

SENATE BILL REPORT

SB 5764

As Reported By Senate Committee On:
Education, March 4, 1997

Title: An act relating to charter schools.

Brief Description: Authorizing charter schools.

Sponsors: Senators Johnson, Anderson, Benton, McCaslin, Oke, Deccio, Strannigan, Swecker, Hochstatter, Finkbeiner, Schow, Rossi, Sellar and West.

Brief History:

Committee Activity: Education: 2/25/97, 3/4/97 [DPS-WM, DNPS].
Ways & Means: 4/14/97.

SENATE COMMITTEE ON EDUCATION

Majority Report: That Substitute Senate Bill No. 5764 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Johnson and Zarelli.

Minority Report: Do not pass substitute.

Signed by Senators Goings and McAuliffe.

Staff: Susan Mielke (786-7422)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Bill Freund (786-7441)

Background: Generally, charter schools are public schools that operate independently of most state laws and regulations. Since 1991, 25 states have passed legislation authorizing such independent public schools: Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Kansas, Louisiana, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, New Hampshire, North Carolina, Rhode Island, South Carolina, Texas, Wisconsin, and Wyoming.

Summary of Substitute Bill: A new chapter is created in the education code authorizing and establishing a process for creating and implementing charter schools.

A Charter School: A charter school is a public school of one or more K-12 grades operated by a public benefit nonprofit corporation. The school operates independent of any school district board under a renewable five-year charter approved by a sponsor.

Charter Applicant: A charter applicant must be a public benefit nonprofit corporation, or a 501(c)(3) nonprofit corporation.

Charter Sponsor: A charter sponsor must be a school district or the State Board of Education.

A Charter: A charter is a five-year contract between an applicant and a sponsor. It establishes the terms and conditions for the management, operation, and educational program of a charter school.

The Chartering Process: An applicant must submit its application to the local school district board where the proposed school will be located before the applicant may submit an application to another sponsor. The board must hold a public hearing on the application within 60 days. The board must accept or reject the application in writing within 30 days after the hearing. If the board rejects the application, the applicant may apply to another sponsor or appeal to the Superintendent of Public Instruction.

The Appeal Process: If a sponsor does not approve a charter application, the applicant may appeal to the Superintendent of Public Instruction (SPI) within 30 days of the sponsor's decision. The SPI has 30 days to approve or deny the application. If the SPI approves the application, the SPI is the sponsor of the charter school. A denial of the application by the SPI may be appealed to a superior court. If the SPI's decision is unsupported by the facts, the court is directed to remand the matter to the SPI with orders to approve the charter application.

The Washington Institute of Public Policy must study the effectiveness of the appeals process, collect information on charter schools, and report to the Legislature by September 1, 1999.

The Charter Application: The charter application must include:

- identification and a description of the applicant and the individuals who will operate the school;
- the applicant's articles of incorporation, bylaws, and most recent financial information;
- a mission statement for the proposed school;
- a description of the school's admissions policy, educational program, student performance evaluation plan, corrective action procedures for improving student performance, and procedures for student discipline and dismissal;
- a description of the student and school performance standards to be measured by the assessment and accountability systems developed by the Commission on Student Learning;
- an assessment of the school's potential legal liability and a description of the insurance coverage the school plans to obtain;
- a description of procedures to assure compliance with health and safety laws;
- a five-year budget, a plan for starting the school, the proposed financial management procedures, a marketing plan and a description of major contracts planned.

Approval Criteria: The application must be approved if:

- the applicant is reasonably qualified;
- the mission statement is consistent with the act;
- the program describes student performance and accountability standards to be measured by the assessment and accountability systems being developed;
- there is a plan for evaluating student and school performance and procedures for taking corrective action if student performance falls below the standards;
- the admission and marketing policies are consistent with current law;
- there is adequate assessment of the necessary insurance coverage;
- student discipline and dismissal plans are reasonable;
- the health and safety procedures comply with law;
- the financial procedures meet or exceed generally accepted standards of accounting and management.

Charter School Powers: A board of directors manages and operates the school. The board may hire, manage, and discharge charter school employees. A charter school may enter into contracts for real property, equipment, goods, supplies, and services, including educational instructional services. A charter school may rent, lease, or own property. A charter school may accept gifts, but not from sectarian or religious organizations. A charter school may not charge tuition, levy taxes, or issue bonds, but may charge fees for optional non-credit extracurricular events.

Exemptions: A charter school is exempt from all statutes and rules applicable to a school board or district except as provided in the act and in the approved charter. Charter schools may elect to comply with any statute or rule. All charter schools must:

- comply with applicable state and federal health, safety, and civil rights laws;
- meet or exceed the student performance and assessment standards established for students in other public schools, including the essential academic learning requirements and performance standards;
- participate in the nationally normed standardized achievement tests required by state law at the fourth, eighth, and eleventh grades;
- employ certificated instructional staff, but may employ noncertificated instructional staff with nonstate funds;
- comply with the statutorily required employee record checks;
- be subject to the same financial and audit requirements as a school district;
- comply with the annual performance report;
- report at least annually to its sponsor and students' parents on progress toward the student performance goals specified in the charter;
- comply with the Open Public Meetings Act.

Admission Requirements: A charter school must enroll all students who submit a timely application, unless capacity is insufficient. If there is insufficient capacity, then the school must give enrollment priority to students residing within the school district where the charter school is located and priority to siblings of students who are currently enrolled in the school. Remaining spaces are filled through an equitable selection process, such as a lottery. Admission must not be based on race, religion, ethnicity, national origin, gender, income level, intellectual ability, disabling condition, English language proficiency, or athletic ability. Admission may be limited to students within a given age group or age level.

Charter Renewal and Revocation: After three years of operation, a charter school may apply to the sponsor for renewal of the five-year charter agreement. The renewal application must include:

- a report on the progress of the charter school in achieving the goals, student performance standards, and other terms of the initial charter;
- a financial statement of the costs and expenditures of the charter school.

The sponsor may reject the renewal if the charter school materially violated its contract or any laws that were not waived, failed to meet generally accepted standards of fiscal management, or the charter school's students failed to meet or make reasonable progress toward the student performance standards in the initial charter. The sponsor must give written notice of intent not to renew within one month of the request to renew to allow the school an opportunity to correct the deficiencies.

The sponsor may revoke a charter at any time for the same reasons that a sponsor may not renew a charter. Revocation of a charter requires the sponsor provide written notice of the specific violations alleged, a public hearing, and a reasonable opportunity for the school to correct the areas of concern. The sponsor need not comply with the revocation requirements in cases of emergency where the health and safety of children are at risk. The sponsor must provide a process to appeal a revocation of a charter.

Funding: State funding to a charter school is determined in the same manner as for other public schools.

Charter schools are entitled to a portion of the maintenance and operation levy dollars of the school district in which each FTE student who attends the charter school resides. The amount is equal to 100 percent the excess tax levy rate per annual average FTE student attending the charter school less administration fees.

Administration Fees: A sponsor may retain up to 2 percent of the charter school's state and local excess levy funding for oversight and administration purposes.

Conversion of a Public School: A public school may convert to a charter school if 51 percent of the parents and 51 percent of the certificated staff support the conversion. Teachers who choose not to work at the charter school may be reassigned within the district without loss of benefits or status. A public school that converts to a charter school may use its current facility if the applicant insures and maintains the facility.

School District Employees: A school district must grant a written request by a school district employee for an extended leave of absence to work at a charter school. The leave may extend up to three years. The district may require that the request be made up to 90 days before the employee would otherwise have to report for duty. If the employee returns to the school district within the three-year period, the employee must receive first consideration for rehire.

Charter Schools Assistance Account: The charter schools assistance account is created in the custody of the State Treasurer. All appropriations must be deposited into the account. Only SPI or SPI's designee may authorize expenditures from the account. Expenditures may be used only to provide financial grants to approved charter schools for start-up costs. A

grant may not exceed \$250 per student. The grants are awarded on a first-come, first-served basis. If a charter school receives a grant but fails to begin operation of a school within 18 months, then the grant recipient must reimburse the SPI for the amount of the grant.

Cap and Floor on Enrollment: Until June 1, 2000, no more than 5 percent of a school district's enrollment may be enrolled in a charter school (the limit does not apply to converted schools).

Charter schools with fewer than 15 students may not receive state funding.

Substitute Bill Compared to Original Bill: The substitute bill clarifies that an eligible applicant is a public benefit nonprofit corporation, or a 501(c)(3) nonprofit corporation. The eligible sponsors are changed from a school district, an ESD, a community and technical college or an education college at a regional university to only a school district or the State Board of Education. It is clarified that the student performance and assessment standards that a charter school must meet include the EALRs and performance standards developed by the Commission on Student Learning instead of requiring that 75 percent of the instructional staff must be certified. A charter school must employ certificated staff, but may hire non-certificated instructional staff with nonstate sources. A charter school must comply with the annual performance report, and the Open Public Meetings Act.

The application process and timeline are changed. An applicant must submit its application to the local school district board where the proposed school will be located before submitting to other sponsors. The board must hold a public hearing on the application within 60 days. The board must accept or reject the application within 30 days after the hearing.

The approval criteria is changed. Instead of only meeting the application requirements, the applicant must be reasonably qualified and submit specified information on the educational, financial management and insurance programs.

The Washington Institute of Public Policy is directed to study the effectiveness of the appeals process, and collect information on charter schools. A charter school may apply to the sponsor for renewal of the five-year charter agreement after three years of operation instead of four years.

The funding is changed. The statewide annual average per FTE student allocation is retained. But the school receives 100 percent of the maintenance and operation levy dollars per student instead of two-thirds. The school may receive start-up grants up to \$250 per student, instead of up to \$25,000 grant amount. Language is added allowing the sponsor to retain up to 2 percent of the state and local funds for an administration fee.

Provisions allowing for a public school to convert to a charter school are added. The leave of absence to work in a charter school granted to a school district employee may extend up to three years. A cap and a floor on enrollment is added. Until June 1, 2000, no more than 5 percent of a school district's enrollment may be enrolled in a charter school (the limit does not apply to converted schools). Charter schools with fewer than 15 students may not receive state funding.

Appropriation: None.

Fiscal Note: Requested on February 17, 1997.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: Charter schools are a way to make public education better. They are no longer an experiment. They have been proven successful across the country. It is a way to fundamentally redesign the archaic education system. The current system values conformity and not innovation. Charter schools will bring about real education reform. They are a way to expand choice and opportunities for parents, teachers and children. Parents want to use public schools but disagree with the values and ideology of the state. The charter agreement creates less regulation but provides true accountability. If the school does not meet or exceed standards, then the school goes out of business. There are no consequences in the current system for failure to perform.

Charter schools will stimulate innovation in the education system and improve education for all students in the state, not just those attending the charter schools.

Testimony Against: There is comprehensive education reform currently taking place in the state. Education reform is strengthening the education system by providing flexibility and greater control to local schools and improving education for all students, not just the few who may attend a charter school. The charter agreement under this bill is not a contract because the sponsor has no discretion to disapprove. The lack of sponsor discretion does not provide the ability to do what is best for the local community. The bill bypasses the elected officials of the school board and that is wrong. It may be illegal for the locally approved levy dollars to go to the charter school if not specifically authorized by the voters. Charter schools will not make the system more accountable, because systems cannot be accountable. Only people can be accountable. The liability exposure for the sponsor and the school district is unclear. This bill does not allow for a current public school to convert to be a charter school.

Testified: Senator Johnson, prime sponsor (pro); Joy Sawatzki, WECS (pro); Dr. Raymond Jackson, ATOP Academy (pro); Paul Hill, UW; Jean Ameluxen, OSPI (con); William Pinnick (pro); Jeff Kemp, Washington Family Concern (pro); Barbara Casey, WSPTA (con); Dwayne Slate, School Directors' Association (con); Judy Hartmann, WEA (con); Richard Meinhard, Center For Educational Change (pro); Jeanette Newman, WA Charter School Association (pro).