

House No. 4163

Message from His Excellency the Governor recommending legislation relative to An Act relative to charter schools in underperforming districts.

The Commonwealth of Massachusetts



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July 17, 2009

To the Honorable Senate and House of Representatives:

I am filing for your consideration the attached legislative proposal, entitled "An Act Relative to Charter Schools in Underperforming Districts."

This bill will facilitate the creation of high-quality charter schools to serve the neediest students in Massachusetts’s lowest-performing districts. To close the persistent achievement gaps in Massachusetts, we must use a variety of tools. Charter schools are one part of our comprehensive approach. Several charter providers have helped thousands of traditionally underserved students achieve dramatic educational gains. The goal of this legislation is to replicate those successes.

The bill provides that, for the lowest-scoring 10 percent of school districts, as measured by the Massachusetts Comprehensive Assessment System (MCAS) exams, the current statutory limitation on district spending on charter schools will increase from 9 to 18 percent, thereby creating more than 27,000 new charter school seats. The bill allows only charter school operators with successful track records to open or expand charter schools in these districts. Further, it requires these charter schools to recruit and make efforts to retain students from high-need populations, such as low-income, limited English proficient, and special education students, as well as students who consistently score in the “needs improvement,” “warning” or “failing” categories on the MCAS.

This legislation also enhances Massachusetts’s ability to compete for the U.S. Department of Education’s \$4.35 billion dollar “Race to the Top” fund, which was established

by the American Recovery and Reinvestment Act (ARRA). Following ARRA's passage in February of this year, U.S. Secretary of Education Arne Duncan called for an increase in the number of successful charter schools, noting that those states that do so will be better positioned to secure Race to the Top funds. If we can successfully compete for and receive these funds, they will jump start our efforts to attack the achievement gaps in Massachusetts.

Although Massachusetts ranks at or near the top on national and international measures of reading, mathematics, and science achievement, our public schools are still failing effectively to serve too many of our students. Particularly in this economy, we cannot afford to slow our efforts to provide these students with the education they need to compete in today's world. We must act now to increase the opportunities for high-need students to get a world-class education in Massachusetts. Accordingly, I urge your prompt and favorable consideration of this bill.

Respectfully submitted,

DEVAL L. PATRICK,

Governor.

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

An Act RELATIVE TO CHARTER SCHOOLS IN UNDERPERFORMING DISTRICTS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 71 of the General Laws, as appearing in the 2008 Official Edition, is hereby
2 amended by inserting after section 89 the following section:-

3 Section 89A. (a) Notwithstanding subsection (i) of section 89 of this chapter or any other general
4 or special law to the contrary, the board of elementary and secondary education may authorize charter
5 school applications in a public school district in which the total charter school tuition payment to
6 commonwealth charter schools will, as a result of the establishment of such charter school(s), exceed 9
7 percent of the district's net school spending; provided, however, that the following conditions must be
8 met:

9 (i) In any fiscal year, no public school district's total charter school tuition payment to
10 commonwealth charter schools shall exceed 18 percent of the district's net school spending; provided,
11 however, the commonwealth shall incur charter school tuition payments for siblings attending
12 commonwealth charter schools to the extent that their attendance would otherwise cause the school
13 district's charter school tuition payments to exceed 18 percent of the school district's net school spending;
14 and

15 (ii) The board of elementary and secondary education may only approve an application for the
16 establishment of a charter school under this section in instances in which the charter school's student
17 enrollment will be comprised of students from districts scoring in the lowest 10 percent in the state as
18 measured by the combined Composite Performance Index scores on the English language arts and
19 mathematics Massachusetts Comprehensive Assessment System exams.

20 No limitation under section 89 of this chapter regarding the number of charter schools allowed to
21 operate in the commonwealth shall apply to schools that meet the foregoing conditions and that are
22 authorized under this section.

23 (b)(i) In this section the term "provider" shall mean a charter management organization,
24 educational management organization, public or private college or university, community-based
25 organization, any other individual or entity as approved by the board and any consortia of these entities
26 approved by the board; provided, that no for-profit business and no for-profit corporation shall be eligible
27 to apply for a charter.

28 In addition to the categories of persons and entities listed in subsection (e) of section 89 of this
29 chapter, the board of elementary and secondary education shall accept applications from existing charter
30 school boards of trustees. In order to be eligible to apply to operate a charter school under this section, an
31 applicant, or a provider with which an applicant proposes to contract, must have a record of operating at
32 least 1 school or similar program that demonstrates academic success and organizational viability and
33 serves student populations with similar representations, when compared to the population of students the
34 proposed school seeks to serve, from among the following categories: low-income; special education;
35 limited English proficient; sub-proficient, which shall mean students who have scored in the "needs
36 improvement," "warning" or "failing" categories on the mathematics or English language arts exams of
37 the Massachusetts Comprehensive Assessment System for 2 of the past 3 years or, as applicable, shall be
38 defined by the department using a similar measurement; students who are determined to be at risk of
39 dropping out of school based on predictors determined by the department; students who have dropped out

40 of school; or other at-risk students, as determined by board regulations, who should be targeted in order to
41 eliminate achievement gaps among different groups of students.

42 (ii) The board of elementary and secondary education may authorize a single board of trustees to
43 manage more than 1 charter school authorized under this section. The board of elementary and secondary
44 education may also authorize a single board of trustees to manage a charter school or charter schools
45 authorized under this section in addition to a charter school authorized under section 89 of this chapter.
46 The board of elementary and secondary education may also authorize an amendment under this section to
47 a charter school's charter so that the charter school may serve a greater number of students, subject to the
48 amendment process set forth in regulations promulgated under section 89.

49 (c) Each applicant shall submit an application for each charter school it proposes, except that
50 applicants proposing to create more than 1 charter school in more than 1 geographically proximate district
51 may submit 1 application for such schools. The board of elementary and secondary education shall
52 establish the information needed in an application for the approval of a charter school under this section;
53 provided, however, that the application shall include but not be limited to the information specified in
54 subsection (f) of section 89 of this chapter as well as a recruitment plan and a student retention plan. The
55 recruitment plan shall include but not be limited to a detailed description of deliberate, specific strategies
56 the school will use to attract and enroll a student population that, when compared to students in similar
57 grades in schools in the same area of the district in which the charter school will be located, contains a
58 comparable or greater percentage of students from 2 or more of the following categories: low-income;
59 special education; limited English proficient; sub-proficient, as defined in subsection (b); students who
60 are determined to be at risk of dropping out of school based on predictors determined by the department;
61 students who have dropped out of school and other at-risk students, as determined by board regulations,
62 who should be targeted in order to eliminate achievement gaps among different groups of students. The
63 student retention plan shall include but not be limited to a detailed description of deliberate, specific
64 strategies the school will use to: maximize the number of students who successfully complete all school

65 requirements; prevent students from dropping out; and minimize the number of students in the categories
66 enumerated in this section from returning to district schools. The student retention plan may include, but
67 shall not be limited to, the following strategies: regular communication with parents and family members
68 addressing how to work together to help students succeed; early and frequent intervention with at-risk
69 students; and extra tutoring. No part of this student retention plan requirement shall be construed as
70 requiring a school to lower its academic or behavioral standards in order to retain students.

71 (d) Charter schools authorized under this section shall: develop a plan for recruiting and retaining
72 the categories of students enumerated in subsection (c); set enrollment goals; and annually submit to the
73 board of elementary and secondary education a report detailing progress towards the enrollment goals and
74 retention efforts. If a charter school has not enrolled a student population matching the enrollment goals,
75 the report must explain why this is the case.

76 The report shall include an accounting of how many students were designated as requiring special
77 education services or English language services upon enrollment and how many of these students were
78 subsequently no longer designated as such, along with a description of methods used by the school to
79 achieve these outcomes and the rationale behind the methodologies used.

80 As part of the charter school renewal process set forth under section 89 of this chapter, the board
81 of elementary and secondary education shall consider for charter schools authorized under this section the
82 data described in this paragraph and other information as applicable showing: (1) the extent to which the
83 school has followed its recruitment plan by using deliberate, specific strategies towards recruiting and
84 enrolling the categories of students enumerated in subsection (c); and (2) the extent to which the school
85 has followed and enhanced as necessary its student retention plan, as described in subsection (c).

86 (e) In order to ensure that charter schools authorized under this section are able to recruit and
87 serve the categories of students enumerated in subsection (c), the school district in which the charter
88 school is located shall provide to a third party mail house authorized by the department the addresses for
89 all eligible students in the district, unless a student's parent or guardian requests that the district withhold

90 this information. Each charter school authorized under this section shall supply a mailing in the most
91 prevalent language(s) of the district(s) of the students the charter school is authorized to serve, to the
92 extent feasible, to the third party mail house and pay for it to be copied and mailed to families in targeted
93 neighborhoods.

94 (f) In the case of a district approaching its net school spending cap, the board of elementary and
95 secondary education shall give preference to applications from providers building networks of schools in
96 more than 1 municipality.

97 (g) Unless otherwise stated in this section, the provisions of section 89 of this chapter shall apply
98 to and govern charter schools authorized under this section.

99 (h) The board of elementary and secondary education shall promulgate regulations necessary to
100 effectuate the purposes of this section.