

AN ACT

RELATING TO CHARTER SCHOOL REQUIREMENTS; AMENDING SECTION 22-8B-6 NMSA 1978 (BEING LAWS 1999, CHAPTER 281, SECTION 6, AS AMENDED) TO CLARIFY ENROLLMENT LIMITS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 22-8B-6 NMSA 1978 (being Laws 1999, Chapter 281, Section 6, as amended) is amended to read:

"22-8B-6. CHARTER SCHOOL REQUIREMENTS--APPLICATION PROCESS--AUTHORIZATION--BOARD OF FINANCE DESIGNATION REQUIRED.--

A. A local school board has the authority to approve the establishment of a charter school within the school district in which it is located.

B. At least one hundred eighty days prior to initial application, the organizers of a proposed charter school shall provide written notification to the commission and the school district in which the charter school is proposed to be located of intent to establish a charter school. Failure to notify may result in an application not being accepted.

C. A charter school applicant shall apply to either a local school board or the commission for a charter. If an application is submitted to a chartering authority, it must process the application. Applications for initial

charters shall be submitted by July 1 to be eligible for consideration for the following fiscal year; provided that the July 1 deadline may be waived upon agreement of the applicant and the chartering authority.

D. An application shall include the total number of grades the charter school proposes to provide, either immediately or phased. A charter school may decrease the number of grades it eventually offers, but it shall not increase the number of grades or the total number of students proposed to be served in each grade.

E. An application shall include a detailed description of the charter school's projected capital outlay needs, including projected requests for capital outlay assistance.

F. An application for a start-up school may be made by one or more teachers, parents or community members or by a public post-secondary educational institution or nonprofit organization. Municipalities, counties, private post-secondary educational institutions and for-profit business entities are not eligible to apply for or receive a charter.

G. An initial application for a charter school shall not be made after June 30, 2007 if the proposed charter school's proposed enrollment for all grades or the proposed charter school's proposed enrollment for all grades in

combination with any other charter school's enrollment for all grades would equal or exceed ten percent of the total MEM of the school district in which the charter school will be geographically located and that school district has a total enrollment of not more than one thousand three hundred students.

H. A state-chartered charter school shall not be approved for operation unless its governing body has qualified to be a board of finance.

I. The chartering authority shall receive and review all applications for charter schools submitted to it. The chartering authority shall not charge application fees.

J. The chartering authority shall hold at least one public meeting in the school district in which the charter school is proposed to be located to obtain information and community input to assist it in its decision whether to grant a charter school application. Community input may include written or oral comments in favor of or in opposition to the application from the applicant, the local community and, for state-chartered charter schools, the local school board and school district in whose geographical boundaries the charter school is proposed to be located. The chartering authority shall rule on the application for a charter school in a public meeting within sixty days after receiving the application. If not ruled upon within sixty days, the charter application

shall be automatically reviewed by the secretary in accordance with the provisions of Section 22-8B-7 NMSA 1978. The charter school applicant and the chartering authority may, however, jointly waive the deadlines set forth in this section.

K. A chartering authority may approve, approve with conditions or deny an application. A chartering authority may deny an application if:

(1) the application is incomplete or inadequate;

(2) the application does not propose to offer an educational program consistent with the requirements and purposes of the Charter Schools Act;

(3) the proposed head administrator or other administrative or fiscal staff was involved with another charter school whose charter was denied or revoked for fiscal mismanagement or the proposed head administrator or other administrative or fiscal staff was discharged from a public school for fiscal mismanagement;

(4) for a proposed state-chartered charter school, it does not request to have the governing body of the charter school designated as a board of finance or the governing body does not qualify as a board of finance; or

(5) the application is otherwise contrary to the best interests of the charter school's projected students, the local community or the school district in whose geographic

boundaries the charter school applies to operate.

L. If the chartering authority denies a charter school application or approves the application with conditions, it shall state its reasons for the denial or conditions in writing within fourteen days of the meeting. If the chartering authority grants a charter, the approved charter shall be provided to the applicant together with any imposed conditions.

M. A charter school that has received a notice from the chartering authority denying approval of the charter shall have a right to a hearing by the secretary as provided in Section 22-8B-7 NMSA 1978."

Section 2. TEMPORARY PROVISION--TRANSITION.--

Notwithstanding the effective date of the Charter Schools Act of July 1, 2007, no school district shall approve an application for a new charter school in a district with a total student membership of one thousand three hundred students or less until the effective date of the Charter Schools Act.

Section 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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