

ESSB 5012 - H AMD 546

By Representative Rockefeller

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** INTENT. The legislature intends to
4 authorize the establishment of public charter schools within the
5 general and uniform system of public schools for the primary purpose of
6 providing more, high quality learning environments to assist
7 educationally disadvantaged students and other students in meeting the
8 state's academic standards. The legislature intends for charter
9 schools to function as an integral element of the public school system
10 maintained at public expense, and to be subject to the same academic
11 standards and performance outcomes as other public schools. The
12 legislature intends to encourage school districts to consider using the
13 chartering process as an optional tool for achieving state and federal
14 accountability goals. The legislature finds that in addition to
15 providing more, high quality public school choices for families,
16 teachers, and students, public charter schools may be a tool for the
17 improvement of schools in which significant numbers of students
18 persistently fail to meet state standards. The legislature also
19 intends to authorize the use of the chartering process as a state
20 intervention strategy, consistent with the provisions of the federal no
21 child left behind act of 2001, to provide assistance to schools in
22 which significant numbers of students persistently fail to meet state
23 standards.

24 NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context clearly
25 requires otherwise, the definitions in this section apply throughout
26 this chapter.

27 (1) "Alternate sponsor" means either: (a) The board of directors
28 of the educational service district in which the proposed charter
29 school will be located; or (b) the governing board of a state or

1 regional university as defined in RCW 28B.10.016 or of The Evergreen
2 State College, when such board has approved a charter. Charter schools
3 sponsored by an institution of higher education may be approved by the
4 governing board of the sponsoring institution or by an official or
5 agency designated by and accountable to the governing board of the
6 sponsoring institution. A charter may be approved by an official or
7 agency under this subsection, only after the governing board has
8 consented to such approval in writing.

9 (2) "Applicant" means a nonprofit corporation that has submitted an
10 application to a sponsor or an alternate sponsor to obtain approval to
11 operate a charter school. The nonprofit corporation must be either a
12 public benefit nonprofit corporation as defined in RCW 24.03.490, or a
13 nonprofit corporation as defined in RCW 24.03.005 that has applied for
14 tax-exempt status under section 501(c)(3) of the internal revenue code
15 of 1986 (26 U.S.C. Sec. 501(c)(3)). The nonprofit corporation may not
16 be a sectarian or religious organization and must meet all of the
17 requirements for a public benefit nonprofit corporation before
18 receiving any funding under section 12 of this act.

19 (3) "Board of directors" means the board of directors appointed or
20 elected by the applicant to manage and operate the charter school.

21 (4) "Charter" means a contract between an applicant and a sponsor
22 or an alternate sponsor. The charter establishes, in accordance with
23 this chapter, the terms and conditions for the management, operation,
24 and educational program of the charter school.

25 (5) "Charter school" means a public school managed by an
26 applicant's board of directors and operating independently of any
27 school district board under a charter approved in accordance with this
28 chapter.

29 (6) "Conversion charter school" means a public school converted to
30 a charter public school through the chartering process in accordance
31 with this chapter.

32 (7) "Educationally disadvantaged students" includes students who do
33 not speak English proficiently, students with special needs, students
34 who qualify for free and reduced priced meals, students exercising
35 choice options under the federal no child left behind act of 2001, and
36 other students who may be at risk of failing to meet state and federal
37 academic performance standards.

1 (8) "Sponsor" means the board of directors of the school district
2 in which the proposed charter school will be located, when such board
3 has approved a charter.

4 NEW SECTION. **Sec. 3.** CHARTER SCHOOLS--POWERS. (1) In carrying
5 out its duty to manage and operate the charter school, the board of
6 directors of a charter school may:

7 (a) Hire, manage, and discharge any charter school employee in
8 accordance with the terms of this chapter and that school's charter;

9 (b) Enter into a contract with any school district, or any other
10 public or private entity, also empowered to enter into contracts, for
11 any and all real property, equipment, goods, supplies, and services,
12 including educational instructional services;

13 (c) Rent, lease, or own property, but may not acquire property by
14 eminent domain. All charters and charter school contracts with other
15 public and private entities must include provisions regarding the
16 disposition of the property if the charter school fails to open as
17 planned, closes, or the charter is revoked or not renewed;

18 (d) Issue secured and unsecured debt to manage cash flow, improve
19 operations, or finance the acquisition of real property or equipment.
20 Such an issuance does not constitute an obligation, either general,
21 special, or moral of the state, the charter school sponsor, the school
22 district in which the charter school is located or any other political
23 subdivision or agency of the state. Neither the full faith and credit
24 nor the taxing power of the state, the charter school sponsor, the
25 school district in which the charter school is located, or any other
26 political subdivision or agency of the state may be pledged for the
27 payment of such debt;

28 (e) Accept and administer for the benefit of the charter school and
29 its students gifts, grants, and donations from other governmental and
30 private entities, excluding sectarian or religious organizations.
31 Charter schools may not accept any gifts or donations the conditions of
32 which violate this chapter.

33 (2) A charter school may not charge tuition, levy taxes, or issue
34 tax-backed bonds, however it may charge fees for optional noncredit
35 extracurricular events.

1 (3) Neither a charter school sponsor, an alternate sponsor, nor the
2 school district in which the charter school is located is liable for
3 acts or omissions of a charter school, including but not limited to
4 acts or omissions related to the application, the charter, the
5 operation, the performance, and the closure of the charter school.

6 NEW SECTION. **Sec. 4.** LEGAL STATUS. A charter school is a public
7 school including one or more of grades kindergarten through twelve,
8 operated by a board of directors appointed or elected by a charter
9 school applicant, according to the terms of a renewable five-year
10 contract granted by a sponsor or an alternate sponsor. A charter
11 school may offer any program or course of study that another public
12 school may offer.

13 NEW SECTION. **Sec. 5.** CHARTER SCHOOLS--EXEMPTIONS. (1) A charter
14 school shall operate independently of any school district board, under
15 a charter approved by a sponsor or an alternate sponsor under this
16 chapter.

17 (2) Charter schools are exempt from all state statutes and rules
18 applicable to school districts and school district boards of directors
19 except those statutes and rules as provided for and made applicable to
20 charter schools in accordance with this chapter and in the school's
21 approved charter.

22 (3) A charter school's board of directors is encouraged to
23 implement a quality management system and to conduct an annual self-
24 assessment.

25 (4) All approved charter schools shall:

26 (a) Comply with state and federal health, safety, parents' rights,
27 civil rights, and nondiscrimination laws, including, but not limited
28 to, chapter 28A.640 RCW (sexual equality) and Title IX of the education
29 amendments of 1972 (20 U.S.C. Sec. 1681 et seq.) applicable to school
30 districts, and to the same extent as school districts;

31 (b) Participate in nationally normed standardized achievement tests
32 as required in RCW 28A.230.190, 28A.230.193, and 28A.230.230 and the
33 elementary, middle school, and high school standards, requirements, and
34 assessment examinations as required in chapter 28A.655 RCW;

1 (c) Employ certificated instructional staff as required in RCW
2 28A.410.010, however charter schools may hire noncertificated
3 instructional staff of unusual competence and in exceptional cases as
4 specified in RCW 28A.150.260;

5 (d) Comply with the employee record check requirements in RCW
6 28A.400.303;

7 (e) Be subject to the same financial and audit requirements as a
8 school district, as determined by the state auditor, including annual
9 audits for legal and fiscal compliance;

10 (f) Be subject to periodic independent performance audits conducted
11 by or at the direction of a competent state authority to the same
12 extent as other public agencies, however, a charter school is not
13 required to bear the expense of such a performance audit;

14 (g) Comply with the annual performance report under RCW
15 28A.655.110;

16 (h) Follow the performance improvement goals and requirements
17 adopted by the academic achievement and accountability commission by
18 rule under RCW 28A.655.030;

19 (i) Be subject to the accountability requirements of the federal no
20 child left behind act of 2001, including Title I requirements;

21 (j) Comply with and be subject to the requirements under the
22 individuals with disabilities education act, as amended in 1997;

23 (k) Report at least annually to the board of directors of the
24 school district in which the charter school is located, to the school's
25 alternate sponsor if the school is not sponsored by a school district,
26 and to parents of children enrolled at the charter school on progress
27 toward the student performance goals specified in the charter;

28 (l) Comply with the open public meetings act in chapter 42.30 RCW
29 and open public records requirements in RCW 42.17.250; and

30 (m) Be subject to and comply with legislation enacted after the
31 effective date of this section governing the operation and management
32 of charter schools.

33 (5) A member of a board of directors of a charter school shall be
34 considered the equivalent of a board member of a school district for
35 the purposes of public disclosure requirements and must comply with the
36 reporting requirements in RCW 42.17.240.

1 NEW SECTION. **Sec. 6.** ADMISSION REQUIREMENTS. (1) To effectuate
2 the primary purpose for which the legislature established charter
3 schools, a charter school must be willing to enroll educationally
4 disadvantaged students and may not limit admission on any basis other
5 than age group and grade level. Consistent with the legislative intent
6 of this chapter, a charter school shall conduct timely outreach and
7 marketing efforts to educationally disadvantaged students in the school
8 district in which the charter school will be located.

9 (2) A conversion charter school must be structured to provide
10 sufficient capacity to enroll all students who wish to remain enrolled
11 in the school after its conversion to a charter school, and may not
12 displace students enrolled before the chartering process. If, after
13 enrollment of these students, capacity is insufficient to enroll all
14 other students remaining who have submitted a timely application, the
15 charter school must give enrollment priority to siblings of students
16 who are currently enrolled in the school. Students selected to fill
17 any remaining spaces must be selected only through an equitable
18 selection process, such as a lottery.

19 (3) A new charter school must enroll all students who submit a
20 timely application if capacity is sufficient. If capacity is
21 insufficient to enroll all students who apply, students must be
22 selected to fill any remaining spaces only through an equitable
23 selection process, such as a lottery. Siblings of enrolled students
24 and of students selected through an equitable selection process must be
25 given priority in enrollment if requested by a parent.

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

27 (1) An applicant may apply to a sponsor or an alternate sponsor to
28 establish a charter school in accordance with this section.

29 (2) An application for a charter school must be submitted first to
30 the board of directors of the school district in which the proposed
31 charter school will be located, allowing for the board's consideration
32 of the application in accordance with subsections (3) and (4) of this
33 section, before the application may be submitted to an alternate
34 sponsor.

35 (3) The school district board of directors must decide, within
36 forty-five days of receipt of the application, whether to hold a public

1 hearing in the school district for the purpose of taking public comment
2 on the application and, if a hearing is to be held, must schedule such
3 a hearing within seventy-five days of receipt of the application. If
4 the school board intends to accept the application, one or more public
5 hearings must be held prior to the granting of a charter; however a
6 school board is not required to hold a public hearing prior to
7 rejecting an application. The school board must either accept or
8 reject the application within one hundred five days after receipt of
9 the application. The one hundred five-day deadline for acceptance or
10 rejection of the charter school application may be extended for an
11 additional thirty days if both parties agree in writing.

12 (4) If the school board elects not to hold a public hearing or
13 rejects the application after holding one or more public hearings, the
14 school board must notify the applicant in writing of the reasons for
15 that decision. The applicant may submit a revised application for the
16 school board's reconsideration and the school board may provide
17 assistance to improve the application. If the school board rejects the
18 application after submission of a revised application, the school board
19 must notify the applicant in writing of the reasons for the rejection.

20 (5) Applications for the conversion of a public school to a charter
21 public school may not be submitted to an alternate sponsor without the
22 prior consent of the school district board of directors. At the
23 request of the applicant, the sponsor, or the alternate sponsor, the
24 superintendent of public instruction may review the charter application
25 and provide technical assistance.

26 (6) Alternate sponsors must comply with the procedures in
27 subsections (1) through (4) of this section for consideration of the
28 charter application. An alternate sponsor is not bound by a school
29 district's or another alternate sponsor's findings or decision to deny
30 the application.

31 (7) The superintendent of public instruction shall maintain copies
32 of all approved charter applications. An applicant may obtain copies
33 of those applications from the office of the superintendent of public
34 instruction.

35 (8) Educational service districts and the superintendent of public
36 instruction are encouraged to assist schools and school districts in
37 which significant numbers of students persistently fail to meet state

1 standards with completing the chartering process. Assistance from an
2 educational service district or from the superintendent of public
3 instruction may include, but is not limited to, identifying potential
4 eligible applicants and assisting with the charter application and
5 approval processes.

6 (9) Consistent with the corrective action provisions in the federal
7 no child left behind act of 2001, the superintendent of public
8 instruction may use the chartering process as an intervention strategy
9 for the purpose of meeting federal student achievement and
10 accountability requirements. The superintendent may require a local
11 school district board of directors to convert a public school to a
12 charter public school or, if the superintendent determines it would be
13 more appropriate, may require a local school district board of
14 directors to consent to conversion of the school to a charter school by
15 the board of directors of the local educational service district.

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

18 (1) The identification and description of the nonprofit corporation
19 submitting the application, including the names, descriptions,
20 curriculum vitae, and qualifications, which shall be subject to
21 verification and review, of the individuals who will operate the
22 school;

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

25 (3) A mission statement for the proposed school, consistent with
26 the description of legislative intent in this chapter, including a
27 statement of whether the proposed charter school's primary purpose is
28 to serve educationally disadvantaged students;

29 (4) A description of the school's educational program, curriculum,
30 and instructional strategies, including but not limited to how the
31 charter school will assist its students, including educationally
32 disadvantaged students, in meeting the state's academic standards;

33 (5) A description of the school's admissions policy and marketing
34 program, and its deadlines for applications and admissions, including
35 its program for community outreach to families of educationally
36 disadvantaged students;

1 (6) A description of the school's student performance standards and
2 requirements that must meet those determined under chapter 28A.655 RCW,
3 and be measured according to the assessment system determined under
4 chapter 28A.655 RCW;

5 (7) A description of the school's plan for evaluating student
6 performance and the procedures for taking corrective action in the
7 event that student performance at the charter school falls below
8 standards established in its charter;

9 (8) A description of the financial plan for the school. The plan
10 shall include: (a) A proposed five-year budget of projected revenues
11 and expenditures; (b) a plan for starting the school; (c) a five-year
12 facilities plan; (d) evidence supporting student enrollment projections
13 of at least twenty students; and (e) a description of major contracts
14 planned for administration, management, equipment, and services,
15 including consulting services, leases, improvements, purchases of real
16 property, and insurance;

17 (9) A description of the proposed financial management procedures
18 and administrative operations, which shall meet or exceed generally
19 accepted standards of management and public accounting;

20 (10) An assessment of the school's potential legal liability and a
21 description of the types and limits of insurance coverage the nonprofit
22 corporation plans to obtain. For purposes of this subsection, a
23 liability insurance policy of five million dollars is required;

24 (11) A description of the procedures to discipline, suspend, and
25 expel students;

26 (12) A description of procedures to assure the health and safety of
27 students, employees, and guests of the school and to comply with
28 applicable federal and state health and safety laws and regulations;

29 (13) A description of the school's program for parent involvement
30 in the charter school; and

31 (14) The supporting documentation for any additional requirements
32 a sponsor or alternate sponsor may impose as a condition of approving
33 the charter, including but not limited to the posting of a security
34 bond.

35 NEW SECTION. **Sec. 9.** APPROVAL CRITERIA. A sponsor or alternate

1 sponsor may approve an application for a charter school, if in the
2 sponsor's or alternate sponsor's reasonable judgment, after exercising
3 due diligence and good faith, the sponsor or alternate sponsor finds:

4 (1) The applicant is an eligible public benefit nonprofit
5 corporation and the individuals it proposes to manage and operate the
6 school are qualified to operate a charter school and implement the
7 proposed educational program that is free from religious or sectarian
8 influence;

9 (2) The public benefit nonprofit corporation has been approved or
10 conditionally approved by the internal revenue service for tax exempt
11 status under section 501(c)(3) of the internal revenue code of 1986 (26
12 U.S.C. Sec. 501(c)(3));

13 (3) The mission statement is consistent with the description of
14 legislative intent and restrictions on charter school operations in
15 this chapter. The sponsor or alternate sponsor must make a finding of
16 whether or not the charter school's primary purpose is to serve
17 educationally disadvantaged students;

18 (4) The school's educational program, including its curriculum and
19 instructional strategies, is likely to assist its students, including
20 its educationally disadvantaged students, in meeting the state's
21 academic standards;

22 (5) The school's admissions policy and marketing program is
23 consistent with state and federal law, and includes community outreach
24 to families of educationally disadvantaged students;

25 (6) The school's proposed educational program includes student
26 academic performance standards and requirements that meet those
27 determined under chapter 28A.655 RCW and are measured according to the
28 assessment system determined under chapter 28A.655 RCW;

29 (7) The application includes a viable plan for evaluating pupil
30 performance and procedures for taking appropriate corrective action in
31 the event that pupil performance at the charter school falls below
32 standards established in its charter;

33 (8) The financial plan for the school is designed to reasonably
34 support the charter school's educational program based on a review of
35 the proposed five-year budget of projected revenues, expenditures, and
36 facilities;

1 (9) The school's financial and administrative operations, including
2 its audits, meet or exceed generally accepted standards of accounting
3 and management;

4 (10) The assessment of the school's potential legal liability, and
5 the types and limits of insurance coverage the school plans to obtain,
6 are adequate. For purposes of this subsection, a liability insurance
7 policy of five million dollars is required;

8 (11) The procedures the school plans to follow for discipline,
9 suspension, and expulsion of students are reasonable and comply with
10 state and federal law;

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

14 (13) The school has developed a program for parent involvement in
15 the charter school; and

16 (14) The applicant has provided sufficient documentation
17 demonstrating it has met additional requirements for approval of the
18 charter, including but not limited to the posting of a security bond.

19 NEW SECTION. **Sec. 10.** CHARTER AGREEMENT--AMENDMENT. (1) A
20 charter application approved by a sponsor or an alternate sponsor with
21 any changes or additions, including performance standards or benchmarks
22 established by the sponsor, and signed by an authorized representative
23 of the applicant and the sponsor or alternate sponsor, constitutes a
24 charter. A charter for the conversion of a public school must include
25 provisions for the disposition, including assignment or reassignment,
26 of the employees of the school prior to its conversion and after
27 conversion.

28 (2) A charter may be amended during its term at the request of the
29 charter school board of directors and on the approval of the sponsor or
30 alternate sponsor.

31 (3) A charter may not prohibit and must provide for application of
32 laws applicable to charter schools or to charter school boards of
33 directors enacted after the effective date of this section.

34 NEW SECTION. **Sec. 11.** CHARTER RENEWAL AND REVOCATION. (1) An
35 approved plan to establish a charter school is effective for five years

1 from the first day of operation. At the conclusion of the first three
2 years of operation, the charter school may apply to the original
3 sponsor or alternate sponsor for renewal. A request for renewal must
4 be submitted no later than six months before the expiration of the
5 charter.

6 (2) A charter school renewal application must include:

7 (a) A report on the progress of the charter school in achieving the
8 goals; student performance standards, including the student performance
9 standards adopted by rule by the academic achievement and
10 accountability commission in accordance with RCW 28A.655.030; the
11 number and percentage of educationally disadvantaged students served;
12 and other terms of the charter;

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

16 (c) All audit information from independent sources regarding the
17 charter school, if available.

18 (3) The sponsor or alternate sponsor shall reject the application
19 for renewal if the academic progress of students in the charter school,
20 as measured by the standards and assessments in chapter 28A.655 RCW, is
21 inferior, for the most recent two consecutive years, to the average
22 progress of students in the district in which the charter school is
23 located when similar student populations are compared.

24 (4) The sponsor or alternate sponsor may reject the application for
25 renewal if any of the following occurred:

26 (a) The charter school materially violated its charter with the
27 sponsor or alternate sponsor;

28 (b) The students enrolled in the charter school failed to meet
29 student performance standards identified in the charter, including the
30 student performance standards adopted by rule by the academic
31 achievement and accountability commission in accordance with RCW
32 28A.655.030;

33 (c) The charter school failed to meet generally accepted standards
34 of fiscal management; or

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

1 (5) A sponsor or alternate sponsor shall give written notice of its
2 intent not to renew the charter school's request for renewal to the
3 charter school within three months of the request for renewal to allow
4 the charter school an opportunity to correct identified deficiencies in
5 its operation. At the request of the board of directors of the charter
6 school, the sponsor or alternate sponsor shall review its decision for
7 nonrenewal within forty-five days of receiving a request for review and
8 supporting documentation sufficient to demonstrate that any
9 deficiencies have been corrected from the board of directors of the
10 charter school.

11 (6)(a) The sponsor or alternate sponsor may revoke a previously
12 approved charter before the expiration of the term of the charter, and
13 before application for renewal, if any of the following occurred:

14 (i) The charter school materially violated its charter with the
15 sponsor or alternate sponsor;

16 (ii) The charter school failed to meet generally accepted standards
17 of fiscal management; or

18 (iii) The charter school violated provisions in law that have not
19 been waived in accordance with this chapter.

20 (b) Except in cases of emergency where the health and safety of
21 children are at risk, a charter may not be revoked unless the sponsor
22 or alternate sponsor first provides:

23 (i) Written notice to the charter school of the specific violations
24 alleged;

25 (ii) One or more public hearings in the school district in which
26 the charter school is located; and

27 (iii) A reasonable opportunity and a sufficient period of time for
28 the charter school to correct the identified deficiencies.

29 (c) If, after following the procedures in (b) of this subsection,
30 the sponsor or alternate sponsor determines that revocation of the
31 charter is necessary to further the intent of this chapter, the sponsor
32 or alternate sponsor may revoke the charter. The sponsor or alternate
33 sponsor shall provide for an appeal process upon such a determination.

34 (d) If a sponsor or alternate sponsor elects to revoke the charter,
35 the sponsor or alternate sponsor, upon a request by the charter school,
36 shall provide technical assistance to the charter school in completing

1 the plan required and carrying out the tasks identified in subsection
2 (7) of this section.

3 (7) A charter school planning to close or anticipating revocation
4 or nonrenewal of its charter shall provide a plan setting forth a
5 timeline and the responsible parties for disposition of students and
6 student records and disposition of finances.

7 (a) Immediately following the decision to close a school, the
8 school must:

9 (i) Submit to the sponsor or alternate sponsor a list of parent
10 addresses and proof that the school has communicated the impending
11 closure of the school to all parents and staff;

12 (ii) Assign staff responsible for transition of student records and
13 for providing assistance to students and parents in transferring from
14 the charter school to the district public, private, or home school
15 chosen by the family;

16 (iii) Provide the names and contact information for staff
17 responsible for transfer of student records, as well as the projected
18 transition tasks and timelines to the sponsor or alternate sponsor, and
19 upon completion of student transition, provide a list of students and
20 a brief description of the disposition of their student records to the
21 sponsor or alternate sponsor.

22 (b) Prior to closing the charter school the charter school board of
23 directors shall:

24 (i) Identify a trustee who will, through the process of closing the
25 school and for a term of ten years thereafter, assume responsibility
26 for school and student records, and notify the sponsor or alternate
27 sponsor of the name and contact information for the trustee;

28 (ii) Determine the amount of anticipated revenue due to the school
29 as well as anticipated liabilities, and provide a complete asset and
30 liability report to the sponsor or alternate sponsor;

31 (iii) Create a current and projected payroll and payroll benefits
32 commitment;

33 (iv) List each employee, job, and the funds necessary to complete
34 the educational calendar balance of the year, the transition of
35 students and records, and the administrative close-down tasks;

36 (v) Determine the total moneys required to complete contracts;

37 (vi) Schedule an audit and set aside funds to cover costs; and

1 (vii) Provide the sponsor or alternate sponsor with a plan for the
2 closure of the school and final disposition of all property owned by
3 the charter school.

4 NEW SECTION. **Sec. 12.** FUNDING. (1) For charter schools sponsored
5 by a school district:

6 (a) For purposes of funding, students in charter schools shall be
7 considered students of the sponsoring district for state apportionment
8 purposes. Without violating section 13 of this act, the sponsoring
9 school district shall provide prompt and timely funding for charter
10 schools in amounts the schools would have generated if the students
11 were enrolled in a noncharter public school in the district except that
12 a charter school shall not generate eligibility for small school
13 assistance. Funding for charter schools shall include regular
14 apportionment, categorical, student achievement, and nonbasic education
15 moneys, as appropriate and shall be based on enrollment, staffing, and
16 other financial information submitted by the charter school to the
17 school district as required to determine state apportionment amounts;

18 (b) Local levy moneys approved by the voters before the effective
19 date of a charter between a school district and an applicant shall not
20 be allocated to a new charter school; however, the school district
21 shall allocate levy moneys to a conversion charter school. For levies
22 approved after the effective date of a charter, charter schools shall
23 be included in levy planning, budgets, and funding distribution in the
24 same manner as other district-sponsored public schools in the district;
25 and

26 (c) A charter school is eligible for state matching funds for
27 common school construction if a sponsoring school district determines
28 it has received voter approval of local capital funds for the project.

29 (2) For charter schools sponsored by an educational service
30 district or an institution of higher education:

31 (a) For purposes of funding, the charter school shall be considered
32 a separate school district for state apportionment purposes only.
33 Without violating section 13 of this act, the superintendent of public
34 instruction shall provide prompt and timely funding for charter schools
35 through the apportionment funding formulas in amounts the schools would
36 have generated if the students were enrolled in a school district

1 except that a charter school shall not generate eligibility for small
2 school assistance. The funding shall include regular apportionment,
3 categorical, student achievement, and nonbasic education moneys and
4 shall be based on enrollment, staffing, and other financial information
5 submitted by the charter school to the superintendent of public
6 instruction, as required to determine state apportionment amounts.
7 Those allocations to charter schools that are included in RCW
8 84.52.0531(3) (a) through (c) shall be included in the levy base of the
9 district in which the charter school is located.

10 (b) No local levy money may be allocated to a charter school if the
11 charter school is sponsored by an educational service district or an
12 institution of higher education.

13 (3) To be eligible to receive state categorical program funding, a
14 charter school must serve students who would be eligible for program
15 funding if served by the school district.

16 (4) Sponsors and alternate sponsors shall submit, by November 1st
17 of each year, to the office of the superintendent of public instruction
18 annual year-end financial information, as prescribed by the
19 superintendent, for each charter school sponsored in the previous
20 school year.

21 (5) A conversion charter school shall be entitled to the continued
22 rent-free use of its existing facility, regardless of whether the
23 conversion school is sponsored by the local school district, or by an
24 alternate sponsor if the district has consented to such alternate
25 sponsorship. The district shall remain responsible for major repairs
26 and safety upgrades that may be required for the continued use of the
27 facility as a public school. The charter school shall be responsible
28 for routine maintenance of the facility, including but not limited to
29 cleaning, painting, gardening, and landscaping.

30 NEW SECTION. **Sec. 13.** ADMINISTRATION FEE. To offset costs of
31 oversight and administering the charter, a sponsor or an alternate
32 sponsor may retain three percent of state funding and local excess levy
33 funding, if applicable, that is being driven to the charter school.
34 Except for the administration fee in this section, no other offsets or
35 deductions are allowed, whether for central administration or other
36 off-site support services, from a charter school's per-pupil share of

1 state appropriations, local levies, or other funds, unless the charter
2 school has contracted with a school district to obtain specific
3 additional services.

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

14 NEW SECTION. **Sec. 15.** STUDY OF CHARTER SCHOOLS. Subject to
15 funding, the Washington institute for public policy shall study the
16 implementation and effectiveness of this act. The institute shall
17 report to the legislature on the effectiveness of charter schools in
18 raising student achievement and the impact of charter schools. The
19 institute also shall examine and discuss whether and how charter
20 schools have enhanced education reform efforts and recommend whether
21 relaxing or eliminating certain regulatory requirements for other
22 public schools could result in improved school performance at those
23 schools. The institute shall recommend changes to this chapter
24 including improvements that could be made to the application and
25 approval process. A preliminary report of the study is due to the
26 legislature by March 1, 2006, and a final report is due September 1,
27 2007.

28 NEW SECTION. **Sec. 16.** NUMBER OF CHARTER SCHOOLS. (1)
29 Applications for charter schools may begin on the effective date of
30 this section. The maximum number of new charter schools that may be
31 established under a charter approved in accordance with this chapter
32 is:

33 (a) In the first year commencing July 1, 2003, and in the second
34 year commencing July 1, 2004, not more than five per year; and

1 (b) In each of the next four years, commencing July 1st of each
2 year beginning in 2005 and ending in 2008, not more than fifteen per
3 year.

4 (2) These annual allocations shall be cumulative so that if the
5 maximum number of allowable new charters is not reached in any given
6 year the maximums shall be increased accordingly for the successive
7 years.

8 (3) Consistent with the legislative intent of this chapter, a
9 majority of the annual allowable new charter schools that may be
10 established under subsection (1) of this section shall be reserved
11 until the 31st day after the effective date of this section, and until
12 April 1st of each year beginning in 2004 and ending in 2008, for the
13 implementation of charter schools established for the primary purpose
14 of serving educationally disadvantaged students, and that are located
15 in, or accessible to students who live in, geographic areas in which a
16 large proportion of the students have difficulty meeting state academic
17 content and student achievement standards, or geographic areas,
18 including urban and rural areas, in which a large proportion or number
19 of public schools have been identified for improvement, corrective
20 action, or restructuring under the federal no child left behind act of
21 2001.

22 (4) Sponsors and alternate sponsors shall promptly notify the
23 superintendent of public instruction when a charter is approved, and
24 shall indicate whether the charter school's primary purpose is to serve
25 educationally disadvantaged students. In order to ensure compliance
26 with the annual limits for the establishment of new charter schools,
27 authorization from the superintendent of public instruction must be
28 obtained before implementing an approved charter for a new school. If
29 the maximum number of new charters under subsections (1) and (3) of
30 this section has not been reached when the sponsor notifies the
31 superintendent of the approval, the superintendent shall authorize the
32 implementation of the approved charter and the establishment of the
33 school. If the charters reserved under subsection (3) of this section
34 are not authorized within thirty days of the effective date of this
35 section, or by March 31st of each year thereafter and ending in 2008,
36 the superintendent of public instruction shall notify the sponsors and
37 alternate sponsors of any other approved charters for which

1 authorization has not been granted, and shall authorize the
2 implementation of those charters within the annual limits, regardless
3 of whether those charters meet the requirements of subsection (3) of
4 this section.

5 (5) The superintendent of public instruction shall notify eligible
6 sponsors and eligible alternate sponsors when the maximum allowable
7 number of new charters is approved each year. If the maximum number is
8 not reached by the 31st day after the effective date of this section,
9 or by March 31st of each year thereafter, the superintendent shall
10 report on the number of charters approved.

11 (6) If the superintendent receives simultaneous notification of
12 approved charters that exceed the annual allowable limits in
13 subsections (1) and (3) of this section, the superintendent shall
14 select approved charters for authorization under subsection (4) of this
15 section through a lottery process, and shall assign implementation
16 dates accordingly.

17 (7) The maximum number of charter schools allowed under this
18 section does not include public schools converting to charter public
19 schools; however, conversion charter schools shall be considered
20 charter schools for the purpose of notice to the superintendent of
21 public instruction required under subsection (4) of this section.

22 NEW SECTION. **Sec. 17.** A new section is added to chapter 41.56 RCW
23 to read as follows:

24 This section applies to charter schools as defined in section 2 of
25 this act and the charter school's employees included in the bargaining
26 unit. The bargaining unit of employees of charter schools must be
27 limited to the employees of the charter school and must be separate
28 from other bargaining units in the school district or educational
29 service district unless the charter school is a public school that has
30 converted to a charter school. The employees of public schools that
31 have converted to a charter school shall remain members of the
32 bargaining units in the school district.

33 This section, designating charter schools as employers and charter
34 school employees as members under the teachers' retirement systems, the
35 school employees' retirement systems, and the public employees'
36 retirement systems, applies only if the department of retirement

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

6 NEW SECTION. **Sec. 18.** A new section is added to chapter 41.59 RCW
7 to read as follows:

8 (1) This section applies to collective bargaining agreements
9 between charter schools and the employees of charter schools included
10 in the bargaining unit.

11 (a) The bargaining unit of employees of conversion charter schools
12 must be limited to the employees of the charter school and must be
13 separate from other bargaining units in the school district or
14 educational service district for at least the first five years of
15 operation of the charter school, after which the employees of a
16 conversion charter school may indicate by a majority vote they desire
17 to become members of the bargaining unit in the school district in
18 which the charter school is located.

19 (b) The bargaining unit of employees of new charter schools must be
20 limited to the employees of the charter school and must be separate
21 from other bargaining units in the school district or educational
22 service district for at least the first five years of operation of the
23 charter school, after which the employees of a new charter school may
24 indicate by a majority vote they desire to become members of the
25 bargaining unit in the school district in which the charter school is
26 located.

27 (2) This section, designating charter schools as employers and
28 charter school employees as members under the teachers' retirement
29 systems, the school employees' retirement systems, and the public
30 employees' retirement systems, takes effect only if the department of
31 retirement systems receives determinations from the internal revenue
32 service and the United States department of labor that such
33 participation does not jeopardize the status of these retirement
34 systems as governmental plans under the federal employees' retirement
35 income security act and the internal revenue code.

1 **Sec. 19.** RCW 41.59.080 and 1998 c 244 s 11 are each amended to
2 read as follows:

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

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

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

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

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

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

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

34 (7) Notwithstanding the definition of collective bargaining, a unit
35 that contains only supervisors and/or principals and assistant
36 principals shall be limited in scope of bargaining to compensation,

1 hours of work, and the number of days of work in the annual employment
2 contracts; and

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

11 (9) Except as provided in sections 17 and 18 of this act, the
12 bargaining unit for employees of charter schools as defined in section
13 2 of this act must be limited to the employees of the charter school
14 and must be separate from other bargaining units in the school district
15 or educational service district.

16 **Sec. 20.** RCW 28A.150.010 and 1969 ex.s. c 223 s 28A.01.055 are
17 each amended to read as follows:

18 Public schools shall mean the common schools as referred to in
19 Article IX of the state Constitution and those schools and institutions
20 of learning having a curriculum below the college or university level
21 as now or may be established by law and maintained at public expense,
22 including charter schools under chapter 28A.-- RCW (sections 1 through
23 16 and 21 of this act).

24 NEW SECTION. **Sec. 21.** CAPTIONS NOT LAW. Captions used in this
25 chapter do not constitute any part of the law.

26 NEW SECTION. **Sec.22.** Sections 1 through 16 and 21 of this act
27 constitute a new chapter in Title 28A RCW.

28 NEW SECTION. **Sec. 23.** If any provision of this act or its
29 application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected."

32 Correct the title.