



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB0809

by Rep. Emanuel Chris Welch

SYNOPSIS AS INTRODUCED:

105 ILCS 5/27A-3
105 ILCS 5/27A-7.5
105 ILCS 5/27A-7.10
105 ILCS 5/27A-8
105 ILCS 5/27A-9

Amends the Charter Schools Law of the School Code. Provides that the State Charter School Commission has no authority to renew a charter, and removes provisions allowing the Commission to reverse a school board's decision to deny, revoke, or not renew a charter; makes related changes. Provides that if a charter school applicant submits a proposal to a school board outside of the process adopted by that school board for receiving charter school proposals on an annual basis, the applicant shall not have any right to submit its proposal to the Commission as otherwise authorized. Allows the Commission to approve an application for a charter if certain conditions are met. Provides that the Commission may condition approval of an application on the acceptance of funding in an amount less than requested. Provides that final decisions of the Commission are subject to judicial review under the Administrative Review Law. Provides that if the Commission approves an application for a charter school, then the Commission shall act as the authorized chartering entity. Provides that if the Commission is the authorized chartering entity, then the Commission shall execute a charter agreement (instead of approve the charter agreement). Provides that the Commission has no authority to approve a charter school proposal that has been denied by a school board. Makes other changes. Effective immediately.

LRB101 05960 AXK 50981 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by changing Sections
5 27A-3, 27A-7.5, 27A-7.10, 27A-8, and 27A-9 as follows:

6 (105 ILCS 5/27A-3)

7 Sec. 27A-3. Definitions. For purposes of this Article:

8 "At-risk pupil" means a pupil who, because of physical,
9 emotional, socioeconomic, or cultural factors, is less likely
10 to succeed in a conventional educational environment.

11 "Authorizer" means an entity authorized under this Article
12 to review applications, decide whether to approve or reject
13 applications, enter into charter contracts with applicants,
14 oversee charter schools, ~~and~~ decide whether to renew or not
15 renew a charter unless otherwise prohibited under this Article,
16 and decide whether to~~or~~ revoke a charter.

17 "Commission" means the State Charter School Commission
18 established under Section 27A-7.5 of this Code.

19 "Local school board" means the duly elected or appointed
20 school board or board of education of a public school district,
21 including special charter districts and school districts
22 located in cities having a population of more than 500,000,
23 organized under the laws of this State.

1 "State Board" means the State Board of Education.

2 (Source: P.A. 97-152, eff. 7-20-11.)

3 (105 ILCS 5/27A-7.5)

4 Sec. 27A-7.5. State Charter School Commission.

5 (a) A State Charter School Commission is established as an
6 independent commission with statewide chartering jurisdiction
7 and authority. The Commission shall be under the State Board
8 for administrative purposes only.

9 (a-5) The State Board shall provide administrative support
10 to the Commission as needed.

11 (b) The Commission is responsible for authorizing
12 high-quality charter schools throughout this State,
13 particularly schools designed to expand opportunities for
14 at-risk students, consistent with the purposes of this Article.

15 (c) The Commission shall consist of 9 members, appointed by
16 the State Board. The State Board shall make these appointments
17 from a slate of candidates proposed by the Governor, within 60
18 days after the effective date of this amendatory Act of the
19 97th General Assembly with respect to the initial Commission
20 members. In making the appointments, the State Board shall
21 ensure statewide geographic diversity among Commission
22 members. The Governor shall propose a slate of candidates to
23 the State Board within 60 days after the effective date of this
24 amendatory Act of the 97th General Assembly and 60 days prior
25 to the expiration of the term of a member thereafter. If the

1 Governor fails to timely propose a slate of candidates
2 according to the provisions of this subsection (c), then the
3 State Board may appoint the member or members of the
4 Commission.

5 (d) Members appointed to the Commission shall collectively
6 possess strong experience and expertise in public and nonprofit
7 governance, management and finance, public school leadership,
8 higher education, assessments, curriculum and instruction, and
9 public education law. All members of the Commission shall have
10 demonstrated understanding of and a commitment to public
11 education, including without limitation charter schooling. At
12 least 3 members must have past experience with urban charter
13 schools.

14 (e) To establish staggered terms of office, the initial
15 term of office for 3 Commission members shall be 4 years and
16 thereafter shall be 4 years; the initial term of office for
17 another 3 members shall be 3 years and thereafter shall be 4
18 years; and the initial term of office for the remaining 3
19 members shall be 2 years and thereafter shall be 4 years. The
20 initial appointments must be made no later than October 1,
21 2011.

22 (f) Whenever a vacancy on the Commission exists, the State
23 Board shall appoint a member for the remaining portion of the
24 term.

25 (g) Subject to the State Officials and Employees Ethics
26 Act, the Commission is authorized to receive and expend gifts,

1 grants, and donations of any kind from any public or private
2 entity to carry out the purposes of this Article, subject to
3 the terms and conditions under which they are given, provided
4 that all such terms and conditions are permissible under law.
5 Funds received under this subsection (g) must be deposited into
6 the State Charter School Commission Fund.

7 The State Charter School Commission Fund is created as a
8 special fund in the State treasury. All money in the Fund shall
9 be used, subject to appropriation, by the State Board, acting
10 on behalf and with the consent of the Commission, for
11 operational and administrative costs of the Commission.

12 Subject to appropriation, any funds appropriated for use by
13 the State Board, acting on behalf and with the consent of the
14 Commission, may be used for the following purposes, without
15 limitation: personal services, contractual services, and other
16 operational and administrative costs. The State Board is
17 further authorized to make expenditures with respect to any
18 other amounts deposited in accordance with law into the State
19 Charter School Commission Fund.

20 (g-5) Funds or spending authority for the operation and
21 administrative costs of the Commission shall be appropriated to
22 the State Board in a separate line item. The State
23 Superintendent of Education may not reduce or modify the budget
24 of the Commission or use funds appropriated to the Commission
25 without the approval of the Commission.

26 (h) The Commission shall operate with dedicated resources

1 and staff qualified to execute the day-to-day responsibilities
2 of charter school authorizing in accordance with this Article.
3 The Commission may employ and fix the compensation of such
4 employees and technical assistants as it deems necessary to
5 carry out its powers and duties under this Article, without
6 regard to the requirements of any civil service or personnel
7 statute; and may establish and administer standards of
8 classification of all such persons with respect to their
9 compensation, duties, performance, and tenure and enter into
10 contracts of employment with such persons for such periods and
11 on such terms as the Commission deems desirable.

12 (i) Every 2 years, the Commission shall provide to the
13 State Board and local school boards a report on best practices
14 in charter school authorizing, including without limitation
15 evaluating applications, oversight of charters, and renewal of
16 charter schools.

17 (j) The Commission may charge a charter school that it
18 authorizes a fee, not to exceed 3% of the revenue provided to
19 the school, to cover the cost of undertaking the ongoing
20 administrative responsibilities of the eligible chartering
21 authority with respect to the school. This fee must be
22 deposited into the State Charter School Commission Fund.

23 (k) Any charter school authorized by the State Board prior
24 to this amendatory Act of the 97th General Assembly shall have
25 its authorization transferred to the Commission upon a vote of
26 the State Board, which shall then become the school's

1 authorizer for all purposes under this Article. However, in no
2 case shall such transfer take place later than July 1, 2012. At
3 this time, all of the powers, duties, assets, liabilities,
4 contracts, property, records, and pending business of the State
5 Board as the school's authorizer must be transferred to the
6 Commission. Any charter school authorized by a local school
7 board or boards may seek transfer of authorization to the
8 Commission during its current term only with the approval of
9 the local school board or boards. At the end of its charter
10 term, a charter school authorized by a local school board or
11 boards must reapply to the board or boards before it may apply
12 for authorization to the Commission under the terms of this
13 amendatory Act of the 97th General Assembly.

14 On the effective date of this amendatory Act of the 97th
15 General Assembly, all rules of the State Board applicable to
16 matters falling within the responsibility of the Commission
17 shall be applicable to the actions of the Commission. The
18 Commission shall thereafter have the authority to propose to
19 the State Board modifications to all rules applicable to
20 matters falling within the responsibility of the Commission.
21 The State Board shall retain rulemaking authority for the
22 Commission, but shall work jointly with the Commission on any
23 proposed modifications. Upon recommendation of proposed rule
24 modifications by the Commission and pursuant to the Illinois
25 Administrative Procedure Act, the State Board shall consider
26 such changes within the intent of this amendatory Act of the

1 97th General Assembly and grant any and all changes consistent
2 with that intent.

3 (1) (Blank). ~~The Commission shall have the responsibility~~
4 ~~to consider appeals under this Article immediately upon~~
5 ~~appointment of the initial members of the Commission under~~
6 ~~subsection (c) of this Section. Appeals pending at the time of~~
7 ~~initial appointment shall be determined by the Commission; the~~
8 ~~Commission may extend the time for review as necessary for~~
9 ~~thorough review, but in no case shall the extension exceed the~~
10 ~~time that would have been available had the appeal been~~
11 ~~submitted to the Commission on the date of appointment of its~~
12 ~~initial members. In any appeal filed with the Commission under~~
13 ~~this Article, both the applicant and the school district in~~
14 ~~which the charter school plans to locate shall have the right~~
15 ~~to request a hearing before the Commission. If more than one~~
16 ~~entity requests a hearing, then the Commission may hold only~~
17 ~~one hearing, wherein the applicant and the school district~~
18 ~~shall have an equal opportunity to present their respective~~
19 ~~positions.~~

20 (Source: P.A. 97-152, eff. 7-20-11; 97-641, eff. 12-19-11;
21 97-1156, eff. 1-25-13.)

22 (105 ILCS 5/27A-7.10)

23 Sec. 27A-7.10. Authorizer powers and duties; immunity;
24 principles and standards.

25 (a) Authorizers are responsible for executing, in

1 accordance with this Article, all of the following powers and
2 duties:

3 (1) Soliciting and evaluating charter applications.

4 (2) Approving quality charter applications that meet
5 identified educational needs and promote a diversity of
6 educational choices.

7 (3) Declining to approve weak or inadequate charter
8 applications.

9 (4) Negotiating and executing sound charter contracts
10 with each approved charter school.

11 (5) Monitoring, in accordance with charter contract
12 terms, the performance and legal compliance of charter
13 schools.

14 (6) Determining whether each charter contract merits
15 renewal ~~or~~ nonrenewal, unless the authorizer is the
16 Commission, or merits revocation. The Commission has no
17 authority to renew a charter.

18 (b) An authorizing entity may delegate its duties to
19 officers, employees, and contractors.

20 (c) Regulation by authorizers is limited to the powers and
21 duties set forth in subsection (a) of this Section and must be
22 consistent with the spirit and intent of this Article.

23 (d) An authorizing entity, members of the local school
24 board, or the Commission, in their official capacity, and
25 employees of an authorizer are immune from civil and criminal
26 liability with respect to all activities related to a charter

1 school that they authorize, except for willful or wanton
2 misconduct.

3 (e) The Commission and all local school boards that have a
4 charter school operating are required to develop and maintain
5 chartering policies and practices consistent with recognized
6 principles and standards for quality charter authorizing in all
7 major areas of authorizing responsibility, including all of the
8 following:

9 (1) Organizational capacity and infrastructure.

10 (2) Soliciting and evaluating charter applications.

11 (3) Performance contracting.

12 (4) Ongoing charter school oversight and evaluation.

13 (5) Charter renewal decision-making.

14 Authorizers shall carry out all their duties under this
15 Article in a manner consistent with nationally recognized
16 principles and standards and with the spirit and intent of this
17 Article.

18 (Source: P.A. 97-152, eff. 7-20-11.)

19 (105 ILCS 5/27A-8)

20 Sec. 27A-8. Evaluation of charter proposals.

21 (a) This Section does not apply to a charter school
22 established by referendum under Section 27A-6.5. In evaluating
23 any charter school proposal submitted to it, the local school
24 board and the Commission shall give preference to proposals
25 that:

1 (1) demonstrate a high level of local pupil, parental,
2 community, business, and school personnel support;

3 (2) set rigorous levels of expected pupil achievement
4 and demonstrate feasible plans for attaining those levels
5 of achievement; and

6 (3) are designed to enroll and serve a substantial
7 proportion of at-risk children; provided that nothing in
8 the Charter Schools Law shall be construed as intended to
9 limit the establishment of charter schools to those that
10 serve a substantial portion of at-risk children or to in
11 any manner restrict, limit, or discourage the
12 establishment of charter schools that enroll and serve
13 other pupil populations under a nonexclusive,
14 nondiscriminatory admissions policy.

15 (b) In the case of a proposal to establish a charter school
16 by converting an existing public school or attendance center to
17 charter school status, evidence that the proposed formation of
18 the charter school has received majority support from certified
19 teachers and from parents and guardians in the school or
20 attendance center affected by the proposed charter, and, if
21 applicable, from a local school council, shall be demonstrated
22 by a petition in support of the charter school signed by
23 certified teachers and a petition in support of the charter
24 school signed by parents and guardians and, if applicable, by a
25 vote of the local school council held at a public meeting. In
26 the case of all other proposals to establish a charter school,

1 evidence of sufficient support to fill the number of pupil
2 seats set forth in the proposal may be demonstrated by a
3 petition in support of the charter school signed by parents and
4 guardians of students eligible to attend the charter school. In
5 all cases, the individuals, organizations, or entities who
6 initiate the proposal to establish a charter school may elect,
7 in lieu of including any petition referred to in this
8 subsection as a part of the proposal submitted to the local
9 school board, to demonstrate that the charter school has
10 received the support referred to in this subsection by other
11 evidence and information presented at the public meeting that
12 the local school board is required to convene under this
13 Section.

14 (c) Within 45 days of receipt of a charter school proposal,
15 the local school board shall convene a public meeting to obtain
16 information to assist the board in its decision to grant or
17 deny the charter school proposal. A local school board may
18 develop its own process for receiving charter school proposals
19 on an annual basis that follows the same timeframes as set
20 forth in this Article. Final decisions of a local school board
21 are subject to judicial review under the Administrative Review
22 Law. If a charter school applicant submits a proposal to a
23 local school board outside of the process adopted by that local
24 school board for receiving charter school proposals on an
25 annual basis, the applicant shall not have any right to submit
26 its proposal to the Commission as otherwise authorized in

1 subsections (d) and (e) of this Section. ~~Only after the local~~
2 ~~school board process is followed may a charter school applicant~~
3 ~~appeal to the Commission.~~

4 (d) Notice of the public meeting required by this Section
5 shall be published in a community newspaper published in the
6 school district in which the proposed charter is located and,
7 if there is no such newspaper, then in a newspaper published in
8 the county and having circulation in the school district. The
9 notices shall be published not more than 10 days nor less than
10 5 days before the meeting and shall state that information
11 regarding a charter school proposal will be heard at the
12 meeting. Copies of the notice shall also be posted at
13 appropriate locations in the school or attendance center
14 proposed to be established as a charter school, the public
15 schools in the school district, and the local school board
16 office. If 45 days pass without the local school board holding
17 a public meeting, then the charter applicant may submit the
18 proposal to the Commission, where it must be addressed in
19 accordance with the provisions set forth in subsection (g) of
20 this Section.

21 (e) Within 30 days of the public meeting, the local school
22 board shall vote, in a public meeting, to either grant or deny
23 the charter school proposal. If the local school board has not
24 voted in a public meeting within 30 days after the public
25 meeting, then the charter applicant may submit the proposal to
26 the Commission, where it must be addressed in accordance with

1 the provisions set forth in subsection (g) of this Section.

2 (f) Within 7 days of the public meeting required under
3 subsection (e) of this Section, the local school board shall
4 file a report with the State Board granting or denying the
5 proposal. If the local school board has approved the proposal,
6 within 30 days of receipt of the local school board's report,
7 the State Board shall determine whether the approved charter
8 proposal is consistent with the provisions of this Article and,
9 if the approved proposal complies, certify the proposal
10 pursuant to Section 27A-6.

11 (g) If the charter applicant submits the proposal to the
12 Commission as authorized ~~the local school board votes to deny~~
13 ~~the proposal, then the charter school applicant has 30 days~~
14 ~~from the date of that vote to submit an appeal to the~~
15 ~~Commission. In such instances or in those instances referenced~~
16 in subsections (d), ~~and~~ (e), and (i) of this Section, the
17 Commission shall follow the same process and be subject to the
18 same timelines for review as the local school board.

19 (h) The Commission may approve a charter school proposal
20 submitted to it in accordance with subsection (d), (e), or (i)
21 of this Section ~~The Commission may reverse a local school~~
22 ~~board's decision to deny a charter school proposal~~ if the
23 Commission finds that the proposal (i) is in compliance with
24 this Article and (ii) is in the best interests of the students
25 the charter school is designed to serve. Final decisions of the
26 Commission are subject to judicial review under the

1 Administrative Review Law.

2 (i) In the case of a charter school proposed to be jointly
3 authorized by 2 or more school districts, the local school
4 boards may unanimously deny the charter school proposal with a
5 statement that the local school boards are not opposed to the
6 charter school, but that they yield to the Commission in light
7 of the complexities of joint administration, in which case the
8 charter applicant may submit the proposal to the Commission,
9 where it must be addressed in accordance with the provisions
10 set forth in subsection (g) of this Section.

11 (Source: P.A. 96-105, eff. 7-30-09; 96-734, eff. 8-25-09;
12 96-1000, eff. 7-2-10; 97-152, eff. 7-20-11.)

13 (105 ILCS 5/27A-9)

14 Sec. 27A-9. Term of charter; renewal.

15 (a) For charters granted before January 1, 2017 (the
16 effective date of Public Act 99-840), a charter may be granted
17 for a period not less than 5 and not more than 10 school years.
18 For charters granted on or after January 1, 2017 (the effective
19 date of Public Act 99-840), a charter shall be granted for a
20 period of 5 school years. For charters renewed before January
21 1, 2017 (the effective date of Public Act 99-840), a charter
22 may be renewed in incremental periods not to exceed 5 school
23 years. For charters renewed on or after January 1, 2017 (the
24 effective date of Public Act 99-840), a charter may be renewed
25 in incremental periods not to exceed 10 school years; however,

1 the Commission may renew a charter only in incremental periods
2 not to exceed 5 years and has no authority to renew a charter
3 beginning on the effective date of this amendatory Act of the
4 101st General Assembly. Instead, a charter school authorized by
5 the Commission must reapply to the local school board or boards
6 at the end of its charter term.

7 Authorizers shall ensure that every charter granted on or
8 after January 1, 2017 (the effective date of Public Act 99-840)
9 includes standards and goals for academic, organizational, and
10 financial performance. A charter must meet all standards and
11 goals for academic, organizational, and financial performance
12 set forth by the authorizer in order to be renewed for a term
13 in excess of 5 years but not more than 10 years. If an
14 authorizer fails to establish standards and goals, a charter
15 shall not be renewed for a term in excess of 5 years. Nothing
16 contained in this Section shall require an authorizer to grant
17 a full 10-year renewal term to any particular charter school,
18 but an authorizer may award a full 10-year renewal term to
19 charter schools that have a demonstrated track record of
20 improving student performance. Renewals under this paragraph
21 may not be made by the Commission.

22 (b) A charter school renewal proposal submitted to the
23 local school board ~~or the Commission, as the chartering entity,~~
24 shall contain:

25 (1) a ~~A~~ report on the progress of the charter school in
26 achieving the goals, objectives, pupil performance

1 standards, content standards, and other terms of the
2 initial approved charter proposal; and

3 (2) a ~~A~~ financial statement that discloses the costs of
4 administration, instruction, and other spending categories
5 for the charter school that is understandable to the
6 general public and that will allow comparison of those
7 costs to other schools or other comparable organizations,
8 in a format required by the State Board.

9 (c) A charter may be revoked or not renewed (if the local
10 school board is the chartering entity) ~~if the local school~~
11 ~~board~~ or revoked (if the Commission is the chartering entity)
12 if,~~as~~ the chartering entity~~,~~ clearly demonstrates that the
13 charter school did any of the following, or otherwise failed to
14 comply with the requirements of this law:

15 (1) Committed a material violation of any of the
16 conditions, standards, or procedures set forth in the
17 charter.

18 (2) Failed to meet or make reasonable progress toward
19 achievement of the content standards or pupil performance
20 standards identified in the charter.

21 (3) Failed to meet generally accepted standards of
22 fiscal management.

23 (4) Violated any provision of law from which the
24 charter school was not exempted.

25 In the case of revocation, the local school board or the
26 Commission, as the chartering entity, shall notify the charter

1 school in writing of the reason why the charter is subject to
2 revocation. The charter school shall submit a written plan to
3 the local school board or the Commission, whichever is
4 applicable, to rectify the problem. The plan shall include a
5 timeline for implementation, which shall not exceed 2 years or
6 the date of the charter's expiration, whichever is earlier. If
7 the local school board or the Commission, as the chartering
8 entity, finds that the charter school has failed to implement
9 the plan of remediation and adhere to the timeline, then the
10 chartering entity shall revoke the charter. Except in
11 situations of an emergency where the health, safety, or
12 education of the charter school's students is at risk, the
13 revocation shall take place at the end of a school year.
14 Nothing in Public Act 96-105 shall be construed to prohibit an
15 implementation timetable that is less than 2 years in duration.

16 (d) (Blank).

17 (e) The Commission may approve an application for a charter
18 submitted to it in accordance with this Article ~~Notice of a~~
19 ~~local school board's decision to deny, revoke, or not renew a~~
20 ~~charter shall be provided to the Commission and the State~~
21 ~~Board. The Commission may reverse a local board's decision if~~
22 the Commission finds that the charter school or charter school
23 proposal (i) is in compliance with this Article, and (ii) is in
24 the best interests of the students it is designed to serve. The
25 Commission may condition approval of a charter school
26 application ~~The Commission may condition the granting of an~~

1 ~~appeal~~ on the acceptance by the charter school of funding in an
2 amount less than that requested in the proposal submitted to
3 the local school board. Final decisions of the Commission are
4 ~~shall be~~ subject to judicial review under the Administrative
5 Review Law.

6 (f) Notwithstanding other provisions of this Article, if
7 the Commission approves an application for a charter school
8 submitted to it in accordance with this Article or ~~on appeal~~
9 ~~reverses a local board's decision or~~ if a charter school is
10 approved by referendum under Section 27A-6.5 of this Code, the
11 Commission shall act as the authorized chartering entity for
12 the charter school. The Commission shall execute a ~~approve the~~
13 charter agreement and shall perform all functions under this
14 Article otherwise performed by the local school board. The
15 State Board shall determine whether the charter proposal
16 approved by the Commission is consistent with the provisions of
17 this Article and, if the approved proposal complies, certify
18 the proposal pursuant to this Article. The State Board shall
19 report the aggregate number of charter school pupils resident
20 in a school district to that district and shall notify the
21 district of the amount of funding to be paid by the State Board
22 to the charter school enrolling such students. The Commission
23 shall require the charter school to maintain accurate records
24 of daily attendance that shall be deemed sufficient to file
25 claims under Section 18-8.05 or 18-8.15 notwithstanding any
26 other requirements of that Section regarding hours of

1 instruction and teacher certification. The State Board shall
2 withhold from funds otherwise due the district the funds
3 authorized by this Article to be paid to the charter school and
4 shall pay such amounts to the charter school.

5 (g) For charter schools authorized by the Commission, the
6 Commission shall quarterly certify to the State Board the
7 student enrollment for each of its charter schools.

8 (h) For charter schools authorized by the Commission, the
9 State Board shall pay directly to a charter school any federal
10 or State aid attributable to a student with a disability
11 attending the school.

12 (i) The Commission has no authority under subsection (e) of
13 this Section to approve a charter school proposal that has been
14 denied by the local school board.

15 (Source: P.A. 99-840, eff. 1-1-17; 100-201, eff. 8-18-17;
16 100-465, eff. 8-31-17.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.