



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB2341

Introduced 2/15/2013, by Sen. Antonio Muñoz

SYNOPSIS AS INTRODUCED:

105 ILCS 5/27A-5
105 ILCS 5/27A-7.10
105 ILCS 5/27A-8
105 ILCS 5/27A-11

Amends the Charter Schools Law of the School Code. Provides that, as public schools, charter schools are responsible for the expenditure of public funds and are accountable to their authorizer to account for those funds, and, if qualified, charter schools also receive federal categorical funds and must comply with all federal rules regarding the expenditure of these funds. Requires each charter school, on or before December 1 of every year of operation, to submit to its authorizer and the State Board of Education a copy of the charter school's audit and a copy of the Form 990 the charter school filed that year with the federal Internal Revenue Service (instead of requiring an annual submission to the State Board by December 1); makes a related change. Provides that an authorizer may require quarterly financial statements from a charter school if deemed necessary for proper financial oversight of the charter school. Makes changes concerning chartering policies and practices and giving preference to certain charter school proposals. Provides that in no event shall the funding that a charter school is to receive from a school board for a school year be less than 97% (instead of 75%) or more than 100% (instead of 125%) of the school district's per capita student tuition multiplied by the number of students residing in the district who are enrolled in the charter school. Effective immediately.

LRB098 05827 NHT 35866 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning education, which may be referred to as
2 the Illinois Charter Public School Financial Accountability
3 Law.

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

6 Section 5. The School Code is amended by changing Sections
7 27A-5, 27A-7.10, 27A-8, and 27A-11 as follows:

8 (105 ILCS 5/27A-5)

9 Sec. 27A-5. Charter school; legal entity; requirements.

10 (a) A charter school shall be a public, nonsectarian,
11 nonreligious, non-home based, and non-profit school. A charter
12 school shall be organized and operated as a nonprofit
13 corporation or other discrete, legal, nonprofit entity
14 authorized under the laws of the State of Illinois.

15 (b) A charter school may be established under this Article
16 by creating a new school or by converting an existing public
17 school or attendance center to charter school status. Beginning
18 on the effective date of this amendatory Act of the 93rd
19 General Assembly, in all new applications submitted to the
20 State Board or a local school board to establish a charter
21 school in a city having a population exceeding 500,000,
22 operation of the charter school shall be limited to one campus.
23 The changes made to this Section by this amendatory Act of the

1 93rd General Assembly do not apply to charter schools existing
2 or approved on or before the effective date of this amendatory
3 Act.

4 (b-5) As public schools, charter schools are responsible
5 for the expenditure of public funds and are accountable to
6 their authorizer to account for those funds. If qualified,
7 charter schools also receive federal categorical funds and must
8 comply with all federal rules regarding the expenditure of
9 these funds, including federal rules governing the provision of
10 special education services to students with disabilities and
11 the provision of educational services to students who are
12 English language learners.

13 (c) A charter school shall be administered and governed by
14 its board of directors or other governing body in the manner
15 provided in its charter. The governing body of a charter school
16 shall be subject to the Freedom of Information Act and the Open
17 Meetings Act.

18 (d) A charter school shall comply with all applicable
19 health and safety requirements applicable to public schools
20 under the laws of the State of Illinois.

21 (e) Except as otherwise provided in the School Code, a
22 charter school shall not charge tuition; provided that a
23 charter school may charge reasonable fees for textbooks,
24 instructional materials, and student activities.

25 (f) A charter school shall be responsible for the
26 management and operation of its fiscal affairs including, but

1 not limited to, the preparation of its budget. An audit of each
2 charter school's finances shall be conducted annually by an
3 outside, independent contractor retained by the charter
4 school. To ensure financial accountability for the use of
5 public funds, on or before December 1 of every year of
6 operation, each charter school shall ~~Annually, by December 1,~~
7 ~~every charter school must~~ submit to its authorizer and the
8 State Board a copy of the charter school's ~~its~~ audit and a copy
9 of the Form 990 the charter school filed that year with the
10 federal Internal Revenue Service. In addition, an authorizer
11 may require quarterly financial statements from a charter
12 school if deemed necessary for proper financial oversight of
13 the charter school.

14 (g) A charter school shall comply with all provisions of
15 this Article, the Illinois Educational Labor Relations Act, and
16 its charter. A charter school is exempt from all other State
17 laws and regulations in the School Code governing public
18 schools and local school board policies, except the following:

19 (1) Sections 10-21.9 and 34-18.5 of the School Code
20 regarding criminal history records checks and checks of the
21 Statewide Sex Offender Database and Statewide Murderer and
22 Violent Offender Against Youth Database of applicants for
23 employment;

24 (2) Sections 24-24 and 34-84A of the School Code
25 regarding discipline of students;

26 (3) The Local Governmental and Governmental Employees

1 Tort Immunity Act;

2 (4) Section 108.75 of the General Not For Profit
3 Corporation Act of 1986 regarding indemnification of
4 officers, directors, employees, and agents;

5 (5) The Abused and Neglected Child Reporting Act;

6 (6) The Illinois School Student Records Act;

7 (7) Section 10-17a of the School Code regarding school
8 report cards; and

9 (8) The P-20 Longitudinal Education Data System Act.

10 The change made by Public Act 96-104 to this subsection (g)
11 is declaratory of existing law.

12 (h) A charter school may negotiate and contract with a
13 school district, the governing body of a State college or
14 university or public community college, or any other public or
15 for-profit or nonprofit private entity for: (i) the use of a
16 school building and grounds or any other real property or
17 facilities that the charter school desires to use or convert
18 for use as a charter school site, (ii) the operation and
19 maintenance thereof, and (iii) the provision of any service,
20 activity, or undertaking that the charter school is required to
21 perform in order to carry out the terms of its charter.
22 However, a charter school that is established on or after the
23 effective date of this amendatory Act of the 93rd General
24 Assembly and that operates in a city having a population
25 exceeding 500,000 may not contract with a for-profit entity to
26 manage or operate the school during the period that commences

1 on the effective date of this amendatory Act of the 93rd
2 General Assembly and concludes at the end of the 2004-2005
3 school year. Except as provided in subsection (i) of this
4 Section, a school district may charge a charter school
5 reasonable rent for the use of the district's buildings,
6 grounds, and facilities. Any services for which a charter
7 school contracts with a school district shall be provided by
8 the district at cost. Any services for which a charter school
9 contracts with a local school board or with the governing body
10 of a State college or university or public community college
11 shall be provided by the public entity at cost.

12 (i) In no event shall a charter school that is established
13 by converting an existing school or attendance center to
14 charter school status be required to pay rent for space that is
15 deemed available, as negotiated and provided in the charter
16 agreement, in school district facilities. However, all other
17 costs for the operation and maintenance of school district
18 facilities that are used by the charter school shall be subject
19 to negotiation between the charter school and the local school
20 board and shall be set forth in the charter.

21 (j) A charter school may limit student enrollment by age or
22 grade level.

23 (k) If the charter school is approved by the Commission,
24 then the Commission charter school is its own local education
25 agency.

26 (Source: P.A. 96-104, eff. 1-1-10; 96-105, eff. 7-30-09;

1 96-107, eff. 7-30-09; 96-734, eff. 8-25-09; 96-1000, eff.
2 7-2-10; 97-152, eff. 7-20-11; 97-154, eff. 1-1-12; 97-813, eff.
3 7-13-12.)

4 (105 ILCS 5/27A-7.10)

5 Sec. 27A-7.10. Authorizer powers and duties; immunity;
6 principles and standards.

7 (a) Authorizers are responsible for executing, in
8 accordance with this Article, all of the following powers and
9 duties:

10 (1) Soliciting and evaluating charter applications.

11 (2) Approving quality charter applications that meet
12 identified educational needs and promote a diversity of
13 educational choices.

14 (3) Declining to approve weak or inadequate charter
15 applications.

16 (4) Negotiating and executing sound charter contracts
17 with each approved charter school.

18 (5) Monitoring, in accordance with charter contract
19 terms, the performance and legal compliance of charter
20 schools.

21 (5.5) Ensuring financial accountability of public
22 funds by annually reviewing each charter school's
23 financial audit and Form 990 filed with the federal
24 Internal Revenue Service.

25 (6) Determining whether each charter contract merits

1 renewal, nonrenewal, or revocation.

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

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

7 (d) An authorizing entity, members of the local school
8 board, or the Commission, in their official capacity, and
9 employees of an authorizer are immune from civil and criminal
10 liability with respect to all activities related to a charter
11 school that they authorize, except for willful or wanton
12 misconduct.

13 (e) The Commission and all local school boards that have a
14 charter school operating are required to develop and maintain
15 chartering policies and practices consistent with recognized
16 principles and standards for quality charter authorizing in all
17 major areas of authorizing responsibility, including all of the
18 following:

19 (1) Organizational capacity and infrastructure.

20 (2) Soliciting and evaluating charter applications.

21 (3) Performance contracting.

22 (4) Ongoing charter school oversight and evaluation.

23 (5) Charter renewal decision-making.

24 (6) Ensuring charter financial and academic
25 accountability.

26 Authorizers shall carry out all their duties under this

1 Article in a manner consistent with nationally recognized
2 principles and standards and with the spirit and intent of this
3 Article.

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

5 (105 ILCS 5/27A-8)

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

7 (a) This Section does not apply to a charter school
8 established by referendum under Section 27A-6.5. In evaluating
9 any charter school proposal submitted to it, the local school
10 board and the Commission shall give preference to proposals
11 that:

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

14 (2) set rigorous levels of expected pupil achievement
15 and demonstrate feasible plans for attaining those levels
16 of achievement; ~~and~~

17 (3) are designed to enroll and serve a substantial
18 proportion of at-risk children; provided that nothing in
19 the Charter Schools Law shall be construed as intended to
20 limit the establishment of charter schools to those that
21 serve a substantial portion of at-risk children or to in
22 any manner restrict, limit, or discourage the
23 establishment of charter schools that enroll and serve
24 other pupil populations under a nonexclusive,
25 nondiscriminatory admissions policy; and.

1 (4) establish an economically sound financial and
2 administrative plan for school operations.

3 (b) In the case of a proposal to establish a charter school
4 by converting an existing public school or attendance center to
5 charter school status, evidence that the proposed formation of
6 the charter school has received majority support from certified
7 teachers and from parents and guardians in the school or
8 attendance center affected by the proposed charter, and, if
9 applicable, from a local school council, shall be demonstrated
10 by a petition in support of the charter school signed by
11 certified teachers and a petition in support of the charter
12 school signed by parents and guardians and, if applicable, by a
13 vote of the local school council held at a public meeting. In
14 the case of all other proposals to establish a charter school,
15 evidence of sufficient support to fill the number of pupil
16 seats set forth in the proposal may be demonstrated by a
17 petition in support of the charter school signed by parents and
18 guardians of students eligible to attend the charter school. In
19 all cases, the individuals, organizations, or entities who
20 initiate the proposal to establish a charter school may elect,
21 in lieu of including any petition referred to in this
22 subsection as a part of the proposal submitted to the local
23 school board, to demonstrate that the charter school has
24 received the support referred to in this subsection by other
25 evidence and information presented at the public meeting that
26 the local school board is required to convene under this

1 Section.

2 (c) Within 45 days of receipt of a charter school proposal,
3 the local school board shall convene a public meeting to obtain
4 information to assist the board in its decision to grant or
5 deny the charter school proposal. A local school board may
6 develop its own process for receiving charter school proposals
7 on an annual basis that follows the same timeframes as set
8 forth in this Article. Only after the local school board
9 process is followed may a charter school applicant appeal to
10 the Commission.

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

1 this Section.

2 (e) Within 30 days of the public meeting, the local school
3 board shall vote, in a public meeting, to either grant or deny
4 the charter school proposal. If the local school board has not
5 voted in a public meeting within 30 days after the public
6 meeting, then the charter applicant may submit the proposal to
7 the Commission, where it must be addressed in accordance with
8 the provisions set forth in subsection (g) of this Section.

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

18 (g) If the local school board votes to deny the proposal,
19 then the charter school applicant has 30 days from the date of
20 that vote to submit an appeal to the Commission. In such
21 instances or in those instances referenced in subsections (d)
22 and (e) of this Section, the Commission shall follow the same
23 process and be subject to the same timelines for review as the
24 local school board.

25 (h) The Commission may reverse a local school board's
26 decision to deny a charter school proposal if the Commission

1 finds that the proposal (i) is in compliance with this Article
2 and (ii) is in the best interests of the students the charter
3 school is designed to serve. Final decisions of the Commission
4 are subject to judicial review under the Administrative Review
5 Law.

6 (i) In the case of a charter school proposed to be jointly
7 authorized by 2 or more school districts, the local school
8 boards may unanimously deny the charter school proposal with a
9 statement that the local school boards are not opposed to the
10 charter school, but that they yield to the Commission in light
11 of the complexities of joint administration.

12 (Source: P.A. 96-105, eff. 7-30-09; 96-734, eff. 8-25-09;
13 96-1000, eff. 7-2-10; 97-152, eff. 7-20-11.)

14 (105 ILCS 5/27A-11)

15 Sec. 27A-11. Local financing.

16 (a) For purposes of the School Code, pupils enrolled in a
17 charter school shall be included in the pupil enrollment of the
18 school district within which the pupil resides. Each charter
19 school (i) shall determine the school district in which each
20 pupil who is enrolled in the charter school resides, (ii) shall
21 report the aggregate number of pupils resident of a school
22 district who are enrolled in the charter school to the school
23 district in which those pupils reside, and (iii) shall maintain
24 accurate records of daily attendance that shall be deemed
25 sufficient to file claims under Section 18-8 notwithstanding

1 any other requirements of that Section regarding hours of
2 instruction and teacher certification.

3 (b) Except for a charter school established by referendum
4 under Section 27A-6.5, as part of a charter school contract,
5 the charter school and the local school board shall agree on
6 funding and any services to be provided by the school district
7 to the charter school. Agreed funding that a charter school is
8 to receive from the local school board for a school year shall
9 be paid in equal quarterly installments with the payment of the
10 installment for the first quarter being made not later than
11 July 1, unless the charter establishes a different payment
12 schedule.

13 All services centrally or otherwise provided by the school
14 district including, but not limited to, rent, food services,
15 custodial services, maintenance, curriculum, media services,
16 libraries, transportation, and warehousing shall be subject to
17 negotiation between a charter school and the local school board
18 and paid for out of the revenues negotiated pursuant to this
19 subsection (b); provided that the local school board shall not
20 attempt, by negotiation or otherwise, to obligate a charter
21 school to provide pupil transportation for pupils for whom a
22 district is not required to provide transportation under the
23 criteria set forth in subsection (a) (13) of Section 27A-7.

24 In no event shall the funding be less than 97% ~~75%~~ or more
25 than 100% ~~125%~~ of the school district's per capita student
26 tuition multiplied by the number of students residing in the

1 district who are enrolled in the charter school.

2 It is the intent of the General Assembly that funding and
3 service agreements under this subsection (b) shall be neither a
4 financial incentive nor a financial disincentive to the
5 establishment of a charter school.

6 The charter school may set and collect reasonable fees.
7 Fees collected from students enrolled at a charter school shall
8 be retained by the charter school.

9 (c) Notwithstanding subsection (b) of this Section, the
10 proportionate share of State and federal resources generated by
11 students with disabilities or staff serving them shall be
12 directed to charter schools enrolling those students by their
13 school districts or administrative units. The proportionate
14 share of moneys generated under other federal or State
15 categorical aid programs shall be directed to charter schools
16 serving students eligible for that aid.

17 (d) The governing body of a charter school is authorized to
18 accept gifts, donations, or grants of any kind made to the
19 charter school and to expend or use gifts, donations, or grants
20 in accordance with the conditions prescribed by the donor;
21 however, a gift, donation, or grant may not be accepted by the
22 governing body if it is subject to any condition contrary to
23 applicable law or contrary to the terms of the contract between
24 the charter school and the local school board. Charter schools
25 shall be encouraged to solicit and utilize community volunteer
26 speakers and other instructional resources when providing

1 instruction on the Holocaust and other historical events.

2 (e) (Blank).

3 (f) The State Board shall provide technical assistance to
4 persons and groups preparing or revising charter applications.

5 (g) At the non-renewal or revocation of its charter, each
6 charter school shall refund to the local board of education all
7 unspent funds.

8 (h) A charter school is authorized to incur temporary,
9 short term debt to pay operating expenses in anticipation of
10 receipt of funds from the local school board.

11 (Source: P.A. 90-548, eff. 1-1-98; 90-757, eff. 8-14-98;
12 91-407, eff. 8-3-99.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.