



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB1984

Introduced 2/20/2009, by Sen. Kimberly A. Lightford

SYNOPSIS AS INTRODUCED:

105 ILCS 5/27A-5
115 ILCS 5/2

from Ch. 48, par. 1702

Amends the Charter Schools Law of the School Code and the Illinois Educational Labor Relations Act. Provides that a charter school shall comply with all provisions of the Illinois Educational Labor Relations Act; which is declaratory of existing law. Provides that "educational employer" under the Illinois Educational Labor Relations Act includes the governing body of a charter school; which is declaratory of existing law.

LRB096 11279 NHT 21706 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by changing Section
5 27A-5 as follows:

6 (105 ILCS 5/27A-5)

7 Sec. 27A-5. Charter school; legal entity; requirements.

8 (a) A charter school shall be a public, nonsectarian,
9 nonreligious, non-home based, and non-profit school. A charter
10 school shall be organized and operated as a nonprofit
11 corporation or other discrete, legal, nonprofit entity
12 authorized under the laws of the State of Illinois.

13 (b) A charter school may be established under this Article
14 by creating a new school or by converting an existing public
15 school or attendance center to charter school status. Beginning
16 on the effective date of this amendatory Act of the 93rd
17 General Assembly, in all new applications submitted to the
18 State Board or a local school board to establish a charter
19 school in a city having a population exceeding 500,000,
20 operation of the charter school shall be limited to one campus.
21 The changes made to this Section by this amendatory Act of the
22 93rd General Assembly do not apply to charter schools existing
23 or approved on or before the effective date of this amendatory

1 Act.

2 (c) A charter school shall be administered and governed by
3 its board of directors or other governing body in the manner
4 provided in its charter. The governing body of a charter school
5 shall be subject to the Freedom of Information Act and the Open
6 Meetings Act.

7 (d) A charter school shall comply with all applicable
8 health and safety requirements applicable to public schools
9 under the laws of the State of Illinois.

10 (e) Except as otherwise provided in the School Code, a
11 charter school shall not charge tuition; provided that a
12 charter school may charge reasonable fees for textbooks,
13 instructional materials, and student activities.

14 (f) A charter school shall be responsible for the
15 management and operation of its fiscal affairs including, but
16 not limited to, the preparation of its budget. An audit of each
17 charter school's finances shall be conducted annually by an
18 outside, independent contractor retained by the charter
19 school.

20 (g) A charter school shall comply with all provisions of
21 this Article, the Illinois Educational Labor Relations Act, and
22 its charter. A charter school is exempt from all other State
23 laws and regulations in the School Code governing public
24 schools and local school board policies, except the following:

25 (1) Sections 10-21.9 and 34-18.5 of the School Code
26 regarding criminal history records checks and checks of the

1 Statewide Sex Offender Database of applicants for
2 employment;

3 (2) Sections 24-24 and 34-84A of the School Code
4 regarding discipline of students;

5 (3) The Local Governmental and Governmental Employees
6 Tort Immunity Act;

7 (4) Section 108.75 of the General Not For Profit
8 Corporation Act of 1986 regarding indemnification of
9 officers, directors, employees, and agents;

10 (5) The Abused and Neglected Child Reporting Act;

11 (6) The Illinois School Student Records Act; and

12 (7) Section 10-17a of the School Code regarding school
13 report cards.

14 The change made by this amendatory Act of the 96th General
15 Assembly to this subsection (g) is declaratory of existing law.

16 (h) A charter school may negotiate and contract with a
17 school district, the governing body of a State college or
18 university or public community college, or any other public or
19 for-profit or nonprofit private entity for: (i) the use of a
20 school building and grounds or any other real property or
21 facilities that the charter school desires to use or convert
22 for use as a charter school site, (ii) the operation and
23 maintenance thereof, and (iii) the provision of any service,
24 activity, or undertaking that the charter school is required to
25 perform in order to carry out the terms of its charter.
26 However, a charter school that is established on or after the

1 effective date of this amendatory Act of the 93rd General
2 Assembly and that operates in a city having a population
3 exceeding 500,000 may not contract with a for-profit entity to
4 manage or operate the school during the period that commences
5 on the effective date of this amendatory Act of the 93rd
6 General Assembly and concludes at the end of the 2004-2005
7 school year. Except as provided in subsection (i) of this
8 Section, a school district may charge a charter school
9 reasonable rent for the use of the district's buildings,
10 grounds, and facilities. Any services for which a charter
11 school contracts with a school district shall be provided by
12 the district at cost. Any services for which a charter school
13 contracts with a local school board or with the governing body
14 of a State college or university or public community college
15 shall be provided by the public entity at cost.

16 (i) In no event shall a charter school that is established
17 by converting an existing school or attendance center to
18 charter school status be required to pay rent for space that is
19 deemed available, as negotiated and provided in the charter
20 agreement, in school district facilities. However, all other
21 costs for the operation and maintenance of school district
22 facilities that are used by the charter school shall be subject
23 to negotiation between the charter school and the local school
24 board and shall be set forth in the charter.

25 (j) A charter school may limit student enrollment by age or
26 grade level.

1 (Source: P.A. 93-3, eff. 4-16-03; 93-909, eff. 8-12-04; 94-219,
2 eff. 7-14-05.)

3 Section 10. The Illinois Educational Labor Relations Act is
4 amended by changing Section 2 as follows:

5 (115 ILCS 5/2) (from Ch. 48, par. 1702)

6 Sec. 2. Definitions. As used in this Act:

7 (a) "Educational employer" or "employer" means the
8 governing body of a public school district, including the
9 governing body of a charter school established under Article
10 27A of the School Code, combination of public school districts,
11 including the governing body of joint agreements of any type
12 formed by 2 or more school districts, public community college
13 district or State college or university, and any State agency
14 whose major function is providing educational services.
15 "Educational employer" or "employer" does not include a
16 Financial Oversight Panel created pursuant to Section 1A-8 of
17 the School Code due to a district violating a financial plan
18 but does include a School Finance Authority created under
19 Article 1E or 1F of the School Code. The change made by this
20 amendatory Act of the 96th General Assembly to this paragraph
21 (a) is declaratory of existing law.

22 (b) "Educational employee" or "employee" means any
23 individual, excluding supervisors, managerial, confidential,
24 short term employees, student, and part-time academic

1 employees of community colleges employed full or part time by
2 an educational employer, but shall not include elected
3 officials and appointees of the Governor with the advice and
4 consent of the Senate, firefighters as defined by subsection
5 (g-1) of Section 3 of the Illinois Public Labor Relations Act,
6 and peace officers employed by a State university. For the
7 purposes of this Act, part-time academic employees of community
8 colleges shall be defined as those employees who provide less
9 than 3 credit hours of instruction per academic semester. In
10 this subsection (b), the term "student" includes graduate
11 students who are research assistants primarily performing
12 duties that involve research or graduate assistants primarily
13 performing duties that are pre-professional, but excludes
14 graduate students who are teaching assistants primarily
15 performing duties that involve the delivery and support of
16 instruction and all other graduate assistants.

17 (c) "Employee organization" or "labor organization" means
18 an organization of any kind in which membership includes
19 educational employees, and which exists for the purpose, in
20 whole or in part, of dealing with employers concerning
21 grievances, employee-employer disputes, wages, rates of pay,
22 hours of employment, or conditions of work, but shall not
23 include any organization which practices discrimination in
24 membership because of race, color, creed, age, gender, national
25 origin or political affiliation.

26 (d) "Exclusive representative" means the labor

1 organization which has been designated by the Illinois
2 Educational Labor Relations Board as the representative of the
3 majority of educational employees in an appropriate unit, or
4 recognized by an educational employer prior to January 1, 1984
5 as the exclusive representative of the employees in an
6 appropriate unit or, after January 1, 1984, recognized by an
7 employer upon evidence that the employee organization has been
8 designated as the exclusive representative by a majority of the
9 employees in an appropriate unit.

10 (e) "Board" means the Illinois Educational Labor Relations
11 Board.

12 (f) "Regional Superintendent" means the regional
13 superintendent of schools provided for in Articles 3 and 3A of
14 The School Code.

15 (g) "Supervisor" means any individual having authority in
16 the interests of the employer to hire, transfer, suspend, lay
17 off, recall, promote, discharge, reward or discipline other
18 employees within the appropriate bargaining unit and adjust
19 their grievances, or to effectively recommend such action if
20 the exercise of such authority is not of a merely routine or
21 clerical nature but requires the use of independent judgment.
22 The term "supervisor" includes only those individuals who
23 devote a preponderance of their employment time to such
24 exercising authority.

25 (h) "Unfair labor practice" or "unfair practice" means any
26 practice prohibited by Section 14 of this Act.

1 (i) "Person" includes an individual, educational employee,
2 educational employer, legal representative, or employee
3 organization.

4 (j) "Wages" means salaries or other forms of compensation
5 for services rendered.

6 (k) "Professional employee" means, in the case of a public
7 community college, State college or university, State agency
8 whose major function is providing educational services, the
9 Illinois School for the Deaf, and the Illinois School for the
10 Visually Impaired, (1) any employee engaged in work (i)
11 predominantly intellectual and varied in character as opposed
12 to routine mental, manual, mechanical, or physical work; (ii)
13 involving the consistent exercise of discretion and judgment in
14 its performance; (iii) of such character that the output
15 produced or the result accomplished cannot be standardized in
16 relation to a given period of time; and (iv) requiring
17 knowledge of an advanced type in a field of science or learning
18 customarily acquired by a prolonged course of specialized
19 intellectual instruction and study in an institution of higher
20 learning or a hospital, as distinguished from a general
21 academic education or from an apprenticeship or from training
22 in the performance of routine mental, manual, or physical
23 processes; or (2) any employee, who (i) has completed the
24 courses of specialized intellectual instruction and study
25 described in clause (iv) of paragraph (1) of this subsection,
26 and (ii) is performing related work under the supervision of a

1 professional person to qualify himself or herself to become a
2 professional as defined in paragraph (l).

3 (l) "Professional employee" means, in the case of any
4 public school district, or combination of school districts
5 pursuant to joint agreement, any employee who has a certificate
6 issued under Article 21 or Section 34-83 of the School Code, as
7 now or hereafter amended.

8 (m) "Unit" or "bargaining unit" means any group of
9 employees for which an exclusive representative is selected.

10 (n) "Confidential employee" means an employee, who (i) in
11 the regular course of his or her duties, assists and acts in a
12 confidential capacity to persons who formulate, determine and
13 effectuate management policies with regard to labor relations
14 or who (ii) in the regular course of his or her duties has
15 access to information relating to the effectuation or review of
16 the employer's collective bargaining policies.

17 (o) "Managerial employee" means an individual who is
18 engaged predominantly in executive and management functions
19 and is charged with the responsibility of directing the
20 effectuation of such management policies and practices.

21 (p) "Craft employee" means a skilled journeyman, craft
22 person, and his or her apprentice or helper.

23 (q) "Short-term employee" is an employee who is employed
24 for less than 2 consecutive calendar quarters during a calendar
25 year and who does not have a reasonable expectation that he or
26 she will be rehired by the same employer for the same service

1 in a subsequent calendar year. Nothing in this subsection shall
2 affect the employee status of individuals who were covered by a
3 collective bargaining agreement on the effective date of this
4 amendatory Act of 1991.

5 (Source: P.A. 95-331, eff. 8-21-07.)