

## 2009 Pending Legislation Re: SUNY's Role as an Authorizer

### Timeline:

1. January 12, 2009 – Assembly Bill A01861 would remove all SUNY authority as an authorizer, moves all existing SUNY schools to the Regents. (Nolan, O'Donnell, Lifton, McEneny)
2. April 2, 2009 - Senate Bill S03875 retains SUNY as an authorizer, but gives Regents veto power of SUNY charter related decisions. (Oppenheimer)
3. April 21, 2009 - Assembly Bill A07687, matches Senate bill, gives Regents veto power of SUNY charter related decisions. (Nolan, Glick, O'Donnell)

General consensus is that S03875 and A07686 replace the first bill that was introduced A01861, however, all bills remain in the respective Senate/Assembly education committees.

Note too that the recent press coverage describing the Bills as a war, declared by the Regents against SUNY, include a fourth proposal, purportedly suggested by Regents' Chancellor Tisch, that SUNY not be allowed to authorize in New York City but could possibly still authorize elsewhere. Proposed legislation to this effect has not yet surfaced.

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### Assembly Bill A01861

SPONSOR Nolan (MS), COSPNSR O'Donnell, Lifton, MLTSPNSR McEneny

Amd SS2851 & 2852, Ed L: Provides that during the process of submitting an application to a charter entity for approval, a charter entity shall be the board of regents for charters where the original charter entity was the board of trustees of SUNY.

01/12/2009 referred to education

TITLE OF BILL : An act to amend the education law, in relation to charter schools

PURPOSE OR GENERAL IDEA OF BILL : This bill would amend the definition of charter entity in the Education Law.

SUMMARY OF SPECIFIC PROVISIONS : Sections 1 and 2 amend the Education Law S2851 to define the board of regents as the charter entity for charters where the original charter entity was the board of trustees of the state university of New York. Section 3 sets the effective date as the first July after which this act takes effect.

JUSTIFICATION : The New York Charter Schools Act of 1998 launched an experiment in education. Since that beginning, charter schools have been approved and denied, opened and closed. It has been a learning experience. After almost ten years of innovation in education, it is time to

reflect and review. This bill responds to just such a review of the procedures by which charter schools are created. It adjusts those procedures to make decisions about charter schools more consistent and therefore more credible.

Under current law, applications for new charter schools are submitted to the New York State Board of Regents, the SUNY Board of Trustees or a local school district and, in New York City, the chancellor. These entities review applications and forward approved applications to the Board of Regents. The Board of Regents may accept, reject or return an application for further development. The SUNY Board of Trustees, local school district of New York City chancellor may then re-submit applications. The Board of Regents may accept, reject or again return the application approved by local school districts but it must accept an application re-submitted by SUNY Board of Trustees even if the board does not address the Regents' questions or concerns.

The exception of SUNY approved applications from the Board of Regents oversight is troubling. It has introduced inconsistency into the review of charter applications. The criteria for approval of a charter application or the evaluation of that criteria differ. In fact, applications rejected by the Regents can proceed through SUNY rather than address what can be problematic flaws in their proposals. As a result, the credibility of some schools and in fact the approval process is called into question. It also makes oversight problematic and erratic. This is not good for the students in New York State.

This legislation amends the application process to assure consistent review of charter applications. It establishes a process which is reliable and accountable. That will serve the best interests of all schools and their students.

PRIOR LEGISLATIVE HISTORY: A10275 of 2007-2008

FISCAL IMPLICATIONS: None

EFFECTIVE DATE: This bill shall take effect on first July after the bill becomes law.

STATE OF NEW YORK  
1861  
2009-2010 Regular Sessions  
IN ASSEMBLY  
January 12, 2009

Introduced by M. of A. NOLAN, O'DONNELL -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to charter schools

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Subdivision 3 of section 2851 of the education law, as
- 2 added by chapter 4 of the laws of 1998 and paragraph (a) as amended by
- 3 section 6 of part B of chapter 57 of the laws of 2008, is amended to
- 4 read as follows:
- 5 3. An applicant shall submit the application to a charter entity for
- 6 approval. For purposes of this article, a charter entity shall be:
- 7 (a) The board of education of a school district eligible for an appor-
- 8 tionment of aid under [subdivision four of] section thirty-six hundred
- 9 two of this chapter, provided that a board of education shall not

10 approve an application for a school to be operated outside the school  
11 district's geographic boundaries and further provided that in a city  
12 having a population of one million or more, the chancellor of any such  
13 city school district shall be the charter entity established by this  
14 paragraph;

15 (b) The BOARD OF REGENTS, FOR CHARTERS WHERE THE ORIGINAL CHARTER  
16 ENTITY WAS THE board of trustees of the state university of New York; or

17 (c) The board of regents.

18 The board of regents shall be the only entity authorized to issue a  
19 charter pursuant to this article. Notwithstanding any provision of this  
20 subdivision to the contrary, an application for the conversion of an  
21 existing public school to a charter school shall be submitted to, and  
22 may only be approved by, the charter entity set forth in paragraph (a)  
23 of this subdivision. Any such application for conversion shall be  
24 consistent with this section, and the charter entity shall require that  
25 the parents or guardians of a majority of the students then enrolled in

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1 the existing public school vote in favor of converting the school to a  
2 charter school.

3 S 2. Subdivision 5-b of section 2852 of the education law, as added by  
4 chapter 4 of the laws of 1998, is amended to read as follows:

5 5-b. If the board of regents returns a proposed charter to the charter  
6 entity pursuant to the provisions of subdivision five-a of this section,  
7 such charter entity shall reconsider the proposed charter, taking into  
8 consideration the comments and recommendation of the board of regents.  
9 Thereafter, the charter entity shall resubmit the proposed charter to  
10 the board of regents with modifications, provided that the applicant  
11 consents in writing to such modifications, resubmit the proposed charter  
12 to the board of regents without modifications, or abandon the proposed  
13 charter. The board of regents shall review each such resubmitted  
14 proposed charter in accordance with the provisions of subdivision five-a  
15 of this section[; provided, however, that it shall be the duty of the  
16 board of regents to approve and issue a proposed charter resubmitted by  
17 the charter entity described in paragraph (b) of subdivision three of  
18 section twenty-eight hundred fifty-one of this article within thirty  
19 days of the resubmission of such proposed charter or such proposed char-  
20 ter shall be deemed approved and issued at the expiration of such peri-  
21 od].

22 S 3. This act shall take effect on the first of July next succeeding  
23 the date on which it shall have become a law.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD01392-01-9

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Senate Bill S03875

Believed to be initiated by Diane Ward, chief of staff to Senator Oppenheimer and former governmental affairs liaison for the New York State school boards association. S03875 grants the Regents veto power over SUNY charter related actions. Ms. Ward has described this bill as a compromise to Assemblywoman Nolan's initial bill (A10275) which removed all of SUNY's authorizing authority.

BILL NO S03875

SAME AS Same as A 7687

SPONSOR OPPENHEIMER

Amd S2852, Ed L: Relates to charter schools.

04/02/2009 REFERRED TO EDUCATION

S03875 Memo:

STATE OF NEW YORK  
3875  
2009-2010 Regular Sessions  
IN SENATE  
April 2, 2009

Introduced by Sen. OPPENHEIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to charter schools

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 5-b of section 2852 of the education law, as  
2 added by chapter 4 of the laws of 1998, is amended to read as follows:  
3 5-b. If the board of regents returns a proposed charter to the charter  
4 entity pursuant to the provisions of subdivision five-a of this section,  
5 such charter entity shall reconsider the proposed charter, taking into  
6 consideration the comments and recommendation of the board of regents.  
7 Thereafter, the charter entity shall resubmit the proposed charter to  
8 the board of regents with modifications, provided that the applicant  
9 consents in writing to such modifications, resubmit the proposed charter  
10 to the board of regents without modifications, or abandon the proposed  
11 charter. The board of regents shall review each such resubmitted  
12 proposed charter in accordance with the provisions of subdivision five-a  
13 of this section[]; provided, however, that it shall be the duty of the  
14 board of regents to approve and issue a proposed charter resubmitted by  
15 the charter entity described in paragraph (b) of subdivision three of  
16 section twenty-eight hundred fifty-one of this article within thirty  
17 days of the resubmission of such proposed charter or such proposed char-  
18 ter shall be deemed approved and issued at the expiration of such peri-

19 od].

20 S 2. This act shall take effect on the first of July next succeeding  
21 the date on which it shall have become a law.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD10840-01-9

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Assembly Bill A07687

BILL NO A07687

SAME AS Same as S 3875

SPONSOR Nolan (MS)

COSPNR Glick, O'Donnell

Amd S2852, Ed L: Relates to charter schools.

04/21/2009 referred to education

TITLE OF BILL: An act to amend the education law, in relation to charter schools

PURPOSE OR GENERAL IDEA OF BILL: This bill would amend the education law to subject all charter schools to the same review process, by allowing only the Board of Regents to issue charters.

SUMMARY OF SPECIFIC PROVISIONS: Section 1 amends the Education Law S2851 to define the board of regents as the charter entity for all charters. Section 2 sets the effective date as the first July after which this act takes effect.

JUSTIFICATION: The exception of SUNY approved applications from the Board of Regents oversight is troubling. It has introduced inconsistency into the review of charter applications. The criteria for approval of a charter application or its evaluation differ. In fact, applications rejected by the Regents can proceed through SUNY rather than address what can be problematic flaws in their proposals. As a result, the credibility of some schools and in fact the approval process itself is called into question. It also makes oversight erratic and uncertain.

This legislation amends the application process to assure consistent review of charter applications. It establishes a process which is reliable and accountable. This bill will subject all charter schools to the same review standards and level the playing field for charter school applicants.

PRIOR LEGISLATIVE HISTORY: New bill.

FISCAL IMPLICATIONS: None.

EFFECTIVE DATE: July 1, 2009

STATE OF NEW YORK

7687

2009-2010 Regular Sessions

IN ASSEMBLY

April 21, 2009

Introduced by M. of A. NOLAN, GLICK, O'DONNELL -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to charter schools

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-

BLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 5-b of section 2852 of the education law, as  
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3 5-b. If the board of regents returns a proposed charter to the charter  
4 entity pursuant to the provisions of subdivision five-a of this section,  
5 such charter entity shall reconsider the proposed charter, taking into  
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7 Thereafter, the charter entity shall resubmit the proposed charter to  
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0 to the board of regents without modifications, or abandon the proposed  
11 charter. The board of regents shall review each such resubmitted  
12 proposed charter in accordance with the provisions of subdivision five-a  
13 of this section [; provided, however, that it shall be the duty of the  
14 board of regents to approve and issue a proposed charter resubmitted by  
15 the charter entity described in paragraph (b) of subdivision three of  
16 section twenty-eight hundred fifty-one of this article within thirty  
17 days of the resubmission of such proposed charter or such proposed char  
18 ter shall be deemed approved and issued at the expiration of such peri-  
19 od].  
20 S 2. This act shall take effect on the first of July next succeeding  
21 the date on which it shall have become a law.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.