

# SENATE BILL REPORT

## 2ESSB 5012

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As Passed Senate, June 10, 2003

**Title:** An act relating to charter schools.

**Brief Description:** Authorizing charter schools.

**Sponsors:** Senate Committee on Education (originally sponsored by Senators Johnson, Finkbeiner, Esser and Oke).

**Brief History:**

**Committee Activity:** Education: 1/28/03, 1/31/03 [DPS-WM, DNPS].

Ways & Means: 2/17/03, 2/19/03 [DPS (EDU), DNP].

Passed Senate: 3/13/03, 26-23.

**First Special Session:** Passed Senate: 6/10/03, 27-19.

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### SENATE COMMITTEE ON EDUCATION

**Majority Report:** That Substitute Senate Bill No. 5012 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

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

**Minority Report:** Do not pass.

Signed by Senators Eide, McAuliffe and Rasmussen.

**Staff:** Susan Mielke (786-7422)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 5012 as recommended by Committee on Education be substituted therefor, and the substitute bill do pass.

Signed by Senators Rossi, Chair; Hewitt, Vice Chair; Zarelli, Vice Chair; Hale, Honeyford, Johnson, Parlette, Poulsen, Sheahan and Winsley.

**Minority Report:** Do not pass.

Signed by Senators Doumit, Fairley, Fraser, Regala and B. Sheldon.

**Staff:** Bryon Moore (786-7726)

**Background:** Under current law, public schools are publically financed, governed by elected school boards, and subject to state laws and rules. Generally, charter schools are publically financed but operate under a written contract with the charter sponsor, independently of most state laws and rules. The contract, or charter, details how the school will be organized and managed, what students will be taught and expected to achieve, and how success will be measured. Charter schools can be closed for failing to satisfy these contract terms.

Since 1991, 39 states (Alaska, Arkansas, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Massachusetts, Michigan, Minnesota, Missouri, Mississippi, North Carolina, New Hampshire, New Jersey, New Mexico, Nevada, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, Wisconsin, Wyoming), the District of Columbia and Puerto Rico have passed charter school legislation.

**Summary of Bill:** A new chapter is created in the education code establishing a process for creating and operating a limited number of state-funded charter schools operating independently of the local school boards and state laws and rules, except those specified.

Primary Purpose: The Legislature is establishing charter schools for the primary purpose of providing more high quality learning environments to assist educationally disadvantaged students and to help improve schools where students persistently fail to meet state standards. Educationally disadvantaged students include students with limited English proficiency, students with special needs, students who are economically disadvantaged, and students who may be at risk of failing to meet state and federal academic performance standards.

Charter School: A charter school is a public school of one or more K-12 grades operated according to the terms of a renewable five-year contract between a charter school applicant and a charter school sponsor.

Charter School Applicant: A charter school applicant must be a public benefit nonprofit corporation. The applicant may not be a sectarian or religious organization.

Charter School Sponsor: A charter school sponsor may be the school district in which the charter school will be located; or an alternate sponsor, which may be the educational service district (ESD) in which the charter school will be located, a state or regional university, or The Evergreen State College.

Chartering Process: A chartering process and timeline is provided. An application, which must contain specified information, must be first submitted to the school district before an application may be submitted to an alternate sponsor. The school district must consent for an alternate sponsor to sponsor a conversion school but not a new charter school in the district.

Charter School Powers: The charter school's board of directors manages and operates the school. The board may hire, manage, and discharge charter school employees. The board may enter into contracts for real property, equipment, goods, supplies, and services. A charter school may rent, lease, or own property. A charter school may accept gifts, but not from sectarian or religious organizations. A charter school may not charge tuition, levy taxes, or issue tax-backed bonds, but may charge fees for optional non-credit extracurricular events. A charter school may issue secured and unsecured debt but such debt shall not create liability for the state, the charter school sponsor, the school district in which the charter school is located or any other political subdivision or agency of the state.

State and Federal Law: A charter school is exempt from all state laws and rules applicable to schools except as provided in the act and in the approved charter. Charter schools may elect to comply with any law or rule. All charter schools must: comply with applicable state

and federal health, safety, parents' rights, civil rights, and non-discrimination laws; participate in the state student assessments (currently the Iowa Test of Basic Skills and the Washington Assessment of Student Learning); employ certificated instructional staff, except in exceptional cases; conduct employee record checks; be subject to financial and audit requirements, and periodic independent performance audits; follow the student performance improvement goals; comply with the annual performance report; be subject to federal accountability requirements and federal special education law; report at least annually to its sponsor, the students' parents, and the school district in which the charter school is located on progress toward the student performance goals specified in the charter; and comply with the Open Public Meetings Act, the Open Public Records Act, and public disclosure requirements.

Student Admissions: All charter schools must be willing to enroll educationally disadvantaged students and conduct outreach to find them. Admission may be limited based on age group or grade level. Conversion charter schools must enroll all students who wish to remain enrolled; give priority to siblings of current students; and if insufficient capacity, use a lottery to fill the remaining spaces. New charter schools must enroll all students who submit a timely application, if capacity is sufficient; give priority to siblings, if requested by the parent; and if insufficient capacity, use a lottery to fill the remaining spaces.

Charter Renewal and Revocation: Charter renewal and revocation processes and timelines are provided. A renewal application must include specified information. A sponsor must reject the renewal application if the academic progress of the students in the charter school is inferior for two consecutive years to the average progress of students in the school district where the school is located. A sponsor may reject the application if the charter school materially violated its contract or any laws that were not waived, failed to meet generally accepted standards of fiscal management, or the charter school's students failed to meet performance standards. A sponsor may revoke a charter before it has expired for the same reasons that a sponsor may not renew a charter.

Funding: If a charter school is sponsored by a school district, then state level funding is provided on a per student basis in the same amount as for other public schools, including regular apportionment, categorical, student achievement (Initiative 728) funds, and non-basic education funds, but not the small school assistance factor. A charter school is eligible for state matching funds for school construction. When a local levy is approved before a charter school is approved then a conversion charter school will received the levy funds but new charter schools will not. For levies approved after a charter is approved then the charter school must be included in the levy planning and receive levy funds the same as other schools in the district.

If a charter school is sponsored by a college or university, then the state level funding is the same, except that a charter school is not eligible for the state matching funds for school construction or the local levy funds.

Administration Fees: A sponsor may retain up to 3 percent of the charter school's state and local levy funding for oversight and administration costs.

Employees: Charter schools must employ certificated staff, but in exceptional cases may hire non-certificated instructional staff of unusual competence if supervised by a certificated staff.

A school district must grant a school district employee's written request for a leave of absence (up to two years) to work at a charter school without any loss of seniority or retirement.

Classified staff in a conversion school will remain members of the bargaining units in the school district. Classified staff in new charter schools will have separate bargaining units from the bargaining units in the school district. Certificated staff in both conversion schools and in new charter schools will have separate bargaining units for at least the first 5 years and then may vote to become members of the bargaining unit of the school district.

Conversion Schools: A school district may sponsor an existing public school to convert to a charter school. If the school district consents, a higher education institution or ESD may sponsor a conversion school in the school district. A conversion school may continue to use its existing facility rent-free but the school is responsible for routine maintenance. The number of conversion schools is not capped. Consistent with federal law, the Superintendent of Public Instruction may require a local school board to convert a public school to a charter school or to consent to a conversion by the local ESD.

Limits: No more than 70 charters can be granted in the first six years, not counting conversion schools, with five being the maximum number of charters that can be granted in each of the first two years. The majority of charters to be granted are reserved for the primary purpose of serving educationally disadvantaged students unless the maximum number is not reached each year and then other charters can be approved.

Study: The Washington State Institute for Public Policy must study the implementation and effectiveness of this act and make recommendations for improvements, the effectiveness and impact of charter schools, how charter schools have enhanced education reform, and make recommendation on whether regulatory requirements should be eliminated for other public schools. A preliminary report is due by March 1, 2006, and a final report is due September 1, 2007.

**Appropriation:** None.

**Fiscal Note:** Available on original bill.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Charter schools provide public school choice and are important for the innovation necessary to meet student needs. These schools provide greater autonomy and freedom in exchange for higher accountability. A charter school can be closed if it does not meet the performance standards set in the charter. A charter school will improve schools located near it because the other public schools will have to work harder to compete with the charter school in order to maintain the students at their school. Charter schools provide hope, opportunity and access for low-income and minority families.

**Testimony Against:** Other states may need to create charter schools to provide choices. Washington has choice but it's called vocational skill centers, alternative schools, Running Start, etc. The voters of Washington have voted against charter schools twice. Making schools independent of school boards and laws takes away a citizen's right to elect representatives to oversee the spending of their taxes and to hold them accountable for our

schools. In this time of limited resources, now is not the time to cut funding for public schools, which will limit current choices, to fund charter schools.

**Testified:** Pat Griffith (con); Todd Ziebarth, Education Commission of the State (pro); Dan Steele, WA State School Directors' Assn. (con); Cris Shardelman (con); Catherine Ahl, League of Women Voters of WA (con); Tom Parker, State Board of Education; Steve Mullin, WA Roundtable (pro); John Erickson, WASA, WSPA, Vancouver School Dist. (con); David Westberg, Jr. Council of Stationary Engineers (con); Jim Shoemake, Gil Mendoza, Tacoma Public Schools (con); Don Shalyey, Aspire Public Schools (pro); Wendy Wiley (pro); Carol Treat, Bill & Melinda Gates Foundation (pro); Robin Lake, University of Washington (pro); Mike Feinberg, KIPP (pro); Judy Hartmann, Governor's Office; Robert Butts, OSPI (concerns); Dawn Mason, Parents for Student Soccer (pro); Doug Wheeler, Zion Prep Academy (pro); Donna Foxley, U.S. Dept. of Education (pro); Yolanda Gill (pro); Senator Stephen Johnson, prime sponsor (pro); Sherry Appleton, League of Women Voters (con); Nancy Jander (con); Marda Kirkwood, Citizens United for Responsible Education (con); Barbara Mertens, Washington Association of School Administrators (con); Lucinda Young, Washington Education Association (concerns); Wendy Rader-Konofalski, WFT (con); Gani Greer, Tacoma Paraeducators (con); Megan Atkinson, OSPI (concerns).