



# Senate

General Assembly

**File No. 593**

February Session, 2010

Substitute Senate Bill No. 438

*Senate, April 19, 2010*

The Committee on Appropriations reported through SEN. HARP of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## **AN ACT CONCERNING CHARTER SCHOOLS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 10-66bb of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) On and after July 1, 1997, the State Board of Education may grant  
4 [, within available appropriations,] charters for local and state charter  
5 schools in accordance with this section.

6 (b) Any person, association, corporation, organization or other  
7 entity, public or independent institution of higher education, local or  
8 regional board of education or two or more boards of education  
9 cooperatively, or regional educational service center may apply to the  
10 Commissioner of Education, at such time and in such manner as the  
11 commissioner prescribes, to establish a charter school, provided no  
12 nonpublic elementary or secondary school may be established as a  
13 charter school and no parent or group of parents providing home  
14 instruction may establish a charter school for such instruction.

15 (c) The State Board of Education shall review, annually, all  
16 applications and grant charters in accordance with subsection (f) of  
17 this section. (1) Except as provided for in subdivision (2) of this  
18 subsection, no state charter school shall enroll (A) (i) more than two  
19 hundred fifty students, or (ii) in the case of a kindergarten to grade  
20 eight, inclusive, school, more than three hundred students, or (B)  
21 twenty-five per cent of the enrollment of the school district in which  
22 the state charter school is to be located, whichever is less. (2) In the  
23 case of a state charter school found by the State Board of Education to  
24 have a demonstrated record of achievement, [such school] said board  
25 [may] shall, upon application by such school to [and approval by] said  
26 board, [enroll up to eighty-five students per grade, if within available  
27 appropriations] waive the provisions of subdivision (1) of this  
28 subsection for such school. The State Board of Education shall give  
29 preference to applicants for charter schools that will serve students  
30 who reside in a priority school district pursuant to section 10-266p or  
31 in a district in which seventy-five per cent or more of the enrolled  
32 students are members of racial or ethnic minorities and to applicants  
33 for state charter schools that will be located at a work-site or that are  
34 institutions of higher education. In determining whether to grant a  
35 charter, the State Board of Education shall consider the effect of the  
36 proposed charter school on the reduction of racial, ethnic and  
37 economic isolation in the region in which it is to be located, the  
38 regional distribution of charter schools in the state and the potential of  
39 over-concentration of charter schools within a school district or in  
40 contiguous school districts.

41 (d) Applications pursuant to this section shall include a description  
42 of: (1) The mission, purpose and any specialized focus of the proposed  
43 charter school; (2) the interest in the community for the establishment  
44 of the charter school; (3) the school governance and procedures for the  
45 establishment of a governing council that (A) includes (i) teachers and  
46 parents and guardians of students enrolled in the school, and (ii) the  
47 chairperson of the local or regional board of education of the town in  
48 which the charter school is located and which has jurisdiction over a  
49 school that resembles the approximate grade configuration of the

50 charter school, or the designee of such chairperson, provided such  
51 designee is a member of the board of education or the superintendent  
52 of schools for the school district, and (B) is responsible for the  
53 oversight of charter school operations, provided no member or  
54 employee of the governing council may have a personal or financial  
55 interest in the assets, real or personal, of the school; (4) the financial  
56 plan for operation of the school, provided no application fees or other  
57 fees for attendance, except as provided in this section, may be charged;  
58 (5) the educational program, instructional methodology and services to  
59 be offered to students; (6) the number and qualifications of teachers  
60 and administrators to be employed in the school; (7) the organization  
61 of the school in terms of the ages or grades to be taught and the total  
62 estimated enrollment of the school; (8) the student admission criteria  
63 and procedures to (A) ensure effective public information, (B) ensure  
64 open access on a space available basis, (C) promote a diverse student  
65 body, and (D) ensure that the school complies with the provisions of  
66 section 10-15c and that it does not discriminate on the basis of  
67 disability, athletic performance or proficiency in the English language,  
68 provided the school may limit enrollment to a particular grade level or  
69 specialized educational focus and, if there is not space available for all  
70 students seeking enrollment, the school may give preference to siblings  
71 but shall otherwise determine enrollment by a lottery; (9) a means to  
72 assess student performance that includes participation in state-wide  
73 mastery examinations pursuant to chapter 163c; (10) procedures for  
74 teacher evaluation and professional development for teachers and  
75 administrators; (11) the provision of school facilities, pupil  
76 transportation and student health and welfare services; (12)  
77 procedures to encourage involvement by parents and guardians of  
78 enrolled students in student learning, school activities and school  
79 decision-making; (13) document efforts to increase the racial and  
80 ethnic diversity of staff; and (14) a five-year plan to sustain the  
81 maintenance and operation of the school. Subject to the provisions of  
82 subsection (b) of section 10-66dd, as amended by this act, an  
83 application may include, or a charter school may file, requests to waive  
84 provisions of the general statutes and regulations not required by

85 sections 10-66aa to 10-66ff, inclusive, as amended by this act, and  
86 which are within the jurisdiction of the State Board of Education.

87 (e) An application for the establishment of a local charter school  
88 shall be submitted to the local or regional board of education of the  
89 school district in which the local charter school is to be located for  
90 approval pursuant to this subsection. The local or regional board of  
91 education shall: (1) Review the application; (2) hold a public hearing in  
92 the school district on such application; (3) survey teachers and parents  
93 in the school district to determine if there is sufficient interest in the  
94 establishment and operation of the local charter school; and (4) vote on  
95 a complete application not later than sixty days after the date of receipt  
96 of such application. Such board of education may approve the  
97 application by a majority vote of the members of the board present and  
98 voting at a regular or special meeting of the board called for such  
99 purpose. If the application is approved, the board shall forward the  
100 application to the State Board of Education. The State Board of  
101 Education shall vote on the application not later than seventy-five days  
102 after the date of receipt of such application. Subject to the provisions of  
103 subsection (c) of this section, the State Board of Education may  
104 approve the application and grant the charter for the local charter  
105 school or reject such application by a majority vote of the members of  
106 the state board present and voting at a regular or special meeting of  
107 the state board called for such purpose. The State Board of Education  
108 may condition the opening of such school on the school's meeting  
109 certain conditions determined by the Commissioner of Education to be  
110 necessary and may authorize the commissioner to release the charter  
111 when the commissioner determines such conditions are met. The state  
112 board may grant the charter for the local charter school for a period of  
113 time of up to five years and may allow the applicant to delay its  
114 opening for a period of up to one school year in order for the applicant  
115 to fully prepare to provide appropriate instructional services.

116 (f) An application for the establishment of a state charter school  
117 shall be (1) submitted to the State Board of Education for approval in  
118 accordance with the provisions of this subsection, and (2) filed with the

119 local or regional board of education in the school district in which the  
120 charter school is to be located. The state board shall: (A) Review such  
121 application; (B) hold a public hearing on such application in the school  
122 district in which such state charter school is to be located; (C) solicit  
123 and review comments on the application from the local or regional  
124 board of education for the school district in which such charter school  
125 is to be located and from the local or regional boards of education for  
126 school districts that are contiguous to the district in which such school  
127 is to be located; and (D) vote on a complete application not later than  
128 seventy-five days after the date of receipt of such application. The State  
129 Board of Education may approve an application and grant the charter  
130 for the state charter school by a majority vote of the members of the  
131 state board present and voting at a regular or special meeting of the  
132 state board called for such purpose. The State Board of Education may  
133 condition the opening of such school on the school's meeting certain  
134 conditions determined by the Commissioner of Education to be  
135 necessary and may authorize the commissioner to release the charter  
136 when the commissioner determines such conditions are met. Charters  
137 shall be granted for a period of time of up to five years and may allow  
138 the applicant to delay its opening for a period of up to one school year  
139 in order for the applicant to fully prepare to provide appropriate  
140 instructional services.

141 (g) Charters may be renewed, upon application, in accordance with  
142 the provisions of this section for the granting of such charters. Upon  
143 application for such renewal, the State Board of Education may  
144 commission an independent appraisal of the performance of the  
145 charter school that includes, but is not limited to, an evaluation of the  
146 school's compliance with the provisions of this section. The State Board  
147 of Education shall consider the results of any such appraisal in  
148 determining whether to renew such charter. The State Board of  
149 Education may deny an application for the renewal of a charter if (1)  
150 student progress has not been sufficiently demonstrated, as  
151 determined by the commissioner, (2) the governing council has not  
152 been sufficiently responsible for the operation of the school or has  
153 misused or spent public funds in a manner that is detrimental to the

154 educational interests of the students attending the charter school, or (3)  
155 the school has not been in compliance with applicable laws and  
156 regulations. If the State Board of Education does not renew a charter, it  
157 shall notify the governing council of the charter school of the reasons  
158 for such nonrenewal.

159 (h) The Commissioner of Education may at any time place a charter  
160 school on probation if (1) the school has failed to (A) adequately  
161 demonstrate student progress, as determined by the commissioner, (B)  
162 comply with the terms of its charter or with applicable laws and  
163 regulations, (C) achieve measurable progress in reducing racial, ethnic  
164 and economic isolation, or (D) maintain its nonsectarian status, or (2)  
165 the governing council has demonstrated an inability to provide  
166 effective leadership to oversee the operation of the charter school or  
167 has not ensured that public funds are expended prudently or in a  
168 manner required by law. If a charter school is placed on probation, the  
169 commissioner shall provide written notice to the charter school of the  
170 reasons for such placement, not later than five days after the  
171 placement, and shall require the charter school to file with the  
172 Department of Education a corrective action plan acceptable to the  
173 commissioner not later than thirty-five days from the date of such  
174 placement. The charter school shall implement a corrective action plan  
175 accepted by the commissioner not later than thirty days after the date  
176 of such acceptance. The commissioner may impose any additional  
177 terms of probation on the school that the commissioner deems  
178 necessary to protect the educational or financial interests of the state.  
179 The charter school shall comply with any such additional terms not  
180 later than thirty days after the date of their imposition. The  
181 commissioner shall determine the length of time of the probationary  
182 period, which may be up to one year, provided the commissioner may  
183 extend such period, for up to one additional year, if the commissioner  
184 deems it necessary. In the event that the charter school does not file or  
185 implement the corrective action plan within the required time period  
186 or does not comply with any additional terms within the required time  
187 period, the Commissioner of Education may withhold grant funds  
188 from the school until the plan is fully implemented or the school

189 complies with the terms of probation, provided the commissioner may  
190 extend the time period for such implementation and compliance for  
191 good cause shown. Whenever a charter school is placed on probation,  
192 the commissioner shall notify the parents or guardians of students  
193 attending the school of the probationary status of the school and the  
194 reasons for such status. During the term of probation, the  
195 commissioner may require the school to file interim reports concerning  
196 any matter the commissioner deems relevant to the probationary  
197 status of the school, including financial reports or statements. No  
198 charter school on probation may increase its student enrollment or  
199 engage in the recruitment of new students without the consent of the  
200 commissioner.

201 (i) The State Board of Education may revoke a charter if a charter  
202 school has failed to: (1) Comply with the terms of probation, including  
203 the failure to file or implement a corrective action plan; (2)  
204 demonstrate satisfactory student progress, as determined by the  
205 commissioner; (3) comply with the terms of its charter or applicable  
206 laws and regulations; or (4) manage its public funds in a prudent or  
207 legal manner. Unless an emergency exists, prior to revoking a charter,  
208 the State Board of Education shall provide the governing council of the  
209 charter school with a written notice of the reasons for the revocation,  
210 including the identification of specific incidents of noncompliance with  
211 the law, regulation or charter or other matters warranting revocation  
212 of the charter. It shall also provide the governing council with the  
213 opportunity to demonstrate compliance with all requirements for the  
214 retention of its charter by providing the State Board of Education or a  
215 subcommittee of the board, as determined by the State Board of  
216 Education, with a written or oral presentation. Such presentation shall  
217 include an opportunity for the governing council to present  
218 documentary and testimonial evidence to refute the facts cited by the  
219 State Board of Education for the proposed revocation or in justification  
220 of its activities. Such opportunity shall not constitute a contested case  
221 within the meaning of chapter 54. The State Board of Education shall  
222 determine, not later than thirty days after the date of an oral  
223 presentation or receipt of a written presentation, whether and when

224 the charter shall be revoked and notify the governing council of the  
225 decision and the reasons therefor. A decision to revoke a charter shall  
226 not constitute a final decision for purposes of chapter 54. In the event  
227 an emergency exists in which the commissioner finds that there is  
228 imminent harm to the students attending a charter school, the State  
229 Board of Education may immediately revoke the charter of the school,  
230 provided the notice concerning the reasons for the revocation is sent to  
231 the governing council not later than ten days after the date of  
232 revocation and the governing council is provided an opportunity to  
233 make a presentation to the board not later than twenty days from the  
234 date of such notice.

235 Sec. 2. Section 10-66hh of the general statutes is repealed and the  
236 following is substituted in lieu thereof (*Effective from passage*):

237 (a) For the fiscal [years] year ending June 30, 2008, [and June 30,  
238 2009] and each fiscal year thereafter, the Commissioner of Education  
239 shall establish, within available bond authorizations, a grant program  
240 to assist state charter schools in financing (1) school building projects,  
241 as defined in section 10-282, (2) general improvements to school  
242 buildings, as defined in subsection (a) of section 10-265h, and (3)  
243 repayment of debt incurred for school building projects. The  
244 governing authorities of such state charter schools may apply for such  
245 grants to the Department of Education at such time and in such  
246 manner as the commissioner prescribes. The commissioner shall give  
247 preference to applications that provide for matching funds from  
248 nonstate sources.

249 (b) All final calculations for grant awards pursuant to this section in  
250 an amount equal to or greater than two hundred fifty thousand dollars  
251 shall include a computation of the state grant amount amortized on a  
252 straight line basis over a ten-year period. Any state charter school  
253 which abandons, sells, leases, demolishes or otherwise redirects the  
254 use of a school building which benefited from such a grant award  
255 during such amortization period, including repayment of debt for the  
256 purchase, renovation or improvement of the building, shall refund to

257 the state the unamortized balance of the state grant remaining as of the  
258 date that the abandonment, sale, lease, demolition or redirection  
259 occurred. The amortization period shall begin on the date the grant  
260 award is paid. A state charter school required to make a refund to the  
261 state pursuant to this subsection may request forgiveness of such  
262 refund if the building is redirected for public use.

263 Sec. 3. Subsection (b) of section 10-66dd of the general statutes is  
264 repealed and the following is substituted in lieu thereof (*Effective July*  
265 *1, 2010*):

266 (b) (1) Subject to the provisions of this subsection and except as may  
267 be waived pursuant to subsection (d) of section 10-66bb, charter  
268 schools shall be subject to all federal and state laws governing public  
269 schools.

270 (2) At least one-half of the persons providing instruction or pupil  
271 services in a charter school shall possess the proper certificate other  
272 than (A) a certificate issued pursuant to subdivision (1) of subsection  
273 (c) of section 10-145b, or (B) a temporary certificate issued pursuant to  
274 subsection (c) of section 10-145f on the day the school begins operation  
275 and the remaining persons shall possess a certificate issued pursuant  
276 to said subdivision (1) or such temporary certificate on such day.

277 (3) The commissioner may not waive the provisions of chapters 163c  
278 and 169 and sections 10-15c, 10-153a to 10-153g, inclusive, 10-153i, 10-  
279 153j, 10-153m and 10-292. On and after July 1, 2012, the commissioner  
280 may not waive the provisions of section 10-145b.

281 (4) The state charter school governing council shall act as a board of  
282 education for purposes of collective bargaining. The school  
283 professionals employed by a local charter school shall be members of  
284 the appropriate bargaining unit for the local or regional school district  
285 in which the local charter school is located and shall be subject to the  
286 same collective bargaining agreement as the school professionals  
287 employed by said district. A majority of those employed or to be  
288 employed in the local charter school and a majority of the members of



The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 11 \$	FY 12 \$
Education, Dept.	GF - Cost	Potential	Potential
Education, Dept.	GO Bonds - Cost	Potential	Potential

Note: GF=General Fund; GOBonds=General Obligation Bonds

**Municipal Impact:** None

**Explanation**

**Section 1** of the bill eliminates the requirement that the State Board of Education (SBE) issue charters for state and local charter schools only within available appropriations. There are currently 18 charter schools within the state. This could result in an additional cost to the state if there are more charter school charters approved. **Section 1** also waives enrollment limits for state charter schools that demonstrate a record of achievement. This could also result in an additional cost if more students are accepted to charter schools, as the state currently provides a grant to charter schools of \$9,300 per student. There are approximately 5,000 students enrolled in charter schools throughout the state.

**Section 2** makes the charter school facility grant program permanent. Under current law the program was only available for FY 08 and FY 09. This could result in significant additional cost to the state if additional bond authorizations are committed for charter schools.

PA 07-7, June Special Session, authorized \$10.0 million in state bonding for FY 08 and FY 09 for the charter school facility grants, of which \$5.0 million has not been allocated.

**Section 3** bars the education commissioner from waiving teacher

certification requirements for charter schools, and is not anticipated to result in a fiscal impact.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****sSB 438*****AN ACT CONCERNING CHARTER SCHOOLS.*****SUMMARY:**

This bill makes several changes in the charter school law. It:

1. eliminates a requirement that, when the State Board of Education (SBE) issues charters for state and local charter schools, it do so only within available appropriations;
2. requires SBE to waive enrollment limits for charter schools whose students show a record of achievement, if the school applies for a waiver;
3. makes the charter school facility grant program permanent; and
4. starting July 1, 2012, bars the education commissioner from waiving certification requirements for charter school teachers and administrators.

**EFFECTIVE DATE:** Upon passage, except for the provision barring certification waivers, which takes effect July 1, 2010.

**STATE BOARD OF EDUCATION AUTHORITY TO ISSUE CHARTERS**

By law, the SBE must review and approve applications for state and local charter schools before the schools may begin operating. Local charter schools are funded by payments negotiated with the local or regional board of education where each of their students lives. State charter schools are funded by a state grant currently set at \$9,300 per student for FY 10 and FY 11 (§ 10-66ee, 2010 CGS Supplement).

The bill eliminates a requirement that, when the SBE issues charters

for state and local charter schools, it do so only within available appropriations. It allows SBE to approve and issue charters to applicants that meet the statutory requirements without taking the state appropriation for operating charter schools into consideration. The bill does not change the charter school funding mechanisms or the state per-student grant.

### **STATE CHARTER SCHOOL ENROLLMENT LIMITS**

The bill requires the SBE to waive enrollment limits for state charter schools that demonstrate a record of student achievement, if the schools apply for the waivers.

Current law limits enrollment in any state charter school to either (1) 250 or, in the case of a K-8 school, 300 students or (2) 25% of the enrollment of the school district where the charter school is located, whichever is less. If a school applies and demonstrates a record of achievement, current law allows the SBE to waive these enrollment requirements, but still limits the school's enrollment to no more than 85 students per grade. The bill eliminates the 85-student-per-grade limit entirely and requires the SBE to waive the overall enrollment limits for high-achieving charter schools that apply for such waivers.

### **CHARTER SCHOOL FACILITY GRANTS**

The bill makes the charter school facility grant program permanent. Under current law, the grant was available only for FY 08 and FY 09. Under the bill, as under current law, grants remain subject to available bond authorizations.

The facility grants help charter schools:

1. renovate, build, buy, extend, replace, or carry out major alterations in their facilities;
2. (a) replace windows, doors, boilers and other heating and ventilation system components, internal communication systems, lockers, and ceilings; (b) upgrade restrooms; (c) replace and upgrade lighting; or (d) install security equipment; and

3. repay debt incurred for school building projects.

PA 07-7, June Special Session, authorized \$10 million in state bonding for FY 08 and FY 09 for the charter school facility grants, of which \$5 million remains unallocated.

## **TEACHER CERTIFICATION REQUIREMENTS**

Current law requires all charter school personnel providing instruction and pupil services to hold teaching certificates. At least half must, on the day the school opens, hold the proper certificates for their positions and the remainder must hold either temporary 90-day certificates or temporary one-year nonrenewable certificates. But current law also authorizes the education commissioner to waive these requirements at the charter school's request.

Starting July 1, 2012, this bill bars the education commissioner from waiving teacher certification requirements for charter schools. The law already prohibits the commissioner from waiving laws regarding state mastery tests, health and sanitation, discrimination in public schools, collective bargaining, and the commissioner's review of final school construction plans.

## **BACKGROUND**

### ***Charter Schools***

A charter school is a nonsectarian public school organized as a nonprofit corporation and operated independently of a local or regional board of education. The SBE grants and renews the charters, usually for five years and, as part of the charter, may waive certain statutory requirements applicable to other public schools. A charter school may enroll students in pre-kindergarten through grade 12 in accordance with its charter.

Charter schools are open to all students, including special education students, though they may limit the geographic areas from which students may attend. If a school has more applicants than spaces, it must admit students through a lottery.

The state currently has 18 charter schools, all of which are state charter schools.

**COMMITTEE ACTION**

Education Committee

Joint Favorable Substitute Change of Reference

Yea 30 Nay 0 (03/24/2010)

Appropriations Committee

Joint Favorable Substitute

Yea 55 Nay 0 (04/01/2010)