



Rep. Monique D. Davis

Filed: 5/27/2009

09600SB1984ham001

LRB096 11279 NHT 27547 a

1 AMENDMENT TO SENATE BILL 1984

2 AMENDMENT NO. _____. Amend Senate Bill 1984 by replacing
3 everything after the enacting clause with the following:

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

1 General Assembly, in all new applications submitted to the
2 State Board or a local school board to establish a charter
3 school in a city having a population exceeding 500,000,
4 operation of the charter school shall be limited to one campus.
5 The changes made to this Section by this amendatory Act of the
6 93rd General Assembly do not apply to charter schools existing
7 or approved on or before the effective date of this amendatory
8 Act.

9 (c) A charter school shall be administered and governed by
10 its board of directors or other governing body in the manner
11 provided in its charter. The governing body of a charter school
12 shall be subject to the Freedom of Information Act and the Open
13 Meetings Act.

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

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

21 (f) A charter school shall be responsible for the
22 management and operation of its fiscal affairs including, but
23 not limited to, the preparation of its budget. An audit of each
24 charter school's finances shall be conducted annually by an
25 outside, independent contractor retained by the charter
26 school.

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

6 (1) Sections 10-21.9 and 34-18.5 of the School Code
7 regarding criminal history records checks and checks of the
8 Statewide Sex Offender Database of applicants for
9 employment;

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

12 (3) The Local Governmental and Governmental Employees
13 Tort Immunity Act;

14 (4) Section 108.75 of the General Not For Profit
15 Corporation Act of 1986 regarding indemnification of
16 officers, directors, employees, and agents;

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

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

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

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

23 (h) A charter school may negotiate and contract with a
24 school district, the governing body of a State college or
25 university or public community college, or any other public or
26 for-profit or nonprofit private entity for: (i) the use of a

1 school building and grounds or any other real property or
2 facilities that the charter school desires to use or convert
3 for use as a charter school site, (ii) the operation and
4 maintenance thereof, and (iii) the provision of any service,
5 activity, or undertaking that the charter school is required to
6 perform in order to carry out the terms of its charter.
7 However, a charter school that is established on or after the
8 effective date of this amendatory Act of the 93rd General
9 Assembly and that operates in a city having a population
10 exceeding 500,000 may not contract with a for-profit entity to
11 manage or operate the school during the period that commences
12 on the effective date of this amendatory Act of the 93rd
13 General Assembly and concludes at the end of the 2004-2005
14 school year. Except as provided in subsection (i) of this
15 Section, a school district may charge a charter school
16 reasonable rent for the use of the district's buildings,
17 grounds, and facilities. Any services for which a charter
18 school contracts with a school district shall be provided by
19 the district at cost. Any services for which a charter school
20 contracts with a local school board or with the governing body
21 of a State college or university or public community college
22 shall be provided by the public entity at cost.

23 (i) In no event shall a charter school that is established
24 by converting an existing school or attendance center to
25 charter school status be required to pay rent for space that is
26 deemed available, as negotiated and provided in the charter

1 agreement, in school district facilities. However, all other
2 costs for the operation and maintenance of school district
3 facilities that are used by the charter school shall be subject
4 to negotiation between the charter school and the local school
5 board and shall be set forth in the charter.

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

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

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

12 (115 ILCS 5/2) (from Ch. 48, par. 1702)

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

14 (a) "Educational employer" or "employer" means the
15 governing body of a public school district, including the
16 governing body of a charter school established under Article
17 27A of the School Code, combination of public school districts,
18 including the governing body of joint agreements of any type
19 formed by 2 or more school districts, public community college
20 district or State college or university, a subcontractor of
21 instructional services, activities, or undertakings of a
22 school district, combination of school districts, or charter
23 school, and any State agency whose major function is providing
24 educational services. "Educational employer" or "employer"

1 does not include a Financial Oversight Panel created pursuant
2 to Section 1A-8 of the School Code due to a district violating
3 a financial plan but does include a School Finance Authority
4 created under Article 1E or 1F of the School Code. The change
5 made by this amendatory Act of the 96th General Assembly to
6 this paragraph (a) to make clear that the governing body of a
7 charter school is an "educational employer" is declaratory of
8 existing law.

9 (b) "Educational employee" or "employee" means any
10 individual, excluding supervisors, managerial, confidential,
11 short term employees, student, and part-time academic
12 employees of community colleges employed full or part time by
13 an educational employer, but shall not include elected
14 officials and appointees of the Governor with the advice and
15 consent of the Senate, firefighters as defined by subsection
16 (g-1) of Section 3 of the Illinois Public Labor Relations Act,
17 and peace officers employed by a State university. For the
18 purposes of this Act, part-time academic employees of community
19 colleges shall be defined as those employees who provide less
20 than 3 credit hours of instruction per academic semester. In
21 this subsection (b), the term "student" includes graduate
22 students who are research assistants primarily performing
23 duties that involve research or graduate assistants primarily
24 performing duties that are pre-professional, but excludes
25 graduate students who are teaching assistants primarily
26 performing duties that involve the delivery and support of

1 instruction and all other graduate assistants.

2 (c) "Employee organization" or "labor organization" means
3 an organization of any kind in which membership includes
4 educational employees, and which exists for the purpose, in
5 whole or in part, of dealing with employers concerning
6 grievances, employee-employer disputes, wages, rates of pay,
7 hours of employment, or conditions of work, but shall not
8 include any organization which practices discrimination in
9 membership because of race, color, creed, age, gender, national
10 origin or political affiliation.

11 (d) "Exclusive representative" means the labor
12 organization which has been designated by the Illinois
13 Educational Labor Relations Board as the representative of the
14 majority of educational employees in an appropriate unit, or
15 recognized by an educational employer prior to January 1, 1984
16 as the exclusive representative of the employees in an
17 appropriate unit or, after January 1, 1984, recognized by an
18 employer upon evidence that the employee organization has been
19 designated as the exclusive representative by a majority of the
20 employees in an appropriate unit.

21 (e) "Board" means the Illinois Educational Labor Relations
22 Board.

23 (f) "Regional Superintendent" means the regional
24 superintendent of schools provided for in Articles 3 and 3A of
25 The School Code.

26 (g) "Supervisor" means any individual having authority in

1 the interests of the employer to hire, transfer, suspend, lay
2 off, recall, promote, discharge, reward or discipline other
3 employees within the appropriate bargaining unit and adjust
4 their grievances, or to effectively recommend such action if
5 the exercise of such authority is not of a merely routine or
6 clerical nature but requires the use of independent judgment.
7 The term "supervisor" includes only those individuals who
8 devote a preponderance of their employment time to such
9 exercising authority.

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

12 (i) "Person" includes an individual, educational employee,
13 educational employer, legal representative, or employee
14 organization.

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

17 (k) "Professional employee" means, in the case of a public
18 community college, State college or university, State agency
19 whose major function is providing educational services, the
20 Illinois School for the Deaf, and the Illinois School for the
21 Visually Impaired, (1) any employee engaged in work (i)
22 predominantly intellectual and varied in character as opposed
23 to routine mental, manual, mechanical, or physical work; (ii)
24 involving the consistent exercise of discretion and judgment in
25 its performance; (iii) of such character that the output
26 produced or the result accomplished cannot be standardized in

1 relation to a given period of time; and (iv) requiring
2 knowledge of an advanced type in a field of science or learning
3 customarily acquired by a prolonged course of specialized
4 intellectual instruction and study in an institution of higher
5 learning or a hospital, as distinguished from a general
6 academic education or from an apprenticeship or from training
7 in the performance of routine mental, manual, or physical
8 processes; or (2) any employee, who (i) has completed the
9 courses of specialized intellectual instruction and study
10 described in clause (iv) of paragraph (1) of this subsection,
11 and (ii) is performing related work under the supervision of a
12 professional person to qualify himself or herself to become a
13 professional as defined in paragraph (1).

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

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

21 (n) "Confidential employee" means an employee, who (i) in
22 the regular course of his or her duties, assists and acts in a
23 confidential capacity to persons who formulate, determine and
24 effectuate management policies with regard to labor relations
25 or who (ii) in the regular course of his or her duties has
26 access to information relating to the effectuation or review of

1 the employer's collective bargaining policies.

2 (o) "Managerial employee" means an individual who is
3 engaged predominantly in executive and management functions
4 and is charged with the responsibility of directing the
5 effectuation of such management policies and practices.

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

8 (q) "Short-term employee" is an employee who is employed
9 for less than 2 consecutive calendar quarters during a calendar
10 year and who does not have a reasonable expectation that he or
11 she will be rehired by the same employer for the same service
12 in a subsequent calendar year. Nothing in this subsection shall
13 affect the employee status of individuals who were covered by a
14 collective bargaining agreement on the effective date of this
15 amendatory Act of 1991.

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