

101ST GENERAL ASSEMBLY State of Illinois 2019 and 2020 HB0890

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 07630 AXK 52677 b

FISCAL NOTE ACT MAY APPLY

1 AN ACT concerning education.

Be it enacted by the People of the State of Illinois, 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.
- "Authorizer" means an entity authorized under this Article
- 12 to review applications, decide whether to approve or reject
- applications, enter into charter contracts with applicants,
- oversee charter schools, and decide whether to renew or_{τ} not
- renew a charter unless otherwise prohibited under this Article,
- and decide whether to, or revoke a charter.
- "Commission" means the State Charter School Commission
- 18 established under Section 27A-7.5 of this Code.
- "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
- located in cities having a population of more than 500,000,
- organized under the laws of this State.

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- 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 independent commission with statewide chartering jurisdiction and authority. The Commission shall be under the State Board for administrative purposes only.
- 9 (a-5) The State Board shall provide administrative support 10 to the Commission as needed.
 - (b) The Commission is responsible for authorizing high-quality charter schools throughout this State, particularly schools designed to expand opportunities for at-risk students, consistent with the purposes of this Article.
 - (c) The Commission shall consist of 9 members, appointed by the State Board. The State Board shall make these appointments from a slate of candidates proposed by the Governor, within 60 days after the effective date of this amendatory Act of the 97th General Assembly with respect to the initial Commission members. In making the appointments, the State Board shall ensure statewide geographic diversity among Commission members. The Governor shall propose a slate of candidates to the State Board within 60 days after the effective date of this amendatory Act of the 97th General Assembly and 60 days prior to the expiration of the term of a member thereafter. If the

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

- (d) Members appointed to the Commission shall collectively possess strong experience and expertise in public and nonprofit governance, management and finance, public school leadership, higher education, assessments, curriculum and instruction, and public education law. All members of the Commission shall have demonstrated understanding of and a commitment to public education, including without limitation charter schooling. At least 3 members must have past experience with urban charter schools.
 - (e) To establish staggered terms of office, the initial term of office for 3 Commission members shall be 4 years and thereafter shall be 4 years; the initial term of office for another 3 members shall be 3 years and thereafter shall be 4 years; and the initial term of office for the remaining 3 members shall be 2 years and thereafter shall be 4 years. The initial appointments must be made no later than October 1, 2011.
- (f) Whenever a vacancy on the Commission exists, the State Board shall appoint a member for the remaining portion of the term.
- 25 (g) Subject to the State Officials and Employees Ethics 26 Act, the Commission is authorized to receive and expend gifts,

grants, and donations of any kind from any public or private
entity to carry out the purposes of this Article, subject to
the terms and conditions under which they are given, provided
that all such terms and conditions are permissible under law.

Funds received under this subsection (g) must be deposited into

the State Charter School Commission Fund.

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

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

- (g-5) Funds or spending authority for the operation and administrative costs of the Commission shall be appropriated to the State Board in a separate line item. The State Superintendent of Education may not reduce or modify the budget of the Commission or use funds appropriated to the Commission without the approval of the Commission.
 - (h) The Commission shall operate with dedicated resources

- and staff qualified to execute the day-to-day responsibilities of charter school authorizing in accordance with this Article. The Commission may employ and fix the compensation of such employees and technical assistants as it deems necessary to carry out its powers and duties under this Article, without regard to the requirements of any civil service or personnel statute; and may establish and administer standards of classification of all such persons with respect to their compensation, duties, performance, and tenure and enter into contracts of employment with such persons for such periods and on such terms as the Commission deems desirable.
 - (i) Every 2 years, the Commission shall provide to the State Board and local school boards a report on best practices in charter school authorizing, including without limitation evaluating applications, oversight of charters, and renewal of charter schools.
 - (j) The Commission may charge a charter school that it authorizes a fee, not to exceed 3% of the revenue provided to the school, to cover the cost of undertaking the ongoing administrative responsibilities of the eligible chartering authority with respect to the school. This fee must be deposited into the State Charter School Commission Fund.
 - (k) Any charter school authorized by the State Board prior to this amendatory Act of the 97th General Assembly shall have its authorization transferred to the Commission upon a vote of the State Board, which shall then become the school's

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

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

- 97th General Assembly and grant any and all changes consistent with that intent.
- (1) (Blank). The Commission shall have the responsibility 3 to consider appeals under this Article immediately upon 4 5 appointment of the initial members of the Commission under 6 subsection (c) of this Section. Appeals pending at the time of initial appointment shall be determined by the Commission; the 7 Commission may extend the time for review as necessary 8 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 this Article, both the applicant and the school district in 13 which the charter school plans to locate shall have the right 14 to request a hearing before the Commission. If more than one 15 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. (Source: P.A. 97-152, eff. 7-20-11; 97-641, eff. 12-19-11; 20
- 22 (105 ILCS 5/27A-7.10)

97-1156, eff. 1-25-13.)

- Sec. 27A-7.10. Authorizer powers and duties; immunity; principles and standards.
- 25 (a) Authorizers are responsible for executing, in

- accordance with this Article, all of the following powers and duties:
- 3 (1) Soliciting and evaluating charter applications.
 - (2) Approving quality charter applications that meet identified educational needs and promote a diversity of educational choices.
 - (3) Declining to approve weak or inadequate charter applications.
 - (4) Negotiating and executing sound charter contracts with each approved charter school.
 - (5) Monitoring, in accordance with charter contract terms, the performance and legal compliance of charter schools.
 - (6) Determining whether each charter contract merits renewal <u>or</u> nonrenewal, <u>unless the authorizer is the Commission</u>, or <u>merits</u> revocation. <u>The Commission has no authority to renew a charter</u>.
 - (b) An authorizing entity may delegate its duties to officers, employees, and contractors.
 - (c) Regulation by authorizers is limited to the powers and duties set forth in subsection (a) of this Section and must be consistent with the spirit and intent of this Article.
 - (d) An authorizing entity, members of the local school board, or the Commission, in their official capacity, and employees of an authorizer are immune from civil and criminal liability with respect to all activities related to a charter

following:

- school that they authorize, except for willful or wanton 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
- 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.
- 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)
- 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
- any charter school proposal submitted to it, the local school
- 24 board and the Commission shall give preference to proposals
- 25 that:

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- (1) demonstrate a high level of local pupil, parental, community, business, and school personnel support;
 - (2) set rigorous levels of expected pupil achievement and demonstrate feasible plans for attaining those levels of achievement; and
 - (3) are designed to enroll and serve a substantial proportion of at-risk children; provided that nothing in the Charter Schools Law shall be construed as intended to limit the establishment of charter schools to those that serve a substantial portion of at-risk children or to in manner restrict, limit, or discourage any the establishment of charter schools that enroll and serve other pupil populations under nonexclusive, а nondiscriminatory admissions policy.
- (b) In the case of a proposal to establish a charter school by converting an existing public school or attendance center to charter school status, evidence that the proposed formation of the charter school has received majority support from certified teachers and from parents and guardians in the school or attendance center affected by the proposed charter, and, if applicable, from a local school council, shall be demonstrated by a petition in support of the charter school signed by certified teachers and a petition in support of the charter school signed by parents and guardians and, if applicable, by a vote of the local school council held at a public meeting. In the case of all other proposals to establish a charter school,

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

(c) Within 45 days of receipt of a charter school proposal, the local school board shall convene a public meeting to obtain information to assist the board in its decision to grant or deny the charter school proposal. A local school board may develop its own process for receiving charter school proposals on an annual basis that follows the same timeframes as set forth in this Article. Final decisions of a local school board are subject to judicial review under the Administrative Review Law. If a charter school applicant submits a proposal to a local school board outside of the process adopted by that local 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 in

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- subsections (d) and (e) of this Section. Only after the local school board process is followed may a charter school applicant appeal to the Commission.
 - (d) Notice of the public meeting required by this Section shall be published in a community newspaper published in the school district in which the proposed charter is located and, if there is no such newspaper, then in a newspaper published in the county and having circulation in the school district. The notices shall be published not more than 10 days nor less than 5 days before the meeting and shall state that information regarding a charter school proposal will be heard at the meeting. Copies of the notice shall also be posted at appropriate locations in the school or attendance center proposed to be established as a charter school, the public schools in the school district, and the local school board office. If 45 days pass without the local school board holding a public meeting, then the charter applicant may submit the proposal to the Commission, where it must be addressed in accordance with the provisions set forth in subsection (g) of this Section.
 - (e) Within 30 days of the public meeting, the local school board shall vote, in a public meeting, to either grant or deny the charter school proposal. If the local school board has not voted in a public meeting within 30 days after the public meeting, then the charter applicant may submit the proposal to the Commission, where it must be addressed in accordance with

- 1 the provisions set forth in subsection (g) of this Section.
 - (f) Within 7 days of the public meeting required under subsection (e) of this Section, the local school board shall file a report with the State Board granting or denying the proposal. If the local school board has approved the proposal, within 30 days of receipt of the local school board's report, the State Board shall determine whether the approved charter proposal is consistent with the provisions of this Article and, if the approved proposal complies, certify the proposal pursuant to Section 27A-6.
 - (g) If the charter applicant submits the proposal to the Commission as authorized the local school board votes to deny the proposal, then the charter school applicant has 30 days from the date of that vote to submit an appeal to the Commission. In such instances or in those instances referenced in subsections (d), and (e), and (i) of this Section, the Commission shall follow the same process and be subject to the same timelines for review as the local school board.
 - (h) The Commission may approve a charter school proposal submitted to it in accordance with subsection (d), (e), or (i) of this Section The Commission may reverse a local school board's decision to deny a charter school proposal if the Commission finds that the proposal (i) is in compliance with this Article and (ii) is in the best interests of the students the charter school is designed to serve. Final decisions of the 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
- 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
- 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
- effective date of Public Act 99-840), a charter may be granted
- 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
- in incremental periods not to exceed 10 school years; however,

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

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

- (b) A charter school renewal proposal submitted to the local school board or the Commission, as the chartering entity, shall contain:
- 25 (1) \underline{a} A report on the progress of the charter school in achieving the goals, objectives, pupil performance

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

- (2) \underline{a} A financial statement that discloses the costs of administration, instruction, and other spending categories for the charter school that is understandable to the general public and that will allow comparison of those costs to other schools or other comparable organizations, in a format required by the State Board.
- (c) A charter may be revoked or not renewed (if the local school board is the chartering entity) if the local school board or revoked (if the Commission is the chartering entity) if, as the chartering entity, clearly demonstrates that the charter school did any of the following, or otherwise failed to comply with the requirements of this law:
 - (1) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter.
 - (2) Failed to meet or make reasonable progress toward achievement of the content standards or pupil performance standards identified in the charter.
 - (3) Failed to meet generally accepted standards of fiscal management.
 - (4) Violated any provision of law from which the charter school was not exempted.
- In the case of revocation, the local school board or the Commission, as the chartering entity, shall notify the charter

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

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

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

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

- 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
- this Section to approve a charter school proposal that has been
- 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.