

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2910 Session of
2004

INTRODUCED BY WILT, LEH, CREIGHTON, EGOLF, ARMSTRONG, BASTIAN,
CLYMER, DENLINGER, HERSHEY, KILLION, LEWIS AND YOUNGBLOOD,
OCTOBER 18, 2004

REFERRED TO COMMITTEE ON EDUCATION, OCTOBER 18, 2004

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," further providing, in charter
6 schools, for definitions, for administration, for
7 establishment, for regional schools, for charters, for school
8 staff, for funding, for tort liability, for nonrenewal and
9 termination and for desegregation orders.

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

12 Section 1. The definitions of "charter school" and "regional
13 charter school" in section 1703-A of the act of March 10, 1949
14 (P.L.30, No.14), known as the Public School Code of 1949,
15 amended June 29, 2002 (P.L.524, No.88), are amended to read:

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

17 * * *

18 "Charter school" shall mean an independent public school
19 established and operated under a charter from an institution of
20 higher education, the local board of school directors or the
21 appeal board and in which students are enrolled or attend. A

1 charter school must be organized as a public, nonprofit
2 corporation. Charters may not be granted to any for-profit
3 entity.

4 * * *

5 "Regional charter school" shall mean an independent public
6 school established and operated under a charter from more than
7 one local board of school directors, an institution of higher
8 education or the appeal board and in which students are enrolled
9 or attend. A regional charter school must be organized as a
10 public, nonprofit corporation. Charters may not be granted to
11 any for-profit entity.

12 * * *

13 Section 2. Sections 1716-A, 1717-A, 1718-A, 1720-A and 1724-
14 A of the act, added June 19, 1997 (P.L.225, No.22), are amended
15 to read:

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

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

28 (c) The board of trustees shall comply with the act of July
29 3, 1986 (P.L.388, No.84), known as the "Sunshine Act."

30 Section 1717-A. Establishment of Charter School.--(a) A

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

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

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

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

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

28 (3) In no event shall the board of school directors or the
29 appeal board serve as the board of trustees of an existing
30 school which is converted to a charter school pursuant to this

1 subsection.

2 (c) An application to establish a charter school shall be
3 submitted to the local board of school directors of the district
4 where the charter school will be located by November 15 of the
5 school year preceding the school year in which the charter
6 school will be established except that for a charter school
7 beginning in the 1997-1998 school year, an application must be
8 received by July 15, 1997. In the 1997-1998 school year only,
9 applications shall be limited to recipients of fiscal year 1996-
10 1997 Department of Education charter school planning grants.

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

22 (e) (1) Not later than seventy-five (75) days after the
23 first public hearing on the application, the local board of
24 school directors which received the application shall grant or
25 deny the application. [For a charter school beginning in the
26 1997-1998 school year, the local board of school directors shall
27 grant or deny the application no later than sixty (60) days
28 after the first public hearing.]

29 (2) A charter school application submitted under this
30 article shall be evaluated by the local board of school

1 directors or the appeal board based on criteria, including, but
2 not limited to, the following:

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

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

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

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

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

19 (4) A charter application shall be deemed approved by the
20 local board of school directors of a school district or the
21 appeal board upon affirmative vote by a majority of all the
22 [directors] members of the appropriate board. Formal action
23 approving or denying the application shall be taken by [the
24 local board of school directors] that board at a public meeting,
25 with notice or consideration of the application given by the
26 board, under the "Sunshine Act."

27 (5) Written notice of the [board's] action of a local board
28 of school directors shall be sent to the applicant, the
29 department and the appeal board. Written notice of the action of
30 the appeal board shall be sent to the applicant and the

1 department. If the application is denied, the reasons for the
2 denial, including a description of deficiencies in the
3 application, shall be clearly stated in the notice [sent by the
4 local board of school directors] to the charter school
5 applicant.

6 (f) At the option of the charter school applicant, a denied
7 application may be revised and resubmitted to the [local board
8 of school directors] board which denied the application.

9 Following the appointment and confirmation of the Charter School
10 Appeal Board under section 1721-A, the decision of the local
11 board of school directors may be appealed to the appeal board.
12 When an application is revised and resubmitted to the [local
13 board of school directors, the] board which denied the
14 application, that board may schedule additional public hearings
15 on the revised application. [The] That board shall consider the
16 revised and resubmitted application at the first board meeting
17 occurring at least forty-five (45) days after receipt of the
18 revised application by [the] that board. For a revised
19 application resubmitted for the 1997-1998 school year, [the]
20 that board shall consider the application at the first board
21 meeting occurring at least thirty (30) days after its receipt.
22 [The] That board shall provide notice of consideration of the
23 revised application under the "Sunshine Act." [No appeal from a
24 decision of a local school board may be taken until July 1,
25 1999.]

26 (g) Notwithstanding the provisions of subsection (e)(5),
27 failure by the local board of directors [to hold a public
28 hearing and] to grant [or deny] the application for a charter
29 school within the time periods specified in subsections (d)[,
30 (e) and (f)] and (e) shall permit the applicant for a charter to

1 file its application [as an appeal to] with the appeal board. In
2 such case, the appeal board shall review the application and
3 make a decision to grant or deny a charter based on the criteria
4 established in subsection (e)(2).

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

19 (i) (1) The appeal board shall have the exclusive review of
20 an appeal by a charter school applicant, or by the board of
21 trustees of an existing charter school, of a decision made by a
22 local board of directors not to grant a charter as provided in
23 this section.

24 [(2) In order for a charter school applicant to be eligible
25 to appeal the denial of a charter by the local board of
26 directors, the applicant must obtain the signatures of at least
27 two per centum of the residents of the school district or of one
28 thousand (1,000) residents, whichever is less, who are over
29 eighteen (18) years of age. For a regional charter school, the
30 applicant must obtain the signatures of at least two per centum

1 of the residents of each school district granting the charter or
2 of one thousand (1,000) residents from each of the school
3 districts granting the charter, whichever is less, who are over
4 eighteen (18) years of age. The signatures shall be obtained
5 within sixty (60) days of the denial of the application by the
6 local board of directors in accordance with clause (3).

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

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

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

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

30 (iii) That the signers signed with full knowledge of the

1 purpose of the petition.

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

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

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

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

9 (5) If the required number of signatures are obtained within
10 sixty (60) days of the denial of the application, the applicant
11 may present the petition to the court of common pleas of the
12 county in which the charter school would be situated. The court
13 shall hold a hearing only on the sufficiency of the petition.
14 The applicant and local board of school directors shall be given
15 seven (7) days' notice of the hearing. The court shall issue a
16 decree establishing the sufficiency or insufficiency of the
17 petition. If the petition is sufficient, the decree shall be
18 transmitted to the State Charter School Appeal Board for review
19 in accordance with this section. Notification of the decree
20 shall be given to the applicant and the local board of
21 directors.]

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

1 previously unavailable.

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

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

10 (9) A decision of the appeal board to reverse the decision
11 of the local board of directors shall serve as a requirement for
12 the local board of directors of a school district or school
13 districts, as appropriate, to grant the application and sign the
14 written charter of the charter school as provided for in section
15 1720-A. Should the local board of directors fail to grant the
16 application and sign the charter within ten (10) days of notice
17 of the reversal of the decision of the local board of directors,
18 the charter shall be deemed to be approved and shall be signed
19 by the chairman of the appeal board.

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

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

1 school may be established by creating a new school or by
2 converting an existing public school or a portion of an existing
3 public school. Conversion of an existing public school to a
4 regional charter school shall be accomplished in accordance with
5 section 1714-A(b). No regional charter school shall be
6 established or funded by and no charter shall be granted to any
7 sectarian school, institution or other entity.

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

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

24 Section 1720-A. Term and Form of Charter.--Upon approval of
25 a charter application under section 1717-A, a written charter
26 shall be developed which shall contain the provisions of the
27 charter application and which shall be signed by an institution
28 of higher education, the local board of school directors of a
29 school district or the appeal board, by an institution of higher
30 education, the local boards of school directors of a school

1 district or the appeal board in the case of a regional charter
2 school or by the chairman of the appeal board pursuant to
3 section 1717-A(i)(5) and the board of trustees of the charter
4 school. This written charter, when duly signed by an institution
5 of higher education, the local board of school directors of a
6 school district or the appeal board, or by an institution of
7 higher education, the local boards of school directors of a
8 school district or the appeal board in the case of a regional
9 charter school, and the charter school's board of trustees,
10 shall act as legal authorization for the establishment of a
11 charter school. This written charter shall be legally binding on
12 [both] the charter school's board of trustees and on the
13 institution of higher education, the local board of school
14 directors of a school district [and the charter school's board
15 of trustees] or the appeal board, as applicable. The charter
16 shall be [for a period of no less than three (3) nor more than
17 five (5) years and may be renewed for five (5) year periods upon
18 reauthorization by the local board of school directors of a
19 school district or the appeal board] in force until it is
20 revoked for cause, as determined by regulations of the
21 department. A charter will be granted only for a school
22 organized as a public, nonprofit corporation.

23 Section 1724-A. School Staff.--(a) The board of trustees
24 shall determine the level of compensation and all terms and
25 conditions of employment of the staff except as may otherwise be
26 provided in this article. At least seventy-five per centum of
27 the professional staff members of a charter school shall hold
28 appropriate State certification. Employees of a charter school
29 may organize under the act of July 23, 1970 (P.L.563, No.195),
30 known as the "Public Employe Relations Act." The board of

1 trustees of a charter school shall be considered an employer for
2 the purposes of Article XI-A. Upon formation of one or more
3 collective bargaining units at the school, the board of trustees
4 shall bargain with the employees based on the provisions of this
5 article, Article XI-A and the "Public Employee Relations Act."
6 Collective bargaining units at a charter school shall be
7 separate from any collective bargaining unit of the school
8 district in which the charter school is located and shall be
9 separate from any other collective bargaining unit. A charter
10 school shall be considered a school entity as provided for in
11 section 1161-A for the purpose of the secretary seeking an
12 injunction requiring the charter school to meet the minimum
13 requirements for instruction as provided for in this article.

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

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

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

24 (c) All employees of a charter school shall be enrolled in
25 the Public School Employee's Retirement System in the same
26 manner as set forth in 24 Pa.C.S. § 8301(a) (relating to
27 mandatory and optional membership) unless at the time of the
28 application for the charter school the sponsoring district or
29 the board of trustees of the charter school has a retirement
30 program which covers the employees or the employee is currently

1 enrolled in another retirement program. The Commonwealth shall
2 make contributions on behalf of charter school employees, and the
3 charter school shall be considered a school district and shall
4 make payments by employers and payments on account of Social
5 Security as established under 24 Pa.C.S. Pt. IV (relating to
6 retirement for school employees). For purposes of payments by
7 employers, a charter school shall be considered a school
8 district under 24 Pa.C.S. § 8329(a)(1) (relating to payments on
9 account of social security deductions from appropriations). The
10 market value/income aid ratio used in calculating payments as
11 prescribed in this subsection shall be the market value/income
12 aid ratio for the school district in which the charter school is
13 located or, in the case of a regional charter school, shall be a
14 composite market value/income aid ratio for the participating
15 school districts as determined by the department. Except as
16 otherwise provided, employees of a charter school shall make
17 regular member contributions as required for active members
18 under 24 Pa.C.S. Pt. IV. If the employees of the charter school
19 participate in another retirement plan, then those employees
20 shall have no concurrent claim on the benefits provided to
21 public school employees under 24 Pa.C.S. Pt. IV. For purposes of
22 this subsection, a charter school shall be deemed to be a
23 "public school" as defined in 24 Pa.C.S. § 8102 (relating to
24 definitions).

25 (d) Every employee of a charter school shall be provided the
26 same health care benefits as the employee would be provided if he
27 or she were an employee of the local district. The local board of
28 school directors or the appeal board may require the charter
29 school to provide the same terms and conditions with regard to
30 health insurance as the collective bargaining agreement of the

1 school district to include employe contributions to the
2 district's health benefits plan. The charter school shall make
3 any required employer's contribution to the district's health
4 plan to an insurer, a local board of school directors, the
5 appeal board or a contractual representative of school employes,
6 whichever is appropriate to provide the required coverage.

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

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

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

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

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

30 (i) All individuals who shall have direct contact with

1 students shall be required to submit a report of criminal
2 history record information as provided for in section 111 prior
3 to accepting a position with the charter school. This subsection
4 shall also apply to any individual who volunteers to work on a
5 full-time or part-time basis at the charter school.

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

12 Section 3. Section 1725-A of the act, amended or added June
13 19, 1997 (P.L.225, No.22), June 22, 2001 (P.L.530, No.35) and
14 June 29, 2002 (P.L.524, No.88), is amended to read:

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

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

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

1 be paid [by the district of residence of each student.] from the
2 State school district subsidy allocation to the charter school
3 which the Pennsylvania resident student attends. This selected
4 educational expenditure per student shall be determined by
5 calculating the weighted average selected expenditure per
6 student of the intermediate unit in which the State resident
7 charter school student resides.

8 (3) For special education students, the charter school shall
9 receive for each student enrolled the same funding as for each
10 non-special education student as provided in clause (2), plus an
11 additional amount determined by dividing the district of
12 residence's total special education expenditure by the product
13 of multiplying the combined percentage of section 2509.5(k)
14 times the district of residence's total average daily membership
15 for the prior school year. This amount shall be paid [by the
16 district of residence of each student.] from the special
17 education subsidy allocation to the charter school which the
18 Pennsylvania resident special education student attends. This
19 additional amount per student shall be determined by calculating
20 the weighted average special education expenditure per student
21 of the intermediate unit in which the State resident charter
22 school student resides.

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

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

13 (6) Within thirty (30) days after the secretary makes the
14 deduction described in clause (5), a school district may notify
15 the secretary that the deduction made from State payments to the
16 district under this subsection is inaccurate. The secretary
17 shall provide the school district with an opportunity to be
18 heard concerning whether the charter school documented that its
19 students were enrolled in the charter school, the period of time
20 during which each student was enrolled, the school district of
21 residence of each student and whether the amounts deducted from
22 the school district were accurate.

23 (b) The Commonwealth shall provide temporary financial
24 assistance to a school district due to the enrollment of
25 students in a charter school who attended a nonpublic school in
26 the prior school year in order to offset the additional costs
27 directly related to the enrollment of those students in a public
28 charter school. The Commonwealth shall pay the school district
29 of residence of a student enrolled in a nonpublic school in the
30 prior school year who is attending a charter school an amount

1 equal to the school district of residence's basic education
2 subsidy for the current school year divided by the district's
3 average daily membership for the prior school year. This payment
4 shall occur only for the first year of the attendance of the
5 student in a charter school, starting with school year 1997-
6 1998. Total payments of temporary financial assistance to school
7 districts on behalf of a student enrolling in a charter school
8 who attended a nonpublic school in the prior school year shall
9 be limited to funds appropriated for this program in a fiscal
10 year. If the total of the amount needed for all students
11 enrolled in a nonpublic school in the prior school year who
12 enroll in a charter school exceeds the appropriation for the
13 temporary financial assistance program, the amount paid to a
14 school district for each qualifying student shall be pro rata
15 reduced. Receipt of funds under this subsection shall not
16 preclude a school district from applying for a grant under
17 subsection (c).

18 (c) The Commonwealth shall create a grant program to provide
19 temporary transitional funding to a school district due to the
20 budgetary impact relating to any student's first-year attendance
21 at a charter school. The department shall develop criteria which
22 shall include, but not be limited to, the overall fiscal impact
23 on the budget of the school district resulting from students of
24 a school district attending a charter school. The criteria shall
25 be published in the Pennsylvania Bulletin. This subsection shall
26 not apply to a public school converted to a charter school under
27 section 1717-A(b). Grants shall be limited to funds appropriated
28 for this purpose.

29 (d) It shall be lawful for any charter school to receive,
30 hold, manage and use, absolutely or in trust, any devise,

1 bequest, grant, endowment, gift or donation of any property,
2 real or personal and/or mixed, which shall be made to the
3 charter school for any of the purposes of this article.

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

14 Section 4. Section 1727-A of the act, added June 19, 1997
15 (P.L.225, No.22), is amended to read:

16 Section 1727-A. Tort Liability.--For purposes of tort
17 liability, employes of the charter school shall be considered
18 public employes and the board of trustees shall be considered
19 the public employer in the same manner as political subdivisions
20 and local agencies. The board of trustees of a charter school
21 and the charter school shall be solely liable for any and all
22 damages of any kind resulting from any legal challenge involving
23 the operation of a charter school. Notwithstanding this
24 requirement, the local board of directors of a school entity and
25 the appeal board shall not be held liable for any activity or
26 operation related to the program of the charter school.

27 Section 5. Section 1729-A of the act, added June 19, 1997
28 (P.L.225, No.22) and amended July 4, 2004 (P.L.536, No.70), is
29 amended to read:

30 [Section 1729-A. Causes for Nonrenewal or Termination.--(a)

1 During the term of the charter or at the end of the term of the
2 charter, the local board of school directors may choose to
3 revoke or not to renew the charter based on any of the
4 following:

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

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

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

15 (4) Violation of provisions of this article.

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

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

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

23 (c) Any notice of revocation or nonrenewal of a charter
24 given by the local board of school directors of a school
25 district shall state the grounds for such action with reasonable
26 specificity and give reasonable notice to the governing board of
27 the charter school of the date on which a public hearing
28 concerning the revocation or nonrenewal will be held. The local
29 board of school directors shall conduct such hearing, present
30 evidence in support of the grounds for revocation or nonrenewal

1 stated in its notice and give the charter school reasonable
2 opportunity to offer testimony before taking final action.
3 Formal action revoking or not renewing a charter shall be taken
4 by the local board of school directors at a public meeting
5 pursuant to the act of July 3, 1986 (P.L.388, No.84), known as
6 the "Sunshine Act," after the public has had thirty (30) days to
7 provide comments to the board. All proceedings of the local
8 board pursuant to this subsection shall be subject to 2 Pa.C.S.
9 Ch. 5 Subch. B (relating to practice and procedure of local
10 agencies). Except as provided in subsection (d), the decision of
11 the local board shall not be subject to 2 Pa.C.S. Ch. 7 Subch. B
12 (relating to judicial review of local agency action).

13 (d) Following the appointment and confirmation of the appeal
14 board, but not before July 1, 1999, the charter school may
15 appeal the decision of the local board of school directors to
16 revoke or not renew the charter to the appeal board. The appeal
17 board shall have the exclusive review of a decision not to renew
18 or revoke a charter. The appeal board shall review the record
19 and shall have the discretion to supplement the record if the
20 supplemental information was previously unavailable. The appeal
21 board may consider the charter school plan, annual reports,
22 student performance and employee and community support for the
23 charter school in addition to the record. The appeal board shall
24 give due consideration to the findings of the local board of
25 directors and specifically articulate its reasons for agreeing
26 or disagreeing with those findings in its written decision.

27 (e) If the appeal board determines that the charter should
28 not be revoked or should be renewed, the appeal board shall
29 order the local board of directors to rescind its revocation or
30 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, not renewed, forfeited, surrendered or otherwise ceases to operate, 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, both real and personal, 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. In no event shall such school entities or the Commonwealth be liable for any outstanding liabilities or obligations 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 6. Section 1730-A of the act, added June 19, 1997 (P.L.225, No.22), is amended to read:

Section 1730-A. Desegregation Orders.--[The local board of school directors of] If 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

1 State court, an institution of higher education, the local board
2 of school directors and the appeal board shall not approve a
3 charter school application if such charter school would place
4 the school district in noncompliance with its desegregation
5 order.

6 Section 7. This act shall apply to charter school
7 applications made on or after the effective date of this
8 section.

9 Section 8. This act shall take effect in 60 days.