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No. 1349

H.P. 967

House of Representatives, April 9, 2013

An Act To Change the Process for Approval of Charter Schools

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative KORNFIELD of Bangor.
Cosponsored by Representatives: DAUGHTRY of Brunswick, MacDONALD of Boothbay,
MASTRACCIO of Sanford, RANKIN of Hiram.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 5 MRSA §12004-G, sub-§10-D**, as amended by PL 2011, c. 570, §1, is
3 further amended to read:

4 **10-D.**

5 Education Maine Charter Expenses Only 20-A MRSA §2405,
6 School Commission ~~sub-§8-§2405-A,~~
7 sub-§6

8 **Sec. 2. 20-A MRSA §2401, sub-§2**, as enacted by PL 2011, c. 414, §5, is
9 amended to read:

10 **2. Authorizer.** "Authorizer" means ~~an entity empowered under this chapter to~~
11 ~~review applications, the Legislature, which shall~~ decide whether to approve or reject
12 ~~applications, enter into charter contracts with applicants, oversee and monitor public~~
13 ~~charter schools and decide whether to renew, not renew or revoke charter contracts to~~
14 create or renew public charter schools or virtual public charter schools as recommended
15 by the commission.

16 **Sec. 3. 20-A MRSA §2401, sub-§3**, as enacted by PL 2011, c. 414, §5, is
17 amended to read:

18 **3. Charter contract.** "Charter contract" means a performance-based contract for a
19 fixed term between a public charter school and ~~an authorizer~~ the commission that
20 describes performance expectations, defines operational responsibilities and outlines the
21 autonomy and accountability for each party to the contract.

22 **Sec. 4. 20-A MRSA §2401, sub-§3-B** is enacted to read:

23 **3-B. Commission.** "Commission" means the Maine Charter School Commission
24 established under Title 5, section 12004-G, subsection 10-D.

25 **Sec. 5. 20-A MRSA §2401, sub-§6**, as enacted by PL 2011, c. 414, §5, is
26 amended to read:

27 **6. Governing board.** "Governing board" means the independent board of a public
28 charter school that is party to the charter contract with ~~the authorizer~~ the commission and
29 whose members have been elected or selected pursuant to the school's application.

30 **Sec. 6. 20-A MRSA §2401, sub-§9, ¶¶C and G**, as enacted by PL 2011, c. 414,
31 §5, are amended to read:

32 C. Is established and operated under the terms of a charter contract between the
33 governing board and ~~its authorizer~~ the commission in accordance with this chapter;

34 G. Operates under the oversight of the ~~authorizer~~ commission from which its charter
35 contract is granted and in accordance with its charter contract.

1 **Sec. 7. 20-A MRSA §2402**, as enacted by PL 2011, c. 414, §5, is amended to
2 read:

3 **§2402. Public charter schools authorized**

4 Charter schools may be established by the Legislature as public schools pursuant to
5 this chapter to improve pupil learning by creating more high-quality schools with high
6 standards for pupil performance; to close achievement gaps between high-performing and
7 low-performing groups of public school students; to increase high-quality educational
8 opportunities within the public education system; to provide alternative learning
9 environments for students who are not thriving in traditional school settings; to create
10 new professional opportunities for teachers and other school personnel; to encourage the
11 use of different, high-quality models of teaching and other aspects of schooling; and to
12 provide students, parents, community members and local entities with expanded
13 opportunities for involvement in the public education system. The Legislature shall
14 develop a strategic vision for public charter schools and communicate this strategic vision
15 to the Maine Charter School Commission, which is charged with recommending
16 establishment or renewal of public charter schools to the Legislature.

17 **Sec. 8. 20-A MRSA §2403, sub-§1**, as enacted by PL 2011, c. 414, §5, is
18 amended to read:

19 **1. Information and technical assistance.** The department shall disseminate
20 information on how to form and operate a public charter school and on how to enroll in a
21 public charter school once the school is created. The department may provide assistance
22 and guidance to ~~authorizers~~ the commission in developing effective authorization and
23 oversight procedures.

24 **Sec. 9. 20-A MRSA §2403, sub-§3, ¶¶A and B**, as enacted by PL 2011, c. 414,
25 §5, are amended to read:

26 A. Providing information and technical assistance to potential and actual public
27 charter school organizers and ~~authorizers~~ the commission; and

28 B. Allocating funds to support the work of ~~potential and actual authorizers~~ the
29 commission.

30 **Sec. 10. 20-A MRSA §2403, sub-§4**, as enacted by PL 2011, c. 414, §5, is
31 repealed.

32 **Sec. 11. 20-A MRSA §2403, sub-§5**, as amended by PL 2011, c. 570, §3, is
33 repealed.

34 **Sec. 12. 20-A MRSA §2403, sub-§7**, as enacted by PL 2011, c. 414, §5, is
35 amended to read:

36 **7. Reports.** Four years after public charter schools have been in operation, the
37 commissioner shall issue to the Governor, the Legislature and the public a report on the
38 State's public charter school program, drawing from the annual reports submitted by
39 ~~every authorizer pursuant to section 2405, subsection 4~~ the commission pursuant to

1 section 2405-A, as well as any additional relevant data compiled by the commissioner up
2 to the school year ending in the preceding calendar year. The report must include an
3 assessment of the public charter school program's successes, challenges and areas for
4 improvement in meeting the purposes of this chapter and any suggested changes in state
5 law or policy necessary to strengthen the public charter school program. The
6 commissioner shall issue a similar report after 8 years of operation of public charter
7 schools.

8 **Sec. 13. 20-A MRSA §2404, sub-§2, ¶¶D and E,** as enacted by PL 2011, c.
9 414, §5, are amended to read:

10 D. For a school administrative unit with an enrollment of 500 or fewer students, a
11 public charter school, ~~unless authorized by a school administrative unit,~~ may not
12 enroll more than 5% of a school administrative unit's noncharter public school
13 students per grade level in each of the first 3 years of the public charter school's
14 operation.

15 E. For a school administrative unit with an enrollment of more than 500 students, a
16 public charter school, ~~unless authorized by a school administrative unit,~~ may not
17 enroll more than 10% of a school administrative unit's noncharter public school
18 students per grade level in each of the first 3 years of the public charter school's
19 operation.

20 **Sec. 14. 20-A MRSA §2405,** as amended by PL 2011, c. 570, §§4 to 8, is
21 repealed.

22 **Sec. 15. 20-A MRSA §2405-A** is enacted to read:

23 **§2405-A. Maine Charter School Commission**

24 **1. Powers and duties.** The Maine Charter School Commission, as established in
25 Title 5, section 12004-G, subsection 10-D, is empowered under this chapter to review
26 applications to establish or renew public charter schools or virtual public charter schools
27 in the State. The commission may recommend that the Legislature authorize public
28 charter schools or virtual public charter schools. The commission shall enter into charter
29 contracts with authorized charter schools, oversee and monitor public charter schools and
30 decide whether to recommend to the authorizer that a charter school's contract be
31 renewed or not renewed or revoked. The commission also may:

32 A. Solicit, invite and evaluate applications from organizers of proposed public
33 charter schools;

34 B. Recommend approval of applications that meet identified educational needs;

35 C. Recommend denial of applications that do not meet identified educational needs;

36 D. Create a framework to guide the development of charter contracts;

37 E. Negotiate and execute sound charter contracts with each approved public charter
38 school;

1 F. Monitor the performance of public charter schools and their compliance with their
2 contracts; and

3 G. Determine whether each charter contract merits renewal or revocation.

4 **2. Principles and professional standards.** The commission shall develop and
5 maintain policies and practices consistent with nationally recognized principles and
6 professional standards for authorizing public charter schools, including standards relating
7 to:

8 A. Organizational capacity and infrastructure;

9 B. Soliciting and evaluating applications;

10 C. Performance contracting;

11 D. Ongoing public charter school oversight and evaluation; and

12 E. Charter renewal decision making.

13 **3. Reporting and evaluation.** The commission shall submit to the commissioner an
14 annual report within 60 days of the end of each school fiscal year summarizing:

15 A. The authorizer's strategic vision for chartering and progress toward achieving that
16 vision;

17 B. The performance of all operating public charter schools overseen by the
18 commission, according to the performance measures and expectations specified in the
19 charter contracts;

20 C. The status of the authorizer's public charter school portfolio of approved charter
21 applications, identifying all public charter schools within that portfolio as:

22 (1) Approved, but not yet open;

23 (2) Operating;

24 (3) Renewed;

25 (4) Transferred;

26 (5) Terminated;

27 (6) Closed; or

28 (7) Never opened;

29 D. The oversight and services provided by the commission to the public charter
30 schools under the commission's purview; and

31 E. The total amount of funds collected from each public charter school and the costs
32 incurred by the commission to oversee each public charter school.

33 **4. Funding of oversight.** To cover costs for overseeing public charter schools in
34 accordance with this chapter, the commission may:

35 A. Expend its own resources, seek grant funds and establish partnerships to support
36 its staff and activities; and

1 B. Charge up to 3% of annual per-pupil allocations received by each authorized
2 public charter school. These funds must be used to cover the costs for the
3 commission to oversee public charter schools and virtual public charter schools.

4 5. Conflicts of interest. An employee, trustee, agent or representative of the
5 commission may not simultaneously serve as an employee, trustee, agent, representative,
6 vendor or contractor of a public charter school.

7 6. Commission membership. The commission comprises 7 members appointed by
8 the state board for 3-year terms. The commission shall elect a chair and such other
9 officers as may be necessary to conduct its business. Four members constitute a quorum.

10 A. Three commission members must be members of the state board and appointed by
11 a majority vote of the state board, and those 3 members shall nominate the other 4
12 members, who must be appointed by a majority vote of the state board.

13 B. Commission members must have diverse professional experience in education,
14 social services, youth training, business startup and administration, accounting and
15 finance, strategic planning and nonprofit governance. The following provisions
16 apply to the appointment of the 4 members nominated and appointed by state board
17 members pursuant to paragraph A:

18 (1) In appointing members to the commission, the state board shall give proper
19 consideration to candidates with experience in a noncharter public school in the
20 State in one of the following positions: school board member, superintendent,
21 teacher and special education director;

22 (2) The state board shall ensure that the joint standing committee of the
23 Legislature having jurisdiction over education matters has an opportunity to meet
24 and interview the candidate or candidates nominated for the commission;

25 (3) Within 10 days of meeting with the candidate or candidates, the joint
26 standing committee of the Legislature having jurisdiction over education matters
27 shall deliver to the state board its written appraisal of the strengths and
28 weaknesses of the candidate or candidates; and

29 (4) The state board shall consider the appraisal of the joint standing committee of
30 the Legislature having jurisdiction over education matters prior to appointing a
31 candidate or candidates to the commission.

32 C. A commission member may not serve more than 3 consecutive terms, but may
33 serve again after not serving on the commission for at least one term.

34 D. A commission member may not receive compensation, but may be reimbursed for
35 expenses.

36 E. A commission member who is a member of the state board serves on the
37 commission only during that person's membership on the state board. Upon
38 expiration of that person's state board membership, the position on the commission
39 becomes vacant and must be filled in the manner provided for filling vacancies on the
40 state board. The term of a member who is appointed by the state board and reviewed
41 by the joint standing committee of the Legislature having jurisdiction over education
42 matters ends on June 30th of the final year of the member's term.

1 F. A vacancy on the commission must be filled in the same manner as the position in
2 which the vacancy occurs is regularly filled, including, if applicable, a review by the
3 joint standing committee of the Legislature having jurisdiction over education
4 matters. A vacancy is filled for the remainder of the unexpired term. If the person
5 serves more than 1 1/2 years of an unexpired term, that service counts as one term for
6 purposes of the limitation set forth in paragraph C.

7 G. A commission member may be removed for failure to perform the duties of
8 office, as specified in commission rules, by a majority vote of the state board.

9 **7. Rules.** The commission shall adopt rules for the organization and operation of the
10 commission and to develop, implement and refine its procedures for recommending the
11 approval or denial by the authorizer of public charter schools. Rules adopted by the
12 commission pursuant to this subsection before June 30, 2014 are routine technical rules
13 pursuant to Title 5, chapter 375, subchapter 2-A. Beginning June 30, 2014, rules adopted
14 by the commission pursuant to this subsection are major substantive rules pursuant to
15 Title 5, chapter 375, subchapter 2-A.

16 **8. Staff and funding.** The commission, in keeping with its responsibilities to review
17 and recommend to the authorizer approval of public charter schools and virtual public
18 charter schools, shall:

19 A. Engage professional and administrative staff, separate from the department;

20 B. Convene stakeholder groups and engage experts; and

21 C. Seek and receive state, federal and private funds.

22 **9. Online and on-site instruction.** The commission may recommend authorization
23 of a public charter school within a specific jurisdiction that integrates online and on-site
24 instruction.

25 **10. Transition period.** The public charter school program set out in this chapter
26 must begin with a 10-year transition period, beginning on the effective date of this
27 chapter. During the transition period, the commissioner shall register the charters
28 approved by the authorizer in chronological order by date of approval under this chapter.
29 During the transition period, only 10 public charter schools may be approved. A charter
30 contract must be issued for each of those schools by the commission.

31 This subsection is repealed July 1, 2022.

32 **Sec. 16. 20-A MRSA §2406, sub-§1,** as enacted by PL 2011, c. 414, §5, is
33 amended to read:

34 **1. Issuance.** To invite, solicit, encourage and guide the development of high-quality
35 public charter school applications, ~~an authorizer~~ the commission shall issue and broadly
36 publicize requests for proposals. The content and dissemination of the requests for
37 proposals must be consistent with the purposes and requirements of this chapter.

38 **Sec. 17. 20-A MRSA §2406, sub-§2,** as amended by PL 2011, c. 570, §9, is
39 further amended to read:

1 **2. Content.** ~~An authorizer's~~ The commission's request for proposals must contain
2 information outlined in this subsection.

3 A. A request for proposals must present the authorizer's strategic vision for ~~and~~
4 ~~interests in~~ chartering.

5 B. ~~Authorizers~~ The commission may give priority to proposals that expand
6 opportunities for children who are not realizing their full potential, who may be
7 disaffected or disengaged in their current education situations and who may be at risk
8 of failure academically, socially, economically or personally. ~~Authorizers~~ The
9 commission may encourage proposals that include a specific academic approach or
10 theme to address the diverse educational needs of communities in the State. A
11 request for proposals must include a clear statement of how the proposal relates to
12 any priority or preference the authorizer wishes to grant to particular types of
13 applications. ~~Notwithstanding an authorizer's statement of any priority or preference,~~
14 ~~an authorizer~~ The commission shall consider each application submitted to it based
15 on the merits of that particular application.

16 C. A request for proposals must include or otherwise direct applicants to the
17 performance framework that the ~~authorizer~~ commission has developed for public
18 charter school oversight and evaluation in accordance with section 2409.

19 D. A request for proposals must include the criteria and standards that will guide the
20 ~~authorizer's~~ commission's decision to ~~approve or deny~~ recommend approval or denial
21 of an application.

22 E. A request for proposals must state clear, appropriately detailed questions as well
23 as guidelines concerning the format and content essential for applicants to
24 demonstrate the capacities necessary to establish and operate a successful public
25 charter school.

26 F. A request for proposals must require applications to provide or describe
27 thoroughly, at a minimum, all of the following essential elements of the proposed
28 public charter school plan:

29 (1) The proposed public charter school's vision, including:

30 (a) An executive summary;

31 (b) The mission and vision of the proposed public charter school, including
32 identification of the targeted student population and the community the
33 school hopes to serve; and

34 (c) Evidence of need and community support for the proposed public charter
35 school, including information on discussions with the school administrative
36 unit where the public charter school will be located concerning recruitment
37 and operations of the public charter school and possible collaboration with
38 nearby school administrative units;

39 (2) The proposed public charter school's governance plan, including:

40 (a) Background information on proposed board members and any assurances
41 or certifications required by the ~~authorizer~~ commission;

- 1 (b) Proposed governing bylaws;
- 2 (c) An organization chart that clearly presents the school's organizational
3 structure, including lines of authority and reporting between the governing
4 board, staff and any related bodies such as advisory bodies or parent and
5 teacher councils, and any external organizations that will play a role in
6 managing the school;
- 7 (d) A clear description of the roles and responsibilities for the governing
8 board, the school's leadership and management team and any other entities
9 shown on the organization chart;
- 10 (e) Identification of the proposed founding governing board members and, if
11 identified, the proposed school leader or leaders; and
- 12 (f) Background information on the school's leadership and management team,
13 if identified;
- 14 (3) The proposed public charter school's plan of organization, including:
- 15 (a) The location or geographic area of the school and the proposed
16 catchment area of the school, which may not be designed to exclude areas
17 with high rates of poverty, English language learners, at-risk students or
18 students with disabilities;
- 19 (b) The grades to be served each year for the full term of the charter;
- 20 (c) Minimum, planned and maximum enrollment per grade per year for the
21 term of the charter;
- 22 (d) The school's proposed calendar and sample daily schedule;
- 23 (e) Plans and timelines for student recruitment and enrollment, including
24 lottery procedures;
- 25 (f) Explanations of any partnerships or contractual relationships central to
26 the school's operations or mission;
- 27 (g) The school's proposals for providing transportation, food service and
28 other significant operational or ancillary services;
- 29 (h) A facilities plan, including backup or contingency plans if appropriate;
- 30 (i) A detailed school start-up plan, identifying tasks, timelines and
31 responsible individuals; and
- 32 (j) A closure protocol, outlining orderly plans and timelines for transitioning
33 students and student records to new schools and for appropriately disposing
34 of school funds, property and assets in the event of school closure;
- 35 (4) The proposed public charter school's finances, including:
- 36 (a) A description of the school's financial plan and policies, including
37 financial controls and audit requirements;
- 38 (b) Start-up and 3-year budgets with clearly stated assumptions;

- 1 (c) Start-up and first-year cash-flow projections with clearly stated
2 assumptions;
- 3 (d) Evidence of anticipated fund-raising contributions, if claimed in the
4 application; and
- 5 (e) A description of the insurance coverage the school proposes to obtain;
- 6 (5) The proposed public charter school's student policy, including:
- 7 (a) The school's plans for identifying and successfully serving students with
8 the wide range of learning needs and styles typically found in noncharter
9 public schools of the sending area;
- 10 (b) The school's plans for compliance with applicable laws, rules and
11 regulations; and
- 12 (c) The school's student discipline plans and policies, including those for
13 special education students;
- 14 (6) The proposed public charter school's academic program, including:
- 15 (a) A description of the academic program aligned with the statewide system
16 of learning results under section 6209;
- 17 (b) A description of the school's instructional design, including the type of
18 learning environment, such as classroom-based or independent study, class
19 size and structure, curriculum overview, teaching methods and research
20 basis;
- 21 (c) The school's plan for using internal and external assessments to measure
22 and report student progress on the measures and metrics of the performance
23 framework developed by the ~~authorizer~~ commission in accordance with
24 section 2409; and
- 25 (d) A description of cocurricular or extracurricular programs and how they
26 will be funded and delivered; and
- 27 (7) The proposed public charter school's staff policy, including:
- 28 (a) A staffing chart for the school's first year and a staffing plan for the term
29 of the charter;
- 30 (b) Plans for recruiting and developing school leadership and staff;
- 31 (c) The school's leadership and teacher employment policies, including
32 performance evaluation plans; and
- 33 (d) Opportunities and expectations for parent involvement.
- 34 G. With respect to the conversion of an existing noncharter public school to public
35 charter school status, in addition to the other requirements of this subsection, the
36 request for proposals must require applicants to demonstrate support for the proposed
37 conversion public charter school by submitting 2 petitions, one signed by a majority
38 of teachers in the existing noncharter public school and the other signed by a majority
39 of parents of students in the existing noncharter public school.

1 If the school to be converted is the only public school option for students in the
2 school administrative unit, the request for proposals must additionally require that the
3 conversion be approved by voters in that school administrative unit.

4 H. With respect to a proposed public charter school that intends to contract with an
5 education service provider for a limited scope of education or management services,
6 in addition to the other requirements of this subsection, the request for proposals must
7 require applicants to:

- 8 (1) Explain how and why the education service provider was selected;
- 9 (2) Provide evidence of the education service provider's success in serving
10 student populations similar to the targeted population, including demonstrated
11 academic achievement as well as successful management of nonacademic school
12 functions if applicable;
- 13 (3) Provide information on the proposed duration of the service contract; roles
14 and responsibilities; scope of services and resources to be provided by the
15 education service provider; performance evaluation measures and timelines;
16 compensation structure, including clear identification of all fees to be paid to the
17 education service provider; methods of contract oversight and enforcement;
18 investment disclosure; and conditions for renewal and termination of the contract;
- 19 (4) Provide a draft of the proposed service contract;
- 20 (5) Explain the relationship between the governing board, the school's leadership
21 and management team and the education service provider, specifying how the
22 governing board and the school's leadership and management team will monitor
23 and evaluate the performance of the education service provider, the internal
24 controls that will guide the relationship and how the governing board and the
25 school's leadership and management team will ensure fulfillment of performance
26 expectations;
- 27 (6) Provide a statement of assurance that the governing board and the school's
28 leadership and management team is legally and operationally independent from
29 the education service provider; and
- 30 (7) Disclose and explain any existing or potential conflicts of interest between
31 the governing board, the school's leadership and management team and the
32 education service provider or any affiliated business entities.

33 Nothing in this paragraph prohibits a virtual public charter school from entering into
34 a contract with an education service provider for education design, implementation or
35 comprehensive management of the virtual public charter school program.

36 **Sec. 18. 20-A MRSA §2407**, as enacted by PL 2011, c. 414, §5, is amended to
37 read:

38 **§2407. Charter applications**

39 **1. Application.** An applicant for approval as a public charter school must submit an
40 application as set out in this section. An applicant may submit an application only ~~to an~~
41 ~~authorizer that~~ when the commission has issued a request for proposals in accordance

1 with section 2406. ~~An applicant may submit a proposal for a particular public charter~~
2 ~~school to no more than one authorizer at a time.~~ The purposes of the application are to
3 present the proposed public charter school's academic and operational vision and plans,
4 demonstrate the applicant's capacities to execute the proposed vision and plans and
5 provide the ~~authorizer~~ commission a clear basis for assessing the applicant's plans and
6 capacities.

7 ~~**2. Conversion of existing noncharter public schools.** A noncharter public school~~
8 ~~or public school program may apply to its local school board to become a conversion~~
9 ~~public charter school.~~

10 **3. Start-up schools.** An application for a start-up public charter school may be
11 submitted by a nonprofit, nonreligious organization. If the organizers of a start-up public
12 charter school have been affiliated with a previous school or education program, they
13 must form a separate nonprofit organization in this State to be eligible for state and
14 federal grants.

15 **4. Application review process.** In reviewing and evaluating applications,
16 ~~authorizers~~ the commission shall employ procedures, practices, criteria and standards
17 consistent with nationally recognized principles and standards for authorizing high-
18 quality public charter schools.

19 A. The application review process must include, at a minimum, substantive
20 participation by a team of reviewers who collectively possess appropriate academic
21 expertise and operational experience with public charter schools.

22 B. The application review process must include a thorough evaluation of each
23 application, an in-person interview with the applicant and a public hearing.

24 C. In deciding whether to ~~approve~~ recommend approval of applications, ~~authorizers~~
25 the commission shall:

26 (1) ~~Grant~~ Recommend granting charters ~~only~~ to applicants that have
27 demonstrated competence in each element of the ~~authorizer's~~ commission's
28 published approval criteria and are likely to open and operate a successful public
29 charter school;

30 (2) Base decisions on documented evidence collected through the application
31 review process; and

32 (3) Follow charter-granting policies and practices that are transparent, based on
33 merit and avoid conflicts of interest or any appearance of a conflict of interest.

34 **5. Approval; denial.** No later than 90 days after the filing of an application, ~~an~~
35 ~~authorizer~~ the commission shall decide ~~whether to approve or deny~~ recommend approval
36 or denial of the application. The ~~authorizer~~ commission shall make and announce all
37 charter approval or denial ~~decisions~~ recommendations in a meeting open to the public.

38 The commission shall submit its recommendations to the Legislature within 10 business
39 days of the announcement under this subsection.

- 1 A. An approval ~~decision~~ recommendation may include, if appropriate, reasonable
2 conditions that the applicant must meet before a charter contract may be executed.
- 3 B. If the ~~authorizer denies~~ commission recommends rejection of an application, the
4 ~~authorizer~~ commission shall clearly state, for public record, its reasons for
5 recommending denial. ~~An~~ If the authorizer adopts the commission's recommendation
6 for denial, an applicant may subsequently reapply to ~~that authorizer or apply to any~~
7 ~~other authorizer in the State~~ the commission.
- 8 C. Within 10 days of taking action to ~~approve or deny~~ recommend approval or denial
9 of an application, the ~~authorizer~~ commission shall report to the commissioner the
10 ~~action it has taken~~ recommendation it has made. The ~~authorizer~~ commission shall
11 provide a copy of the report to the applicant at the same time that the report is
12 submitted to the commissioner.
- 13 D. The commissioner shall register the charters approved by ~~all chartering authorities~~
14 the authorizer in chronological order by date of approval.
- 15 E. An approved application may not serve as a school's charter contract nor may it be
16 incorporated by reference into the charter contract.
- 17 F. ~~A~~ The commission shall provide to the applicant in writing the decision on an
18 application ~~must be conveyed in writing to the applicant by the authorizer~~. ~~A~~
19 ~~decision may grant approval or conditional approval, request resubmission or reject~~
20 ~~the application and must include written reasons for the decisions~~.

21 **Sec. 19. 20-A MRS §2408, sub-§1**, as amended by PL 2011, c. 570, §10, is
22 further amended to read:

23 **1. Charter contracts.** When an application is approved by the authorizer, a charter
24 contract must be executed in accordance with this section.

- 25 A. After approval of an application and no later than 60 days prior to the opening
26 date of the public charter school, the ~~authorizer~~ commission and the governing board
27 shall execute a charter contract that sets forth:
- 28 (1) Performance provisions describing the academic and operational
29 performance expectations and measures by which the public charter school will
30 be judged;
- 31 (2) Administrative provisions articulating the administrative relationship
32 between the ~~authorizer~~ commission and the public charter school, including each
33 party's rights and duties; and
- 34 (3) A description of the standards and processes under which the ~~authorizer~~
35 commission may pursue revocation of the charter contract.
- 36 B. The performance provisions set forth in a charter contract under paragraph A must
37 include but need not be limited to applicable federal and state accountability
38 requirements.
- 39 C. The performance provisions set forth in a charter contract under paragraph A may
40 be refined or amended by mutual agreement of the parties to the charter contract after

1 the public charter school is operating and has collected baseline achievement data for
2 its enrolled students.

3 D. A charter contract must be signed by a designated representative of the ~~authorizer~~
4 commission and of the public charter school's governing board.

5 E. A public charter school may not commence operations without a charter contract
6 executed in accordance with this section and approved in a meeting open to the
7 public.

8 **Sec. 20. 20-A MRSA §2409, sub-§§1 and 3**, as enacted by PL 2011, c. 414, §5,
9 are amended to read:

10 **1. Performance framework.** The performance provisions of a charter contract must
11 be based on a performance framework developed by the ~~authorizer~~ commission that sets
12 forth the academic and operational performance indicators that will guide the ~~authorizer's~~
13 commission's evaluations of each public charter school.

14 **3. Annual performance targets.** Annual performance targets must be set by a
15 public charter school in conjunction with ~~its authorizer~~ the commission and must be
16 designed to help each school meet applicable federal and state requirements and
17 authorizer expectations.

18 **Sec. 21. 20-A MRSA §2410**, as amended by PL 2011, c. 570, §11, is further
19 amended to read:

20 **§2410. Oversight**

21 **1. Data collection; monitoring.** For each public charter school it oversees, the
22 ~~authorizer~~ commission is responsible for collecting, analyzing and reporting all data from
23 state assessments in accordance with the performance framework developed under
24 section 2409, subsection 1. ~~An authorizer~~ The commission shall monitor the performance
25 and legal compliance of the public charter schools it oversees, including collecting and
26 analyzing all data to support ongoing evaluation according to the charter contract.

27 **2. Notification of unsatisfactory performance or compliance.** In the event that a
28 public charter school's performance or legal compliance appears unsatisfactory, the
29 ~~authorizer~~ commission shall promptly provide written notice to the public charter school
30 of perceived problems and provide reasonable opportunity for the school to remedy the
31 problems.

32 **Sec. 22. 20-A MRSA §2411**, as amended by PL 2011, c. 570, §12, is further
33 amended to read:

34 **§2411. Charter term and renewal**

35 **1. Initial charter term.** The term for an initial charter may not commence before
36 July 1, 2012. An initial charter must be granted for a term of 5 operating years. The
37 charter term commences on the public charter school's first day of operation. An
38 approved public charter school may delay its opening for one school year in order to plan
39 and prepare for the school's opening. If the public charter school requires an opening

1 delay of more than one school year, the public charter school must request an extension
2 from ~~its authorizer~~ the commission. The ~~authorizer~~ commission may grant or deny the
3 extension depending on the particular public charter school's circumstances.

4 **2. Charter renewal term.** A charter may be renewed for successive terms of 5
5 years, although ~~an~~ the commission with the express approval of the authorizer may grant
6 a renewal for a term not to exceed 15 years based on the performance, demonstrated
7 capacities and particular circumstances of each public charter school. If a charter is
8 renewed for more than 5 years, the ~~authorizer~~ commission shall still issue a public charter
9 school performance report every 5 years as called for by subsection 3. ~~An~~ The authorizer
10 may grant renewal with specific conditions for necessary improvements to a public
11 charter school.

12 **3. Commission renewal responsibilities.** No later than June 30th of a public
13 charter school's 4th year of operation under each 5-year term of a charter contract, the
14 ~~authorizer~~ commission shall issue a public charter school performance report. If the
15 charter of the public charter school is expiring, the ~~authorizer~~ commission shall offer
16 charter renewal application guidance to the school.

17 A. The performance report required in this subsection must summarize the public
18 charter school's performance record to date, based on the data required by this chapter
19 and the charter contract, and must provide notice of any weaknesses or concerns
20 perceived by the ~~authorizer~~ commission concerning the school that may jeopardize its
21 position in seeking renewal if not timely rectified. The school must be given the
22 opportunity to respond to the performance report and submit any corrections or
23 clarifications for the report.

24 B. The renewal application guidance required by this subsection must include or
25 refer explicitly to the criteria and standards that will guide the ~~authorizer's~~
26 commission's renewal ~~decisions~~ recommendations, which must be based on the
27 performance framework under section 2409 set forth in the charter contract and
28 consistent with this chapter. The renewal application guidance must, at a minimum,
29 require and provide an opportunity for the public charter school to:

- 30 (1) Present additional evidence, beyond the data contained in the performance
31 report, supporting its case for charter renewal;
- 32 (2) Describe improvements undertaken or planned for the school; and
- 33 (3) Detail the school's plans for the next charter term.

34 **4. Renewal application.** No later than September 30th of a public charter school's
35 5th year of operation under a term of a charter contract or September 30th of a public
36 charter school's final authorized year of operation under a term of a charter contract, the
37 governing board of a public charter school seeking renewal shall submit a renewal
38 application to the ~~authorizer~~ commission pursuant to any renewal application guidance
39 offered by the ~~authorizer~~ commission under subsection 3.

40 **5. Renewal decision.** ~~An authorizer~~ The commission shall ~~rule by resolution~~ make a
41 recommendation on a renewal application under this section no later than 45 days after

1 the filing of the renewal application. In making charter renewal ~~decisions~~
2 recommendations, every authorizer the commission shall:

3 A. Ground its ~~decisions~~ recommendations in evidence of the public charter school's
4 performance over the term of the charter in accordance with the performance
5 framework under section 2409 set forth in the charter contract;

6 B. Ensure that data used in making renewal decisions are available to the public
7 charter school and the public; ~~and~~

8 C. Provide a public report summarizing the evidence basis for each ~~decision-~~
9 recommendation; and

10 D. Report its recommendations to the Executive Director of the Legislative Council
11 along with proposed legislation, if necessary, to effect the recommendations. The
12 report to the Executive Director of the Legislative Council must be made no later
13 than 10 days after the commission makes its recommendation on the renewal
14 application.

15 **6. Charter revocation and nonrenewal.** A decision by ~~an~~ the authorizer to revoke
16 or not to renew the charter of a public charter school must be made in accordance with
17 this subsection.

18 A. A charter may be revoked at any time or not renewed if the authorizer determines
19 that the public charter school failed to comply with the provisions of this chapter or:

20 (1) Committed a material violation of any of the terms, conditions, standards or
21 procedures required under this chapter or the charter contract;

22 (2) Failed to meet or make sufficient progress toward the performance
23 expectations set forth in the charter contract;

24 (3) Failed to meet generally accepted standards of fiscal management; or

25 (4) Violated any provision of law from which the school was not exempted.

26 ~~B. If an authorizer revokes or does not renew a charter, the authorizer shall clearly~~
27 ~~state, in a resolution of its governing entity, the reasons for the revocation or~~
28 ~~nonrenewal.~~

29 C. The ~~authorizer~~ commission shall include in the charter contract a description of
30 the standards and processes under which the ~~authorizer~~ commission may pursue
31 revocation of the charter contract. The processes must comply with section 2410,
32 subsection 2 and provide an opportunity for the public charter school to be heard
33 prior to a decision on revocation.

34 ~~7. Notification to commissioner.~~ Within 10 days of taking action to renew, not
35 ~~renew or revoke a charter under this section, the authorizer shall report to the~~
36 ~~commissioner the action taken and shall provide a copy of the report to the public charter~~
37 ~~school at the same time that the report is submitted to the commissioner. The report must~~
38 ~~include a copy of the governing entity of the authorizer's resolution setting forth the~~
39 ~~action taken and reasons for the decision.~~

40 **8. School closure and dissolution.** If a public charter school closes for any reason:

1 A. The ~~authorizer~~ commission shall oversee and work with the closing public charter
2 school to ensure timely notification to parents, orderly transition of students and
3 student records to new schools and proper disposition of school funds, property and
4 assets in accordance with the requirements of this chapter; and

5 B. The assets of the public charter school must be distributed first to satisfy
6 outstanding payroll obligations for employees of the public charter school and then to
7 creditors of the public charter school. Any remaining funds must be paid to the
8 Treasurer of State to the credit of the General Fund. If the assets of the public charter
9 school are insufficient to pay all parties to whom the public charter school owes
10 compensation, the prioritization of the distribution of assets may be determined by
11 decree of a court of law.

12 ~~9. Charter transfers. A charter contract and its oversight may not be transferred~~
13 ~~from one authorizer to another before the expiration of the charter contract term except by~~
14 ~~mutual agreement of all parties.~~

15 **Sec. 23. 20-A MRSA §2412, sub-§1, ¶B**, as enacted by PL 2011, c. 414, §5, is
16 amended to read:

17 B. A charter contract may include one or more schools, to the extent approved by the
18 ~~authorizer~~ commission and consistent with applicable law. Each public charter
19 school that is part of a charter contract must be separate and distinct from any others.

20 **Sec. 24. 20-A MRSA §2412, sub-§2**, as enacted by PL 2011, c. 414, §5, is
21 amended to read:

22 **2. Local educational agency status.** The following provisions govern the status of
23 public charter schools as local educational agencies.

24 A. In the case of a public charter school ~~authorized~~ requested by a local school
25 board:

26 (1) The school administrative unit in which the public charter school is located
27 remains the local educational agency and the public charter school is a school
28 within that local educational agency;

29 (2) The public charter school receives services, resources and support in the
30 same manner as other school administrative unit noncharter public schools,
31 except that the public charter school is treated as a local educational agency for
32 purposes of applying for competitive federal grants; and

33 (3) The school administrative unit retains responsibility for special education and
34 serves students in public charter schools in a manner consistent with local
35 educational agency obligations under applicable federal, state and local law and
36 the charter contract.

37 B. In the case of a public charter school ~~authorized by the commission~~ other than one
38 requested under paragraph A:

39 (1) The public charter school functions for all purposes as a local educational
40 agency and is a school administrative unit independent of the school

1 administrative unit in which the school is located. School administrative unit
2 status does not preclude a public charter school from developing links to local
3 school districts for services, resources and programs, by mutual agreement or by
4 formal contract;

5 (2) To the extent permitted by federal, state or local laws, the public charter
6 school is responsible for meeting the requirements of local educational agencies
7 under applicable federal, state and local laws, including those relating to special
8 education, receipt of funds and compliance with funding requirements; and

9 (3) To the extent permitted by federal, state or local laws, the public charter
10 school has primary responsibility for special education at the school, including
11 identification and provision of service, and is responsible for meeting the needs
12 of enrolled students with disabilities.

13 **Sec. 25. 20-A MRSA §2412, sub-§3, ¶E**, as enacted by PL 2011, c. 414, §5, is
14 amended to read:

15 E. Incur debt in reasonable anticipation of the receipt of public or private funds,
16 except that ~~an~~ the authorizer is not responsible for any debt incurred by the public
17 charter school;

18 **Sec. 26. 20-A MRSA §2412, sub-§4, ¶E**, as enacted by PL 2011, c. 414, §5, is
19 amended to read:

20 E. The powers, obligations and responsibilities set forth in a charter contract may not
21 be delegated or assigned by either party, ~~except as provided in section 2411,~~
22 ~~subsection 9.~~

23 **Sec. 27. 20-A MRSA §2412, sub-§5, ¶B**, as enacted by PL 2011, c. 414, §5, is
24 amended to read:

25 B. Public charter schools are subject to the same student assessment and
26 accountability requirements applicable to other noncharter public schools in the State,
27 but nothing in this chapter precludes a public charter school from establishing
28 additional student assessment measures that go beyond state requirements if the
29 ~~school's authorizer~~ commission approves such measures.

30 **Sec. 28. 20-A MRSA §2412-A, sub-§1**, as enacted by PL 2011, c. 570, §18, is
31 amended to read:

32 **1. External audit.** A public charter school shall adhere to generally accepted
33 accounting principles and shall annually engage an external auditor to do an independent
34 audit of the public charter school's finances. The public charter school shall submit the
35 audit to ~~its authorizer~~ the commission and to the department. The audit must include the
36 following:

37 A. An accounting of all revenues and expenditures;

38 B. A determination of whether proper budgetary controls are in place;

1 C. A determination of whether the annual financial data submitted to the ~~authorizer~~
2 commission and to the department is correct;

3 D. An audit of any federal programs in accordance with applicable federal law; and

4 E. Any other information that the commissioner requires.

5 **Sec. 29. 20-A MRSA §2413, sub-§2, ¶A**, as amended by PL 2011, c. 679, §2, is
6 further amended to read:

7 A. For each public charter school student, the school administrative unit in which the
8 student resides must forward the per-pupil allocation to the public charter school
9 attended by the student as follows.

10 (1) The per-pupil allocation amount is the EPS per-pupil rate for the school
11 administrative unit in which the student resides, as calculated pursuant to section
12 15676, based on the student's grade level and adjusted as appropriate for
13 economic disadvantage and limited English proficiency pursuant to section
14 15675, subsections 1 and 2. Debt service and capital outlays may not be included
15 in the calculation of these per-pupil allocations. The department shall adopt rules
16 governing how to calculate these per-pupil allocations, including those for career
17 and technical education programs, targeted funds for assessment technology and
18 kindergarten to grade 2 programs.

19 (2) For students attending public charter schools, the school administrative unit
20 of residence shall forward the per-pupil allocations described in subparagraph (1)
21 directly to the public charter school attended. These per-pupil allocations must
22 be forwarded to each public charter school on a quarterly basis, as follows. For
23 each fiscal year, allocations must be made in quarterly payments on September
24 1st, December 1st, March 1st and June 1st. The September payment must be
25 based on the number of students enrolled or anticipated to be enrolled in the
26 public charter school at the opening of school for that school year, which may not
27 exceed the maximum enrollment approved in the charter contract for that year
28 unless a waiver is obtained from the ~~authorizer~~ commission. In February of the
29 school year, if the number of students is higher or lower than the number of
30 students at the beginning of the school year, adjustments must be made in the
31 June payment, with 50% of the annual per-pupil allocation added for additional
32 students or subtracted if the total number of students is lower.

33 (3) For transportation expenses, the average per-pupil expense in each school
34 administrative unit of residence must be calculated and an amount equal to a
35 proportion, up to but not more than 100%, of that per-pupil allocation amount
36 must be forwarded to the public charter school attended on the same basis as the
37 per-pupil allocations for operating funds. The percentage of that per-pupil
38 expense must be determined by the ~~authorizer of the public charter school~~
39 commission and must be based on the cost of transportation services provided by
40 the public charter school to the student.

41 (4) The department shall pay to the public charter school any additional
42 allocation assigned to the public charter school for gifted and talented students

1 pursuant to section 15681-A, subsection 5 in the year in which the allocation is
2 assigned.

3 A school administrative unit is not required to send funds to a public charter school
4 for a student enrolled in the public charter school's preschool or prekindergarten
5 program if the school administrative unit of the student's residence does not offer that
6 program to its own residents.

7 **Sec. 30. 20-A MRSA §2413, sub-§2, ¶B**, as amended by PL 2011, c. 570, §19,
8 is further amended to read:

9 B. The following provisions govern special education funding.

10 (1) For each enrolled special education pupil, a public charter school must
11 receive the average additional allocation calculated by the department under
12 section 15681-A, subsection 2 for each school administrative unit for its special
13 education students. These allocations must be paid on the same basis as the per-
14 pupil allocations for operating funds.

15 (2) The school administrative unit of residence shall pay directly to the public
16 charter school any federal or state aid attributable to a student with a disability
17 attending the public charter school in proportion to the level of services for the
18 student with a disability that the public charter school provides directly or
19 indirectly.

20 (3) The department shall pay to the public charter school any additional
21 allocation assigned to the public charter school because of a high-cost in-district
22 placement in accordance with section 15681-A, subsection 2, paragraph B in the
23 year in which the allocation is assigned.

24 (4) The school administrative unit of residence shall pay to the public charter
25 school any additional allocation assigned to the unit because of a high-cost out-
26 of-district placement in accordance with section 15681-A, subsection 2,
27 paragraph C in the year in which the allocation is assigned to the school
28 administrative unit.

29 (5) If the public charter school in which the student is enrolled was ~~authorized~~
30 requested by a local school board or a collaborative of local school boards, the
31 funds under this paragraph must be paid to the local school board ~~that authorized~~
32 ~~the public charter school~~ or to the designated school board of the collaborative,
33 rather than directly to the public charter school. The local school board or boards
34 ~~that authorized the charter school~~ are responsible for ensuring that special
35 education services are provided to students in that school, pursuant to section
36 2412, subsection 2, paragraph A.

37 **Sec. 31. 20-A MRSA §2413, sub-§2, ¶C**, as enacted by PL 2011, c. 414, §5, is
38 amended to read:

39 C. Except as otherwise provided in this chapter, the State shall send applicable
40 federal funds directly to public charter schools attended by eligible students. Public
41 charter schools with students eligible for funds under Title I of the federal Elementary
42 and Secondary Education Act of 1965, 20 United States Code, Section 6301 et seq.

1 must receive and use these funds in accordance with federal and state law. During
2 the first year of operation, a public charter school must receive Title I funds on the
3 basis of an estimated enrollment of eligible students, as agreed with ~~its~~ the authorizer.

4 **Sec. 32. 20-A MRSA §2413, sub-§2, ¶G,** as enacted by PL 2011, c. 414, §5, is
5 amended to read:

6 G. Any money received by a public charter school from any source and remaining in
7 the school's accounts at the end of any budget year remains in the school's accounts
8 for use by the school during subsequent budget years and may not revert to the
9 ~~authorizer~~ commission or to the State.

10 **Sec. 33. Transition.** A public charter school or virtual public charter school that
11 has been authorized prior to the effective date of this Act is subject to the provisions of its
12 original charter and is not subject to the provisions of this Act until the expiration of its
13 original charter. A public charter school or virtual public charter school applying for
14 renewal of its charter granted prior to the effective date of this Act is subject to the
15 provisions of this Act, particularly as they relate to charter renewal.

16 **SUMMARY**

17 This bill proposes to change the process by which public charter schools and virtual
18 public charter schools are authorized. The bill designates the Legislature as the sole
19 authorizer of public charter schools and virtual public charter schools in the State. It
20 amends the duties of the Maine Charter School Commission to include recommending to
21 the Legislature approval or denial of public charter school applications. The bill requires
22 the commission to enter into charter contracts with charter schools authorized by the
23 Legislature. It assigns oversight and monitoring of public charter schools to the
24 commission and requires the commission to recommend to the authorizer that the contract
25 of a public charter school or virtual public charter school be renewed or not renewed.
26 The bill also makes the commission responsible for performance compliance.