



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB5085

by Rep. Arthur L. Turner

#### SYNOPSIS AS INTRODUCED:

105 ILCS 5/27A-5.5 new  
105 ILCS 5/27A-12

Amends the Charter Schools Law of the School Code. Establishes the Illinois Charter Public School Commission as an independent, State-level, charter school authorizing entity working in collaboration with the State Board of Education. Includes provisions concerning membership, funding, staff, and powers and duties; Illinois Schools of Excellence charter school applications; limiting a school board's authority to authorize charter schools; the approval of cosponsors, a cosponsor agreement, the duties of a sponsor, and sponsor immunity; and an annual report to the General Assembly and the State Board. Provides that every 2 years (instead of annually), the State Board shall compile evaluations of charter schools received from school boards. Effective immediately.

LRB095 14415 NHT 45823 b

FISCAL NOTE ACT  
MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

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 adding Section  
5 27A-5.5 and by changing Section 27A-12 as follows:

6 (105 ILCS 5/27A-5.5 new)

7 Sec. 27A-5.5. Illinois Charter Public School Commission.

8 (a) The Illinois Charter Public School Commission is  
9 established as an independent, State-level, charter school  
10 authorizing entity working in collaboration with the State  
11 Board. Startup funds necessary to establish and operate the  
12 Commission may be received through private contributions and  
13 federal and other institutional grants. The State Board shall  
14 assist in securing federal and other institutional grant funds  
15 to establish the Commission.

16 (b) The Commission shall be appointed by the State Board  
17 and shall be composed of 2 appointees recommended by the  
18 Governor, one appointee each recommended by the President and  
19 Minority Leader of the Senate, one appointee each recommended  
20 by the Speaker and Minority Leader of the House of  
21 Representatives, and one appointee recommended by the Mayor of  
22 the City of Chicago. The appointments shall be made as soon as  
23 feasible, but no later than September 1, 2008. Each member

1 appointed shall serve a term of 3 years; however, for the  
2 purpose of providing staggered terms, of the initial  
3 appointments, members recommended by the Governor and Mayor  
4 shall be appointed to 3-year terms, members recommended by the  
5 President and Minority Leader of the Senate shall be appointed  
6 to 2-year terms, and members appointed by the Speaker and  
7 Minority Leader of the House of Representatives shall be  
8 appointed to one-year terms. Thereafter, each appointee shall  
9 serve a 3-year term. If a vacancy occurs on the Commission, the  
10 State Board shall appoint a person who has been recommended by  
11 the authority making the original recommendation to fill the  
12 remainder of the term. The members shall on the first meeting  
13 of each calendar year elect a chairperson who shall serve  
14 during that calendar year.

15 The Commission is encouraged to convene its initial meeting  
16 no later than October 1, 2008 and, thereafter, shall meet at  
17 least quarterly at the call of the chairperson or upon the  
18 request of 4 members of the Commission. Four members of the  
19 Commission shall constitute a quorum.

20 Subject to appropriation, the Commission may employ such  
21 staff as is necessary to perform the administrative duties and  
22 responsibilities of the Commission. The members of the  
23 Commission must not be compensated for their services on the  
24 Commission, but may be reimbursed for per diem and travel  
25 expenses.

26 (c) The Commission shall have all of the following powers:

1           (1) To authorize and act as a sponsor of up to 200  
2           charter schools, including the approval or denial of  
3           charter school applications and the nonrenewal or  
4           termination of charter schools.

5           (2) To authorize municipalities, State universities,  
6           public community colleges, and regional educational  
7           consortia to act as cosponsors of charter schools,  
8           including the approval or denial of a cosponsor and the  
9           revocation of approval of cosponsors.

10           (3) To approve or deny Illinois Schools of Excellence  
11           (ISE) charter school applications and renew or terminate  
12           charters of ISE charter schools.

13           (4) To conduct facility and curriculum reviews of  
14           charter schools approved by the Commission or one of its  
15           cosponsors.

16           (d) The Commission shall have all of the following duties:

17           (1) To review charter school applications and assist in  
18           the establishment of ISE charter schools throughout the  
19           State. An ISE charter school shall exist as a public school  
20           within the State as a component of the delivery of public  
21           education within the State's kindergarten through grade 12  
22           educational system.

23           (2) To develop, promote, and require high standards of  
24           accountability for any school that applies for and is  
25           granted a charter pursuant to this Section and hold the  
26           cosponsors accountable for their performance. The

1 Commission shall annually review and evaluate the  
2 performance of each cosponsor based upon the financial and  
3 administrative support provided to the cosponsor's charter  
4 schools and the quality of charter schools approved by the  
5 cosponsor, including the academic performance of the  
6 students that attend those schools.

7 (3) To monitor and annually review and evaluate the  
8 academic and financial performance of the charter schools  
9 it sponsors and hold the schools accountable for their  
10 performance.

11 (4) To report the student enrollment in each of its  
12 sponsored charter schools to the local school board where  
13 the school is located.

14 (5) To work with its cosponsors to monitor the  
15 financial management of each ISE charter school.

16 (6) To actively seek, with the assistance of the State  
17 Board, supplemental revenue from federal grant funds,  
18 institutional grant funds, and philanthropic  
19 organizations.

20 (7) To collaborate with municipalities, State  
21 universities, public community colleges, and regional  
22 educational consortia as cosponsors for ISE charter  
23 schools for the purpose of providing the highest level of  
24 public education to low-income, low-performing, gifted, or  
25 underserved student populations. Such collaborations shall  
26 do all of the following:

1           (A) Allow State universities and public community  
2           colleges that cosponsor ISE charter schools to enable  
3           students attending a charter school to take college  
4           courses and receive high school and college credit for  
5           such courses.

6           (B) Be used to determine the feasibility of opening  
7           charter schools for students with disabilities,  
8           including, but not limited to, charter schools for  
9           children with autism that work with and utilize the  
10           specialized expertise of the Centers for Autism and  
11           Related Disabilities.

12           (8) To support municipalities when the mayor or chief  
13           executive, through resolution passed by the governing body  
14           of the municipality, expresses an intent to cosponsor and  
15           establish charter schools within the municipal boundaries.

16           (9) To assist ISE charter schools in negotiating and  
17           contracting with local school boards that choose to provide  
18           certain administrative or transportation services to the  
19           charter schools on a contractual basis.

20           (e) A charter school applicant may submit an application to  
21           the Commission only if the school district where the ISE  
22           charter school is to be located has not retained exclusive  
23           authority to authorize charter schools as provided in  
24           subsection (i) of this Section. If a local school board has not  
25           retained exclusive authority to authorize charter schools as  
26           provided in subsection (i) of this Section, the local school

1 board and the Commission shall have concurrent authority to  
2 authorize charter schools and ISE charter schools,  
3 respectively, to be located within the geographic boundaries of  
4 the school district. The local school board shall monitor and  
5 oversee all charter schools authorized by the local school  
6 board. The Commission shall monitor and oversee all ISE charter  
7 schools sponsored by the Commission pursuant to its powers and  
8 duties under this Section.

9 (f) Subsection (i) of this Section must not be construed to  
10 eliminate the ability of a local school board to authorize  
11 charter schools. A local school board shall retain the  
12 authority to reauthorize and to oversee any charter school that  
13 it has authorized, except with respect to any charter school  
14 that is converted to an ISE charter school under this Section.

15 (g) Beginning on the effective date of this amendatory Act  
16 of the 95th General Assembly, a local school board may seek to  
17 retain exclusive authority to authorize charter schools within  
18 the geographic boundaries of the school district by presenting  
19 to the State Board a written resolution on or before a date 60  
20 days after establishment of the Commission. The written  
21 resolution shall be accompanied by a written description  
22 addressing the elements described in subsection (i) of this  
23 Section. The local school board shall provide a complete copy  
24 of the resolution, including the description, to each charter  
25 school authorized by the local school board on or before the  
26 date it submits the resolution to the State Board.

1       (h) A party may challenge the grant of exclusive authority  
2 made by the State Board pursuant to subsection (i) of this  
3 Section by filing with the State Board a notice of challenge  
4 within 30 days after the State Board grants exclusive  
5 authority. The notice shall be accompanied by a specific  
6 written description of the basis for the challenge. The  
7 challenging party, at the time of filing notice with the State  
8 Board, shall provide a copy of the notice of challenge to the  
9 local school board that has been granted exclusive authority.  
10 The State Board shall permit the local school board the  
11 opportunity to appear and respond in writing to the challenge.  
12 The State Board shall make a determination upon the challenge  
13 within 60 days after receiving the notice of challenge.

14       (i) The State Board shall grant to a local school board  
15 exclusive authority to authorize charter schools within the  
16 geographic boundaries of the school district if the State Board  
17 determines, after adequate notice, in a public hearing, and  
18 after receiving input from any charter school authorized by the  
19 local school board, that the local school board has provided  
20 fair and equitable treatment to its charter schools during the  
21 4 years prior to the local school board's submission of the  
22 resolution described in subsection (g) of this Section. The  
23 State Board's review of the resolution shall, at a minimum,  
24 include consideration of all of the following:

25           (1) Compliance with full and accurate accounting  
26 practices and charges for central administrative overhead



1 costs.

2 (2) Compliance with requirements allowing a charter  
3 school, at its discretion, to purchase certain services or  
4 a combination of services at actual cost to the district.

5 (3) The absence of a local school board moratorium  
6 regarding charter schools or the absence of any  
7 districtwide charter school enrollment limits.

8 (4) Compliance with valid orders of the State Board.

9 (5) The provision of assistance to charter schools to  
10 meet their facility needs by including those needs in local  
11 bond issuances or otherwise providing available land and  
12 facilities that are comparable to those provided to other  
13 public school students in the same grade levels within the  
14 school district.

15 (6) The distribution to charter schools authorized by  
16 the local school board of a pro rata share of federal and  
17 State grants received by the local school board, except for  
18 any grant received for a particular purpose that, by its  
19 express terms, is intended to benefit a student population  
20 not able to be served by or a program not able to be  
21 offered at a charter school that did not receive a  
22 proportionate share of such grant proceeds.

23 (7) The provision of adequate staff and other resources  
24 to serve charter schools authorized by the local school  
25 board, which services are provided by the local school  
26 board at a cost to the charter schools that does not exceed

1 their actual cost to the local school board.

2 (8) The lack of a policy or practice of imposing  
3 individual charter school enrollment limits, except as  
4 otherwise provided by law.

5 (9) The provision of an adequate number of educational  
6 choice programs to serve students exercising their rights  
7 to transfer pursuant to the federal No Child Left Behind  
8 Act of 2001 and a history of charter school approval that  
9 encourages chartering.

10 The decision of the State Board of Education pursuant to  
11 this subsection (i) shall be a final action subject to judicial  
12 review as permitted by law.

13 For local school boards that have no discernible history of  
14 authorizing charter schools, the State Board may not grant  
15 exclusive authority unless the local school board demonstrates  
16 that no approvable application has come before the local school  
17 board.

18 A grant of exclusive authority by the State Board shall  
19 continue so long as a local school board continues to comply  
20 with this Section.

21 (j) Notwithstanding any other provision of this Section to  
22 the contrary, a local school board may permit the establishment  
23 of one or more ISE charter schools within the geographic  
24 boundaries of the school district by adopting a favorable  
25 resolution and submitting the resolution to the State Board.  
26 The resolution shall be effective until it is rescinded by

1 resolution of the local school board.

2 (k) With respect to the approval of cosponsors, the  
3 Commission shall begin accepting applications by  
4 municipalities, State universities, public community colleges,  
5 and regional educational consortia no later than January 31,  
6 2009. The Commission shall review and evaluate all applications  
7 for compliance with the provisions of subsection (m) of this  
8 Section and shall have 90 days after receipt of an application  
9 to approve or deny the application, unless the 90-day period is  
10 waived by the applicant.

11 (l) The Commission shall limit the number of charter  
12 schools that a cosponsor may approve pursuant to its review of  
13 the cosponsor's application under subsection (m) of this  
14 Section. Upon application by the cosponsor and review by the  
15 Commission of the performance of a cosponsor's current charter  
16 schools, the Commission may approve a cosponsor's application  
17 to raise the limit previously set by the Commission.

18 (m) Any entity set forth in subsection (k) of this Section  
19 that is interested in becoming a cosponsor pursuant to this  
20 Section shall prepare and submit an application to the  
21 Commission that provides evidence of all of the following:

22 (1) That the entity has the necessary staff and  
23 infrastructure or has established the necessary  
24 contractual or interagency relationships to ensure its  
25 ability to handle all of the administrative  
26 responsibilities required of a charter school sponsor.

1           (2) That the entity has the necessary staff expertise  
2           and infrastructure or has established the necessary  
3           contractual or interagency relationships to ensure that it  
4           will approve and is able to develop and maintain charter  
5           schools of the highest academic quality.

6           (3) That the entity is able to provide the necessary  
7           public and private financial resources and staff to ensure  
8           that it can monitor and support charter schools that are  
9           economically efficient and fiscally sound.

10           (4) That the entity is committed to providing equal  
11           access to all students and to maintaining a diverse student  
12           population within its charter schools, including  
13           compliance with all applicable requirements of federal  
14           law.

15           (5) That the entity is committed to serving low-income,  
16           low-performing, gifted, or underserved student  
17           populations.

18           (6) That the entity has articulated annual academic and  
19           financial goals and expected outcomes for its charter  
20           schools as well as the methods and plans by which it will  
21           measure and achieve those goals and outcomes.

22           (7) That the entity has policies in place to protect  
23           its cosponsoring practices from conflicts of interest.

24           (n) The Commission's decision to deny an application or to  
25           revoke approval of a cosponsor pursuant to subsection (p) of  
26           this Section is not subject to judicial review.

1       (o) Upon approval of a cosponsor, the Commission and the  
2 cosponsor shall enter into an agreement that defines the  
3 cosponsor's rights and obligations and includes all of the  
4 following:

5           (1) An explanation of the personnel, contractual, and  
6 interagency relationships and potential revenue sources  
7 referenced in the application as required in subsection (m)  
8 of this Section.

9           (2) Incorporation of the requirements of equal access  
10 for all students, including any plans to provide food  
11 service or transportation reasonably necessary to provide  
12 access to as many students as possible.

13           (3) Incorporation of the requirement to serve  
14 low-income, low-performing, gifted, or underserved student  
15 populations.

16           (4) An explanation of the academic and financial goals  
17 and expected outcomes for the cosponsor's charter schools  
18 and the method and plans by which they will be measured and  
19 achieved as referenced in the application.

20           (5) The conflict-of-interest policies referenced in  
21 the application.

22           (6) An explanation of the disposition of facilities and  
23 assets upon termination and dissolution of a charter school  
24 approved by the cosponsor.

25           (7) A provision requiring the cosponsor to annually  
26 appear before the Commission and provide a report as to the

1 information for each of its charter schools.

2 (8) A provision requiring that the cosponsor report the  
3 student enrollment in each of its sponsored charter schools  
4 to the local school board of the district where the charter  
5 school is located.

6 (9) A provision requiring that the cosponsor work with  
7 the Commission to provide the necessary reports to the  
8 State Board.

9 (10) Any other reasonable terms deemed appropriate by  
10 the Commission given the unique characteristics of the  
11 cosponsor.

12 No cosponsor may receive applications for charter schools  
13 until a cosponsor agreement with the Commission has been  
14 approved and signed by the Commission and the appropriate  
15 individuals or governing bodies of the cosponsor.

16 The cosponsor agreement shall be proposed and negotiated  
17 pursuant to the timeframes set forth by rule of the State  
18 Board.

19 The cosponsor agreement must be attached to and shall  
20 govern all charter school contracts entered into by the  
21 cosponsor.

22 (p) If at any time the Commission finds that a cosponsor is  
23 not in compliance or is no longer willing to comply with its  
24 contract with a charter school or with its cosponsor agreement  
25 with the Commission, the Commission shall provide notice and a  
26 hearing in accordance with State Board rule. If after a hearing

1 the Commission confirms its initial finding, the Commission  
2 shall revoke the cosponsor's approval. The Commission shall  
3 assume temporary sponsorship over any charter school sponsored  
4 by the cosponsor at the time of revocation. Thereafter, the  
5 Commission may assume permanent sponsorship over such school or  
6 allow the school's governing body to apply to another sponsor  
7 or cosponsor.

8 (q) Charter school applications submitted to the  
9 Commission or to a cosponsor approved by the Commission  
10 pursuant to this Section shall be subject to the same  
11 requirements as other charter school applications under this  
12 Article.

13 (r) No application may be submitted pursuant to this  
14 Section by an existing charter school approved by a local  
15 school board; however, this is not a limitation on a charter  
16 operator submitting an application for an addition charter,  
17 subject to the provisions of this Article. A local school board  
18 may agree to rescind or waive the obligations of a current  
19 charter contract to allow an application to be submitted by an  
20 existing charter school pursuant to this Section. A charter  
21 school that changes sponsors pursuant to this subsection (r)  
22 must be allowed to continue the use of all facilities,  
23 equipment, and other assets it owned or leased prior to the  
24 expiration or rescission of its contract with a local school  
25 board sponsor.

26 An application to the Commission or one of its cosponsors

1 by a conversion charter school may only be submitted upon  
2 consent of the local school board. In such instance, the local  
3 school board may retain the facilities, equipment, and other  
4 assets of the conversion charter school for its own use or  
5 agree to reasonable terms for their continued use by the  
6 conversion charter school.

7 (s) Each year, the chair of the Commission shall submit a  
8 report to the General Assembly and the State Board regarding  
9 the academic performance and fiscal responsibility of all  
10 charter schools and cosponsors approved under this Section.

11 (t) The sponsor has the following duties:

12 (1) The sponsor shall monitor and review the charter  
13 school in its progress toward the goals established in the  
14 charter.

15 (2) The sponsor shall monitor the revenues and  
16 expenditures of the charter school.

17 (3) The sponsor may approve a charter for a charter  
18 school before the applicant has secured space, equipment,  
19 or personnel if the applicant indicates approval is  
20 necessary for it to raise working capital.

21 (4) The sponsor's policies shall not apply to a charter  
22 school.

23 (5) The sponsor shall ensure that the charter is  
24 innovative and consistent with State educational goals.

25 (6) The sponsor shall ensure that the charter school  
26 participates in the State's education accountability



1 system. If a charter school falls short of performance  
2 measures included in the approved charter, the sponsor  
3 shall report such shortcomings to the State Board.

4 (u) The sponsor is not liable for civil damages under State  
5 law for personal injury, property damage, or death resulting  
6 from an act or omission of an officer, employee, agent, or  
7 governing body of the charter school. The sponsor is not liable  
8 for civil damages under State law for any employment actions  
9 taken by an officer, employee, agent, or governing body of the  
10 charter school. The sponsor's duties to monitor the charter  
11 school shall not constitute the basis for a private cause of  
12 action.

13 Immunity for the sponsor of a charter school under this  
14 subsection (u) applies only with respect to acts or omissions  
15 not under the sponsor's direct authority as described in this  
16 Section. Nothing contained in this subsection (u) shall be  
17 considered a waiver of sovereign immunity by a local school  
18 board.

19 (105 ILCS 5/27A-12)

20 Sec. 27A-12. Evaluation; annual report. The State Board  
21 shall compile, every 2 years, ~~annual~~ evaluations of charter  
22 schools received from local school boards and shall prepare an  
23 annual report on charter schools.

24 On or before the second Wednesday of January, 1998, and on  
25 or before the second Wednesday of January of each subsequent

1 calendar year, the State Board shall issue a report to the  
2 General Assembly and the Governor on its findings for the  
3 school year ending in the preceding calendar year.

4 In the annual report required by this Section, the State  
5 Board (i) shall compare the performance of charter school  
6 pupils with the performance of ethnically and economically  
7 comparable groups of pupils in other public schools who are  
8 enrolled in academically comparable courses, (ii) shall review  
9 information regarding the regulations and policies from which  
10 charter schools were released to determine if the exemptions  
11 assisted or impeded the charter schools in meeting their stated  
12 goals and objectives, and (iii) shall include suggested changes  
13 in State law necessary to strengthen charter schools.

14 In addition, the State Board shall undertake and report on  
15 periodic evaluations of charter schools that include  
16 evaluations of student academic achievement, the extent to  
17 which charter schools are accomplishing their missions and  
18 goals, the sufficiency of funding for charter schools, and the  
19 need for changes in the approval process for charter schools.

20 (Source: P.A. 91-407, eff. 8-3-99.)

21 Section 99. Effective date. This Act takes effect upon  
22 becoming law.