

2008 -- H 7874

LC02252

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2008

A N A C T

RELATING TO EDUCATION -- ESTABLISHMENT OF CHARTER PUBLIC SCHOOLS --
TEACHERS' RETIREMENT

Introduced By: Representatives Vaudreuil, Kilmartin, McManus, Silva, and Fox

Date Introduced: February 26, 2008

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 16-77-3, 16-77-4, 16-77-5 and 16-77-11 of the General Laws in
2 Chapter 16-77 entitled "Establishment of Charter Public Schools" are hereby amended to read as
3 follows:

4 **16-77-3. Commissioner of elementary and secondary education and local school**
5 **committee authorized to recommend the granting of a charter.** -- (a) The commissioner of
6 elementary and secondary education and/or the school committee where the charter public school
7 is to be located are authorized in response to an application to recommend to the board of regents
8 for elementary and secondary education the granting of a revocable charter authorizing operation
9 of a charter public school for up to five (5) years, subject to renewal for additional five-year
10 periods.

11 (b) Persons or entities eligible to submit an application to establish a charter school shall
12 be limited to:

13 (1) Existing public schools;

14 (2) Groups of public school personnel;

15 (3) Public school districts;

16 (4) Established Rhode Island nonprofit organizations in accordance with subsection (i) of
17 this section provided that these nonprofit organizations shall have existed for at least two (2)
18 years and must exist for a substantial reason other than to operate a school;

1 (5) A group of school districts; ~~or~~

2 (6) Colleges and universities within the state of Rhode Island; ~~or~~

3 (7) A mayor of any city or town within the state of Rhode Island, acting by or through a
4 nonprofit organization (regardless of the time said nonprofit organization is in existence) to
5 establish a mayoral academy as hereinafter defined. For purposes of this chapter the term
6 "mayor" shall include any elected town administrator.

7 (c) No existing public school shall be converted into a charter public school unless a
8 majority of the parents and/or guardians of the students currently assigned to the school and two-
9 thirds (2/3) of the certified teaching personnel currently assigned to the school approve the
10 proposed charter, as provided in section 16-77-4.1.

11 (d) No private or parochial schools shall be eligible for charter school status, nor shall a
12 charter school be affiliated in any way with a sectarian school or religious institution. Any charter
13 school authorized by this chapter shall be nonsectarian and nonreligious in its programs,
14 admissions policies, employment practices, and all other operations. The board of regents shall
15 not approve a charter to a school whose overall operation or education program is managed by a
16 for profit entity.

17 (e) School professionals employed by a local or regional school committee or the state of
18 Rhode Island shall be entitled to a two (2) year leave of absence, without compensation, in order
19 to be employed in a charter school, provided this leave shall be extended upon request for an
20 additional two (2) years. At any time during or upon completion of this leave of absence, a school
21 professional may return to work in the school district in the position in which he or she was
22 previously employed or a comparable position. This leave of absence shall not be deemed to be
23 an interruption of service for purposes of seniority and teachers' retirement.

24 (f) No child shall be required to attend a charter public school nor shall any teacher be
25 required to teach in a charter public school. The school committee shall make accommodations to
26 facilitate the transfer of students who do not wish to participate in the charter public school into
27 other public schools. It shall also make accommodations for those students who wish to
28 participate to transfer into the charter public school as space permits. If the total number of
29 students who are eligible to attend and apply to a charter school is greater than the number of
30 spaces available, the charter school shall conduct a lottery to determine which students shall be
31 admitted.

32 (g) The commissioner is empowered to promulgate rules and regulations consistent with
33 this chapter, in conformance with chapter 35 of title 42, for the creation and operation of charter
34 public schools. These rules and regulations shall set forth the process for rescission of state

1 approval of a charter school, including appropriate protections to ensure the continued provision
2 of education services to the students of the charter school whose charter is rescinded.

3 (h) All charter schools shall adhere to financial record keeping, reporting, auditing
4 requirements, and procedures in the same manner as required of local public school districts and
5 in accordance with federal and state laws and regulations.

6 (i) Any nonprofit organization which seeks to establish a charter school must submit its
7 financial records and financial plan for operating the school to the auditor general, who shall
8 review the records, the financial plan, and the financial integrity of the organization. At the time
9 of initial charter application the financial records and financial recordkeeping system of the
10 nonprofit organization and the proposed financial plan for the charter school shall be reviewed by
11 the auditor general and the auditor general shall, while the application is being considered for
12 preliminary approval by the board of regents, provide an initial determination to the board of
13 regents, the commissioner of elementary and secondary education, and the speaker of the house
14 of representatives indicating that the auditor general is satisfied that the nonprofit organization is
15 financially responsible. Final approval for operation of the public charter school shall not be
16 granted by the board of regents until the auditor general has approved the financial plan and
17 financial record keeping system and is satisfied that the nonprofit organization is financially
18 responsible. The auditor general shall notify the board of regents, the commissioner of elementary
19 and secondary education, and the speaker of the house of representatives of the findings. During
20 the year immediately preceding the September in which the public charter school is to begin
21 operation, the charter applicant shall make any additional submissions to the auditor general
22 prescribed by the auditor general in the initial determination. Additional submissions during the
23 year prior to the September in which the public charter school is to begin operation shall include,
24 but not be limited to, evidence submitted to the auditor general not later than June 1 prior to the
25 opening of the public charter school of the existence of an agreement, option for lease or
26 purchase, lease agreement or purchase agreement, contingent upon general assembly funding, for
27 a facility in which the public charter school will operate in its first year of operation. The auditor
28 general shall have the authority to review charter schools on an annual basis or require the charter
29 school to have an annual certified audit in accordance with the same federal and state standards
30 that are applicable to local public school districts. If as a result of any annual audit the auditor
31 general believes there are financial irregularities, the auditor general shall withdraw the original
32 approval and the board of regents shall withdraw its approval for the charter school to continue
33 operation.

34 (j) Notwithstanding the provisions of this section, the Board of Regents shall not grant

1 final approval for any new charter school to begin operations in the 2006-2007 or 2007-2008
2 school year except for mayoral academies as hereinafter defined.

3 (k) A "mayoral academy" means a charter school created by a mayor of any city or town
4 acting through a nonprofit organization established for said purpose, which enrolls students from
5 more than one city or town including both urban and non-urban communities and which offers an
6 equal number of enrollments to students on a lottery basis; provided, further, that such mayoral
7 academies shall have a board of trustees or directors which is comprised of representatives from
8 each included city or town and is chaired by a mayor of an included city or town.

9 **16-77-4. Procedure for creation of charter schools.** -- (a) Any group eligible to
10 establish a charter public school may apply to the commissioner of elementary and secondary
11 education and the school committee of the district.

12 (b) The commissioner of education may recommend to the board of regents for
13 elementary and secondary education granting of a charter for a public school upon receiving a
14 completed application which contains all of the information which he or she deems necessary to
15 fully address the following issues. The application shall:

16 (1) Be submitted to the commissioner and to the local school committee by not later than
17 December 1 of the school year before the school year in which the charter public school is to be
18 established;

19 (2) Describe a plan for education, including the mission, objective, method of providing
20 a basic education, measurable student academic goals that the charter public school will meet, and
21 process for improving student learning and fulfilling the charter and fulfilling state and national
22 educational goals and standards;

23 (3) Provide a minimum of one hundred eighty (180) days of instruction to students per
24 year;

25 (4) Indicate performance criteria that will be used to measure student learning and to
26 comply with the charter, state, and national educational goals and standards;

27 (5) Include an agreement to provide a yearly report to parents, the community, the local
28 school committee, and the commissioner of elementary and secondary education, which indicates
29 the progress made by the charter public school during the previous year in meeting the charter
30 objectives;

31 (6) Present a plan for the governance, administration, and operation of the charter public
32 school, including the manner in which the governing board of the school will be chosen, the
33 nature and extent of parental, professional educator, and community involvement in the
34 governance and operation of the charter public school, and the means of ensuring accountability

1 to the commissioner of education, the local school district, and the board of regents;

2 (7) Identify the building that will house the charter public school and from whom and
3 under what terms and conditions it is to be provided;

4 (8) Describe what support services will be provided by the school district and under what
5 terms and conditions those services are to be provided, and describe what support services the
6 charter public school will obtain directly from third parties and, to the extent known, under what
7 terms and conditions those services are to be provided;

8 (9) Explain the procedures that will be followed to ensure the health and safety of pupils
9 and staff;

10 (10) Describe enrollment procedures including the nondiscriminatory criteria for
11 admission in accordance with applicable state and federal law, along with a program to encourage
12 the enrollment of a diverse student population. The makeup of the charter public school must be
13 reflective of the student population of the district, including but not limited to special education
14 children, children at risk, children eligible for free or reduced cost lunch, and limited English
15 proficient students. No charter shall be authorized for a school with a student population that does
16 not include students eligible for free or reduced cost lunch, students with limited English
17 proficiency, and special education students in a combined percentage which is at least equal to the
18 combined percentage of those student populations enrolled in the school district as a whole;

19 (11) Explain the student discipline procedures;

20 (12) Explain the relationship that will exist between the proposed charter public school
21 and its employees, including the terms and conditions of employment and the qualifications that
22 the employees must meet. Teachers and administrators in charter public schools must be certified
23 pursuant to state law and regulation. ~~Teachers~~ With the exception of mayoral academies, teachers
24 and administrators in charter schools shall be entitled to prevailing wages and benefits as enjoyed
25 by other public school teachers and administrators within the school district, and shall be subject
26 to the state teacher retirement system under chapter 8 of title 36. ~~Employment~~ With the exception
27 of mayoral academies, employment in a charter school shall be considered "service" as that term
28 is defined in chapter 16 of this title. ~~All~~ With the exception of mayoral academies, all employees
29 and prospective employees of a charter school shall be deemed to be public school employees,
30 having the same rights, including retirement, under Rhode Island and federal law as employees
31 and prospective employees at a non-chartered public school. Each mayoral academy established
32 pursuant to this chapter may nevertheless, by written notice to the commissioner of elementary
33 and secondary education, elect to have this subsection apply to its teachers, administrators and
34 employees.

1 (13) Identify with particularity the state statutes, state regulations, and school district
2 rules from which variances are sought in order to facilitate operation of the charter public school.
3 Explain the reasons for each variance and the alternative method by which the concern that gave
4 rise to the regulation or provision will be addressed;

5 (14) Provide a financial plan including a proposed budget for the term of the charter, and
6 an annual audit of the financial and administrative operations of the charter public school, and the
7 manner in which the funds allocated to the charter public school will be managed and disbursed;

8 (15) Provide procedures by which teaching personnel and parents can legally challenge
9 decisions of the governing board of the school which do not conform to the school's charter; and

10 (16) Provide a copy of the proposed bylaws of the charter public school.

11 **16-77-5. Process for consideration of proposed charter.** -- (a) If the commissioner of
12 elementary and secondary education or the local school committee finds the application to be
13 incomplete, further information may be requested and required. The commissioner shall develop
14 regulations for amending an approved charter, consistent with the provisions of this chapter.

15 (b) After having received a satisfactory application, the commissioner of elementary and
16 secondary education will provide for a public comment period of not less than sixty (60) days,
17 during which they will hold at least two (2) public hearings on the application. These hearings
18 will be held in the district where the proposed charter school is to be located. Any person may file
19 with the committee and/or the commissioner comments, recommendations, and/or objections
20 relevant to the granting of a charter.

21 (c) A copy of the completed application for a charter public school at an existing public
22 school shall be provided to the collective bargaining agent for the teachers in that school district
23 at the time that it is filed with the school committee and the commissioner. The teachers through
24 their collective bargaining agent shall be afforded the opportunity to present their analysis of and
25 recommendations regarding the proposed charter to the school committee and the board of
26 regents for elementary and secondary education prior to any determination by those entities. If the
27 teachers' union objects to the proposed charter or to any provision of it, it shall set forth the
28 reasons for those objections in detail. These objections and recommendations shall be considered
29 and responded to by the school committee and the commissioner before making any
30 recommendation to the board of regents, and by the board of regents prior to its determination.

31 (d) The commissioner and the local school committee will each decide on whether or not
32 to recommend the granting of the charter within ninety (90) days after the conclusion of the
33 public comment period.

34 (e) If the commissioner of elementary and secondary education or the local school

1 committee recommend the granting of the charter public school petition, the matter shall be
2 referred to the board of regents for a decision on whether or not to grant a charter. Notice of the
3 granting or denial of the application will be supplied. The decision of the board of regents,
4 complete with reasons and conditions, shall be made available to the public and to the applicant.

5 (f) The commissioner, with the approval of the board of regents for elementary and
6 secondary education, may grant a variance to any provision of title 16 other than those
7 enumerated in section 16-77-11 and to any department of education regulation and to any school
8 district regulation which does not affect the health and safety or civil rights of pupils in charter
9 public schools. [Notwithstanding any other provision of this subsection, the commissioner may](#)
10 [grant a variance to mayoral academies from any provision set forth in section 16-77-11.](#)

11 (g) All charter applications shall be matters of public record and will be provided to
12 members of the public upon request.

13 (h) Notwithstanding the provisions of this section, the Board of Regents shall not grant
14 final approval for any new charter school to begin operations in the 2006-2007 or 2007-2008
15 school year.

16 **16-77-11. Portions of title 16 applicable to charter schools. --** The following provisions
17 of this title shall be binding on charter public schools and may not be waived by the
18 commissioner of elementary and secondary education:

- 19 (1) Section 16-2-2 (minimum length of school year);
- 20 (2) Section 16-2-17 (right to a safe school);
- 21 (3) Section 16-8-10 (federal funds for school lunch);
- 22 (4) Section 16-11-1 (certification of public school teachers);
- 23 (5) Section 16-12-3 (duty to cultivate principles of morality);
- 24 (6) Section 16-12-10 (immunity for report of suspected substance abuse);
- 25 (7) Chapter 13 (teachers' tenure) [\(with the exception of mayoral academies\)](#);
- 26 (8) Chapter 16 (teachers' retirement) [\(with the exception of mayoral academies\)](#);
- 27 (9) Section 16-19-1 (compulsory attendance);
- 28 (10) Sections 16-20-1 (school holidays enumerated);
- 29 (11) Sections 16-21-3 and 16-21-4 (fire safety);
- 30 (12) Sections 16-21-10, 16-21-14, and 16-21-16 (health screenings);
- 31 (13) Section 16-22-9 (uniform testing);
- 32 (14) Section 16-24-2 (regulations of state board);
- 33 (15) Section 16-38-1 (discrimination because of race or age);
- 34 (16) Section 16-38-1.1 (discrimination because of sex);

- 1 (17) Section 16-38-2 (immunizations);
- 2 (18) Section 16-38-4 (exclusive club);
- 3 (19) Section 16-38-6 (commercial activities prohibited);
- 4 (20) Section 16-38-9 (misconduct of school officers);
- 5 (21) Section 16-38-10 (power of officials to visit schools);
- 6 (22) Section 16-39-1 (appeal of matters of dispute to commissioner);
- 7 (23) Section 16-39-2 (appeal of school committee actions to commissioner);
- 8 (24) Section 16-39-3 (appeal to state board);
- 9 (25) Section 16-39-3.1 (enforcement of final decision);
- 10 (26) Section 16-39-3.2 (interim protective orders);
- 11 (27) Section 16-39-8 (subpoena power of commissioner);
- 12 (28) Section 16-40-16 (student records);
- 13 (29) Section 16-71-1 (Educational Record Bill of Rights Act).

14 SECTION 2. Section 16-16-6 of the General Laws in Chapter 16-16 entitled "Teachers'
15 Retirement" is hereby amended to read as follows:

16 **16-16-6. Credit for service in private schools or as federal employee --**
17 **Contributions. --** In determining the creditable service of any teacher employed in any city or
18 town for the purposes of retirement there may be added to, and included in, total service as
19 defined in this chapter not more than five (5) years of service as a teacher or in a capacity
20 essentially similar or equivalent to that of a teacher in any private school or institution, in any
21 charter school not subject to subdivision 16-77-4(b)(12), and in public schools in which the
22 teacher was paid by funds of the United States government except schools or institutions that are
23 operated for profit; provided, however, that this service shall not be counted as creditable service
24 unless the member shall pay into the retirement system a contribution equal to the full actuarial
25 value of each year of credit for which application is made based on the salary of the member in
26 effect at the date of application for the credit as determined by the retirement board. The
27 retirement board shall fix and determine the time when and the conditions under which the
28 payments shall be made.

29 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO EDUCATION -- ESTABLISHMENT OF CHARTER PUBLIC SCHOOLS --
TEACHERS' RETIREMENT

1 This act would authorize mayors and elected town administrators in the cities and towns
2 to create certain charter schools through nonprofit organizations established for the purpose. For
3 the purposes of this act, the nonprofit organization would not be subject to the requirements that it
4 has been in existence for at least two (2) years and that it exists for a substantial reason other than
5 to operate a school.

6 This act would take effect upon passage.

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