
HOUSE BILL 2415

State of Washington

56th Legislature

2000 Regular Session

By Representatives Quall, Talcott, Rockefeller, Carlson, D. Schmidt, Pflug, Thomas, Haigh, Van Luven, Linville, Ruderman and Esser

Read first time 01/12/2000. Referred to Committee on Education.

1 AN ACT Relating to charter public schools; amending RCW 41.59.080;
2 adding a new section to chapter 41.56 RCW; adding a new section to
3 chapter 41.59 RCW; adding a new chapter to Title 28A RCW; creating a
4 new section; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** INTENT. The legislature intends to
7 authorize the establishment of charter public schools for the purpose
8 of providing a unique setting for learning that will improve pupil
9 achievement and provide additional public school choices for students,
10 parents, and teachers.

11 NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context clearly
12 requires otherwise, the definitions in this section apply throughout
13 this chapter.

14 (1) "Applicant" means a nonprofit corporation that has submitted an
15 application to a sponsor to obtain approval to operate a charter public
16 school. The nonprofit corporation must either be a public benefit
17 nonprofit corporation as defined in RCW 24.03.490, or a nonprofit
18 corporation as defined in RCW 24.03.005 that has applied for tax-exempt

1 status under section 501(c)(3) of the internal revenue code of 1986 (26
2 U.S.C. Sec. 501(c)(3)). The nonprofit corporation may not be a
3 sectarian or religious organization and must meet all of the
4 requirements for a public benefit nonprofit corporation before
5 receiving any funding under section 12 of this act.

6 (2) "Charter" means a contract between an applicant and a sponsor.
7 The charter establishes, in accordance with this chapter, the terms and
8 conditions for the management, operation, and educational program of
9 the charter public school.

10 (3) "Charter public school" means a public school managed by an
11 applicant's board of directors and operating independently of any
12 school district board under a charter approved in accordance with this
13 chapter.

14 (4) "Board of directors" means the board of directors of the public
15 benefit nonprofit corporation that manages and operates the charter
16 public school.

17 (5) "Sponsor" means: (a) The school district in which the charter
18 public school is located; (b) the state and regional universities as
19 defined in RCW 28B.10.016; or (c) The Evergreen State College. Charter
20 public schools sponsored under (b) or (c) of this subsection shall be
21 approved by the governing board of the sponsoring institution or by an
22 official or agency designated by and accountable to the governing
23 board.

24 NEW SECTION. **Sec. 3.** CHARTER PUBLIC SCHOOLS--POWERS. (1) The
25 charter public school's board of directors may hire, manage, and
26 discharge any charter public school employee in accordance with the
27 terms of this chapter and that school's charter.

28 (2) The charter public school's board of directors may enter into
29 a contract with any school district, or any other public or private
30 entity, also empowered to enter into contracts, for any and all real
31 property, equipment, goods, supplies, and services, including
32 educational instructional services.

33 (3) Charter public schools may rent, lease, or own property, but
34 may not acquire property by eminent domain. All charters and charter
35 public school contracts with other public and private entities must
36 include provisions regarding the disposition of the property if the
37 charter public school fails to open as planned, closes, or the charter
38 is revoked or not renewed. Charter public schools may accept gifts and

1 donations from other governmental and private entities, excluding
2 sectarian or religious organizations. Charter public schools may not
3 accept any gifts or donations the conditions of which violate this
4 chapter.

5 (4) Neither a charter public school sponsor nor the school district
6 in which the charter public school is located is liable for acts or
7 omissions of a charter public school, including acts or omissions
8 related to the application, the charter, the operation, and the
9 performance of the charter public school.

10 (5) Charter public schools may not charge tuition, levy taxes, or
11 issue bonds, however they may charge fees for optional noncredit
12 extracurricular events.

13 NEW SECTION. **Sec. 4.** LEGAL STATUS. A charter public school is a
14 public school including one or more of grades kindergarten through
15 twelve, operated by a public benefit nonprofit corporation, according
16 to the terms of a renewable five-year contract granted by a sponsor.

17 NEW SECTION. **Sec. 5.** CHARTER PUBLIC SCHOOLS--EXEMPTIONS. (1) A
18 charter public school shall operate independently of any school
19 district board, under a charter approved by a sponsor under this
20 chapter.

21 (2) Charter public schools are exempt from all state statutes and
22 rules applicable to school districts and school district boards of
23 directors except as provided in this chapter and in the school's
24 approved charter.

25 (3) A charter public school's board of directors may elect to
26 comply with one or more provisions of the statutes or rules that are
27 applicable to school districts and school district board of directors.

28 (4) All approved charter public schools shall:

29 (a) Comply with state and federal health, safety, and civil rights
30 laws applicable to school districts;

31 (b) All charter public schools shall participate in nationally
32 normed standardized achievement tests as required in RCW 28A.230.230
33 and the elementary, middle school, and high school standards and
34 assessment examinations as required in RCW 28A.655.060;

35 (c) Employ certificated instructional staff as required in RCW
36 28A.410.010, however charter public schools may hire noncertificated

1 instructional staff of unusual competence and in exceptional cases as
2 specified in RCW 28A.150.260;

3 (d) Comply with the employee record check requirements in RCW
4 28A.400.303;

5 (e) Be subject to the same financial and audit requirements as a
6 school district;

7 (f) Comply with the annual performance report under RCW
8 28A.655.110;

9 (g) Report at least annually to its sponsor and to parents of
10 children enrolled at the charter public school on progress toward the
11 student performance goals specified in the charter; and

12 (h) Comply with the open public meetings act in chapter 42.30 RCW.

13 NEW SECTION. **Sec. 6.** ADMISSION REQUIREMENTS. (1) A charter
14 public school must enroll all students who submit a timely application.
15 If capacity is insufficient to enroll all students who submit a timely
16 application, the charter public school must give enrollment priority to
17 students who reside within the school district boundaries in which the
18 charter public school is physically located. Priority also must be
19 given to siblings of students who are currently enrolled in the school.
20 Students must be selected through an equitable selection process, such
21 as a lottery, to fill any remaining spaces. Schools that convert to
22 charter public schools must also give priority to the students who are
23 currently enrolled in school.

24 (2) A charter public school may not limit admission based on race,
25 religion, ethnicity, national origin, gender, income level,
26 intellectual ability, disabling condition, proficiency in the English
27 language, or athletic ability. A charter public school may limit
28 admission to students within a given age group or grade level.

29 NEW SECTION. **Sec. 7.** CHARTER APPLICATION--CHARTERING PROCESS.

30 (1) An applicant may apply to a sponsor to establish a charter public
31 school as provided in this section.

32 (2) An application for a charter public school may be submitted to
33 any qualified sponsor.

34 (3) The local school district board of directors must hold a public
35 hearing in the school district on the application within sixty days of
36 receipt of the application. The school board must either accept or
37 reject the application within thirty days after the hearing. The

1 thirty-day deadline for acceptance or rejection of the charter public
2 school application may be extended for an additional thirty days if
3 both parties agree in writing.

4 (4) If the local school board rejects the application, the school
5 board must notify the applicant in writing of the reasons for the
6 rejection. The applicant may submit a revised application for the
7 school board's reconsideration. The school board may provide
8 assistance to improve the application. If the school board rejects the
9 application after submission of a revised application, the school board
10 must notify the applicant in writing of the reasons for the rejection.

11 (5) Sponsors other than school districts must comply with the
12 procedures specified in subsections (1) through (4) of this section for
13 consideration of the charter application. The sponsor is not bound by
14 the school board's findings or decision to deny the application.

15 (6) The superintendent of public instruction shall maintain copies
16 of all approved charter applications. An applicant may obtain copies
17 of those applications from the office of the superintendent of public
18 instruction.

19 NEW SECTION. **Sec. 8.** APPLICATION REQUIREMENTS. The charter
20 public school application is a proposed contract and must include:

21 (1) The identification and description of the nonprofit corporation
22 submitting the application, including the names and descriptions of the
23 individuals who will operate the school;

24 (2) The nonprofit corporation's proposed articles of incorporation,
25 bylaws, and most recent financial statement and balance sheet;

26 (3) A mission statement for the proposed school, consistent with
27 the description of legislative intent in this chapter;

28 (4) A description of the school's educational program, including
29 curriculum and instructional strategies;

30 (5) A description of the school's admissions policy and marketing
31 program, including deadlines for applications or admission;

32 (6) A description of student performance standards that must meet
33 those determined under RCW 28A.655.060, and be measured according to
34 the assessment system determined under RCW 28A.655.060;

35 (7) A description of the plan for evaluating student performance
36 and the procedures for taking corrective action in the event that
37 student performance at the charter public school falls below standards
38 established in its charter;

1 (8) A description of the financial plan for the school. The plan
2 shall include: (a) A proposed five-year budget of projected revenues
3 and expenditures; (b) a plan for starting the school; (c) a five-year
4 facilities plan; (d) evidence supporting student enrollment projections
5 of at least twenty students; and (e) a description of major contracts
6 planned for equipment and services, leases, improvements, purchases of
7 real property, and insurance;

8 (9) A description of the proposed financial management procedures,
9 including annual audits of the school's financial and administrative
10 operations, which shall meet or exceed generally accepted standards of
11 management and public accounting;

12 (10) An assessment of the school's potential legal liability and a
13 description of the types and limits of insurance coverage the nonprofit
14 corporation plans to obtain that are adequate. For purposes of this
15 subsection, a liability policy of between one million and five million
16 dollars is required;

17 (11) A description of the procedures to discipline and dismiss
18 students; and

19 (12) A description of procedures to assure the health and safety of
20 students, employees, and guests of the school and to comply with
21 applicable federal and state health and safety laws and regulations.

22 NEW SECTION. **Sec. 9.** APPROVAL CRITERIA. A sponsor may approve an
23 application for a charter public school, if in the sponsor's reasonable
24 judgment, after exercising due diligence and good faith, the sponsor or
25 alternate sponsor finds:

26 (1) The applicant is a public benefit nonprofit corporation and the
27 individuals it proposes to manage the school are qualified to operate
28 a charter public school and implement the proposed educational program;

29 (2) The mission statement is consistent with the description of
30 legislative intent and restrictions on charter public school operations
31 in this chapter;

32 (3) The school's proposed educational program is free from
33 religious or sectarian influence;

34 (4) The school's proposed educational program includes student
35 academic performance standards that meet those determined under RCW
36 28A.655.060 and are measured according to the assessment system
37 determined under RCW 28A.655.060;

1 (5) The application includes a viable plan for evaluating pupil
2 performance and procedures for taking appropriate corrective action in
3 the event that pupil performance at the charter public school falls
4 below standards established in its charter;

5 (6) The school's educational program, including curriculum and
6 instructional strategies, has the potential to improve student
7 performance as measured under section 5 of this act;

8 (7) The application includes school performance standards, which
9 must meet those determined under the state-wide accountability system
10 adopted by the legislature pursuant to RCW 28A.655.060(3)(h)(i);

11 (8) The school's admissions policy and marketing program is
12 consistent with state and federal law;

13 (9) The financial plan for the school is designed to reasonably
14 support the charter public school's educational program based on a
15 review of the proposed five-year budget of projected revenues,
16 expenditures, and facilities;

17 (10) The school's financial and administrative operations,
18 including its annual audits, meet or exceed generally accepted
19 standards of accounting and management;

20 (11) The assessment of the school's potential legal liability, and
21 the types and limits of insurance coverage the school plans to obtain,
22 are adequate. For purposes of this subsection, a liability policy of
23 between one million and five million dollars is required;

24 (12) The procedures the school plans to follow for discipline and
25 dismissal of students are reasonable and comply with federal law;

26 (13) The procedures the school plans to follow to assure the health
27 and safety of students, employees, and guests of the school comply with
28 applicable state and federal health and safety laws and regulations;
29 and

30 (14) The public benefit nonprofit corporation has been approved or
31 conditionally approved by the internal revenue service for tax exempt
32 status under section 501(c)(3) of the internal revenue code of 1986 (26
33 U.S.C. Sec. 501(c)(3)).

34 NEW SECTION. **Sec. 10.** CHARTER AGREEMENT--AMENDMENT. (1) A
35 charter application approved by a sponsor with any changes constitutes
36 a charter.

1 (2) A charter may be amended during its term at the request of the
2 charter public school board of directors and on the approval of the
3 sponsor.

4 NEW SECTION. **Sec. 11.** CHARTER RENEWAL AND REVOCATION. (1) An
5 approved plan to establish a charter public school is effective for
6 five years from the first day of operation. At the conclusion of the
7 first three years of operation, the charter public school may apply to
8 the sponsor for renewal. A request for renewal must be submitted no
9 later than six months before the expiration of the charter.

10 (2) A charter public school renewal application must include:

11 (a) A report on the progress of the charter public school in
12 achieving the goals, student performance standards, and other terms of
13 the charter; and

14 (b) A financial statement that discloses the costs of
15 administration, instruction, and other expenditure objects and
16 activities of the charter public school.

17 (3) The sponsor may reject the application for renewal if any of
18 the following occurred:

19 (a) The charter public school materially violated its contract with
20 the sponsor, as set forth in the charter;

21 (b) The students enrolled in the charter public school failed to
22 meet student performance standards identified in the charter;

23 (c) The charter public school failed to meet generally accepted
24 standards of fiscal management; or

25 (d) The charter public school violated provisions in law that have
26 not been waived in accordance with this chapter.

27 (4) A sponsor shall give written notice of its intent not to renew
28 the charter public school's request for renewal to the charter public
29 school within one month of the request for renewal to allow the charter
30 public school an opportunity to correct identified deficiencies in its
31 operation. At the request of the board of directors of the charter
32 public school, the sponsor shall review its decision for nonrenewal
33 after the charter public school has corrected any identified
34 deficiencies.

35 (5) The sponsor may revoke a previously approved charter before the
36 expiration of the term of the charter, and before application for
37 renewal, for any of the reasons specified in subsection (3) of this
38 section. Except in cases of emergency where the health and safety of

1 children are at risk, a charter may not be revoked unless the sponsor
2 first provides written notice of the specific violations alleged, a
3 public hearing, and a reasonable opportunity for the charter public
4 school to correct the identified areas of concern. The sponsor of a
5 charter public school shall provide for an appeal process upon a
6 determination by the sponsor that grounds exist to revoke a charter.

7 NEW SECTION. **Sec. 12.** FUNDING. (1) When the sponsor is a school
8 district:

9 (a) For purposes of funding, students in charter public schools
10 shall be considered students of the sponsoring district for general
11 fund apportionment purposes. The sponsoring school district shall
12 provide funding for charter public schools on a per student basis in
13 amounts the schools would have received if the students were enrolled
14 in a noncharter public school in the district except that a charter
15 public school shall not generate eligibility for small school
16 assistance. Funding for charter public schools shall include regular
17 apportionment, categorical, and nonbasic education funds, as
18 appropriate and shall be based on enrollment and other financial
19 information submitted by the charter public school to the school
20 district as is required to determine state apportionment amounts;

21 (b) Local levy moneys approved by the voters before the effective
22 date of a charter between a school district and an applicant shall not
23 be allocated to a charter public school unless the sponsoring school
24 district determines it has received sufficient authority from voters to
25 allocate maintenance and operation excess tax levy money to the charter
26 public school. For levies approved after the effective date of a
27 charter, charter public schools shall be included in levy planning,
28 budgets, and funding distribution in the same manner as other schools
29 in the district; and

30 (c) A charter public school is eligible for state matching funds
31 for common school construction if a sponsoring school district
32 determines it has received voter approval of local capital funds for
33 the project.

34 (2) Public schools converting to charter public schools shall
35 receive funding in the same manner as other charter public schools.

36 (3) If the sponsor is not a school district, students in the
37 charter public school shall be considered students of the district in
38 which the charter public school is located for general fund

1 apportionment purposes. The superintendent of public instruction shall
2 provide funding for charter public schools on a per student basis in
3 amounts the schools would have received if the students were enrolled
4 in a noncharter public school in the district except that a charter
5 public school shall not generate eligibility for small school
6 assistance. The funding shall include regular apportionment,
7 categorical, and nonbasic education funds and shall be based on
8 enrollment and other financial information submitted by the charter
9 public school to the school district as is required to determine state
10 apportionment amounts.

11 (4) No local levy money may be allocated to a charter public school
12 if the charter public school is sponsored by an alternate sponsor.

13 NEW SECTION. **Sec. 13.** ADMINISTRATION FEE. To offset costs of
14 oversight and administering the charter, a sponsor may retain up to
15 three percent of state funding and local excess levy funding, if
16 applicable, that is being driven to the charter public school. Except
17 for the administration fee in this section, no other offsets or
18 deductions are allowed, whether for central administration or other
19 off-site support services, from a charter public school's per-pupil
20 share of state appropriations, local levies, or other funds, unless the
21 charter public school has contracted with a school district to obtain
22 specific additional services.

23 NEW SECTION. **Sec. 14.** CHARTER PUBLIC SCHOOL ASSISTANCE ACCOUNT.
24 The charter public school assistance account is created in the custody
25 of the state treasurer. All receipts from appropriations shall be
26 deposited into the account. Expenditures from the account may be used
27 only to provide financial grants to approved charter public schools for
28 start-up costs. Charter public schools may receive up to two hundred
29 fifty dollars per student for start-up costs. Only the superintendent
30 of public instruction or the superintendent's designee may authorize
31 expenditures from the account. The account is subject to allotment
32 procedures under chapter 43.88 RCW, but no appropriation is required
33 for expenditures. Start-up moneys shall be distributed to schools with
34 approved charters on a first-come, first-served basis.

1 NEW SECTION. **Sec. 15.** RULES--GRANTS. The office of the
2 superintendent of public instruction shall adopt rules to implement
3 section 14 of this act.

4 If an applicant for a charter public school receives a grant under
5 section 14 of this act and fails to begin operating a charter public
6 school within the next eighteen months, the applicant must immediately
7 reimburse the office of the superintendent of public instruction for
8 the amount of the grant.

9 NEW SECTION. **Sec. 16.** LEAVES OF ABSENCE. If a school district
10 employee makes a written request for an extended leave of absence to
11 work at a charter public school, the school district shall grant the
12 request. The school district may require that the request for a leave
13 be made up to ninety days before the employee would otherwise have to
14 report for duty. The leave shall be granted for up to three years. If
15 the employee returns to the school district within the three-year
16 period, the employee shall be hired before the district hires anyone
17 else with fewer years of service, with respect to any position for
18 which the returning employee is certificated or otherwise qualified.

19 NEW SECTION. **Sec. 17.** STUDY OF CHARTER PUBLIC SCHOOLS. The
20 Washington institute of public policy shall study the implementation
21 and effectiveness of this act. The institute shall make
22 recommendations to the legislature about the effectiveness of charter
23 public schools and the impact of charter public schools. The institute
24 shall also recommend changes to this chapter including improvements
25 that could be made to the application and approval process. A
26 preliminary report of the study is due to the legislature by September
27 1, 2002, and a final report is due September 1, 2004.

28 NEW SECTION. **Sec. 18.** NUMBER OF CHARTER PUBLIC SCHOOLS. (1) The
29 maximum number of charters that can be granted under this chapter is
30 twenty.

31 (2) A sponsor may not sponsor a charter public school in a school
32 district with a student enrollment of less than two thousand students.

33 (3) For purposes of monitoring compliance with this section and
34 providing information to new charter public school applicants, the
35 superintendent of public instruction shall maintain a running total of

1 the projected and actual enrollment at charter public schools and the
2 number of charters granted.

3 (4) For purposes of implementing this subsection, a sponsor shall
4 notify the office of the superintendent of public instruction when it
5 receives a charter public school application, when it approves a
6 charter public school, and when a charter public school is terminated.

7 (5) The maximum number of charter public schools allowed under this
8 section does not include public schools converting to charter public
9 schools.

10 NEW SECTION. Sec. 19. A new section is added to chapter 41.56 RCW
11 to read as follows:

12 This chapter applies to charter public schools as defined in
13 section 2 of this act and the charter public school's employees
14 included in the bargaining unit. The bargaining unit of employees of
15 charter public schools must be limited to the employees of the charter
16 public school and must be separate from other bargaining units in the
17 school district or educational service district.

18 This section, designating charter public schools as employers and
19 charter public schools as members under the teachers' retirement
20 systems and the public employees' retirement systems, takes effect only
21 if the department of retirement systems receives determinations from
22 the internal revenue service and the United States department of labor
23 that such participation does not jeopardize the status of these
24 retirement systems as governmental plans under the federal employees'
25 retirement income security act and the internal revenue code.

26 NEW SECTION. Sec. 20. A new section is added to chapter 41.59 RCW
27 to read as follows:

28 This chapter applies to collective bargaining agreements between
29 charter public schools and the employees of charter public schools
30 included in the bargaining unit. The bargaining unit of employees of
31 charter public schools must be limited to the employees of the charter
32 public school and must be separate from other bargaining units in the
33 school district.

34 This section, designating charter public schools as employers and
35 charter public schools as members under the teachers' retirement
36 systems and the public employees' retirement systems, takes effect only
37 if the department of retirement systems receives determinations from

1 the internal revenue service and the United States department of labor
2 that such participation does not jeopardize the status of these
3 retirement systems as governmental plans under the federal employees'
4 retirement income security act and the internal revenue code.

5 **Sec. 21.** RCW 41.59.080 and 1998 c 244 s 11 are each amended to
6 read as follows:

7 The commission, upon proper application for certification as an
8 exclusive bargaining representative or upon petition for change of unit
9 definition by the employer or any employee organization within the time
10 limits specified in RCW 41.59.070(3), and after hearing upon reasonable
11 notice, shall determine the unit appropriate for the purpose of
12 collective bargaining. In determining, modifying or combining the
13 bargaining unit, the commission shall consider the duties, skills, and
14 working conditions of the educational employees; the history of
15 collective bargaining; the extent of organization among the educational
16 employees; and the desire of the educational employees; except that:

17 (1) A unit including nonsupervisory educational employees shall not
18 be considered appropriate unless it includes all such nonsupervisory
19 educational employees of the employer; and

20 (2) A unit that includes only supervisors may be considered
21 appropriate if a majority of the employees in such category indicate by
22 vote that they desire to be included in such a unit; and

23 (3) A unit that includes only principals and assistant principals
24 may be considered appropriate if a majority of such employees indicate
25 by vote that they desire to be included in such a unit; and

26 (4) A unit that includes both principals and assistant principals
27 and other supervisory employees may be considered appropriate if a
28 majority of the employees in each category indicate by vote that they
29 desire to be included in such a unit; and

30 (5) A unit that includes supervisors and/or principals and
31 assistant principals and nonsupervisory educational employees may be
32 considered appropriate if a majority of the employees in each category
33 indicate by vote that they desire to be included in such a unit; and

34 (6) A unit that includes only employees in vocational-technical
35 institutes or occupational skill centers may be considered to
36 constitute an appropriate bargaining unit if the history of bargaining
37 in any such school district so justifies; and

1 (7) Notwithstanding the definition of collective bargaining, a unit
2 that contains only supervisors and/or principals and assistant
3 principals shall be limited in scope of bargaining to compensation,
4 hours of work, and the number of days of work in the annual employment
5 contracts; and

6 (8) The bargaining unit of certificated employees of school
7 districts, educational service districts, or institutions of higher
8 education that are education providers under chapter 28A.193 RCW must
9 be limited to the employees working as education providers to juveniles
10 in each adult correctional facility maintained by the department of
11 corrections and must be separate from other bargaining units in school
12 districts, educational service districts, or institutions of higher
13 education; and

14 (9) The bargaining unit for employees of charter public schools as
15 defined in section 2 of this act must be limited to the employees of
16 the charter public school and must be separate from other bargaining
17 units in the school district or educational service district.

18 NEW SECTION. Sec. 22. CAPTIONS NOT LAW. Captions used in this
19 chapter do not constitute any part of the law.

20 NEW SECTION. Sec. 23. Sections 1 through 18 and 22 of this act
21 constitute a new chapter in Title 28A RCW.

22 NEW SECTION. Sec. 24. This act is necessary for the immediate
23 preservation of the public peace, health, or safety, or support of the
24 state government and its existing public institutions, and takes effect
25 immediately.

26 NEW SECTION. Sec. 25. If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

30 NEW SECTION. Sec. 26. If specific funding for the purposes of
31 this act, referencing this act by bill or chapter number, is not

1 provided by June 30, 2000, in the omnibus appropriations act, this act
2 is null and void.

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