Sen. Celina Villanueva

Filed: 5/13/2026

AMENDMENT TO SENATE BILL 3391

AMENDMENT NO. ______. Amend Senate Bill 3391 by replacing everything after the enacting clause with the following:

"Section 1. This Act may be referred to as the Charter School Closure Financial Accountability Law.

Section 5. Findings. The General Assembly finds and declares all of the following:

(1) Public funds and public property provided to charter schools must be protected and used for students' education.

(2) Charter schools in this State may close during a school year, and when they do there is a risk that students, employees, and public assets will suffer harm while the charter operator faces no meaningful financial accountability.

(3) Current law and administrative guidance address

closure procedures but do not uniformly require a prefunded financial mechanism sufficient to cover transition costs, severance, and the return of publicly funded property.

(4) It is, therefore, necessary to require charter operators to maintain closure reserves, require return of public assets purchased with public funds, provide remedies to recover costs incurred by authorizers and students' home districts, and impose penalties for mid-year abandonment that is negligent or in bad faith.

Section 10. The School Code is amended by changing Sections 27A-3 and 27A-9 and by adding Sections 27A-9.5, 27A-10.15, and 27A-10.20 as follows:

(105 ILCS 5/27A-3)

Sec. 27A-3. Definitions. For purposes of this Article:

"At-risk pupil" means a pupil who, because of physical, emotional, socioeconomic, or cultural factors, is less likely to succeed in a conventional educational environment.

"Authorizer" means an entity authorized under this Article to review applications, decide whether to approve or reject applications, enter into charter contracts with applicants, oversee charter schools, and decide whether to renew, not renew, or revoke a charter.

"Charter operator" means the entity that has entered into a charter agreement with an authorizer under this Article and is legally responsible for the operation of the charter school.

"Charter school" means a school established under this Article and operated under an agreement between an authorizer and a charter operator.

"Closure event" means any termination, revocation, nonrenewal, or voluntary cessation of operations of a charter school resulting in the charter school's permanent cessation of instruction to enrolled pupils that occurs during the school year.

"Closure security" means a financial instrument listed under subsection (a) of Section 27A-10.15.

"District signed-agreement requirements" means any standard provisions that are required in any agreement entered into by an authorizer.

"Financial distress" means one or more of the following conditions, as determined by an authorizer based on documented evidence:

(1) failure to timely meet payroll, benefits, or other operating obligations;

(2) material audit findings indicating insolvency, negative cash flow, or substantial doubt as to a charter school's ability to continue as a going concern;

(3) default or imminent default on debt or lease obligations;

(4) failure to maintain required closure security or other financial reserves required under this Article;

(5) evidence of misuse or misappropriation of public funds; or

(6) any financial condition that poses an imminent risk to the continued operation of a charter school or to the orderly transition of enrolled pupils.

"Financial intervention" means a temporary, limited assumption of financial oversight authority by an authorizer for the purpose of stabilizing a charter school and protecting students, employees, and public assets.

"Good faith" means the duty to cooperate with an opposing party fairly in reaching an agreement.

"Local school board" means the duly elected or appointed school board or board of education of a public school district, including special charter districts and school districts located in cities having a population of more than 500,000, organized under the laws of this State.

"Public assets" means equipment, furniture, books, instructional technology, real estate, or any other real or personal property purchased or leased with public funds or purchased with funds subject to public oversight.

"State Board" means the State Board of Education.

"Union neutrality clause" means a provision whereby a charter school agrees: (1) to be neutral regarding the unionization of any of its employees, such that the charter school will not at any time express a position on the matter of whether its employees will be unionized and such that the charter school will not threaten, intimidate, discriminate against, retaliate against, or take any adverse action against any employees based on their decision to support or oppose union representation; (2) to provide any bona fide labor organization access at reasonable times to areas in which the charter school's employees work for the purpose of meeting with employees to discuss their right to representation, employment rights under the law, and terms and conditions of employment; and (3) that union recognition shall be through a majority card check verified by a neutral third-party arbitrator mutually selected by the charter school and the bona fide labor organization through alternate striking from a panel of arbitrators provided by the Federal Mediation and Conciliation Service. As used in this definition, "bona fide labor organization" means a labor organization recognized under the National Labor Relations Act or the Illinois Educational Labor Relations Act. As used in this definition, "employees" means non-represented, non-management, and non-confidential employees of a charter school.

(Source: P.A. 103-175, eff. 6-30-23; 103-416, eff. 8-4-23; 103-605, eff. 7-1-24.)

(105 ILCS 5/27A-9)

Sec. 27A-9. Term of charter; renewal.

(a) An initial charter shall be granted for a period of 5 school years. A charter may be renewed in incremental periods not to exceed 10 school years. Authorizers shall ensure that every charter granted on or after January 1, 2017 includes standards and goals for academic, organizational, and financial performance. A charter must meet all standards and goals for academic, organizational, and financial performance set forth by the authorizer in order to be renewed for a term in excess of 5 years but not more than 10 years. If an authorizer fails to establish standards and goals, a charter shall not be renewed for a term in excess of 5 years. Nothing contained in this Section shall require an authorizer to grant a full 10-year renewal term to any particular charter school, but an authorizer may award a full 10-year renewal term to charter schools that have a demonstrated track record of improving student performance.

(b) A charter school renewal proposal submitted to the local school board or the State Board, as the chartering entity, shall contain:

(1) a report on the progress of the charter school in achieving the goals, objectives, pupil performance standards, content standards, and other terms of the initial approved charter proposal; and

(2) a financial statement that discloses the costs of administration, instruction, and other spending categories for the charter school that is understandable to the

general public and that will allow comparison of those costs to other schools or other comparable organizations, in a format required by the State Board.

(c) A charter may be revoked or not renewed if the local school board or the State Board, as the chartering entity, clearly demonstrates that the charter school did any of the following, or otherwise failed to comply with the requirements of this law:

(1) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter.

(2) Failed to meet or make reasonable progress toward achievement of the content standards or pupil performance standards identified in the charter.

(3) Failed to meet generally accepted standards of fiscal management.

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

(5) Failed to execute a charter contract after good faith negotiations in accordance with Section 27A-9.5.

In the case of revocation, the local school board or the State Board, as the chartering entity, shall notify the charter school in writing of the reason why the charter is subject to revocation. The charter school shall submit a written plan to the local school board or the State Board, whichever is applicable, to rectify the problem. The plan shall include a timeline for implementation, which shall not exceed 2 years or the date of the charter's expiration, whichever is earlier. If the local school board or the State Board, as the chartering entity, finds that the charter school has failed to implement the plan of remediation and adhere to the timeline, then the chartering entity shall revoke the charter. Except in situations of an emergency where the health, safety, or education of the charter school's students is at risk, the revocation shall take place at the end of a school year. Nothing in this Section shall be construed to prohibit an implementation timetable that is less than 2 years in duration. No local school board may arbitrarily or capriciously revoke or not renew a charter. Except for extenuating circumstances outlined in this Section, if a local school board revokes or does not renew a charter, it must ensure that all students currently enrolled in the charter school are placed in schools that are higher performing than that charter school, as defined in the State's federal Every Student Succeeds Act accountability plan. In determining whether extenuating circumstances exist, a local school board must detail, by clear and convincing evidence, that factors unrelated to the charter school's accountability designation outweigh the charter school's academic performance.

(d) (Blank).

(e) Notice of a local school board's decision to deny, revoke, or not renew a charter shall be provided to the State

Board.

The State Board may reverse a local board's decision to revoke or not renew a charter if the State Board finds that the charter school or charter school proposal (i) is in compliance with this Article and (ii) is in the best interests of the students it is designed to serve. The State Board may condition the granting of an appeal on the acceptance by the charter school of funding in an amount less than that requested in the proposal submitted to the local school board. The State Board must appoint and utilize a hearing officer for any appeals conducted under this subsection. Final decisions of the State Board are subject to judicial review under the Administrative Review Law.

(f) Notwithstanding other provisions of this Article, if the State Board on appeal reverses a local board's decision or if a charter school is approved by referendum, the State Board shall act as the authorized chartering entity for the charter school and shall perform all functions under this Article otherwise performed by the local school board. The State Board shall report the aggregate number of charter school pupils resident in a school district to that district and shall notify the district of the amount of funding to be paid by the State Board to the charter school enrolling such students. The charter school shall maintain accurate records of daily attendance and student enrollment and shall enter data on the students served, their characteristics, their particular needs, the programs in which they participate, and their academic achievement into the statewide student information system established by the State Board. The State Board shall withhold from funds otherwise due the district the funds authorized by this Article to be paid to the charter school and shall pay such amounts to the charter school in quarterly installments, calculated as follows:

(1) The amount of the first quarterly payment shall be based on the projected number of students who will be enrolled in the charter school in the upcoming school year, multiplied by one-fourth of the resident district's per capita tuition amount. Each charter school shall submit its projected enrollment by no later than August 1 of each year on a form provided by the State Board for this purpose.

(2) The amount of the second quarterly payment shall be calculated such that the aggregate amount of the first and second quarterly installments is equal to the number of students reported as enrolled at the charter school on October 1 in the State Board's student information system, multiplied by one-half of the resident district's per capita tuition amount.

(3) The amount of the third quarterly payment shall be based on the number of students enrolled in the charter school on January 1, multiplied by one-fourth of the resident district's per capita tuition amount. Each

charter school shall submit its January 1 enrollment by no later than January 5 of each year on a form provided by the State Board for this purpose.

(4) The amount of the fourth quarterly payment shall be calculated such that the aggregate amount of the third and fourth installments is equal to the number of students reported as enrolled at the charter school on March 1 in the State Board's student information system, multiplied by one-half of the resident district's per capita tuition amount.

(g) (Blank).

(h) The State Board shall pay directly to a charter school it authorizes any federal or State funding attributable to a student with a disability attending the school.

(Source: P.A. 103-175, eff. 6-30-23.)

(105 ILCS 5/27A-9.5 new)

<u>Sec. 27A-9.5. Charter renewal; timely execution; funding consequences.</u>

<u>(a) This Section applies to all charter renewals approved on or after the effective date of this amendatory Act of the 104th General Assembly.</u>

<u>(b) For an initial agreement, no public funds may be disbursed to a charter operator unless and until a charter agreement has been fully executed by both the charter operator and the authorizer.</u>

After the initial agreement, the charter operator and the authorizer shall negotiate the terms of the charter renewal agreement within 90 days after the authorizer's passage of a renewal resolution consistent with applicable State law and district policy. In no circumstance may the charter operator operate under an expired agreement at the start of a school year that begins more than 90 days after the authorizer's passage of the renewal resolution. No public funds may be distributed after 90 days until an agreement is reached.

A charter operator's refusal to execute or negotiate, in good faith, a charter renewal agreement that incorporates the requirements of State law or district signed-agreement requirements constitutes grounds for nonrenewal.

(105 ILCS 5/27A-10.15 new)

Sec. 27A-10.15. Closure financial accountability.

(a) Every charter operator shall maintain, while its charter is in effect, one or more of the following financial instruments to secure closure obligations:

(1) an escrow account held in a financial institution in this State in the name of the charter school, funded in cash;

(2) a surety bond or irrevocable letter of credit issued by a financial institution authorized to do business in this State; or

(3) a segregated reserve fund reflected on the charter

school's audited financial statements and held in a manner acceptable to the authorizer.

A charter operator in operation on the effective date of this amendatory Act of the 104th General Assembly must comply with this Section within 2 fiscal years after the effective date of this amendatory Act of the 104th General Assembly.

(b) The closure security under subsection (a) for a charter school in operation for at least one fiscal year must equal 3 months of the charter school's average operating expenditures based on its last audited fiscal year. If the closure security is below the required amount, the authorizer may require a remediation plan to reach compliance within 2 fiscal years. Failure to timely comply is grounds for suspension of enrollment growth and may be considered in a charter renewal determination.

For a charter operator in operation for less than one fiscal year, the closure security must equal 3 months of the charter school's projected annual budget, as approved by the charter's authorizer. The closure security for such a charter operator must be established and funded to at least 50% of the required amount, based on the charter operator's projected budget, at the time the charter is granted or, for a charter granted before the effective date of this amendatory Act of the 104th General Assembly, within 30 days after the effective date of this amendatory Act of the 104th General Assembly and must reach the full required amount by the end of the charter's second full fiscal year.

(c) Closure security shall be used, in priority order, to pay:

(1) the direct costs of transitioning students, such as transportation, records transfer, and student placement assistance, incurred by the authorizer or receiving school district;

(2) any outstanding payroll for employees for time worked through the closure date, including legally required benefits, and severance if contractually required under the charter operator's collective bargaining agreements or employment contracts;

(3) any costs reasonably incurred for the storage or transfer of student records and special education documents required to ensure continuity of services;

(4) any costs to return public assets to the authorizer or otherwise account for disposition of public assets purchased with public funds;

(5) any reasonable administrative costs incurred by the authorizer or the State Board to supervise and execute the closure and student transition; and

(6) any costs related to emergency expenditures not created by the negligence or mismanagement of the charter operator and agreed to by the authorizer.

Closure security may not be used to pay any preexisting, unrelated debt of the charter operator that is not connected to the operating obligations to students, employees, or public property, except as permitted under this subsection.

Any remaining closure security funds after satisfaction of the obligations described in this subsection shall be returned to the authorizer and shall remain public funds in accordance with State and federal law.

(d) A charter operator must provide the authorizer and the State Board written notice of the charter operator's intent to close a charter school no fewer than 90 days before the planned closure and must provide immediate notice upon any involuntary closure action, insolvency event, or cessation of operations.

Within 30 days after a closure event, the authorizer shall publish a closure action statement that lists amounts from the closure security disbursed and the uses.

(e) Failure to maintain closure security as required under this Section is a basis for:

(1) the authorizer to withhold a portion of per-pupil payments until compliance is achieved; and

(2) consideration in denying a charter renewal or revoking the charter or ineligibility to operate additional charter campuses.

For purposes of this Section, the State Board may act in its regulatory oversight capacity for all authorizers and in its capacity as an authorizer for charter schools it directly authorizes under this Article.

If the closure security is insufficient to cover the costs of a closure event as set forth in subsection (c), the authorizer or the State Board may:

(1) bring a civil action against the charter operator to recover the unpaid amounts; and

(2) seek to impose a lien on any property owned by the charter operator that is located in this State to secure recovery.

In cases in which a closure results from gross negligence, willful misconduct, or intentional misappropriation of public funds by the charter operator or its officers or directors, the authorizer or State Board may seek recovery from individual officers, directors, or persons who knowingly caused the gross negligence, willful misconduct, or intentional misappropriation, including civil penalties not to exceed $50,000 per violation and reasonable attorney's fees.

(f) Upon closure, any public assets purchased with public funds shall be returned to the authorizer or otherwise disposed of in accordance with applicable State and federal law governing property acquired with public funds. Proceeds from any sale of such assets shall be applied first to outstanding obligations to students and employees, and then to the reimbursement of public funds.

(g) The State Board shall adopt rules to implement this Section within one year after the effective date of this amendatory Act of the 104th General Assembly, including acceptable forms of closure security, procedures for claims on closure security, and documentation standards for authorizers to approve closure security.

(105 ILCS 5/27A-10.20 new)

Sec. 27A-10.20. Financial distress; charter school financial intervention.

(a) If an authorizer determines that a charter school is in financial distress, the authorizer may require the charter operator to submit a financial remediation plan for approval within 30 days after that determination. The remediation plan shall include, at a minimum:

(1) current cash-flow projections;

(2) corrective actions to address identified deficiencies;

(3) a timeline for achieving fiscal stability; and

(4) enhanced financial-reporting requirements as specified by the authorizer.

Failure to timely submit a remediation plan or implement an approved remediation plan constitutes grounds for financial intervention under subsection (b).

(b) If the authorizer determines that (i) the charter school has failed to implement an approved remediation plan or (ii) the financial distress presents an immediate risk to students, employees, or public funds, the authorizer may initiate financial intervention.

(c) The authorizer may exercise authority, limited to

<u>financial matters, over the charter school, including:</u>

<u>(1) approval and oversight of expenditures and disbursements;</u>

<u>(2) oversight of payroll, benefits, and required employee payments;</u>

<u>(3) reviewing, modifying, or terminating any vendor contracts necessary to ensure fiscal stability;</u>

<u>(4) protection, inventory, and preservation of public assets; and</u>

<u>(5) ensuring compliance with financial reporting and audit requirements.</u>

<u>(d) Financial intervention under this Section is temporary and may not exceed 180 days, except that the authorizer may extend the intervention once for good cause. The intervention shall terminate upon a determination by the authorizer that fiscal stability has been restored or upon charter revocation, surrender, nonrenewal, or closure.</u>

<u>(e) Prior to initiating financial intervention, the authorizer shall provide written notice to the charter operator describing the basis for the intervention and provide an opportunity to respond, except in cases in which immediate action is required to protect students or public funds.</u>

<u>(f) An authorizer's exercise of authority under this Section:</u>

<u>(1) does not constitute operation or management of the charter school;</u>

(2) does not create financial or legal liability for the authorizer or its members; and

(3) shall be deemed an oversight and regulatory function for purposes of immunity under Section 27A-7.10.

(g) Financial intervention under this Section does not preclude charter revocation, nonrenewal, or closure and may be used to stabilize operations pending an orderly closure pursuant to this Article, consistent with paragraph (2) of subsection (c) of Section 27A-9.

Section 97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 99. Effective date. This Act takes effect upon becoming law.".