

SENATE BILL REPORT

SB 5012

As Reported By Senate Committee On:
Education, January 31, 2003
Ways & Means, February 19, 2003

Title: An act relating to charter schools.

Brief Description: Authorizing charter schools.

Sponsors: 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].

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)

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 and operate 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 Substitute 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.

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 that has applied for tax exempt status under section 501(c)(3) of the Internal Revenue Code. 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, a state or regional university, or The Evergreen State College.

Chartering Process: Applications may be submitted to any qualified sponsor. Within 60 days of receiving an application, the sponsor must hold a public hearing on the application. The sponsor must accept or reject the application within 30 days after the hearing, unless both parties agree to extend the time line. If the application is rejected, then the sponsor must provide written reasons for the rejection. A revised application may be submitted for reconsideration.

Charter Application: The charter application must include the following: the names and descriptions of the individuals who will operate the school; the applicant's articles of incorporation, bylaws, and most recent financial statement and balance sheet; the school's mission statement; admissions policy; student discipline and dismissal procedures; the school's educational program, including student performance standards and a plan for corrective action if student performance falls below the standards; an assessment of the school's potential legal liability and an \$1-5 million dollar insurance liability policy; a financial plan, proposed financial management procedures, and a marketing plan; and procedures to comply with health and safety laws.

Charter Approval: A sponsor may approve a charter school application if the sponsor reasonably finds the applicant meets the specified criteria.

Charter School Powers: The nonprofit corporation'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 bonds, but may charge fees for optional non-credit extracurricular events.

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 and civil rights laws; participate in the state student assessments (currently ITBS and WASL); employ certificated instructional staff, except in exceptional cases; comply with the statutorily required employee record checks; be subject to financial and audit requirements; follow the student performance improvement goals; comply with the annual performance report; report at least annually to its sponsor and students' parents on progress toward the student performance goals specified in the charter; and comply with the Open Public Meetings Act.

Student Admissions: A charter school must enroll all students who submit a timely application, unless capacity is insufficient. When there is insufficient capacity, enrollment priority must be given to students residing within the school district where the charter school is located and to the siblings of students who are currently enrolled in the school. Remaining spaces must be filled through an equitable selection process, such as a lottery. A charter school may not discriminate in its admissions policy, but may limit admission to students within a given age group or grade level.

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 the charter. The renewal application must include specified information. The sponsor may reject the renewal 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 included in the initial charter. The sponsor must give written notice of an intent not to renew within one month of the request to renew to allow time for the school to correct any deficiencies.

The sponsor may revoke a charter before it has expired for the same reasons that a sponsor may not renew a charter. Revocation of a charter requires the sponsor to provide written notice of the specific violations alleged, hold a public hearing, and grant a reasonable opportunity for the school to correct the areas of concern, except in cases of emergency where the health and safety of children are at risk. The sponsor must provide a process to appeal a revocation of a charter.

Funding: 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, and non-basic education funds, but not the small school assistance factor. The charter school is eligible for state matching funds for school construction. The charter school must be included in local school levies. If a local levy is approved before the effective date of the charter, then the charter school will not receive any of the levy funds unless the school district determines there is sufficient authority from voters to allocate the levy funds to the charter school.

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 three years) to work at a charter school without any loss of seniority or retirement. Employees of charter schools have the right to organize and enter into collective bargaining agreements, separate from the other bargaining units in the school district. Employees of charter schools will be included in the state retirement system if federal law permits.

Conversion Schools: Existing public schools may convert to charter schools.

Limits: No more than 80 charter schools may be established during the first four years, not counting conventional public school conversions. Charter schools may not be established in school districts with fewer than 3,000 enrolled students until June 1, 2005. Prior to July 2005, enrollment at charter schools is limited to public school students, unless the student is entering school for the first time.

Study: The Washington State Institute for Public Policy must study the implementation and effectiveness of this act and make recommendations for improvements to the Legislature. A preliminary report is due by September 1, 2005, and a final report is due September 1, 2007.

Substitute Bill Compared to Original Bill: The requirement that charter schools must follow the student performance improvement goals is moved from the approval criteria to the section listing the laws that charter schools must follow. The requirement that a charter school's educational program must be "free from religious or sectarian influence" is changed to "free from sectarian control and influence." The start-up grants and assistance account are deleted. The minimum size of a district that is authorized to have a charter school, until 2005, is changed from 1,000 students to 3,000 students. Until 2005, enrollment in charter schools is limited to public school students, unless the student is entering school for the first time. The school employees' retirement system is added to the retirement systems available for charter school employees. Technical amendments are made.

Appropriation: None.

Fiscal Note: Available.

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

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).