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SENATE BILL 207

**53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

INTRODUCED BY

John M. Sapien

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO PUBLIC SCHOOLS; AMENDING THE PUBLIC SCHOOL CODE TO CLARIFY A CHARTER SCHOOL AUTHORITY'S DUTIES RELATIVE TO AUTHORIZATION OF A CHARTER SCHOOL TO BE LOCATED IN A DISTRICT OF A CERTAIN SIZE WITH A CERTAIN PERCENTAGE OF STUDENTS ENROLLED IN ALREADY ESTABLISHED CHARTER SCHOOLS.

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, as amended) is amended to read:

"22-8B-6. CHARTER SCHOOL REQUIREMENTS--APPLICATION PROCESS--AUTHORIZATION--STATE BOARD OF FINANCE DESIGNATION REQUIRED--PUBLIC HEARINGS--SUBCOMMITTEES.--

A. A local school board has the authority to approve the establishment of a locally chartered charter school within that local school board's district.

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1           B. No later than the second Tuesday of January of  
2 the year in which an application will be filed, the organizers  
3 of a proposed charter school shall provide written notification  
4 to the commission and the school district in which the charter  
5 school is proposed to be located of their intent to establish a  
6 charter school. Failure to notify may result in an application  
7 not being accepted.

8           C. A charter school applicant shall apply to either  
9 a local school board or the commission for a charter. If an  
10 application is submitted to a chartering authority, it must  
11 process the application. Applications for initial charters  
12 shall be submitted by June 1 to be eligible for consideration  
13 for the following fiscal year; provided that the June 1  
14 deadline may be waived upon agreement of the applicant and the  
15 chartering authority.

16           D. An application shall include the total number of  
17 grades the charter school proposes to provide, either  
18 immediately or phased. A charter school may decrease the  
19 number of grades it eventually offers, but it shall not  
20 increase the number of grades or the total number of students  
21 proposed to be served in each grade.

22           E. An application shall include a detailed  
23 description of the charter school's projected facility needs,  
24 including projected requests for capital outlay assistance that  
25 have been approved by the director of the public school

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1 facilities authority or the director's designee. The director  
2 shall respond to a written request for review from a charter  
3 applicant within forty-five days of the request.

4 F. An application may be made by one or more  
5 teachers, parents or community members or by a public post-  
6 secondary educational institution or nonprofit organization.  
7 Municipalities, counties, private post-secondary educational  
8 institutions and for-profit business entities are not eligible  
9 to apply for or receive a charter.

10 G. An initial application for a charter school  
11 shall not be made [~~after June 30, 2007~~] if the proposed charter  
12 school's proposed enrollment for all grades or the proposed  
13 charter school's proposed enrollment for all grades in  
14 combination with any other charter school's enrollment for all  
15 grades would equal or exceed ten percent of the total MEM of  
16 the school district in which the charter school will be  
17 geographically located and that school district has a total  
18 [~~enrollment~~] MEM of [~~not more than one thousand three hundred~~  
19 ~~students~~] one thousand three hundred or less.

20 H. In a school district with a total MEM of one  
21 thousand three hundred or less, total charter school MEM shall  
22 not exceed ten percent of the MEM of the school district,  
23 regardless of where the charter school students reside;  
24 provided that:

25 (1) the board of education of a school

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1 district with a total MEM of one thousand three hundred or less  
2 may waive the provisions of this subsection, thereby allowing  
3 locally chartered and state-chartered charter schools to enroll  
4 more than ten percent of the total MEM of the school district;  
5 or

6 (2) a school district is not subject to the  
7 limitation in this subsection if, during the 2016-2017 school  
8 year, total charter school MEM in the school district exceeds  
9 ten percent of the total MEM of the school district.

10 ~~[H.]~~ I. A state-chartered charter school shall not  
11 be approved for operation unless its governing body has  
12 qualified to be a board of finance.

13 ~~[I.]~~ J. The chartering authority shall receive and  
14 review all applications for charter schools submitted to it.  
15 The chartering authority shall not charge application fees.

16 ~~[J.]~~ K. The chartering authority shall hold at  
17 least one public hearing in the school district in which the  
18 charter school is proposed to be located to obtain information  
19 and community input to assist it in its decision whether to  
20 grant a charter school application. The chartering authority  
21 may designate a subcommittee of no fewer than three members to  
22 hold the public hearing, and, if so, the hearing shall be  
23 transcribed for later review by other members of the chartering  
24 authority. Community input may include written or oral  
25 comments in favor of or in opposition to the application from

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1 the applicant, the local community and, for state-chartered  
2 charter schools, the local school board and school district in  
3 whose geographical boundaries the charter school is proposed to  
4 be located.

5 ~~[K-]~~ L. The chartering authority shall rule on the  
6 application for a charter school in a public meeting by  
7 September 1 of the year the application was received; provided,  
8 however, that prior to ruling on the application for which a  
9 designated subcommittee was used, any member of the chartering  
10 authority who was not present at the public hearing shall  
11 receive the transcript of the public hearing together with  
12 documents submitted for the public hearing. If not ruled upon  
13 by that date, the charter application shall be automatically  
14 reviewed by the secretary in accordance with the provisions of  
15 Section 22-8B-7 NMSA 1978. The charter school applicant and  
16 the chartering authority may, however, jointly waive the  
17 deadlines set forth in this section.

18 ~~[H-]~~ M. A chartering authority may approve, approve  
19 with conditions or deny an application. A chartering authority  
20 may deny an application if:

21 (1) the application is incomplete or  
22 inadequate;

23 (2) the application does not propose to offer  
24 an educational program consistent with the requirements and  
25 purposes of the Charter Schools Act;

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1 (3) the proposed head administrator or other  
2 administrative or fiscal staff was involved with another  
3 charter school whose charter was denied or revoked for fiscal  
4 mismanagement or the proposed head administrator or other  
5 administrative or fiscal staff was discharged from a public  
6 school for fiscal mismanagement;

7 (4) for a proposed state-chartered charter  
8 school, it does not request to have the governing body of the  
9 charter school designated as a board of finance or the  
10 governing body does not qualify as a board of finance; or

11 (5) the application is otherwise contrary to  
12 the best interests of the charter school's projected students,  
13 the local community or the school district in whose geographic  
14 boundaries the charter school applies to operate.

15 ~~[M.]~~ N. If the chartering authority denies a  
16 charter school application or approves the application with  
17 conditions, it shall state its reasons for the denial or  
18 conditions in writing within fourteen days of the meeting. If  
19 the chartering authority grants a charter, the approved charter  
20 shall be provided to the applicant together with any imposed  
21 conditions.

22 ~~[N.]~~ O. A charter school that has received a notice  
23 from the chartering authority denying approval of the charter  
24 shall have a right to a hearing by the secretary as provided in  
25 Section 22-8B-7 NMSA 1978."

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