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HOUSE BILL 1245

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Rick Miera

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

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1 school shall provide written notification to the commission and  
2 the school district in which the charter school is proposed to  
3 be located of intent to establish a charter school. Failure to  
4 notify may result in an application not being accepted.

5 C. A charter school applicant shall apply to either  
6 a local school board or the commission for a charter. If an  
7 application is submitted to a chartering authority, it must  
8 process the application. Applications for initial charters  
9 shall be submitted by July 1 to be eligible for consideration  
10 for the following fiscal year; provided that the July 1  
11 deadline may be waived upon agreement of the applicant and the  
12 chartering authority.

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

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

23 F. An application for a start-up school may be made  
24 by one or more teachers, parents or community members or by a  
25 public post-secondary educational institution or nonprofit

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1 organization. Municipalities, counties, private post-secondary  
2 educational institutions and for-profit business entities are  
3 not eligible to apply for or receive a charter.

4 G. An initial application for a charter school  
5 shall not be made after June 30, 2007 if the proposed charter  
6 school's proposed enrollment for all grades or the proposed  
7 charter school's proposed enrollment for all grades in  
8 combination with any other charter school's enrollment for all  
9 grades would equal or exceed ten percent of the total MEM of  
10 the school district in which the charter school will be  
11 geographically located and that school district has a total  
12 enrollment of not more than one thousand three hundred  
13 students.

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

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

20 J. The chartering authority shall hold at least one  
21 public meeting in the school district in which the charter  
22 school is proposed to be located to obtain information and  
23 community input to assist it in its decision whether to grant a  
24 charter school application. Community input may include  
25 written or oral comments in favor of or in opposition to the

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1 application from the applicant, the local community and, for  
2 state-chartered charter schools, the local school board and  
3 school district in whose geographical boundaries the charter  
4 school is proposed to be located. The chartering authority  
5 shall rule on the application for a charter school in a public  
6 meeting within sixty days after receiving the application. If  
7 not ruled upon within sixty days, the charter application shall  
8 be automatically reviewed by the secretary in accordance with  
9 the provisions of Section 22-8B-7 NMSA 1978. The charter  
10 school applicant and the chartering authority may, however,  
11 jointly waive the deadlines set forth in this section.

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

15 (1) the application is incomplete or  
16 inadequate;

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

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

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

5 (5) the application is otherwise contrary to  
6 the best interests of the charter school's projected students,  
7 the local community or the school district in whose geographic  
8 boundaries the charter school applies to operate.

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

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

19 Section 2. TEMPORARY PROVISION--TRANSITION.--  
20 Notwithstanding the effective date of the Charter Schools Act  
21 of July 1, 2007, no school district shall approve an  
22 application for a new charter school in a district with a total  
23 student membership of one thousand three hundred students or  
24 less until the effective date of the Charter Schools Act.

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

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