial within fifteen days of the date that the local
19 school board denied the application. If a local school board
20 grants a charter, it shall send a copy of the approved charter
21 to the department of education within fifteen days after
22 granting the charter. "

23 Section 2. Section 22-8B-7 NMSA 1978 (being Laws 1999,
24 Chapter 281, Section 7) is amended to read:

25 "22-8B-7. CHARTER SCHOOL APPLICATION APPEAL--

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PROCEDURES. --

A. The state board, upon receipt of a notice of appeal or upon its own motion, shall review decisions of any local school board concerning charter schools in accordance with the provisions of this section.

B. A charter applicant or governing body of a charter school that wishes to appeal a decision of a local school board concerning the denial, nonrenewal or revocation of a charter school or the imposition of conditions that are unacceptable to the charter school or charter school applicant shall provide the state board with a notice of appeal within thirty days after the local school board's decision. The charter school applicant or governing body of the charter school bringing the appeal shall limit the grounds of the appeal to the grounds for denial, nonrenewal or revocation specified by the local school board. The notice shall include a brief statement of the reasons the charter school applicant contends the local school board's decision was in error. The appeal and review process shall be as follows:

(1) within sixty days after receipt of the notice of appeal, the state board, at a public hearing that may be held in the school district in which the proposed charter school has applied for a charter, shall review the decision of the local school board and make its findings. If the state board finds that the local school board's decision

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1 was arbitrary and capricious or contrary to the best interests
2 of the students residing in the school district, the school
3 district or the community, the state board shall remand the
4 decision to the local school board with written instructions
5 for approval of the charter. The instructions shall include
6 specific recommendations concerning approval of the charter.
7 The decision of the state board shall be final and not subject
8 to appeal; and

9 (2) within thirty days following the remand
10 of a decision by the state board, the local school board, at a
11 public hearing, shall approve the charter.

12 C. The state board, on its own motion, may review
13 a local school board's decision to grant a charter. Within
14 sixty days after the making of a motion to review by the state
15 board, the board, at a public hearing that may be held in the
16 school district in which the proposed charter school has
17 applied for a charter, shall review the decision of the local
18 school board and determine whether the decision was arbitrary
19 and capricious or whether the establishment or operation of
20 the proposed charter school would:

- 21 (1) violate any federal or state laws
- 22 concerning civil rights;
- 23 (2) violate any court order;
- 24 (3) threaten the health and safety of
- 25 students within the school district; or

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(4) violate the provisions of Section [11 of
the 1999 Charter Schools Act] 22-8B-11 NMSA 1978, prescribing
the permissible number of charter schools.

D. If the state board determines that the charter
would violate the provisions set forth in Subsection C of this
section, the state board shall remand the decision to the
local school board with instructions to deny the charter
application. The state board may extend the time lines
established in this section for good cause. The decision of
the state board shall be final and not subject to appeal."

Section 3. Section 22-8B-12 NMSA 1978 (being Laws 1999,
Chapter 281, Section 12) is amended to read:

"22-8B-12. CHARTER SCHOOLS--TERM-RENEWAL OF CHARTER--
GROUNDS FOR NONRENEWAL OR REVOCATION.--

A. A charter school may be approved for an initial
term of five years. A charter may be renewed for successive
periods of five years each. Approvals of less than five years
can be agreed to between the charter school and the local
school board.

B. No later than January 1 of the year prior to
the year in which the charter expires, the governing body of a
charter school may submit a renewal application to the local
school board. The local school board shall rule in a public
hearing on the renewal application no later than March 1 of
the year in which the charter expires, or on a mutually agreed

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1 date.

2 C. A charter school renewal application submitted
3 to the local school board shall contain:

4 (1) a report on the progress of the charter
5 school in achieving the goals, objectives, student performance
6 standards, state board minimum educational standards and other
7 terms of the initial approved charter application, including
8 the accountability requirements set forth in Section 22-1-6
9 NMSA 1978;

10 (2) a financial statement that discloses the
11 costs of administration, instruction and other spending
12 categories for the charter school that is understandable to
13 the general public, that will allow comparison of costs to
14 other schools or comparable organizations and that is in a
15 format required by the state board;

16 (3) contents of the charter application set
17 forth in Section [~~8 of the 1999 Charter Schools Act~~] 22-8B-8
18 NMSA 1978;

19 (4) a petition in support of the charter
20 school renewing its charter status signed by not less than
21 sixty-five percent of the employees in the charter school; and

22 (5) a petition in support of the charter
23 school renewing its charter status signed by a majority of the
24 households whose children are enrolled in the charter school.

25 D. A charter may be revoked or not renewed by the

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1 local school board if the board determines that the charter
2 school did any of the following:

3 (1) committed a material violation of any of
4 the conditions, standards or procedures set forth in the
5 charter;

6 (2) failed to meet or make substantial
7 progress toward achievement of the state board minimum
8 educational standards or student performance standards
9 identified in the charter application;

10 (3) failed to meet generally accepted
11 standards of fiscal management; or

12 (4) violated any provision of law from which
13 the charter school was not specifically exempted.

14 E. If a local school board revokes or does not
15 renew a charter, the local school board shall state in writing
16 its reasons for the revocation or nonrenewal and provide the
17 charter school with the written reasons within fifteen days of
18 the date that the local school board revokes or does not renew
19 the charter.

20 F. A decision to revoke or not to renew a charter
21 may be appealed by the governing body of the charter school
22 pursuant to Section [7 of the 1999 Charter Schools Act]
23 22-8B-7 NMSA 1978. "