

No. 1997-22

AN ACT

SB 123

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," providing for the establishment of charter schools; providing for powers and duties of the Secretary of Education; establishing an appeals process and a State Charter School Appeal Board; providing for payments to charter schools; requiring certain reports and recommendations; providing for a feasibility study relating to the establishment of a Pennsylvania Science Partnership Program; and making appropriations.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, is amended by adding an article to read:

**ARTICLE XVII-A.
CHARTER SCHOOLS.**

(a) Preliminary Provisions.

Section 1701-A. Short Title.—*This article shall be known and may be cited as the "Charter School Law."*

Section 1702-A. Legislative Intent.—*It is the intent of the General Assembly, in enacting this article, to provide opportunities for teachers, parents,¹ pupils and community members to establish and maintain schools that operate independently from the existing school district structure as a method to accomplish all of the following:*

- (1) Improve pupil learning.*
- (2) Increase learning opportunities for all pupils.*
- (3) Encourage the use of different and innovative teaching methods.*
- (4) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.*
- (5) Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system.*
- (6) Hold the schools established under this act accountable for meeting measurable academic standards and provide the school with a method to establish accountability systems.*

¹"opportunities for teachers, parents," omitted in enrolled bill.

Section 1703-A. Definitions.—As used in this article,

“Appeal board” shall mean the State Charter School Appeal Board established by this article.

“Charter school” shall mean an independent public school established and operated under a charter from the local board of school directors and in which students are enrolled or attend. A charter school must be organized as a public, nonprofit corporation. Charters may not be granted to any for-profit entity.

“Department” shall mean the Department of Education of the Commonwealth.

“Local board of school directors” shall mean the board of directors of a school district in which a proposed or an approved charter school is located.

“Regional charter school” shall mean an independent public school established and operated under a charter from more than one local board of school directors and in which students are enrolled or attend. A regional charter school must be organized as a public, nonprofit corporation. Charters may not be granted to any for-profit entity.

“School entity” shall mean a school district, intermediate unit, joint school or area vocational-technical school.

“Secretary” shall mean the Secretary of Education of the Commonwealth.

“State board” shall mean the State Board of Education of the Commonwealth.

(b) Charter Schools.

Section 1714-A. Powers of Charter Schools.—(a) A charter school established under this act is a body corporate and shall have all powers necessary or desirable for carrying out its charter, including, but not limited to, the power to:

(1) Adopt a name and corporate seal; however, any name selected shall include the words “charter school.”

(2) Sue and be sued, but only to the same extent and upon the same condition that political subdivisions and local agencies can be sued.

(3) Acquire real property from public or private sources by purchase, lease, lease with an option to purchase or gift for use as a charter school facility.

(4) Receive and disburse funds for charter school purposes only.

(5) Make contracts and leases for the procurement of services, equipment and supplies.

(6) Incur temporary debts in anticipation of the receipt of funds.

(7) Solicit and accept any gifts or grants for charter school purposes.

(b) A charter school shall have such other powers as are necessary to fulfill its charter and which are not inconsistent with this article.

Section 1715-A. Charter School Requirements.—Charter schools shall be required to comply with the following provisions:

(1) Except as otherwise provided in this article, a charter school is exempt from statutory requirements established in this act, from regulations of the State board and the standards of the secretary not specifically applicable to charter schools. Charter schools are not exempt from statutes applicable to public schools other than this act.

(2) A charter school shall be accountable to the parents, the public and the Commonwealth, with the delineation of that accountability reflected in the charter. Strategies for meaningful parent and community involvement shall be developed and implemented by each school.

(3) A charter school shall not unlawfully discriminate in admissions, hiring or operation.

(4) A charter school shall be nonsectarian in all operations.

(5) A charter school shall not provide any religious instruction, nor shall it display religious objects and symbols on the premises of the charter school.

(6) A charter school shall not advocate unlawful behavior.

(7) A charter school shall only be subject to the laws and regulations as provided for in section 1732-A or as¹ otherwise provided for in this article.

(8) A charter school shall participate in the Pennsylvania State Assessment System as provided for in 22 Pa. Code Ch. 5 (relating to curriculum), or subsequent regulations promulgated to replace 22 Pa. Code Ch. 5, in the manner in which the school district in which the charter school is located is scheduled to participate.

(9) A charter school shall provide a minimum of one hundred eighty (180) days of instruction or nine hundred (900) hours per year of instruction at the elementary level, or nine hundred ninety (990) hours per year of instruction at the secondary level. Nothing in this clause shall preclude the use of computer and satellite linkages for delivering instruction to students.

(10) Boards of trustees and contractors of charter schools shall be subject to the following statutory requirements governing construction projects and construction-related work:

(i) The following provisions of this act:

(A) Sections 751 and 751.1.

(B) Sections 756 and 757 insofar as they are consistent with the act of December 20, 1967 (P.L.869, No.385), known as the "Public Works Contractors' Bond Law of 1967."

(ii) Section 1 of the act of May 1, 1913 (P.L.155, No.104), entitled "An act regulating the letting of certain contracts for the erection, construction, and alteration of public buildings."

¹section 1732-A, as" in enrolled bill.

(iii) *The act of August 11, 1961 (P.L.987, No.442), known as the "Pennsylvania Prevailing Wage Act."*

(iv) *The "Public Works Contractors' Bond Law of 1967."*

(v) *The act of March 3, 1978 (P.L.6, No.3), known as the "Steel Products Procurement Act."*

(11) Trustees of a charter school shall be public officials.

Section 1716-A. Powers of Board of Trustees.—(a) The board of trustees of a charter school shall have the authority to decide matters related to the operation of the school, including, but not limited to, budgeting, curriculum and operating procedures, subject to the school's charter. The board shall have the authority to employ, discharge and contract with necessary professional and nonprofessional employees subject to the school's charter and the provisions of this article.

(b) No member of a local board of school directors of a school entity shall serve on the board of trustees of a charter school that is located in the member's district.

(c) The board of trustees shall comply with the act of July 3, 1986 (P.L.388, No.84), known as the "Sunshine Act."

Section 1717-A. Establishment of Charter School.—(a) A charter school may be established by an individual; one or more teachers who will teach at the proposed charter school; parents or guardians of students who will attend the charter school; any nonsectarian college, university or museum located in this Commonwealth; any nonsectarian corporation not-for-profit, as defined in 15 Pa.C.S. (relating to corporations and unincorporated associations); any corporation, association or¹ partnership; or any combination thereof. A charter school may be established by creating a new school or by converting an existing public school or a portion of an existing public school. No charter school shall be established or funded by and no charter shall be granted to any sectarian school, institution or other entity. No funds allocated or disbursed under this article shall be used to directly support instruction pursuant to section 1327.1.

(b) (1) The conversion of an existing public school or portion of an existing public school to a charter school may be initiated by any individual or entity authorized to establish a charter school under subsection (a).

(2) In order to convert an existing public school to a charter school, the applicants must show that:

(i) More than fifty per centum of the teaching staff in the public school have signed a petition in support of the public school becoming a charter school; and

(ii) More than fifty per centum of the parents or guardians of pupils attending that public school have signed a petition in support of the school becoming a charter school.

¹": association;" in enrolled bill.

(3) In no event shall the board of school directors serve as the board of trustees of an existing school which is converted to a charter school pursuant to this subsection.

(c) An application to establish a charter school shall be submitted to the local board of school directors of the district where the charter school will be located by November 15 of the school year preceding the school year in which the charter school will be established except that for a charter school beginning in the 1997-1998 school year, an application must be received by July 15, 1997. In the 1997-1998 school year only, applications shall be limited to recipients of fiscal year 1996-1997 Department of Education charter school planning grants.

(d) Within forty-five (45) days of receipt of an application, the local board of school directors in which the proposed charter school is to be located shall hold at least one public hearing on the provisions of the charter application, under the act of July 3, 1986 (P.L.388, No.84), known as the "Sunshine Act." At least forty-five (45) days must transpire between the first public hearing and the final decision of the board on the charter application except that for a charter school beginning in the 1997-1998 school year, only thirty (30) days must transpire between the first public hearing and the final decision of the board.

(e) (1) Not later than seventy-five (75) days after the first public hearing on the application, the local board of school directors shall grant or deny the application. For a charter school beginning in the 1997-1998 school year, the local board of school directors shall grant or deny the application no later than sixty (60) days after the first public hearing.

(2) A charter school application submitted under this article shall be evaluated by the local board of school directors based on criteria including, but not limited to, the following:

(i) The demonstrated, sustainable support for the charter school plan by teachers, parents, other community members and students, including comments received at the public hearing held under subsection (d).

(ii) The capability of the charter school applicant, in terms of support and planning, to provide comprehensive learning experiences to students pursuant to the adopted charter.

(iii) The extent to which the application considers the information requested in section 1719-A and conforms to the legislative intent outlined in section 1702-A.

(iv) The extent to which the charter school may serve as a model for other public schools.

(3) The local board of school directors, in the case of an existing school being converted to a charter school, shall establish the alternative arrangements for current students who choose not to attend the charter school.

(4) A charter application shall be deemed approved by the local board of school directors of a school district upon affirmative vote by a majority

of all the directors. Formal action approving or denying the application shall be taken by the local board of school directors at a public meeting, with notice or consideration of the application given by the board, under the "Sunshine Act."

(5) Written notice of the board's action shall be sent to the applicant, the department and the appeal board. If the application is denied, the reasons for the denial, including a description of deficiencies in the application, shall be clearly stated in the notice sent by the local board of school directors to the charter school applicant.

(f) At the option of the charter school applicant, a denied application may be revised and resubmitted to the local board of school directors. Following the appointment and confirmation of the Charter School Appeal Board under section 1721-A, the decision of the local board of school directors may be appealed to the appeal board. When an application is revised and resubmitted to the local board of school directors, the board may schedule additional public hearings on the revised application. The board shall consider the revised and resubmitted application at the first board meeting occurring at least forty-five (45) days after receipt of the revised application by the board. For a revised application resubmitted for the 1997-1998 school year, the board shall consider the application at the first board meeting occurring at least thirty (30) days after its receipt. The board shall provide notice of consideration of the revised application under the "Sunshine Act." No appeal from a decision of a local school board may be taken until July 1, 1999.

(g) Notwithstanding the provisions of subsection (e)(5), failure by the local board of directors to hold a public hearing and to grant or deny the application for a charter school within the time periods specified in subsections (d), (e) and (f) shall permit the applicant for a charter to file its application as an appeal to the appeal board. In such case, the appeal board shall review the application and make a decision to grant or deny a charter based on the criteria established in subsection (e)(2).

(h) In the case of a review by the appeal board of an application that is revoked or is not renewed, the appeal board shall make its decision based on the criteria established in subsection (e)(2). A decision by the appeal board under this subsection or subsection (g) to grant, to renew or not to revoke a charter shall serve as a requirement for the local board of directors of a school district or school districts, as appropriate, to sign the written charter of the charter school as provided for in section 1720-A. Should the local board of directors fail to grant the application and sign the charter within ten (10) days of notice of reversal of the decision of the local board of directors, the charter shall be deemed to be approved and shall be signed by the chairman of the appeal board.

(i) (1) The appeal board shall have the exclusive review of an appeal by a charter school applicant, or by the board of trustees of an existing

charter school, of a decision made by a local board of directors not to grant a charter as provided in this section.

(2) In order for a charter school applicant to be eligible to appeal the denial of a charter by the local board of directors, the applicant must obtain the signatures of at least two per centum of the residents of the school district or of one thousand (1,000) residents, whichever is less, who are over eighteen (18) years of age. For a regional charter school, the applicant must obtain the signatures of at least two per centum of the residents of each school district granting the charter or of one thousand (1,000) residents from each of the school districts granting the charter, whichever is less, who are over eighteen (18) years of age. The signatures shall be obtained within sixty (60) days of the denial of the application by the local board of directors in accordance with clause (3).

(3) Each person signing a petition to appeal denial of a charter under clause (2) shall declare that he or she is a resident of the school district which denied the charter application and shall include his or her printed name; signature; address, including city, borough or township, with street and number, if any; and the date of signing. All pages shall be bound together. Additional pages of the petition shall be numbered consecutively. There shall be appended to the petition a statement that the local board of directors rejected the petition for a charter school, the names of all applicants for the charter, the date of denial by the board and the proposed location of the charter school. No resident may sign more than one petition relating to the charter school application within the sixty (60) days following denial of the application. The department shall develop a form to be used to petition for an appeal.

(4) Each petition shall have appended thereto the affidavit of some person, not necessarily a signer, setting forth all of the following:

(i) That the affiant is a resident of the school district referred to in the petition.

(ii) The affiant's residence, giving city, borough or township, with street and number, if any.

(iii) That the signers signed with full knowledge of the purpose of the petition.

(iv) That the signers' respective residences are correctly stated in the petition.

(v) That the signers all reside in the school district.

(vi) That each signer signed on the date set forth opposite the signer's name.

(vii) That to the best of the affiant's knowledge and belief the signers are residents of the school district.

(5) If the required number of signatures are obtained within sixty (60) days of the denial of the application, the applicant may present the petition to the court of common pleas of the county in which the charter school would be situated. The court shall hold a hearing only on the sufficiency

of the petition. The applicant and local board of school directors shall be given seven (7) days' notice of the hearing. The court shall issue a decree establishing the sufficiency or insufficiency of the petition. If the petition is sufficient, the decree shall be transmitted to the State Charter School Appeal Board for review in accordance with this section. Notification of the decree shall be given to the applicant and the local board of directors.

(6) In any appeal, the decision made by the local board of directors shall be reviewed by the appeal board on the record as certified by the local board of directors. The appeal board shall give due consideration to the findings of the local board of directors and specifically articulate its reasons for agreeing or disagreeing with those findings in its written decision. The appeal board shall have the discretion to allow the local board of directors and the charter school applicant to supplement the record if the supplemental information was previously unavailable.

(7) Not later than thirty (30) days after the date of notice of the acceptance of the appeal, the appeal board shall meet to officially review the certified record.

(8) Not later than sixty (60) days following the review conducted pursuant to clause (6), the appeal board shall issue a written decision affirming or denying the appeal. If the appeal board has affirmed the decision of the local board of directors, notice shall be provided to both parties.

(9) A decision of the appeal board to reverse the decision of the local board of directors shall serve as a requirement for the local board of directors of a school district or school districts, as appropriate, to grant the application and sign the written charter of the charter school as provided for in section 1720-A. Should the local board of directors fail to grant the application and sign the charter within ten (10) days of notice of the reversal of the decision of the local board of directors, the charter shall be deemed to be approved and shall be signed by the chairman of the appeal board.

(10) All decisions of the appeal board shall be subject to appellate review by the Commonwealth Court.

Section 1718-A. Regional Charter School.—(a) A regional charter school may be established by an individual, one or more teachers who will teach at the proposed charter school; parents or guardians of students who will attend the charter school; any nonsectarian college, university or museum located in this Commonwealth; any nonsectarian corporation not-for-profit, as defined in 15 Pa.C.S. (relating to corporations and unincorporated associations); any corporation, association or¹ partnership; or any combination thereof. A regional charter school may be established by creating a new school or by converting an existing public school or a

¹": association;" in enrolled bill.

portion of an existing public school. Conversion of an existing public school to a regional charter school shall be accomplished in accordance with section 1714-A(b). No regional charter school shall be established or funded by and no charter shall be granted to any sectarian school, institution or other entity.

(b) The boards of school directors of one or more school districts may act jointly to receive and consider an application for a regional charter school, except that any action to approve an application for a charter or to sign a written charter of an applicant shall require an affirmative vote of a majority of all the directors of each of the school districts involved. The applicant shall apply for a charter to the board of directors of any school district in which the charter school will be located.

(c) The provisions of this article as they pertain to charter schools and the powers and duties of the local board of school directors of a school district and the appeal board shall apply to regional charter schools, except as provided in subsections (a) and (b) or as otherwise clearly stated in this article.

Section 1719-A. Contents of Application.—An application to establish a charter school shall include all of the following information:

- (1) The identification of the charter applicant.*
- (2) The name of the proposed charter school.*
- (3) The grade or age levels served by the school.*
- (4) The proposed governance structure of the charter school, including a description and method for the appointment or election of members of the board of trustees.*
- (5) The mission and education goals of the charter school, the curriculum to be offered and the methods of assessing whether students are meeting educational goals.*
- (6) The admission policy and criteria for evaluating the admission of students which shall comply with the requirements of section 1723-A.*
- (7) Procedures which will be used regarding the suspension or expulsion of pupils. Said procedures shall comply with section 1318.*
- (8) Information on the manner in which community groups will be involved in the charter school planning process.*
- (9) The financial plan for the charter school and the provisions which will be made for auditing the school under section 437.*
- (10) Procedures which shall be established to review complaints of parents regarding the operation of the charter school.*
- (11) A description of and address of the physical facility in which the charter school will be located and the ownership thereof and any lease arrangements.*
- (12) Information on the proposed school calendar for the charter school, including the length of the school day and school year consistent with the provisions of section 1502.*

(13) The proposed faculty and a professional development plan for the faculty of a charter school.

(14) Whether any agreements have been entered into or plans developed with the local school district regarding participation of the charter school students in extracurricular activities within the school district. Notwithstanding any provision to the contrary, no school district of residence shall prohibit a student of a charter school from participating in any extracurricular activity of that school district of residence: Provided, That the student is able to fulfill all of the requirements of participation in such activity and the charter school does not provide the same extracurricular activity.

(15) A report of criminal history record, pursuant to section 111, for all individuals who shall have direct contact with students.

(16) An official clearance statement regarding child injury or abuse from the Department of Public Welfare as required by 23 Pa.C.S. Ch. 63 Subch. C.2 (relating to background checks for employment in schools) for all individuals who shall have direct contact with students.

(17) How the charter school will provide adequate liability and other appropriate insurance for the charter school, its employes and the board of trustees of the charter school.

Section 1720-A. Term and Form of Charter.—Upon approval of a charter application under section 1717-A, a written charter shall be developed which shall contain the provisions of the charter application and which shall be signed by the local board of school directors of a school district, by the local boards of school directors of a school district in the case of a regional charter school or by the chairman of the appeal board pursuant to section 1717-A(i)(5) and the board of trustees of the charter school. This written charter, when duly signed by the local board of school directors of a school district, or by the local boards of school directors of a school district in the case of a regional charter school, and the charter school's board of trustees, shall act as legal authorization for the establishment of a charter school. This written charter shall be legally binding on both the local board of school directors of a school district and the charter school's board of trustees. The charter shall be for a period of no less than three (3) nor more than five (5) years and may be renewed for five (5) year periods upon reauthorization by the local board of school directors of a school district or the appeal board. A charter will be granted only for a school organized as a public, nonprofit corporation.

Section 1721-A. State Charter School Appeal Board.—(a) *The State Charter School Appeal Board shall consist of the Secretary of Education and six (6) members who shall be appointed by the Governor by and with the consent of a majority of all the members of the Senate. Appointments by the Governor shall not occur prior to January 1, 1999. The Governor shall select the chairman of the appeal board to serve at the pleasure of the Governor. The members shall include:*

- (1) *A parent of a school-aged child.*
- (2) *A school board member.*
- (3) *A certified teacher actively employed in a public school.*
- (4) *A faculty member or administrative employe of an institution of higher education.*
- (5) *A member of the business community.*
- (6) *A member of the State Board of Education.*

The term of office of members of the appeal board, other than the secretary, shall be for a period of four (4) years or until a successor is appointed and qualified, except that, of the initial appointees, the Governor shall designate two (2) members to serve terms of two (2) years, two (2) members to serve terms of three (3) years and two (2) members to serve terms of four (4) years. Any appointment to fill any vacancy shall be for the period of the unexpired term or until a successor is appointed and qualified.

(b) The appeal board shall meet as needed to fulfill the purposes provided in this subsection. A majority of the members of the appeal board shall constitute a quorum, and a majority of the members of the appeal board shall have authority to act upon any matter properly before the appeal board. The appeal board is authorized to establish rules for its operation.

(c) The members shall receive no payment for their services. Members who are not employes of State government shall be reimbursed for expenses incurred in the course of their official duties from funds appropriated for the general government operations of the department.

(d) The department shall provide assistance and staffing for the appeal board. The Governor, through the Governor's General Counsel, shall provide such legal advice and assistance as the appeal board may require.

(e) Meetings of the appeal board shall be conducted under the act of July 3, 1986 (P.L.388, No.84), known as the "Sunshine Act." Documents of the appeal board shall be subject to the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.

Section 1722-A. Facilities.—(a) A charter school may be located in an existing public school building, in a part of an existing public school building, in space provided on a privately owned site, in a public building or in any other suitable location.

(b) The charter school facility shall be exempt from public school facility regulations except those pertaining to the health or safety of the pupils.

(c) A charter school shall not construct a facility with public funds received from the department or a local school district.

Section 1723-A. Enrollment.—(a) All resident children in this Commonwealth qualify for admission to a charter school within the provisions of subsection (b). If more students apply to the charter school than the number of attendance slots available in the school, then students

must be selected on a random basis from a pool of qualified applicants meeting the established eligibility criteria and submitting an application by the deadline established by the charter school, except that the charter school may give preference in enrollment to a child of a parent who has actively participated in the development of the charter school and to siblings of students presently enrolled in the charter school. First preference shall be given to students who reside in the district or districts.

(b) (1) A charter school shall not discriminate in its admission policies or practices on the basis of intellectual ability, except as provided in paragraph (2), or athletic ability, measures of achievement or aptitude, status as a person with a disability, proficiency in the English language or any other basis that would be illegal if used by a school district.

(2) A charter school may limit admission to a particular grade level or areas of concentration of the school such as mathematics, science or the arts. A charter school may establish reasonable criteria to evaluate prospective students which shall be outlined in the school's charter.

(c) If available classroom space permits, a charter school may enroll nonresident students on a space-available basis, and the student's district of residence shall permit the student to attend the charter school. The terms and conditions of the enrollment shall be outlined in the school's charter.

Section 1724-A. School Staff.—(a) The board of trustees shall determine the level of compensation and all terms and conditions of employment of the staff except as may otherwise be provided in this article. At least seventy-five per centum of the professional staff members of a charter school shall hold appropriate State certification. Employees of a charter school may organize under the act of July 23, 1970 (P.L.563, No.195), known as the "Public Employe Relations Act." The board of trustees of a charter school shall be considered an employer for the purposes of Article XI-A. Upon formation of one or more collective bargaining units at the school, the board of trustees shall bargain with the employes based on the provisions of this article, Article XI-A and the "Public Employe Relations Act." Collective bargaining units at a charter school shall be separate from any collective bargaining unit of the school district in which the charter school is located and shall be separate from any other collective bargaining unit. A charter school shall be considered a school entity as provided for in section 1161-A for the¹ purpose of the secretary seeking an injunction requiring the charter school to meet the minimum requirements for instruction as provided for in this article.

(b) Each charter application shall list the general qualifications needed to staff any noncertified positions. Professional employes who do not hold appropriate Pennsylvania certification must present evidence that they:

(i) Meet the qualifications in sections 1109 and 1209.

¹"the" omitted in enrolled bill.

(ii) Have demonstrated satisfactorily a combination of experience, achievement and qualifications as defined in the charter school application in basic skills, general knowledge, professional knowledge and practice and subject matter knowledge in the subject area where an individual will teach.

(c) All employes of a charter school shall be enrolled in the Public School Employee's Retirement System in the same manner as set forth in 24 Pa.C.S. § 8301(a) (relating to mandatory and optional membership) unless at the time of the application for the charter school the sponsoring district or the board of trustees of the charter school has a retirement program which covers the employes or the employe is currently enrolled in another retirement program. The Commonwealth shall make contributions on behalf of charter school employes, and the charter school shall be considered a school district and shall make payments by employers and payments on account of Social Security as established under 24 Pa.C.S. Pt. IV (relating to retirement for school employees). For purposes of payments by employers, a charter school shall be considered a school district under 24 Pa.C.S. § 8329(a)(1) (relating to payments on account of social security deductions from appropriations). The market value/income aid ratio used in calculating payments as prescribed in this subsection shall be the market value/income aid ratio for the school district in which the charter school is located or, in the case of a regional charter school, shall be a composite market value/income aid ratio for the participating school districts as determined by the department. Except as otherwise provided, employes of a charter school shall make regular member contributions as required for active members under 24 Pa.C.S. Pt. IV. If the employes of the charter school participate in another retirement plan, then those employes shall have no concurrent claim on the benefits provided to public school employes under 24 Pa.C.S. Pt. IV. For purposes of this subsection, a charter school shall be deemed to be a "public school" as defined in 24 Pa.C.S. § 8102 (relating to definitions).

(d) Every employe of a charter school shall be provided the same health care benefits as the employe would be provided if he or she were an employe of the local district. The local board of school directors may require the charter school to provide the same terms and conditions with regard to health insurance as the collective bargaining agreement of the school district to include employe contributions to the district's health benefits plan. The charter school shall make any required employer's contribution to the district's health plan to an insurer, a local board of school directors or a contractual representative of school employes, whichever is appropriate to provide the required coverage.

(e) Any public school employe of a school entity may request a leave of absence for up to five (5) years in order to work in a charter school located in the district of employment or in a regional charter school in which the employing school district is a participant. Approval for a leave shall not be unreasonably withheld.

(f) Temporary professional employes on leave from a school district may accrue tenure in the non-charter public school system at the discretion of the local board of school directors, the same as they would under Article XI if they had continued to be employed by that district. Professional employes on leave from a school district shall retain their tenure rights, as defined in Article XI, in the school entity from which they came. No temporary professional employe or professional employe shall have tenure rights as against a charter school. Both temporary professional employes and professional employes shall continue to accrue seniority in the school entity from which they came if they return to that school entity when the leave ends.

(g) Professional employes who hold a first level teaching or administrative certificate may, at their option, have the time completed in satisfactory service in a charter school applied to the length of service requirements for the next level of certification.

(h) (1) Any temporary professional employe or professional employe who leaves employment at a charter school shall have the right to return to a comparable position for which the person is properly certified in the school entity which granted the leave of absence. In the case where a teacher has been dismissed by the charter school, the school entity which granted the leave of absence is to be provided by the charter school with the reasons for such dismissal at the time it occurs, a list of any witnesses who were relied on by the charter school in moving for dismissal, a description of and access to any physical evidence used by the charter school in moving for dismissal and a copy of any record developed at any dismissal proceeding conducted by the charter school. The record of any such hearing may be admissible in a hearing before the school entity which granted the leave of absence. Nothing in this section shall affect the authority of the board of school directors to initiate proceedings under Article XI if the board determines that occurrences at the charter school leading to dismissal of a teacher constitute adequate and independent grounds for discipline under section 1122.

(2) No temporary employe or professional employe who is leaving employment at a charter school shall be returned to a position in the public school district which granted his leave of absence until such public school district is in receipt of a current criminal history record under section 111 and the official clearance statement regarding child injury or abuse from the Department of Public Welfare as required by 23 Pa.C.S. Ch. 63 Subch. C.2 (relating to background checks for employment in schools).

(i) All individuals who shall have direct contact with students shall be required to submit a report of criminal history record information as provided for in section 111 prior to accepting a position with the charter school. This subsection shall also apply to any individual who volunteers to work on a full-time or part-time basis at the charter school.

(j) All applicants for a position as a school employe shall be required to submit the official clearance statement regarding child injury or abuse from the Department of Public Welfare as required by 23 Pa.C.S. Ch. 63 Subch. C.2. This section shall also apply to any individual who volunteers to work on a full-time or part-time basis at a charter school.

Section 1725-A. Funding for Charter Schools.—(a) Funding for a charter school shall be provided in the following manner:

(1) There shall be no tuition charge for a resident or nonresident student attending a charter school.

(2) For non-special education students, the charter school shall receive for each student enrolled no less than the budgeted total expenditure per average daily membership of the prior school year, as defined in section 2501(20), minus the budgeted expenditures of the district of residence for nonpublic school programs; adult education programs; community/junior college programs; student transportation services; for special education programs; facilities acquisition, construction and improvement services; and other financing uses, including debt service and fund transfers as provided in the Manual of Accounting and Related Financial Procedures for Pennsylvania School Systems established by the department. This amount shall be paid by the district of residence of each student.

(3) For special education students, the charter school shall receive for each student enrolled the same funding as for each non-special education student as provided in clause (2), plus an additional amount determined by dividing the district of residence's total special education expenditure by the product of multiplying the combined percentage of section 2509.5(k) times the district of residence's total average daily membership for the prior school year. This amount shall be paid by the district of residence of each student.

(4) A charter school may request the intermediate unit in which the charter school is located to provide services to assist the charter school to address the specific needs of exceptional students. The intermediate unit shall assist the charter school and bill the charter school for the services. The intermediate unit may not charge the charter school more for any service than it charges the constituent districts of the intermediate unit.

(5) Payments shall be made to the charter school in twelve (12) equal monthly payments, by the fifth day of each month, within the operating school year. A student enrolled in a charter school shall be included in the average daily membership of the student's district of residence for the purpose of providing basic education funding payments and special education funding pursuant to Article XXV. If a school district fails to make a payment to a charter school as prescribed in this clause, the secretary shall deduct the amount, as documented by the charter school, from any and all State payments made to the district after receipt of documentation from the charter school.

(b) The Commonwealth shall provide temporary financial assistance to a school district due to the enrollment of students in a charter school who attended a nonpublic school in the prior school year in order to offset the additional costs directly related to the enrollment of those students in a public charter school. The Commonwealth shall pay the school district of residence of a student enrolled in a nonpublic school in the prior school year who is attending a charter school an amount equal to the school district of residence's basic education subsidy for the current school year divided by the district's average daily membership for the prior school year. This payment shall occur only for the first year of the attendance of the student in a charter school, starting with school year 1997-1998. Total payments of temporary financial assistance to school districts on behalf of a student enrolling in a charter school who attended a nonpublic school in the prior school year shall be limited to funds appropriated for this program in a fiscal year. If the total of the amount needed for all students enrolled in a nonpublic school in the prior school year who enroll in a charter school exceeds the appropriation for the temporary financial assistance program, the amount paid to a school district for each qualifying student shall be pro rata reduced. Receipt of funds under this subsection shall not preclude a school district from applying for a grant under subsection (c).

(c) The Commonwealth shall create a grant program to provide temporary transitional funding to a school district due to the budgetary impact relating to any student attending a charter school. A school district that approves one or more charter schools may apply for a grant under this subsection. The department shall develop criteria which shall include, but not be limited to, the overall fiscal impact on the budget of the school district resulting from students of a school district attending a charter school. The criteria shall be published in the Pennsylvania Bulletin. Payments under this subsection shall be made for the first year of operation of the charter school. The authority to make grants under this subsection shall expire on June 30, 1999. This subsection shall not apply to a public school converted to a charter school under section 1717-A(b).

(d) It shall be lawful for any charter school to receive, hold, manage and use, absolutely or in trust, any devise, bequest, grant, endowment, gift or donation of any property, real or personal and/or mixed, which shall be made to the charter school for any of the purposes of this article.

(e) It shall be unlawful for any trustee of a charter school or any board of trustees of a charter school or any other person affiliated in any way with a charter school to demand or request, directly or indirectly, any gift, donation or contribution of any kind from any parent, teacher, employe or any other person affiliated with the charter school as a condition for employment or enrollment and/or continued attendance of any pupil. Any donation, gift or contribution received by a charter school shall be given freely and voluntarily.

Section 1726-A. Transportation.—*Students who reside in the school district in which the charter school is located or who are residents of a school district which is part of a regional charter school shall be provided transportation to the charter school on the same terms and conditions as transportation is provided to students attending the schools of the district. Nonresident students shall be provided transportation under section 1361. Districts providing transportation to a charter school outside the district shall be eligible for payments under section 2509.3 for each public school student transported.*

Section 1727-A. Tort Liability.—*For purposes of tort liability, employees of the charter school shall be considered public employees and the board of trustees shall be considered the public employer in the same manner as political subdivisions and local agencies. The board of trustees of a charter school and the charter school shall be solely liable for any and all damages of any kind resulting from any legal challenge involving the operation of a charter school. Notwithstanding this requirement, the local board of directors of a school entity shall not be held liable for any activity or operation related to the program of the charter school.*

Section 1728-A. Annual Reports and Assessments.—*(a) The local board of school directors shall annually assess whether each charter school is meeting the goals of its charter and shall conduct a comprehensive review prior to granting a five (5) year renewal of the charter. The local board of school directors shall have ongoing access to the records and facilities of the charter school to ensure that the charter school is in compliance with its charter and this act and that requirements for testing, civil rights and student health and safety are being met.*

(b) In order to facilitate the local board's review and secretary's report, each charter school shall submit an annual report no later than August 1 of each year to the local board of school directors and the secretary in the form prescribed by the secretary.

(c) Five (5) years following the effective date of this article, the secretary shall contract with an independent professional consultant with expertise in public and private education. The consultant shall receive input from members of the educational community and the public on the charter school program. The consultant shall submit a report to the secretary, the Governor and the General Assembly and an evaluation of the charter school program, which shall include a recommendation on the advisability of the continuation, modification, expansion or termination of the program and any recommendations for changes in the structure of the program.

Section 1729-A. Causes for Nonrenewal or Termination.—*(a) During the term of the charter or at the end of the term of the charter, the local board of school directors may choose to revoke or not to renew the charter based on any of the following:*

(1) One or more material violations of any of the conditions, standards or procedures contained in the written charter signed pursuant to section 1720-A.

(2) Failure to meet the requirements for student performance set forth in 22 Pa. Code Ch. 5 (relating to curriculum) or subsequent regulations promulgated to replace 22 Pa. Code Ch. 5 or failure to meet any performance standard set forth in the written charter signed pursuant to section 1716-A.

(3) Failure to meet generally accepted standards of fiscal management or audit requirements.

(4) Violation of provisions of this article.

(5) Violation of any provision of law from which the charter school has not been exempted, including Federal laws and regulations governing children with disabilities.

(6) The charter school has been convicted of fraud.

(b) A member of the board of trustees who is convicted of a felony or any crime involving moral turpitude shall be immediately disqualified from serving on the board of trustees.

(c) Any notice of revocation or nonrenewal of a charter given by the local board of school directors of a school district shall state the grounds for such action with reasonable specificity and give reasonable notice to the governing board of the charter school of the date on which a public hearing concerning the revocation or nonrenewal will be held. The local board of school directors shall conduct such hearing, present evidence in support of the grounds for revocation or nonrenewal stated in its notice and give the charter school reasonable opportunity to offer testimony before taking final action. Formal action revoking or not renewing a charter shall be taken by the local board of school directors at a public meeting pursuant to the act of July 3, 1986 (P.L.388, No.84), known as the "Sunshine Act," after the public has had thirty (30) days to provide comments to the board. All proceedings of the local board pursuant to this subsection shall be subject to 2 Pa.C.S. Ch. 5 Subch. B (relating to practice and procedure of local agencies). Except as provided in subsection (d), the decision of the local board shall not be subject to 2 Pa.C.S. Ch. 7 Subch. B (relating to judicial review of local agency action).

(d) Following the appointment and confirmation of the appeal board, but not before July 1, 1999, the charter school may appeal the decision of the local board of school directors to revoke or not renew the charter to the appeal board. The appeal board shall have the exclusive review of a decision not to renew or revoke a charter. The appeal board shall review the record and shall have the discretion to supplement the record if the supplemental information was previously unavailable. The appeal board may consider the charter school plan, annual reports, student performance and employe and community support for the charter school in addition to the record. The appeal board shall give due consideration to the findings

of the local board of directors and specifically articulate its reasons for agreeing or disagreeing with those findings in its written decision.

(e) If the appeal board determines that the charter should not be revoked or should be renewed, the appeal board shall order the local board of directors to rescind its revocation or nonrenewal decision.

(f) Except as provided in subsection (g), the charter shall remain in effect until final disposition by the appeal board.

(g) In cases where the health or safety of the school's pupils, staff or both is at serious risk, the local board of school directors may take immediate action to revoke a charter.

(h) All decisions of the charter school appeal board shall be subject to appellate review by the Commonwealth Court.

(i) When a charter is revoked or is not renewed, the charter school shall be dissolved. After the disposition of any liabilities and obligations of the charter school, any remaining assets of the charter school shall be distributed on a proportional basis to the school entities with students enrolled in the charter school for the last full or partial school year of the charter school.

(j) When a charter is revoked or is not renewed, a student who attended the charter school shall apply to another public school in the student's school district of residence. Normal application deadlines will be disregarded under these circumstances. All student records maintained by the charter school shall be forwarded to the student's district of residence.

Section 1730-A. Desegregation Orders.—The local board of school directors of a school district which is operating under a desegregation plan approved by the Pennsylvania Human Relations Commission or a desegregation order by a Federal or State court shall not approve a charter school application if such charter school would place the school district in noncompliance with its desegregation order.

Section 1731-A. Charter School Grants.—(a) The secretary shall allocate grants for planning and start-up funding to eligible applicants under section 1717-A from funds appropriated for the implementation of this act.

(1) Planning grant applications shall be filed on a form and by a date determined by the secretary. The amount of a grant may vary depending on the size and scope of the planning needed by the applicant. The application shall address the manner in which the applicant plans to address the criteria established for charter schools in sections 1715-A and 1717-A.

(2) Start-up funding grant applications shall be filed on a form and by a date determined by the secretary. The applicant for the charter school shall submit its application for a charter when applying for the grant. A grant for start-up funding may vary depending on the size and special characteristics of the charter school. A start-up grant may be used to meet the expenses of the charter school as established in their charter and as authorized in the provisions of this article.

(b) The applicant shall include a copy of a letter informing the local board of school directors of the school district of the application for the planning grant if the location of the proposed charter school is known. An applicant receiving a start-up funding grant shall notify the school district or districts signing the charter of receipt of this grant.

Section 1732-A. Provisions Applicable to Charter Schools.—(a) Charter schools shall be subject to the following:

Sections 108, 110, 111, 321, 325, 326, 327, 431, 436, 443, 510, 518, 527, 708, 736, 737, 738, 739, 740, 741, 752, 753, 755, 771, 776, 777, 808, 809, 810, 1109, 1111, 1112(a), 1310, 1317, 1317.1, 1317.2, 1318, 1327, 1330, 1332, 1303-A, 1513, 1517, 1518, 1521, 1523, 1547, 2014-A, Article XIII-A and Article XIV.

Act of July 17, 1961 (P.L.776, No.341), known as the “Pennsylvania Fair Educational Opportunities Act.”

Act of July 19, 1965 (P.L.215, No.116), entitled “An act providing for the use of eye protective devices by persons engaged in hazardous activities or exposed to known dangers in schools, colleges and universities.”

Section 4 of the act of January 25, 1966 (1965 P.L.1546, No.541), entitled “An act providing scholarships and providing funds to secure Federal funds for qualified students of the Commonwealth of Pennsylvania who need financial assistance to attend postsecondary institutions of higher learning, making an appropriation, and providing for the administration of this act.”

Act of July 12, 1972 (P.L.765, No.181), entitled “An act relating to drugs and alcohol and their abuse, providing for projects and programs and grants to educational agencies, other public or private agencies, institutions or organizations.”

Act of December 15, 1986 (P.L.1595, No.175), known as the “Antihazing Law.”

(b) Charter schools shall be subject to the following provisions of 22 Pa. Code:

Section 5.216 (relating to ESOL).

Section 5.4 (relating to general policies).

Chapter 11 (relating to pupil attendance).

Chapter 12 (relating to students).

Section 32.3 (relating to assurances).

Section 121.3 (relating to discrimination prohibited).

Section 235.4 (relating to practices).

Section 235.8 (relating to civil rights).

(c) (1) The secretary may promulgate additional regulations relating to charter schools.

(2) The secretary shall have the authority and the responsibility to ensure that charter schools comply with Federal laws and regulations governing children with disabilities. The secretary shall promulgate regulations to implement this provision.

Section 2. (a) The General Assembly finds and declares as follows:

(1) A well-trained and well-educated work force is essential to the economic well-being of this Commonwealth.

(2) Many of the fastest-growing sectors of the economy are in areas which require technical competence and an educational background that includes a solid foundation in the chemical, physical, biological and earth sciences.

(3) Sharing resources is a cost-effective and proven method of ensuring that all of this Commonwealth's school children have access to a high-quality science curriculum that provides hand-on experience with modern and sophisticated scientific and technical equipment to prepare students for the high-technology demands of the 21st century.

(4) Significant opportunities exist for collaboration between the basic education and higher education systems of this Commonwealth to enhance the education of this Commonwealth's school children.

(5) Students need the opportunity to learn science by practicing science. This Commonwealth must graduate students who are more scientifically literate and who are better able to pursue careers and jobs in fields that require such literacy.

(6) Teachers who are the only physics or chemistry teacher in their school need not work in isolation.

(7) Teachers require greater opportunities for professional development in science, including training to incorporate new science equipment into the teaching curricula.

(8) It is therefore the intent of the General Assembly and a purpose of this act to direct the Department of Education to examine the feasibility of establishing the Pennsylvania Science Partnership Program to provide enhanced educational opportunities in the fields of science to this Commonwealth's school children, especially children attending schools that do not have the financial resources to provide an enriched science curriculum.

(b) The department shall file a report with the Governor and with the chairman and minority chairman of the Education Committee of the Senate and the chairman and minority chairman of the Education Committee of the House of Representatives on the feasibility of establishing a Pennsylvania Science Partnership Program by January 1, 1998. The report shall describe the types of science partnerships created in selected communities of this Commonwealth, to be determined by the Secretary of Education. At a minimum, programs of this type in Philadelphia, Pittsburgh and at Juniata College and Lebanon Valley College shall be examined. The department shall consider the benefits of the partnership and the involvement of school districts, higher education institutions and science museums. The department shall survey school districts to determine the number of elementary and secondary education students participating in various science programs, a

detailed breakdown of the costs of these programs and the impact of the programs on the level of scientific knowledge of school children.

(c) The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

“Department.” The Department of Education of the Commonwealth.

“Higher education institution.” Any institution of higher education in this Commonwealth authorized to grant collegiate-level degrees and which has received total institutional accreditation by an accrediting agency recognized by the Federal Government, the Department of Education and the State Board of Education.

Section 3. (a) The sum of \$1,000,000, or as much thereof as may be necessary, is hereby appropriated for the fiscal year July 1, 1997, to June 30, 1998, from the General Fund to the Department of Education to pay for temporary financial assistance under section 1725-A(b) to school districts on behalf of students enrolled in charter schools who attended a nonpublic school in the prior fiscal year.

(b) The sum of \$7,500,000, or as much there of as may be necessary, is hereby appropriated from the General Fund to the Department of Education to pay for transitional funding grants under section 1725-A(c) to school districts. These funds shall lapse June 30, 1999.

(c) The sum of \$4,000,000 of Federal funds available under the Improving America’s Schools Act of 1994 (Public Law 103-382, 108 Stat. 3518) is hereby appropriated to the Department of Education for purposes of implementing the provisions of this act. These funds shall lapse June 30, 1998.

Section 4. All acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 5. This act shall take effect immediately.

APPROVED—The 19th day of June, A.D. 1997.

THOMAS J. RIDGE