

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 311

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

INTRODUCED BY

Linda M Lopez

AN ACT

RELATING TO CHARTER SCHOOLS; PROVIDING FOR THE APPROVAL OF
CHARTER SCHOOLS BY THE STATE BOARD OF EDUCATION; AMENDING
SECTIONS OF THE NMSA 1978.

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

Section 1. Section 22-8-6.1 NMSA 1978 (being Laws 1993,
Chapter 227, Section 8, as amended) is amended to read:

"22-8-6.1. CERTAIN SCHOOL DISTRICT BUDGETS. -- Each
charter school shall submit to the state board or the local
school board a school-based budget. The budget shall be based
upon the projected number of program units generated by that
charter school and its students, using the at-risk index and
the instructional staff training and experience index of the
district. The budget shall be submitted to the state board or
the local school board for approval or amendment. The

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 approval or amendment authority of the state board or the
2 local school board relative to the charter school budget is
3 limited to ensuring that sound fiscal practices are followed
4 in the development of the budget and that the charter school
5 budget is within the allotted resources. The state board or
6 the local school board shall have no veto authority over
7 individual line items within the charter school's proposed
8 budget, but shall approve or disapprove the budget in its
9 entirety. Upon final approval [~~of the local budget by the~~
10 ~~local school board~~], the individual charter school budget
11 shall be included separately in the budget submission to the
12 department [~~of education~~] required pursuant to the Public
13 School Finance Act and the 1999 Charter Schools Act. "

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

16 "22-8B-2. DEFINITIONS. --As used in the 1999 Charter
17 Schools Act:

18 A. "charter school" means a conversion school or
19 start-up school within a school district authorized [~~by the~~
20 ~~local school board~~] to operate as a charter school;

21 B. "conversion school" means an existing public
22 school within a school district authorized [~~by the local~~
23 ~~school board~~] to become a charter school;

24 C. "governing body" means the governing structure
25 of a charter school as set forth in the school's charter; and

. 139956. 2

underscored material = new
[bracketed material] = delete

1 D. "start-up school" means a public school
2 developed by one or more parents, teachers or community
3 members authorized by the state board or the local school
4 board of the school district in which the school is located to
5 become a charter school. "

6 Section 3. Section 22-8B-4 NMSA 1978 (being Laws 1999,
7 Chapter 281, Section 4, as amended) is amended to read:

8 "22-8B-4. CHARTER SCHOOLS' RIGHTS AND RESPONSIBILITIES--
9 OPERATION. --

10 A. A charter school shall be subject to all
11 federal and state laws and constitutional provisions
12 prohibiting discrimination on the basis of disability, race,
13 creed, color, gender, national origin, religion, ancestry or
14 need for special education services.

15 B. A charter school shall be administered and
16 governed by a governing body in the manner set forth in the
17 charter.

18 C. A charter school shall be responsible for its
19 own operation, including preparation of a budget, contracting
20 for services and personnel matters.

21 D. A charter school may negotiate or contract with
22 a [~~local~~] school district, a university or college or any
23 third party for the use of a facility, its operation and
24 maintenance and the provision of any service or activity that
25 the charter school is required to perform in order to carry

underscored material = new
[bracketed material] = delete

1 out the educational program described in its charter.

2 E. In no event shall a charter school be required
3 to pay rent for space that is deemed available, as negotiated
4 by contract, in school district facilities; provided that the
5 facilities can be made available at no cost to the district.
6 All costs for the operation and maintenance of the facilities
7 used by the charter school shall be subject to negotiation
8 between the charter school and the district.

9 F. A charter school shall negotiate with a ~~[local]~~
10 school district to provide transportation to students eligible
11 for transportation under the provisions of the Public School
12 Code. The ~~[local]~~ school district, in conjunction with the
13 charter school, may establish a limit for student
14 transportation to and from the charter school site not to
15 extend beyond the ~~[local]~~ school district boundary.

16 G. A charter school may negotiate with the state
17 board or a ~~[local]~~ school district for capital expenditures.

18 H. A charter school shall be a nonsectarian,
19 nonreligious and non-home-based public school that operates
20 within a ~~[public]~~ school district.

21 I. Except as otherwise provided in the Public
22 School Code, a charter school shall not charge tuition or have
23 admission requirements.

24 J. A charter school shall be subject to the
25 provisions of Sections 22-1-6 and 22-2-8 NMSA 1978.

. 139956. 2

underscored material = new
[bracketed material] = delete

1 K. A charter school may acquire, pledge and
2 dispose of property; provided that, upon termination of the
3 charter, all assets of the charter school shall revert to the
4 local school board [~~that authorized the charter~~] of the school
5 district where the charter school was located.

6 L. A charter school may accept or reject any
7 charitable gift, grant, devise or bequest; provided that no
8 such gift, grant, devise or bequest shall be accepted if
9 subject to any condition contrary to law or to the terms of
10 the charter. The particular gift, grant, devise or bequest
11 shall be considered an asset of the charter school to which it
12 is given.

13 M A charter school may contract and sue and be
14 sued. [A]

15 N. The state board or the local school board that
16 [~~approves~~] approved a charter school shall not be liable for
17 any acts or omissions of the charter school.

18 [~~N.~~] 0. A charter school shall comply with all
19 state and federal health and safety requirements applicable to
20 public schools. "

21 Section 4. Section 22-8B-5 NMSA 1978 (being Laws 1999,
22 Chapter 281, Section 5) is amended to read:

23 "22-8B-5. CHARTER SCHOOLS--LOCAL SCHOOL BOARD
24 AUTHORITY--STATE BOARD AUTHORITY.--

25 A. The local school board may waive only locally

underscored material = new
[bracketed material] = delete

1 imposed school district requirements.

2 B. The state board shall waive requirements
3 relating to individual class load and teaching load, length of
4 the school day, staffing patterns, subject areas and the
5 purchase of instructional material. The state board may waive
6 state board requirements or rules and provisions of the Public
7 School Code pertaining to graduation requirements, evaluation
8 standards for school personnel, school principal duties and
9 driver education. Any waivers granted pursuant to this
10 section shall be for the term of the charter granted.

11 C. A charter school shall be a public school,
12 accredited by the state board and shall be accountable to the
13 state board or the school district's local school board that
14 approved the charter for purposes of ensuring compliance with
15 applicable laws, rules and charter provisions.

16 D. ~~[No]~~ A local school board shall not require any
17 employee of the school district to be employed in a charter
18 school.

19 E. ~~[No]~~ A local school board shall not require any
20 student residing within the geographic boundary of its
21 district to enroll in a charter school.

22 F. A student who is suspended or expelled from a
23 charter school shall be deemed to be suspended or expelled
24 from the school district in which the student resides."

25 Section 5. Section 22-8B-6 NMSA 1978 (being Laws 1999,

. 139956. 2

underscored material = new
[bracketed material] = delete

1 Chapter 281, Section 6) is amended to read:

2 "22- 8B- 6. CHARTER SCHOOL REQUIREMENTS-- APPLICATION
3 PROCESS-- AUTHORIZATION. --

4 A. The state board or the local school board shall
5 have the authority to approve the establishment of a charter
6 school within the [~~local~~] school district in which it is
7 located.

8 B. A charter school applicant shall apply to [~~a~~]
9 the state board or the local school board for a charter [~~An~~
10 ~~applicant shall only submit an application~~] in the district in
11 which the school is located. Applications shall be submitted
12 by October 1 to be eligible for consideration for the
13 following school year. The October 1 deadline may be waived
14 upon agreement of the applicant and the state board or the
15 local school board.

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

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

24 E. The state board or the local school board shall
25 receive and review [~~all~~] applications for charter schools.

. 139956. 2

underscored material = new
[bracketed material] = delete

1 The state board or the local school board shall not charge
2 application fees. If [~~the board finds~~] the charter school
3 application is incomplete, the state board or the local school
4 board shall request the necessary information from the charter
5 applicant.

6 F. The state board or the local school board shall
7 hold at least one meeting to obtain information and community
8 input to assist the state board or the local school board in
9 its decision whether to grant a charter school application.
10 The state board or the local school board shall rule on the
11 application for a charter school in a public meeting within
12 sixty days after receiving the application. If not ruled upon
13 within sixty days, the charter application will be
14 automatically reviewed by the state board in accordance with
15 the provisions of Section [~~7 of the 1999 Charter Schools Act~~]
16 22-8B-7 NMSA 1978. The charter applicant and the state board
17 or the local school board may, however, jointly waive the
18 deadlines set forth in this section.

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

24 H. If [~~a~~] the state board or the local school
25 board denies a charter school application, it shall state its

underscored material = new
[bracketed material] = delete

1 reasons for the denial. If [~~a~~] the state board or the local
2 school board grants a charter, it shall send a copy of the
3 approved charter to the department of education within fifteen
4 days after granting the charter. "

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

7 "22-8B-8. CHARTER APPLICATION--CONTENTS. --The charter
8 school application, whether for a start-up school or a
9 conversion school, shall be a proposed agreement between the
10 state board or the local school board and the charter school
11 and shall include:

- 12 A. the mission statement of the charter school;
- 13 B. the goals, objectives and student performance
14 standards to be achieved by the charter school;
- 15 C. a description of the charter school's
16 educational program, student performance standards and
17 curriculum that must meet or exceed the state [~~board of~~
18 ~~education's~~] board's educational standards and must be
19 designed to enable each student to achieve those standards;
- 20 D. a description of the way a charter school's
21 educational program will meet the individual needs of the
22 students, including those students determined to be at risk;
- 23 E. a description of the charter school's plan for
24 evaluating student performance, the types of assessments that
25 will be used to measure student progress toward achievement of

underscored material = new
[bracketed material] = delete

1 the state's standards and the school's student performance
2 standards, the time line for achievement of the standards and
3 the procedures for taking corrective action in the event that
4 student performance falls below the standards;

5 F. evidence that the plan for the charter school
6 is economically sound, including a proposed budget for the
7 term of the charter and a description of the manner in which
8 the annual audit of the financial and administrative
9 operations of the charter school is to be conducted;

10 G. evidence that the fiscal management of the
11 charter school complies with all applicable federal and state
12 laws and regulations relative to fiscal procedures;

13 H. evidence of a plan for the displacement of
14 students, teachers and other employees who will not attend or
15 be employed in the conversion school;

16 I. a description of the governing body and
17 operation of the charter school, including how the governing
18 body will be selected, the nature and extent of parental,
19 professional educator and community involvement in the
20 governance and operation of the school and the relationship
21 between the governing body and the state board or the local
22 school board;

23 J. an explanation of the relationship that will
24 exist between the proposed charter school and its employees,
25 including evidence that the terms and conditions of employment

underscored material = new
[bracketed material] = delete

1 will be addressed with affected employees and their recognized
2 representatives, if any;

3 K. the employment and student discipline policies
4 of the proposed charter school;

5 L. an agreement between the charter school and the
6 state board or the local school board regarding their
7 respective legal liability and applicable insurance coverage;

8 M a description of how the charter school plans
9 to meet the transportation and food service needs of its
10 students;

11 N. a description of the waivers that the charter
12 school is requesting from the local school board and the state
13 board and the charter school's plan for addressing these
14 waiver requests;

15 O. a description of the facilities the charter
16 school plans to use; and

17 P. any other information reasonably required by
18 the state board or the local school board. "

19 Section 7. Section 22-8B-9 NMSA 1978 (being Laws 1999,
20 Chapter 281, Section 9) is amended to read:

21 "22-8B-9. CHARTER SCHOOL--CONTRACT CONTENTS--RULES. --

22 A. An approved charter application shall be a
23 contract between the charter school and the state board or the
24 local school board.

25 B. The contract between the charter school and the

. 139956. 2

underscored material = new
[bracketed material] = delete

1 state board or the local school board shall reflect all
2 agreements regarding the release of the charter school from
3 school district policies.

4 C. The contract between the charter school and the
5 state board or the local school board shall reflect all
6 requests for release of the charter school from state board
7 rules or the Public School Code. Within ten days after the
8 contract is approved by the state board or the local school
9 board, any request for release from state board rules or the
10 Public School Code shall be delivered [~~by the local school~~
11 ~~board~~] to the state board. If the state board grants the
12 request, it shall notify the local school board, if
13 applicable, and the charter school of its decision. If the
14 state board denies the request, it shall notify the local
15 school board, if applicable, and the charter school that the
16 request is denied and specify the reasons for denial.

17 D. Upon approval of the charter by the state board
18 or the local school board, the charter school shall be waived
19 from the Public School Code provisions relating to individual
20 class load and teaching load requirements, length of school
21 day, staffing patterns, subject areas and purchase of
22 instructional materials.

23 E. The charter school shall participate in the
24 public school insurance authority.

25 F. Any revision or amendment to the terms of the

underscored material = new
[bracketed material] = delete

1 contract may be made only with the approval of the state board
2 or the local school board and the governing body of the
3 charter school.

4 G. The charter shall include procedures agreed
5 upon by the charter school and the state board or the local
6 school board for the resolution of disputes between the
7 charter school and the state board or the local school board.

8 H. The charter shall include procedures that shall
9 be agreed upon by the charter school and the state board or
10 the local school board in the event that [~~such board~~
11 ~~determines~~] it is determined that the charter shall be revoked
12 pursuant to the provisions of Section [~~12 of the 1999 Charter~~
13 ~~Schools Act~~] 22-8B-12 NMSA 1978.

14 I. An existing charter school, regardless of when
15 the charter was granted, may elect to have the contract
16 pursuant to Subsection A of this section transferred from the
17 local school board to the state board or from the state board
18 to the local school board; provided that the state board or
19 the local school board is allowed a review, comment and
20 amendment period of not less than thirty days from the charter
21 school's notification to transfer. "

22 Section 8. Section 22-8B-11 NMSA 1978 (being Laws 1999,
23 Chapter 281, Section 11) is amended to read:

24 "22-8B-11. CHARTER SCHOOLS-- MAXIMUM NUMBER
25 ESTABLISHED. --

. 139956. 2

underscored material = new
[bracketed material] = delete

1 A. The state board or the local school [~~boards~~]
2 board shall authorize the approval of both conversion and
3 start-up charter schools within [~~their~~] the school [~~districts~~]
4 district where the school is located.

5 B. No more than fifteen start-up schools and five
6 conversion schools may be established per year statewide. The
7 number of charter school slots remaining in that year shall be
8 transferred to succeeding years up to a maximum of seventy-
9 five start-up schools and twenty-five conversion schools in
10 any five-year period. The state board shall promptly notify
11 the local school board of each school district when the limits
12 set forth in this section have been reached. "

13 Section 9. Section 22-8B-12 NMSA 1978 (being Laws 1999,
14 Chapter 281, Section 12) is amended to read:

15 "22-8B-12. CHARTER SCHOOLS--TERM-RENEWAL OF CHARTER--
16 GROUNDS FOR NONRENEWAL OR REVOCATION.--

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

22 B. No later than January 1 of the year prior to
23 the year in which the charter expires, the governing body of a
24 charter school may submit a renewal application to the state
25 board or the local school board. The state board or the local

underscored material = new
[bracketed material] = delete

1 school board shall rule in a public hearing on the renewal
2 application no later than March 1 of the year in which the
3 charter expires, or on a mutually agreed upon date.

4 C. A charter school renewal application submitted
5 to the state board or the local school board shall contain:

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

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

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

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

24 (5) a petition in support of the charter
25 school renewing its charter status signed by a majority of the

underscored material = new
[bracketed material] = delete

1 households whose children are enrolled in the charter school.

2 D. A charter may be revoked or not renewed by the
3 state board or the local school board if [~~the board~~
4 ~~determines~~] it is determined that the charter school did any
5 of the following:

6 (1) committed a material violation of any of
7 the conditions, standards or procedures set forth in the
8 charter;

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

13 (3) failed to meet generally accepted
14 standards of fiscal management; or

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

17 E. If [~~a~~] the state board or the local school
18 board revokes or does not renew a charter, the state board or
19 the local school board shall state in writing its reasons for
20 the revocation or nonrenewal.

21 F. A decision to revoke or not to renew a charter
22 may be appealed by the governing body of the charter school
23 pursuant to Section [~~7 of the 1999 Charter Schools Act~~]
24 22-8B-7 NMSA 1978. "