

# 18A:36A-4.1

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2011                    **CHAPTER:** 140

**NJSA:** 18A:36A-4.1 (Permits the conversion of high-performing nonpublic schools located in failing school district into charter schools)

**BILL NO:** A2806 (Substituted for S1858)

**SPONSOR(S)** Jasey and others

**DATE INTRODUCED:** June 10, 2010

**COMMITTEE:**                    **ASSEMBLY:** Budget  
Education

**SENATE:** Budget and Appropriations

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**                    **ASSEMBLY:** June 29, 2011

**SENATE:** September 26, 2011

**DATE OF APPROVAL:** November 10, 2011

### FOLLOWING ARE ATTACHED IF AVAILABLE:

#### FINAL TEXT OF BILL (First reprint enacted)

#### A2806

**SPONSOR'S STATEMENT:** (Begins on page 4 of introduced bill) Yes

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** Yes      Education  
Budget

**SENATE:** Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** Yes

#### S1858

**SPONSOR'S STATEMENT:** (Begins on page 4 of introduced bill) Yes

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** No

**SENATE:** Yes

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

(continued)

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** Yes

"Private schools get boost," The Times, 11-11-11

"Private schools allowed to convert to charter," The Star-Ledger, 11-11-11

LAW/RWH

P.L.2011, CHAPTER 140, *approved November 10, 2011*  
Assembly, No. 2806 (*First Reprint*)

1 AN ACT concerning the conversion of <sup>1</sup>certain<sup>1</sup> nonpublic schools  
2 into charter schools and amending and supplementing P.L.1995,  
3 c.426.  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
7

8 1. (New section) a. The governing body of a <sup>1</sup>high-  
9 performing<sup>1</sup> nonpublic school <sup>1</sup>that is located in a failing school  
10 district<sup>1</sup> may submit an application to the Commissioner of  
11 Education to convert the school to a charter school. The application  
12 of a nonpublic school to convert to a charter school shall certify that  
13 upon conversion to charter school status the school shall prohibit  
14 religious instruction, events, and activities that promote religious  
15 views, and the display of religious symbols. The name of the  
16 proposed charter school shall not include any religious reference.

17 b. The Commissioner of Education shall establish <sup>1</sup>**[**an  
18 expedited<sup>1</sup> **]** <sup>1</sup>a<sup>1</sup> process for the review of charter school conversion  
19 applications. The commissioner <sup>1</sup>**[**shall<sup>1</sup> may<sup>1</sup> grant an application  
20 if the school is <sup>1</sup>**[**either:<sup>1</sup> <sup>1</sup>a<sup>1</sup> high-performing <sup>1</sup>**[**, as determined by  
21 the commissioner; or contracting the services of an approved  
22 charter management organization<sup>1</sup> nonpublic school and located in  
23 a failing school district<sup>1</sup>.

24 As used in this subsection <sup>1</sup>**[**, “approved charter management  
25 organization” means a nonprofit entity that establishes and manages  
26 new charter schools and which has been approved by the  
27 Commissioner of Education to assist a nonpublic school in its  
28 conversion to a charter school<sup>1</sup> **]** :

29 “Failing school district” means a school district in need of  
30 improvement pursuant to the provisions of the “No Child Left  
31 Behind Act of 2001,” Pub.L.107-110;

32 “High-performing nonpublic school” means a nonpublic school  
33 that ranked in the 66th percentile or higher on a norm-referenced  
34 achievement test in the school year prior to the school year in which  
35 a conversion application is submitted pursuant to subsection a. of  
36 this section;

37 “Norm-referenced achievement test” means the California  
38 Achievement Test (CAT), Metropolitan Achievement Test (MAT),

**EXPLANATION** – Matter enclosed in bold-faced brackets **[ thus ]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly ABU committee amendments adopted June 27, 2011.

1 Stanford Achievement Test (SAT), or the Comprehensive Test of  
2 Basic Skills (CTBS) or one of the tests within the CTBS<sup>1</sup>.

3 c. Students enrolled in the nonpublic school in the school year  
4 preceding its conversion to a charter school shall be eligible to  
5 continue enrollment at the school after its conversion. Preference  
6 for any remaining enrollment spaces for the charter school for its  
7 first year, and for all enrollment spaces in each successive year,  
8 shall be provided pursuant to the provisions of section 8 of  
9 P.L.1995, c.426 (C.18A:36A-8).

10 d. Teaching staff and other employees of the nonpublic school  
11 may continue employment at the charter school upon its conversion.  
12 Any employee who is not certified in accordance with the  
13 provisions of subsection c. of section 14 of P.L.1995, c.426  
14 (C.18A:36A-14) shall take immediate action towards receiving  
15 appropriate New Jersey certification and shall be in full compliance  
16 with all certification requirements within two years of the school's  
17 conversion. Any employee hired following the conversion of the  
18 nonpublic school to charter school status shall meet the  
19 requirements of subsection c. of section 14 of P.L.1995, c.426  
20 (C.18A:36A-14).

21 e. Except as otherwise provided in this section, the provisions  
22 of P.L.1995, c.426 (C.18A:36A-1 et seq.) shall apply in the case of  
23 a nonpublic school applying for conversion or having undergone  
24 conversion to charter school status.

25

26 2. Section 4 of P.L.1995, c.426 (C.18A:36A-4) is amended to  
27 read as follows:

28 4. a. A charter school may be established by teaching staff  
29 members, parents with children attending the schools of the district,  
30 or a combination of teaching staff members and parents. A charter  
31 school may also be established by an institution of higher education  
32 or a private entity located within the State in conjunction with  
33 teaching staff members and parents of children attending the  
34 schools of the district. If the charter school is established by a  
35 private entity, representatives of the private entity shall not  
36 constitute a majority of the trustees of the school, and the charter  
37 shall specify the extent to which the private entity shall be involved  
38 in the operation of the school. The name of the charter school shall  
39 not include the name or identification of the private entity, and the  
40 private entity shall not realize a net profit from its operation of a  
41 charter school. **[A private or parochial school shall not be eligible**  
42 **for charter school status.]**

43 b. A currently existing public school is eligible to become a  
44 charter school if the following criteria are met:

45 (1) At least 51% of the teaching staff in the school shall have  
46 signed a petition in support of the school becoming a charter  
47 school; and

1 (2) At least 51% of the parents or guardians of pupils attending  
2 that public school shall have signed a petition in support of the  
3 school becoming a charter school.

4 c. An application to establish a charter school shall be  
5 submitted to the commissioner and the local board of education or  
6 State district superintendent, in the case of a **[State-operated]**  
7 school district under full State intervention, in the school year  
8 preceding the school year in which the charter school will be  
9 established. Notice of the filing of the application shall be sent  
10 immediately by the commissioner to the members of the State  
11 Legislature, school superintendents, and mayors and governing  
12 bodies of all legislative districts, school districts, or municipalities  
13 in which there are students who will be eligible for enrollment in  
14 the charter school. The board of education or State district  
15 superintendent shall review the application and forward a  
16 recommendation to the commissioner within 60 days of receipt of  
17 the application. The commissioner shall have final authority to  
18 grant or reject a charter application.

19 d. The local board of education or a charter school applicant  
20 may appeal the decision of the commissioner to the **[State Board of**  
21 **Education**. The State board shall render a decision within 30 days  
22 of the date of the receipt of the appeal. If the State board does not  
23 render a decision within 30 days, the decision of the commissioner  
24 shall be deemed final] Appellate Division of the Superior Court.

25 e. A charter school established during the 48 months following  
26 the effective date of this act, other than a currently existing public  
27 school which becomes a charter school pursuant to the provisions of  
28 subsection b. of section 4 of this act, shall not have an enrollment in  
29 excess of 500 students or greater than 25% of the student body of  
30 the school district in which the charter school is established,  
31 whichever is less.

32 Any two charter schools within the same public school district  
33 that are not operating the same grade levels may petition the  
34 commissioner to amend their charters and consolidate into one  
35 school. The commissioner may approve an amendment to  
36 consolidate, provided that the basis for consolidation is to  
37 accommodate the transfer of students who would otherwise be  
38 subject to the random selection process pursuant to section 8 of  
39 P.L.1995, c.426 (C.18A:36A-8).

40 (cf: P.L.2002, c.123, s.1)

41  
42 3. Section 10 of P.L.1995, c.426 (C.18A:36A-10) is amended  
43 to read as follows:

44 10. A charter school may be located in part of an existing public  
45 school building, in space provided on a public work site, in a public  
46 building, or any other suitable location. In the case of a nonpublic  
47 school that converts to a charter school pursuant to the provisions of  
48 section 1 of P.L. , c. (C. ) (pending before the Legislature as this

1 bill), the charter school may be located in the same school building  
2 in which the nonpublic school was located. The facility shall be  
3 exempt from public school facility regulations except those  
4 pertaining to the health or safety of the pupils. A charter school  
5 shall not construct a facility with public funds other than federal  
6 funds.

7 (cf: P.L.2002, c.10)

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9 4. This act shall take effect immediately.

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14 \_\_\_\_\_  
15 Permits the conversion of high-performing nonpublic schools  
located in failing school district into charter schools.

# ASSEMBLY, No. 2806

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JUNE 10, 2010

**Sponsored by:**

**Assemblywoman MILA M. JASEY**

**District 27 (Essex)**

**Assemblyman ALBERT COUTINHO**

**District 29 (Essex and Union)**

**SYNOPSIS**

Permits the conversion of nonpublic schools into charter schools.

**CURRENT VERSION OF TEXT**

As introduced.



A2806 JASEY, COUTINHO

2

1 AN ACT concerning the conversion of nonpublic schools into  
2 charter schools and amending and supplementing P.L.1995,  
3 c.426.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. (New section) a. The governing body of a nonpublic school  
9 may submit an application to the Commissioner of Education to  
10 convert the school to a charter school. The application of a  
11 nonpublic school to convert to a charter school shall certify that  
12 upon conversion to charter school status the school shall prohibit  
13 religious instruction, events, and activities that promote religious  
14 views, and the display of religious symbols. The name of the  
15 proposed charter school shall not include any religious reference.

16 b. The Commissioner of Education shall establish an expedited  
17 process for the review of charter school conversion applications.  
18 The commissioner shall grant an application if the school is either:  
19 high-performing, as determined by the commissioner; or contracting  
20 the services of an approved charter management organization.

21 As used in this subsection, “approved charter management  
22 organization” means a nonprofit entity that establishes and manages  
23 new charter schools and which has been approved by the  
24 Commissioner of Education to assist a nonpublic school in its  
25 conversion to a charter school.

26 c. Students enrolled in the nonpublic school in the school year  
27 preceding its conversion to a charter school shall be eligible to  
28 continue enrollment at the school after its conversion. Preference  
29 for any remaining enrollment spaces for the charter school for its  
30 first year, and for all enrollment spaces in each successive year,  
31 shall be provided pursuant to the provisions of section 8 of  
32 P.L.1995, c.426 (C.18A:36A-8).

33 d. Teaching staff and other employees of the nonpublic school  
34 may continue employment at the charter school upon its conversion.  
35 Any employee who is not certified in accordance with the  
36 provisions of subsection c. of section 14 of P.L.1995, c.426  
37 (C.18A:36A-14) shall take immediate action towards receiving  
38 appropriate New Jersey certification and shall be in full compliance  
39 with all certification requirements within two years of the school’s  
40 conversion. Any employee hired following the conversion of the  
41 nonpublic school to charter school status shall meet the  
42 requirements of subsection c. of section 14 of P.L.1995, c.426  
43 (C.18A:36A-14).

44 e. Except as otherwise provided in this section, the provisions  
45 of P.L.1995, c.426 (C.18A:36A-1 et seq.) shall apply in the case of

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**



A2806 JASEY, COUTINHO

1 a nonpublic school applying for conversion or having undergone  
2 conversion to charter school status.

3

4 2. Section 4 of P.L.1995, c.426 (C.18A:36A-4) is amended to  
5 read as follows:

6 4. a. A charter school may be established by teaching staff  
7 members, parents with children attending the schools of the district,  
8 or a combination of teaching staff members and parents. A charter  
9 school may also be established by an institution of higher education  
10 or a private entity located within the State in conjunction with  
11 teaching staff members and parents of children attending the  
12 schools of the district. If the charter school is established by a  
13 private entity, representatives of the private entity shall not  
14 constitute a majority of the trustees of the school, and the charter  
15 shall specify the extent to which the private entity shall be involved  
16 in the operation of the school. The name of the charter school shall  
17 not include the name or identification of the private entity, and the  
18 private entity shall not realize a net profit from its operation of a  
19 charter school. **[A private or parochial school shall not be eligible**  
20 **for charter school status.]**

21 b. A currently existing public school is eligible to become a  
22 charter school if the following criteria are met:

23 (1) At least 51% of the teaching staff in the school shall have  
24 signed a petition in support of the school becoming a charter  
25 school; and

26 (2) At least 51% of the parents or guardians of pupils attending  
27 that public school shall have signed a petition in support of the  
28 school becoming a charter school.

29 c. An application to establish a charter school shall be  
30 submitted to the commissioner and the local board of education or  
31 State district superintendent, in the case of a **[State-operated]**  
32 school district under full State intervention, in the school year  
33 preceding the school year in which the charter school will be  
34 established. Notice of the filing of the application shall be sent  
35 immediately by the commissioner to the members of the State  
36 Legislature, school superintendents, and mayors and governing  
37 bodies of all legislative districts, school districts, or municipalities  
38 in which there are students who will be eligible for enrollment in  
39 the charter school. The board of education or State district  
40 superintendent shall review the application and forward a  
41 recommendation to the commissioner within 60 days of receipt of  
42 the application. The commissioner shall have final authority to  
43 grant or reject a charter application.

44 d. The local board of education or a charter school applicant  
45 may appeal the decision of the commissioner to the **[State Board of**  
46 **Education]**. The State board shall render a decision within 30 days  
47 of the date of the receipt of the appeal. If the State board does not

1 render a decision within 30 days, the decision of the commissioner  
2 shall be deemed final] Appellate Division of the Superior Court.

3 e. A charter school established during the 48 months following  
4 the effective date of this act, other than a currently existing public  
5 school which becomes a charter school pursuant to the provisions of  
6 subsection b. of section 4 of this act, shall not have an enrollment in  
7 excess of 500 students or greater than 25% of the student body of  
8 the school district in which the charter school is established,  
9 whichever is less.

10 Any two charter schools within the same public school district  
11 that are not operating the same grade levels may petition the  
12 commissioner to amend their charters and consolidate into one  
13 school. The commissioner may approve an amendment to  
14 consolidate, provided that the basis for consolidation is to  
15 accommodate the transfer of students who would otherwise be  
16 subject to the random selection process pursuant to section 8 of  
17 P.L.1995, c.426 (C.18A:36A-8).

18 (cf: P.L.2002, c.123, s.1)

19

20 3. Section 10 of P.L.1995, c.426 (C.18A:36A-10) is amended  
21 to read as follows:

22 10. A charter school may be located in part of an existing public  
23 school building, in space provided on a public work site, in a public  
24 building, or any other suitable location. In the case of a nonpublic  
25 school that converts to a charter school pursuant to the provisions of  
26 section 1 of P.L. , c. (C. ) (pending before the Legislature as this  
27 bill), the charter school may be located in the same school building  
28 in which the nonpublic school was located. The facility shall be  
29 exempt from public school facility regulations except those  
30 pertaining to the health or safety of the pupils. A charter school  
31 shall not construct a facility with public funds other than federal  
32 funds.

33 (cf: P.L.2002, c.10)

34

35 4. This act shall take effect immediately.

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38

#### STATEMENT

39

40 This bill permits nonpublic schools to convert to charter schools.  
41 Under the bill, the governing body of a nonpublic school may  
42 submit an application to the Commissioner of Education to convert  
43 the school to a charter school. The application must certify that  
44 upon conversion to charter school status the school will prohibit  
45 religious instruction, events and activities that promote religious  
46 views, and the display of religious symbols. The name of the  
47 proposed charter school cannot include any religious reference.

1 Under the bill, the Commissioner of Education is directed to  
2 establish an expedited process for the review of such applications.  
3 The commissioner must grant a charter application for the  
4 conversion of a nonpublic school provided that the school is either:  
5 high-performing, as determined by the commissioner; or engaging  
6 the services of a charter management organization approved by the  
7 commissioner.

8 The bill permits the former students of the converted school to  
9 enroll in the charter school and provides that preference for any  
10 remaining enrollment spaces for the charter school for its first year,  
11 and for all enrollment spaces in each successive year, be provided  
12 according to existing law. The bill permits teaching staff and other  
13 employees of the nonpublic school, under certain conditions, to  
14 continue employment at the charter school upon its conversion.  
15 Under the bill, such a charter school may continue to be located in  
16 the same building that housed the nonpublic school prior to  
17 conversion to charter school status.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2806**

**STATE OF NEW JERSEY**

DATED: MAY 23, 2011

The Assembly Education Committee reports favorably Assembly Bill No. 2806.

This bill permits nonpublic schools to convert to charter schools. Under the bill, the governing body of a nonpublic school may submit an application to the Commissioner of Education to convert the school to a charter school. The application must certify that upon conversion to charter school status the school will prohibit religious instruction, events and activities that promote religious views, and the display of religious symbols. The name of the proposed charter school cannot include any religious reference.

Under the bill, the Commissioner of Education is directed to establish an expedited process for the review of such applications. The commissioner must grant a charter application for the conversion of a nonpublic school provided that the school is either: high-performing, as determined by the commissioner; or engaging the services of a charter management organization approved by the commissioner.

The bill permits the former students of the converted school to enroll in the charter school and provides that preference for any remaining enrollment spaces for the charter school for its first year, and for all enrollment spaces in each successive year, be provided according to existing law. The bill permits teaching staff and other employees of the nonpublic school, under certain conditions, to continue employment at the charter school upon its conversion. Under the bill, such a charter school may continue to be located in the same building that housed the nonpublic school prior to conversion to charter school status.

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 2806**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 27, 2011

The Assembly Budget Committee reports favorably Assembly Bill No. 2806, with committee amendments.

This bill, as amended, permits high-performing nonpublic schools located in failing school districts to convert to charter schools.

The bill provides that the governing body of such a nonpublic school may submit an application to the Commissioner of Education to convert the school to a charter school. The application submitted to the commissioner must certify that upon conversion to charter school status the school will prohibit religious instruction, events and activities that promote religious views, and the display of religious symbols. The bill provides that the name of the proposed charter school cannot include any religious reference.

The bill requires the Commissioner of Education to establish a process for the review of applications submitted by nonpublic schools. Under the bill, the commissioner may grant an application for the conversion of a nonpublic school to a charter school if the nonpublic school is high-performing and located in a failing school district.

The bill permits the former students of the converted school to enroll in the charter school and directs that preference for any remaining enrollment spaces for the charter school for its first year, and for all enrollment spaces in each successive year, be provided according to existing law. The bill permits teaching staff and other employees of the nonpublic school to continue employment at the charter school upon its conversion; provided, however, that an employee who does not hold appropriate New Jersey certification must be in full compliance with certification requirements within two years of the school's conversion.

The bill provides that a converted school may continue to be located in the same building that housed the nonpublic school prior to its conversion to charter school status.

#### FISCAL IMPACT:

This bill will lead to an indeterminate increase in State expenditures in the first year in which a high-performing nonpublic

school located in a failing school district converts to a charter school. Under current law, the charter school student's district of residence is responsible for transferring a certain amount of State aid and local revenue to a charter school for each of its students who attends the charter school. However, subsection d. of section 12 of P.L.1995, c.146 (C.18A:36A-12) specifies that if a student who enrolls in a charter school was not included in the district's resident enrollment in the prior year, then the State, not the resident school district, will be responsible for providing this funding to the charter school in the student's first year of enrollment at the charter school. Since the students enrolled in a nonpublic school that subsequently converts to a charter school will not have been included in the school district's resident enrollment in the prior year, the State will be responsible for providing funding for all students who remain in the school upon its conversion to a charter school. The total State cost is indeterminate, as it is dependent on the number of students who remain enrolled in the nonpublic school once it converts to a charter school, the students' demographics, and the amount of education revenue due to the charter school, which will vary by resident school district.

In subsequent years, the bill may lead to an indeterminate increase in State expenditures and a corresponding increase in local revenue. When a nonpublic school converts to a charter school, the students will be included in the resident enrollment of the school district in which the students live. This increased enrollment will yield an increase in State school aid payable to the school district, except in circumstances in which the district is subject to the State aid growth limit or receives adjustment aid.

#### COMMITTEE AMENDMENTS:

The amendments (1) limit the conversion of nonpublic schools to charter school status to those nonpublic schools that are high-performing and located in a failing school district.

The amendments (2) define a high-performing nonpublic school as a nonpublic school that ranked in the 66th percentile or higher on a norm-referenced achievement test in the school year prior to the school year in which a conversion application is submitted; (3) define a norm-referenced achievement test as the California Achievement Test, the Metropolitan Achievement Test, Stanford Achievement Test, or the Comprehensive Test of Basic Skills (CTBS) or one of the tests within the CTBS; and (4) define a failing school district as a district in need of improvement under the federal "No Child Left Behind Act of 2001," Pub.L.107-110.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## ASSEMBLY, No. 2806

### STATE OF NEW JERSEY 214th LEGISLATURE

DATED: JULY 6, 2011

#### SUMMARY

- Synopsis:** Permits the conversion of high-performing nonpublic schools located in failing school district into charter schools.
- Type of Impact:** Expenditure Increase in General Fund or Property Tax Relief Fund; Possible Revenue Increase to School Districts.
- Agencies Affected:** Department of Education, school districts.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	Indeterminate Increase – See comments below		
<b>Local Revenue</b>	Possible Indeterminate Increase – See comments below		

- The Office of Legislative Services (OLS) notes Assembly Bill No. 2806 (1R) would lead to an indeterminate increase in State expenditures, as the State would provide funding for all students enrolled in a nonpublic school in the first year after its conversion to a charter school.
- In subsequent years, the resulting increase in districts' resident enrollments may increase State expenditures, through the provision of increased State school aid and a corresponding increase in local revenue. Certain provisions of the school funding law, however, may prevent such an increase from occurring in some districts.

#### BILL DESCRIPTION

Assembly Bill No. 2806 (1R) of 2010 provides that a high performing nonpublic school located in a failing school district may apply to the Commissioner of Education to convert to a public charter school. For the purposes of this bill, a failing school district is one that is classified as a "district in need of improvement" under the federal "No Child Left Behind Act of

2001,” and a high performing nonpublic school is one in which its students, on average, score at the 66th percentile or better on a specified nationally normed assessment. The bill provides that the students enrolled in the nonpublic school at the time of the conversion will be eligible to continue enrollment in the charter school.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS notes that Assembly Bill No. 2806 (1R) would lead to an indeterminate increase in State expenditures in the first year that a nonpublic school converts to a charter school. Under current law, a resident school district must transfer certain revenues<sup>1</sup> to the charter school for each of its students who is enrolled in the charter school. However, subsection d. of section 12 of P.L.1995, c.146 (C18A:36A-12) stipulates that if a student who enrolls in a charter school was not included in a district’s resident enrollment in the prior year, then the State, rather than the resident district, will provide the revenue to the charter school for that student in the first year. Since the students enrolled in a nonpublic school that converts to a charter school would not have been included in any district’s resident enrollment in the prior year, the State would be responsible for providing funding for all students who remain enrolled in the school upon conversion to a charter school. The total increased cost is indeterminate, however, as it would depend on the number of nonpublic schools that convert to charter schools, the number of students who continue to enroll in the converted school, the students’ demographic characteristics, and the amount of general fund tax levy raised by, and State school aid allocated to, the resident school district.

In subsequent years, Assembly Bill No. 2806 (1R) may lead to an indeterminate increase in State expenditures, and a corresponding increase in local revenue. When a nonpublic school converts to a charter school, the attending students would be included in the resident enrollment in the district in which the student lives. All other factors being equal, an increase in a district’s resident enrollment would result in the district receiving increase State aid pursuant to the “School Funding Reform Act of 2008” (SFRA), P.L.2007, c.260. However, two provisions of SFRA may minimize the amount of additional aid that a district would receive. First, the law imposes a limit on the amount by which a district’s aid can increase in one year. If a district has already reached this limit, the increased enrollment would not result in increased State aid. Second, some school districts receive adjustment aid, which ensures that the district’s total State aid is not less than the amount received in the 2008-2009 school year.<sup>2</sup> In such a district, the enrollment increase caused by the additional students may increase the district’s aid in other categories, but those increases would be offset by an equal decrease in adjustment aid. This

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<sup>1</sup> These revenues include 90 percent of the prior year tax levy per pupil, inflated by the Consumer Price Index, 90 percent of the equalization aid per pupil, security categorical aid attributable to the student, and a share of special education categorical aid based on the percent of the district’s special education students who are enrolled in the charter school.

<sup>2</sup> Under SFRA, a district can receive less aid than was received in the 2008-2009 school year if the district experienced a significant enrollment decline.



would yield no net increase in aid to the district (and no expenditure increase incurred by the State) unless adjustment aid is reduced to zero.

*Section: Education*

*Analyst: Allen T. Dupree  
Senior Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 2806**

# **STATE OF NEW JERSEY**

DATED: AUGUST 25, 2011

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 2806 (1R).

This bill permits high-performing nonpublic schools located in failing school districts to convert to charter schools.

The bill provides that the governing body of such a nonpublic school may submit an application to the Commissioner of Education to convert the school to a charter school. The application submitted to the commissioner must certify that upon conversion to charter school status the school will prohibit religious instruction, events and activities that promote religious views, and the display of religious symbols. The bill provides that the name of the proposed charter school cannot include any religious reference.

The bill requires the Commissioner of Education to establish a process for the review of applications submitted by nonpublic schools. Under the bill, the commissioner may grant an application for the conversion of a nonpublic school to a charter school if the nonpublic school is high-performing and located in a failing school district.

The bill permits the former students of the converted school to enroll in the charter school and directs that preference for any remaining enrollment spaces for the charter school for its first year, and for all enrollment spaces in each successive year, be provided according to existing law. The bill permits teaching staff and other employees of the nonpublic school to continue employment at the charter school upon its conversion; provided, however, that an employee who does not hold appropriate New Jersey certification must be in full compliance with certification requirements within two years of the school's conversion.

The bill provides that a converted school may continue to be located in the same building that housed the nonpublic school prior to its conversion to charter school status.

As reported, this bill is identical to Senate Bill No. 1858, as amended and reported by the committee.

FISCAL IMPACT:

In the Legislative Fiscal Estimate for this bill the Office of Legislative Services (OLS) notes that the bill will lead to an indeterminate increase in State expenditures in the first year in which a high-performing nonpublic school located in a failing school district converts to a charter school. Under current law, the charter school student's district of residence is responsible for transferring a certain amount of State aid and local revenue to a charter school for each of its students who attends the charter school. However, subsection d. of section 12 of P.L.1995, c.146 (C.18A:36A-12) specifies that if a student who enrolls in a charter school was not included in the district's resident enrollment in the prior year, then the State, not the resident school district, will be responsible for providing this funding to the charter school in the student's first year of enrollment at the charter school. Since the students enrolled in a nonpublic school that subsequently converts to a charter school will not have been included in the school district's resident enrollment in the prior year, the State will be responsible for providing funding for all students who remain in the school upon its conversion to a charter school. The total State cost is indeterminate, as it is dependent on the number of students who remain enrolled in the nonpublic school once it converts to a charter school, the students' demographics, and the amount of education revenue due to the charter school, which will vary by resident school district.

In subsequent years, the bill may lead to an indeterminate increase in State expenditures and a corresponding increase in local revenue. When a nonpublic school converts to a charter school, the students will be included in the resident enrollment of the school district in which the students live. This increased enrollment will yield an increase in State school aid payable to the school district, except in circumstances in which the district is subject to the State aid growth limit or receives adjustment aid.

**SENATE, No. 1858**

**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

INTRODUCED MAY 10, 2010

**Sponsored by:**

**Senator RAYMOND J. LESNIAK**

**District 20 (Union)**

**SYNOPSIS**

Permits the conversion of nonpublic schools into charter schools.

**CURRENT VERSION OF TEXT**

As introduced.



S1858 LESNIAK

2

1 AN ACT concerning the conversion of nonpublic schools into  
2 charter schools and amending and supplementing P.L.1995,  
3 c.426.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. (New section) a. The governing body of a nonpublic school  
9 may submit an application to the Commissioner of Education to  
10 convert the school to a charter school. The application of a  
11 nonpublic school to convert to a charter school shall certify that  
12 upon conversion to charter school status the school shall prohibit  
13 religious instruction, events, and activities that promote religious  
14 views, and the display of religious symbols. The name of the  
15 proposed charter school shall not include any religious reference.

16 b. The Commissioner of Education shall establish an expedited  
17 process for the review of charter school conversion applications.  
18 The commissioner shall grant an application if the school is either:  
19 high-performing, as determined by the commissioner; or contracting  
20 the services of an approved charter management organization.

21 As used in this subsection, “approved charter management  
22 organization” means a nonprofit entity that establishes and manages  
23 new charter schools and which has been approved by the  
24 Commissioner of Education to assist a nonpublic school in its  
25 conversion to a charter school.

26 c. Students enrolled in the nonpublic school in the school year  
27 preceding its conversion to a charter school shall be eligible to  
28 continue enrollment at the school after its conversion. Preference  
29 for any remaining enrollment spaces for the charter school for its  
30 first year, and for all enrollment spaces in each successive year,  
31 shall be provided pursuant to the provisions of section 8 of  
32 P.L.1995, c.426 (C.18A:36A-8).

33 d. Teaching staff and other employees of the nonpublic school  
34 may continue employment at the charter school upon its conversion.  
35 Any employee who is not certified in accordance with the  
36 provisions of subsection c. of section 14 of P.L.1995, c.426  
37 (C.18A:36A-14) shall take immediate action towards receiving  
38 appropriate New Jersey certification and shall be in full compliance  
39 with all certification requirements within two years of the school’s  
40 conversion. Any employee hired following the conversion of the  
41 nonpublic school to charter school status shall meet the  
42 requirements of subsection c. of section 14 of P.L.1995, c.426  
43 (C.18A:36A-14).

44 e. Except as otherwise provided in this section, the provisions of  
45 P.L.1995, c.426 (C.18A:36A-1 et seq.) shall apply in the case of a

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 nonpublic school applying for conversion or having undergone  
2 conversion to charter school status.

3

4 2. Section 4 of P.L.1995, c.426 (C.18A:36A-4) is amended to  
5 read as follows:

6 4. a. A charter school may be established by teaching staff  
7 members, parents with children attending the schools of the district,  
8 or a combination of teaching staff members and parents. A charter  
9 school may also be established by an institution of higher education  
10 or a private entity located within the State in conjunction with  
11 teaching staff members and parents of children attending the  
12 schools of the district. If the charter school is established by a  
13 private entity, representatives of the private entity shall not  
14 constitute a majority of the trustees of the school, and the charter  
15 shall specify the extent to which the private entity shall be involved  
16 in the operation of the school. The name of the charter school shall  
17 not include the name or identification of the private entity, and the  
18 private entity shall not realize a net profit from its operation of a  
19 charter school. **[A private or parochial school shall not be eligible**  
20 **for charter school status.]**

21 b. A currently existing public school is eligible to become a  
22 charter school if the following criteria are met:

23 (1) At least 51% of the teaching staff in the school shall have  
24 signed a petition in support of the school becoming a charter  
25 school; and

26 (2) At least 51% of the parents or guardians of pupils attending  
27 that public school shall have signed a petition in support of the  
28 school becoming a charter school.

29 c. An application to establish a charter school shall be  
30 submitted to the commissioner and the local board of education or  
31 State district superintendent, in the case of a **[State-operated]**  
32 school district under full State intervention, in the school year  
33 preceding the school year in which the charter school will be  
34 established. Notice of the filing of the application shall be sent  
35 immediately by the commissioner to the members of the State  
36 Legislature, school superintendents, and mayors and governing  
37 bodies of all legislative districts, school districts, or municipalities  
38 in which there are students who will be eligible for enrollment in  
39 the charter school. The board of education or State district  
40 superintendent shall review the application and forward a  
41 recommendation to the commissioner within 60 days of receipt of  
42 the application. The commissioner shall have final authority to  
43 grant or reject a charter application.

44 d. The local board of education or a charter school applicant  
45 may appeal the decision of the commissioner to the **[State Board of**  
46 **Education]**. The State board shall render a decision within 30 days  
47 of the date of the receipt of the appeal. If the State board does not

1 render a decision within 30 days, the decision of the commissioner  
2 shall be deemed final] Appellate Division of the Superior Court.

3 e. A charter school established during the 48 months following  
4 the effective date of this act, other than a currently existing public  
5 school which becomes a charter school pursuant to the provisions of  
6 subsection b. of section 4 of this act, shall not have an enrollment in  
7 excess of 500 students or greater than 25% of the student body of  
8 the school district in which the charter school is established,  
9 whichever is less.

10 Any two charter schools within the same public school district  
11 that are not operating the same grade levels may petition the  
12 commissioner to amend their charters and consolidate into one  
13 school. The commissioner may approve an amendment to  
14 consolidate, provided that the basis for consolidation is to  
15 accommodate the transfer of students who would otherwise be  
16 subject to the random selection process pursuant to section 8 of  
17 P.L.1995, c.426 (C.18A:36A-8).

18 (cf: P.L.2002, c.123, s.1)

19

20 3. Section 10 of P.L.1995, c.426 (C.18A:36A-10) is amended to  
21 read as follows:

22 10. A charter school may be located in part of an existing public  
23 school building, in space provided on a public work site, in a public  
24 building, or any other suitable location. In the case of a nonpublic  
25 school that converts to a charter school pursuant to the provisions of  
26 section 1 of P.L. , c. (C. ) (pending before the Legislature as this  
27 bill), the charter school may be located in the same school building  
28 in which the nonpublic school was located. The facility shall be  
29 exempt from public school facility regulations except those  
30 pertaining to the health or safety of the pupils. A charter school  
31 shall not construct a facility with public funds other than federal  
32 funds.

33 (cf: P.L.2002, c.10)

34

35 4. This act shall take effect immediately.

36

37

38

#### STATEMENT

39

40 This bill permits nonpublic schools to convert to charter schools.  
41 Under the bill, the governing body of a nonpublic school may  
42 submit an application to the Commissioner of Education to convert  
43 the school to a charter school. The application must certify that  
44 upon conversion to charter school status the school will prohibit  
45 religious instruction, events and activities that promote religious  
46 views, and the display of religious symbols. The name of the  
47 proposed charter school cannot include any religious reference.

1 Under the bill, the Commissioner of Education is directed to  
2 establish an expedited process for the review of such applications.  
3 The commissioner must grant a charter application for the  
4 conversion of a nonpublic school provided that the school is either:  
5 high-performing, as determined by the commissioner; or engaging  
6 the services of a charter management organization approved by the  
7 commissioner.

8 The bill permits the former students of the converted school to  
9 enroll in the charter school and provides that preference for any  
10 remaining enrollment spaces for the charter school for its first year,  
11 and for all enrollment spaces in each successive year, be provided  
12 according to existing law. The bill permits teaching staff and other  
13 employees of the nonpublic school, under certain conditions, to  
14 continue employment at the charter school upon its conversion.  
15 Under the bill, such a charter school may continue to be located in  
16 the same building that housed the nonpublic school prior to  
17 conversion to charter school status.



# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 1858**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: AUGUST 25, 2011

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1858 with committee amendments.

This bill, with committee amendments, permits high-performing nonpublic schools located in failing school districts to convert to charter schools.

The bill provides that the governing body of such a nonpublic school may submit an application to the Commissioner of Education to convert the school to a charter school. The application submitted to the commissioner must certify that upon conversion to charter school status the school will prohibit religious instruction, events and activities that promote religious views, and the display of religious symbols. The bill provides that the name of the proposed charter school cannot include any religious reference.

The bill requires the Commissioner of Education to establish a process for the review of applications submitted by nonpublic schools. Under the bill, the commissioner may grant an application for the conversion of a nonpublic school to a charter school if the nonpublic school is high-performing and located in a failing school district.

The bill permits the former students of the converted school to enroll in the charter school and directs that preference for any remaining enrollment spaces for the charter school for its first year, and for all enrollment spaces in each successive year, be provided according to existing law. The bill permits teaching staff and other employees of the nonpublic school to continue employment at the charter school upon its conversion; provided, however, that an employee who does not hold appropriate New Jersey certification must be in full compliance with certification requirements within two years of the school's conversion.

The bill provides that a converted school may continue to be located in the same building that housed the nonpublic school prior to its conversion to charter school status.

As amended and reported, this bill is identical to Assembly Bill No. 2806 (1R), as also reported by the committee.

COMMITTEE AMENDMENTS:

The amendments:

(1) limit the conversion of nonpublic schools to charter school status to those nonpublic schools that are high-performing and located in a failing school district;

(2) define a high-performing nonpublic school as a nonpublic school that ranked in the 66th percentile or higher on a norm-referenced achievement test in the school year prior to the school year in which a conversion application is submitted;

(3) define a norm-referenced achievement test as the California Achievement Test, the Metropolitan Achievement Test, Stanford Achievement Test, or the Comprehensive Test of Basic Skills (CTBS) or one of the tests within the CTBS; and

(4) define a failing school district as a district in need of improvement under the federal “No Child Left Behind Act of 2001,” Pub.L.107-110.

FISCAL IMPACT:

In the Legislative Fiscal Estimate to the identical Assembly bill, the Office of Legislative Services (OLS) notes that the bill will lead to an indeterminate increase in State expenditures in the first year in which a high-performing nonpublic school located in a failing school district converts to a charter school. Under current law, a charter school student’s district of residence is responsible for transferring a certain amount of State aid and local revenue to a charter school for each of its students who attends the charter school. However, subsection d. of section 12 of P.L.1995, c.146 (C.18A:36A-12) specifies that if a student who enrolls in a charter school was not included in the district’s resident enrollment in the prior year, then the State, not the resident school district, will be responsible for providing this funding to the charter school in the student’s first year of enrollment at the charter school. Since the students enrolled in a nonpublic school that subsequently converts to a charter school will not have been included in the school district’s resident enrollment in the prior year, the State will be responsible for providing funding for all students who remain in the school upon its conversion to a charter school. The total State cost is indeterminate, as it is dependent on the number of students who remain enrolled in the nonpublic school once it converts to a charter school, the students’ demographics, and the amount of education revenue due to the charter school, which will vary by resident school district.

In subsequent years, the bill may lead to an indeterminate increase in State expenditures and a corresponding increase in local revenue. When a nonpublic school converts to a charter school, the students will be included in the resident enrollment of the school district in which the students live. This increased enrollment will yield an increase in State school aid payable to the school district, except in circumstances

in which the district is subject to the State aid growth limit or receives adjustment aid.

## Governor Chris Christie Takes Action to Support Expansion of Quality Charter Schools and Increase School Options for Parents

Thursday, November 10, 2011 Tags: [Education](#)

### Governor Signs Legislation Permitting Conversion of High Performing Nonpublic Schools into Charter Schools

**Trenton, NJ** – Governor Chris Christie today signed into law legislation permitting the conversion of nonpublic schools into charter schools, taking further action in his commitment to expand the availability of high quality charter schools as an alternative for children in chronically failing schools.

In addition to the legislation signed today, Governor Christie has proposed a comprehensive education reform agenda to address the biggest challenges facing public education and bring the promise of opportunity to every child in New Jersey. The Governor's agenda, which includes tenure reform, reform of the state's charter law, the Opportunity Scholarship Act, and compensation reform to reward outstanding teachers, continues to remain stalled in the legislature.

"With this legislation signed today, we are taking another step to expand access to high quality school options to ensure that more students are stepping into classrooms that will give them a better education and a brighter future," said Governor Christie. "We have much further to go to reform education in New Jersey and ensure we are getting results for all children, regardless of their zip code. The legislature has failed to act on significant reforms that directly address the problems plaguing our failing schools. It's time for the legislature to act immediately on these measures that sit before them right now: the Opportunity Scholarship Act, the School Children First Act, the Urban Hope Act, and Assembly Bill 4167 to strengthen our charter law. These reforms must be taken up now; we cannot ask children in failing schools to wait any longer while these reforms sit untouched in Trenton."

The bill Governor Christie signed today, A-2806/S-1858, permits high-performing nonpublic schools located in failing school districts to convert to charter schools. The governing body of a qualified nonpublic school would be permitted to submit an application to the Commissioner of Education to convert the school to charter school status. Upon conversion to charter school status, the former students of the converted school will be permitted to enroll in the charter school, with preference for any remaining enrollment spaces for the charter school for its first year, and for all enrollment spaces in each successive year, provided according to existing charter law.

The bill would also permit existing teaching staff and other employees of the converting nonpublic school to continue their employment at the charter school following its conversion, subject to each employee's full compliance with New Jersey certification requirements within two years of the conversion.

The legislation was sponsored by Assemblymembers Mila Jasey (D-Essex) and Albert Coutinho (D-Essex, Union), and Senators Ray Lesniak (D-Union) and Donald Norcross (D-Camden, Gloucester).

The Governor's Education Reform Agenda Remains Stalled in the Legislature, Despite the Urgent Need to Address New Jersey's Education Challenges:

**Opportunity Scholarship Act** (S-1872/A-2810; Senators Lesniak and Kean/Assemblymen Fuentes and DeCroce): The bill establishes a five-year pilot program to provide tax credits to entities contributing to scholarships for certain low-income students.

**School Children First Act** (S-2881/A-4168; Senator Kyrillos/Assemblyman Webber): The bill provides for an educator evaluation system based on multiple measures of teacher effectiveness; allows for merit pay; ends the practice of forced placement for teachers; and requires that reductions in staff be made on the basis of effectiveness rather than seniority.

**Urban Hope Act** (S-3002/A-4264; Senator Norcross/Assemblyman Fuentes): The bill provides for the creation of as many as ten "transformation school projects" in the State's five worst performing districts.

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