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SENATE BILL 422

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

INTRODUCED BY  
Mimi Stewart

AN ACT

RELATING TO PUBLIC SCHOOLS; APPLYING THE MEMBERSHIP LIMITATION  
ON CHARTER SCHOOLS TO ALL SCHOOL DISTRICTS; DECLARING AN  
EMERGENCY.

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

SECTION 1. Section 22-8B-6 NMSA 1978 (being Laws 1999,  
Chapter 281, Section 6, as amended by Laws 2019, Chapter 174,  
Section 4 and by Laws 2019, Chapter 206, Section 20 and also by  
Laws 2019, Chapter 207, Section 20) is amended to read:

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

A. A local school board has the authority to  
approve the establishment of a locally chartered charter school  
within that local school board's district.

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1           B. No later than the second Tuesday of January of  
2 the year in which an application will be filed, the organizers  
3 of a proposed charter school shall provide written notification  
4 to the commission and the school district in which the charter  
5 school is proposed to be located of their intent to establish a  
6 charter school. Failure to notify may result in an application  
7 not being accepted.

8           C. A charter school applicant shall apply to either  
9 a local school board or the commission for a charter. If an  
10 application is submitted to a chartering authority, the  
11 chartering authority shall process the application.

12 Applications for initial charters shall be submitted by June 1  
13 to be eligible for consideration for the following fiscal year;  
14 provided that the June 1 deadline may be waived upon agreement  
15 of the applicant and the chartering authority.

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

22           E. An application shall include the total number of  
23 students the charter school proposes to serve in each of the  
24 charter school's first three years of operation. No later than  
25 June 15, each local school board and the commission shall

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1 notify the department as to the number of students each charter  
2 school applicant proposes to serve in each year.

3 F. An application shall include a detailed  
4 description of the charter school's projected facility needs,  
5 including projected requests for capital outlay assistance that  
6 have been approved by the director of the public school  
7 facilities authority or the director's designee. The director  
8 shall respond to a written request for review from a charter  
9 applicant within forty-five days of the request.

10 G. An application may be made by one or more  
11 teachers, parents or community members or by a public post-  
12 secondary educational institution or nonprofit organization.  
13 Municipalities, counties, private post-secondary educational  
14 institutions and for-profit business entities are not eligible  
15 to apply for or receive a charter.

16 H. An initial application for a charter school  
17 shall not be made after ~~[June 30, 2007]~~ the effective date of  
18 this 2023 act if the proposed charter school's proposed  
19 enrollment for all grades or the proposed charter school's  
20 proposed enrollment for all grades in combination with any  
21 other charter school's enrollment for all grades would equal or  
22 exceed ten percent of the total MEM of the school district in  
23 which the charter school will be geographically located ~~[and~~  
24 ~~that school district has a total enrollment of not more than~~  
25 ~~one thousand three hundred students]~~.

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

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

7 K. The chartering authority shall hold at least one  
8 public hearing in the school district in which the charter  
9 school is proposed to be located to obtain information and  
10 community input to assist it in its decision whether to grant a  
11 charter school application. The chartering authority may  
12 designate a subcommittee of no fewer than three members to hold  
13 the public hearing, and, if so, the hearing shall be  
14 transcribed for later review by other members of the chartering  
15 authority. Community input may include written or oral  
16 comments in favor of or in opposition to the application from  
17 the applicant, the local community and, for state-chartered  
18 charter schools, the local school board and school district in  
19 whose geographical boundaries the charter school is proposed to  
20 be located.

21 L. The chartering authority shall rule on the  
22 application for a charter school in a public meeting by  
23 September 1 of the year the application was received; provided,  
24 however, that prior to ruling on the application for which a  
25 designated subcommittee was used, any member of the chartering

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1 authority who was not present at the public hearing shall  
2 receive the transcript of the public hearing together with  
3 documents submitted for the public hearing. If not ruled upon  
4 by that date, the charter application shall be automatically  
5 reviewed by the secretary in accordance with the provisions of  
6 Section 22-8B-7 NMSA 1978. The charter school applicant and  
7 the chartering authority may, however, jointly waive the  
8 deadlines set forth in this section.

9 M. A chartering authority may approve, approve with  
10 conditions or deny an application. A chartering authority may  
11 deny an application if:

12 (1) the application is incomplete or  
13 inadequate;

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

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

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

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1 governing body does not qualify as a board of finance;

2 (5) for a proposed charter school on tribal  
3 land, it fails to receive approval from the tribal government;  
4 or

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

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

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

19 SECTION 2. EMERGENCY.--It is necessary for the public  
20 peace, health and safety that this act take effect immediately.