

# FINAL BILL REPORT

## E2SHB 2295

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Synopsis as Enacted

**Brief Description:** Providing for charter schools.

**Sponsors:** By House Committee on Appropriations (originally sponsored by Representatives Quall, Talcott, Rockefeller and Anderson).

**House Committee on Education**

**House Committee on Appropriations**

### **Background:**

In 1992, Minnesota became the first state to authorize public charter schools. Since then, 40 states and the District of Columbia have adopted charter school enabling legislation, and approximately 3,000 charter schools currently are operating nationwide.

A charter school is a tuition-free public school open to all students, financed by public moneys, and governed by the terms of a charter between a charter sponsor and a charter applicant. The various states' laws define who is a sponsor and who is an applicant for chartering purposes. Typically, a public charter school is managed by an applicant's board of directors rather than by the local school board. The charter agreement between a school board and a charter board generally provides a greater degree of administrative flexibility than exists at other schools. The charter functions as a contract governing how the school will be organized and managed, what students will be taught and expected to achieve, and how success of the school will be measured. A typical charter agreement provides for closing a school that fails to satisfy the contract terms.

The last charter school proposals in Washington were Engrossed Senate Substitute Bill 5012 proposed in 2003, and House Bill 2415 and Initiative 729, both proposed in 2000. Engrossed Substitute Senate Bill 5012 advanced to second reading in the House, but was returned to the Senate at the end of the regular session without further House action. House Bill 2415 passed the House Education Committee but did not pass the House in 2000. In the November 2000 general election, I-729 failed 51.83 percent to 48.17 percent.

Under the Elementary and Secondary Education Act (ESEA) reauthorized in 2001, the United States Department of Education (USDOE) administers federal moneys to assist charter schools in start-up and in leveraging private and other nonfederal financing to help cover the costs of acquiring, constructing, or renovating charter school facilities. More than \$200 million in federal grant money was awarded in the fall of 2003 to expand charter schools and study charter school student achievement.

### **Summary:**

### Description and Purpose of Charter Schools

A new chapter is added to Title 28A RCW authorizing charter schools for the primary purpose of providing more high quality learning environments to assist educationally disadvantaged students and other students in meeting state and federal academic standards. A charter school may serve one or a combination of grades K-12. It may not charge tuition, discriminate on the basis of any characteristic, or limit enrollment on any basis other than age and grade level. All students who submit a timely application must be admitted if capacity is sufficient. If capacity is insufficient to accommodate all requests for enrollment, students must be admitted through an equitable selection process such as a lottery.

### Number of Charters Authorized

A charter school is labeled as either a conversion school or a new school. A conversion charter school is created by converting an existing public school in its entirety to a charter school through an agreement with the local school board. All other charter schools are new schools. Over a six-year period beginning July 1, 2004, a statewide total of 45 new charter schools, five per year in the first three years and 10 per year for the last three years, may be established with approval from a local school board or with approval from the Superintendent of Public Instruction (SPI) under an appeals process. If the maximum number of charters is not approved one year, the remainder is added to the number available the next year.

A majority of new charters that may be approved each year is reserved until March 31 each year for schools established for the primary purpose of serving educationally disadvantaged students and located in geographic areas accessible to these students. In addition to new charter schools, local school boards may approve charters for the conversion of schools that have failed to make adequate yearly progress (AYP) for three consecutive years and schools eligible for school improvement assistance. Applications for both conversions and new charter schools may begin on the effective date of the act.

### Charter Applicants, Sponsors, and Alternate Sponsors

A charter is a five-year contractual performance agreement between an applicant and a sponsor for the operation and management of the charter school. The applicant manages and operates the school if a charter is approved. The sponsor administers the charter and provides monitoring, oversight, and support. Only a public benefit nonprofit corporation qualifying for tax exempt status under federal law may be an applicant for charter approval. The nonprofit corporation may not be a religious or sectarian organization and must apply first to the local school board for approval of a charter to establish a new school or for converting an existing school. An applicant seeking to establish a new school may, after providing the local school board an opportunity to consider its application, file an appeal to the SPI for further review. The SPI will review the application and attempt to mediate a resolution with the school district and the applicant. If the school district rejects the application the SPI must approve an application if (1) it meets all qualifying criteria; (2) the annual limit on new schools has not been met; and (3) the proposed school is in the best interests of students. The SPI may permit an educational service district board to administer a charter and act as its sponsor after SPI approval. No appeals are available for charters proposing to establish a conversion charter school.

### Applicable Laws and Regulations

A charter school is exempt from state laws and regulations except those laws expressly made applicable by the act, those incorporated in the terms of its charter, and those laws and regulations later enacted to apply to charter schools. At a minimum, each charter school must:

- implement a quality management system and conduct annual self-assessments;
- comply with state and federal health, safety, parents' rights, civil rights, and nondiscrimination laws to the same extent as school districts;
- participate in free and reduced-priced meal programs to the same extent as is required for other public schools;
- participate in the Washington Assessment of Student Learning (WASL), the Iowa Test of Basic Skills (ITBS), and the elementary, middle school, and high school standards, requirements, and assessment examinations as required by the Academic Achievement and Accountability Commission (A+ Commission);
- employ certificated instructional staff and comply with employee record check requirements;
- be subject to financial examinations and audits as determined by the State Auditor, including annual audits for legal and fiscal compliance;
- be subject to independent performance audits conducted by a qualified contractor selected jointly by the State Auditor and the Joint Legislative Audit Review Committee at least once every three years;
- comply with the A+ Commission annual performance report;
- follow the A+ Commission performance improvement goals and requirements;
- be subject to the accountability requirements in the No Child Left Behind Act of 2001 (NCLB), including Title I requirements;
- comply with and be subject to the requirements under the Individuals With Disabilities Education Act, as amended in 1997 (IDEA);
- report at least annually to the board of directors of the school district in which the charter school is located and to parents of children enrolled at the charter school on progress toward the student performance goals specified in the charter;
- comply with the Open Public Meetings Act and open public records requirements, including public disclosure requirements applicable to elected school boards; and
- be subject to and comply with later-enacted legislation governing the operation and management of charter schools.

### Application and Approval Process

Upon receipt of an application, a school board must decide within 45 days whether to hold one or more public hearings. If the board intends to approve the application, it must hold at least one public hearing within 75 days of receiving the application, but the board is not required to hold a hearing in order to reject an application. Within 105 days of receipt of the application, the board must either approve or reject the application. Both parties may agree to extend the deadline for up to 30 days. If the board elects not to hold a hearing, or rejects the application after one or more public hearings, it must provide written notice of the rejection, including the

reasons for the rejection, to the applicant. An applicant seeking to establish a new school may file an appeal with the SPI after a school board has rejected an application.

### Approval Criteria

A charter application may be approved only if the school board or the SPI finds, after exercising due diligence and good faith, that the applicant meets all eligibility requirements and other specified criteria. All charter applications must contain at least the following information:

- the identification and description of the nonprofit corporation submitting the application, including the names, descriptions, curriculum vitae, and qualifications of the individuals who will operate the school, all of which will be subject to verification and review;
- the nonprofit corporation's articles of incorporation, bylaws, and most recent financial statement and balance sheet;
- a mission statement for the proposed school, including a statement of whether the proposed charter school's primary purpose is to serve educationally disadvantaged students;
- a description of the school's educational program, curriculum, and instructional strategies, including but not limited to how the charter school will assist students in meeting the state's academic standards;
- a description of the school's admissions policy and marketing program, including its program for community outreach to families of educationally disadvantaged students;
- a description of the school's student performance standards and requirements that must meet or exceed A+ Commission standards, and be measured according to the A + Commission system;
- a description of the school's plan for evaluating student performance and the procedures for taking corrective action in the event student performance at the charter school falls below standards established in its charter;
- a description of the financial plan for the school, including a proposed five-year budget of projected revenues and expenditures; a plan for starting the school; a five-year facilities plan; evidence supporting student enrollment projections of at least 20 students; and a description of major contracts planned for administration, management, equipment, and services, including consulting services, leases, improvements, purchases of real property, and insurance;
- a description of the proposed financial management procedures and administrative operations, which must meet or exceed generally accepted standards of management and public accounting;
- an assessment of the school's potential legal liability and a description of the types and limits of insurance coverage, including a required liability insurance policy of at least \$5 million;
- a description of the procedures to discipline, suspend, and expel students;
- a description of procedures to assure the health and safety of students, employees, and guests of the school and to comply with applicable federal and state health and safety laws and regulations;
- a description of the school's program for parent involvement in the charter school;

- documentation sufficient to demonstrate that the charter school will have the liquid assets available to operate the school on an ongoing and sound financial basis;
- a description of the quality management plan for the school, including its specific components; and
- supporting documentation for any additional requirements that are appropriate and reasonably related to the operation of a charter school that a sponsor or alternate sponsor may impose as a condition of approving the charter.

#### Charter School Management

A charter school board elected or appointed by the public benefit nonprofit corporation manages and operates the school according to the terms of the charter. A local school board may appoint one of its directors to serve as a nonvoting member of the charter school board.

*A charter school board is authorized to:*

- hire, manage, and discharge charter school employees;
- enter into contracts with school districts, or other public or private entities also empowered to enter into contracts, for any and all real property, equipment, goods, supplies, and services;
- rent, lease, or own property, but may not acquire property by eminent domain;
- issue secured and unsecured debt to manage cash flow, improve operations, or finance the acquisition of real property or equipment; and
- accept and administer for the benefit of the charter school and its students gifts, grants, and donations from other governmental and private entities, excluding sectarian or religious organizations.

*A charter school may not:*

- charge tuition, levy taxes, or issue tax-backed bonds, although it may charge fees for optional noncredit extracurricular events; or
- assign, delegate, or contract out the administration and management of a charter school to a for-profit entity.

Charter school sponsors and alternate sponsors are not liable for acts or omissions of a charter school or its charter school board, including but not limited to acts or omissions related to the application, the charter, the operation, the performance, and the closure of the charter school.

#### Charter School Funding

A charter school receives state funding based on its actual full time equivalent (FTE) enrollment and on the statewide average staff mix ratio. Funding includes regular apportionment, special education, categorical, student achievement, and other non-basic education funds. Vocational education funding is provided to charter school serving grades nine through twelve. Charter schools, however, are not eligible for enhanced small school assistance moneys.

A charter school's eligibility for levy money is governed by whether the charter is sponsored by a school district and by whether the district-sponsored school was established before or after a levy was approved. New charter schools started before voters approved a levy and all conversion charter schools sponsored by a school district must receive levy allocations. New charter schools sponsored by a school district and established after a levy is approved do not

receive levy money, but are included in all future levy planning and budgets. Charter schools not sponsored by a school district are not eligible for levy moneys. Allocations to these school are included in the levy base of the district in which the charter school is located. Charter schools ineligible for levy money may receive funding within available moneys the Legislature may appropriate for such purpose. A charter school sponsor may retain up to 3 percent of the charter school's state and local levy moneys, if applicable, for oversight and administration costs.

#### Charter Renewal and Revocation

After three years of operation, but no later than six months before the expiration of the charter, a charter school may apply to renew its charter. The renewal application must include specified information, including all audits information. A sponsor may not approve, and must reject, the application if the academic progress of the students in the charter school, as measured by the A+ Commission standards and assessments, is inferior to the average progress of students in the district in which the charter school is located when similar student populations are compared. A sponsor may reject the application if the charter school materially violated its contract, violated any laws for which a waiver was not obtained, or failed to meet generally accepted standards of fiscal management or if the charter school's students failed to meet performance standards. A sponsor must give written notice of its intent not to renew within three months of the request to renew in order to allow time for the school to correct any deficiencies.

A sponsor also may revoke a charter before it has expired for the same reasons a sponsor may reject a renewal request. A sponsor must provide written notice of an intent to revoke and must identify the specific violations alleged, hold a public hearing, and grant a reasonable opportunity for the school to correct any deficiencies. In cases of emergency where the health or safety of children is at risk, the notice, public hearing, and opportunity for correction are not required. A sponsor must provide a process to appeal a revocation of a charter. A charter school planning to close or anticipating revocation or nonrenewal of its charter must provide a detailed plan to the sponsor setting forth a timeline and the responsible parties for disposition of students, student records, and the school's finances and obligations.

#### Charter School Employees and Collective Bargaining

A school district must grant a school district employee's written request for a leave of absence to work at a charter school for up to two years. If the employee returns to the school district within two years, the employee must be hired before the district hires anyone with fewer years of statewide service to fill a position for which the employee is qualified.

The bargaining units for certificated and classified employees at new charter schools must be separate from other units in the district for the first five years, after which the employees, by majority vote, may join the appropriate district bargaining unit. Employees at new charter schools will determine who represents them in bargaining with the charter school board. Certificated and classified employees at conversion charter schools must remain members of their district bargaining units. The school district board and the appropriate bargaining representatives are directed to negotiate regarding variances from the applicable collective bargaining agreement that would be specific to the operation and management of the school.

If either party determines an impasse in negotiations has been reached, it may request mediation, and a mediator will be appointed by the Public Employment Relations Commission. Mediation shall continue for up to 10 days unless the parties agree otherwise.

#### Study of Charter Schools

The Washington State Institute for Public Policy (WSIPP) is directed to conduct a study of the implementation and effectiveness of charter schools, including whether and how charter schools have enhanced education reform efforts. The study also will discuss whether other public schools might benefit by a similar regulatory model. A preliminary report is due to the Legislature March 1, 2007, and a final report is due September 1, 2008.

#### Legislative Intent

The primary purpose for which charter schools are authorized is to assist educationally disadvantaged students and other students in meeting state and federal academic achievement standards. Charter schools are declared to be public schools within the State Constitution's meaning of common schools. The Legislature intends for charter schools to function as an integral element of the public school system maintained at public expense, free from discrimination, open to all students in the state, and subject to the same or greater academic performance outcomes as other public schools.

The Legislature intends to use the information obtained from independent performance audits and from the WSIPP study to demonstrate how charter schools can contribute to existing reform efforts. School districts are encouraged to consider using the chartering process as an optional tool for developing school improvement plans aimed at achieving state and federal accountability goals. Educational service district boards and the SPI are encouraged to assist school districts in which students persistently fail to meet state and federal academic achievement standards with completing the charter process. To the extent permitted under federal law by the restructuring and alternative governance provisions of the NCLB, the SPI may require the conversion of a persistently failing school to a charter school for the purpose of meeting state and federal student achievement and accountability requirements.

#### **Votes on Final Passage:**

House	51	46
Senate	27	22

**Effective:** June 10, 2004