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## Education Committee

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### HB 2428

**Brief Description:** Establishing alternative forms of governance for certain public schools.

**Sponsors:** Representatives Pettigrew, Anderson, Finn, Dahlquist, Eddy, Springer, Harris, Seaquist, Hinkle, Walsh, Zeiger, Haler, Wilcox, Hargrove, Fagan and Condotta.

#### Brief Summary of Bill

- Authorizes the establishment of up to 50 charter schools, which are tuition-free public schools within the state system of common schools.
- Specifies the nature, powers, and responsibilities of charter applicants, charter school boards, charter authorizers, and charter contracts.
- Requires the State Board of Education to approve and oversee charter authorizers.
- Provides for the allocation of state funds to support charter schools and exempts them from most state laws pertaining to other public schools.
- Establishes the Transformation Zone District (TZD), a statewide school district headed by the Superintendent of Public Instruction (SPI) into which persistently lowest-performing schools may be temporarily transferred.
- Specifies the powers and responsibilities of the SPI, the process for transferring a school into the TZD and returning it to its original school district based on performance improvement.
- Provides for the allocation of state funds for schools in the TZD and outlines how they will be operated, including exempting them from most state laws pertaining to other public schools.

**Hearing Date:** 1/20/12

**Staff:** Barbara McLain (786-7383).

**Background:**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

## Charter Schools.

In 1991 Minnesota became the first state to authorize public charter schools. There are currently 41 states with charter school legislation. The most recent adoption was in Maine in the spring of 2011. According to the National Alliance for Public Charter Schools, there are approximately 5,600 charter schools operating across the country in the 2011-12 school year, enrolling more than 2 million students.

A charter school is a tuition-free public school, financed by public funds, and governed by the terms of a charter contract between a charter applicant and a charter authorizer. State laws vary regarding who may be a charter applicant, which entities may authorize charter contracts, state oversight of charter schools and charter authorizers, and allocation of funds. Charter schools may also be exempt from some state laws that apply to other public schools. Typically the governance of a charter school is separate from the governance of other public schools. Instead, the charter school has its own board, and the charter contract specifies performance expectations and accountability provisions. Some states limit the number of charter schools that may be established.

In Washington, Engrossed Second Substitute House Bill 2295 was enacted and signed by the Governor in 2004 to establish charter schools. However, Referendum 55 was filed as a result of collected signatures to prevent the bill from taking effect. Referendum 55 was rejected by the voters in the November 2004 general election, 58.3 percent to 41.7 percent.

## Alternative Governance for Low-Performing Schools.

State laws vary regarding the type of state intervention authorized in schools that do not meet measures of state or federal accountability. Intervention strategies range from technical assistance to special funds for school improvement efforts to, in some cases, state-level management of a school's operations. Some entire school districts, such as in Philadelphia, Oakland, and Detroit, have been placed under the management of the state. The State of Louisiana has established a separate statewide school district, called the Recovery School District, into which persistently low-performing schools may be transferred. If performance improves, the school may be transferred back to the jurisdiction of its regular school board.

In Washington, most school improvement efforts rely on voluntary participation by schools and school districts. In 2010 a school improvement process was established that could be required by the state. The Office of the Superintendent of Public Instruction (OSPI) annually identifies a list of the 5 percent of Title I, or Title I-eligible, schools considered persistently lowest-performing schools according to federal criteria. Based on this list and other criteria established by the OSPI, the OSPI may recommend to the State Board of Education (SBE) that a school district be placed under Required Action. One of the criteria is availability of federal funds for school improvement. In 2011 four school districts were placed under Required Action and are currently implementing the SBE-approved school improvement plans using federal grants.

## **Summary of Bill:**

## Charter Schools.

*Establishment.* Charter schools are defined as being within the system of common schools under the state Constitution. A charter school is governed by a charter school board under the terms of a renewable five-year charter contract.

Charter school boards are authorized to receive and disburse funds; contract for services, including educational services and/or management as long as the board maintains oversight; acquire property and incur debt, except that any debt is not an obligation of the state; and issue diplomas to students who meet state graduation requirements.

*Applicability of State Laws.* Charter schools are exempt from all state laws and rules that apply to other public schools, except as required under a charter contract and except for the following:

- state and federal health, safety, parents' rights, civil rights, and nondiscrimination laws;
- prohibition of sectarian practices;
- requirements to provide instruction in the Essential Academic Learning Requirements, participate in the state assessment system, and be held accountable to performance improvement goals established by the SBE;
- the annual school report card;
- hiring of appropriately certified instructional staff and conduct of employee background checks;
- adherence to generally accepted accounting principles and audits by the State Auditor; and
- open public meetings and disclosure of public records.

*Students.* A charter school is open to any student in the state, tuition-free. However, a charter school may organize around a special emphasis or theme, including focusing on services for particular groups of students. If the charter school is a conversion from a regular public school, sufficient capacity must be provided for all previously-enrolled students. If applications exceed capacity of a charter school, students must be selected based on a lottery.

Charter school students may participate in extra-curricular activities in the local school district, and the charter school must pay a fee based on the local school district's costs to support the activity. The SBE must adopt rules establishing uniform cost sharing for this purpose.

*Employees.* Charter school employees may participate in public employee collective bargaining and benefits programs through the Public Employees Benefits Board in the same manner as other public school employees. Employees become members of state retirement systems if their membership does not jeopardize the federal tax status of these retirement systems.

*Funding.* State funding for charter schools is based on the same per-pupil allocation of state Basic Education and categorical funds as for other public schools. Allocations for pupil transportation are based on the prior year's per-pupil allocation to the school district in which the charter school is located.

In its first year of operation, a charter school receives funds based on projected rather than actual enrollment, with differences reconciled in the second year. Charter schools may negotiate with

local school districts or Educational Service Districts (ESD) for provision of special education, transportation, food services, or other specialized services.

Conversion charter schools that are authorized by a school board receive previously-authorized local levy funds. New charter schools authorized by a school board must be included in levies authorized after their creation. Charter schools authorized by other entities are not eligible for local levy funds.

Charter schools are eligible for state matching funds for school construction. A conversion charter school is entitled to the continued, rent-free use of its facility.

*Applicants.* Charter school applicants must be public non-profit corporations and may not be sectarian or religious organizations.

*Authorizers.* Local school boards and the governing boards of public four-year institutions of higher education may apply to the SBE to be approved as a charter school authorizer. A school board may authorize charter schools only within its district.

In addition, the Washington Charter School Commission (Commission) is established for the purpose of authorizing charter schools statewide, particularly to expand opportunities for educationally disadvantaged students. The Commission has nine members, with no more than five members of the same political party. Three members each are appointed by the Governor, the Speaker of the House of Representatives, and the President of the Senate to staggered four-year terms. Initial operational support is provided by the Office of the Governor, with initial funding from gifts, grants, or donations.

Charter school authorizers are responsible for approving charter applications, negotiating and monitoring charter contracts, and reporting annually to the SBE and the Legislature.

*Authorizer Approval and Oversight.* The SBE must establish an annual application and approval process for charter school authorizers, who operate under the terms of a six-year, renewable contract with the SBE. Minimum information for an application is specified.

The SBE must also establish a statewide formula for an authorizer oversight fee, not to exceed 4 percent of the state funding allocated to each charter school of the authorizer. Authorizers may provide contracted services to their charter schools for a separate fee.

The SBE is responsible for overseeing the effectiveness and performance of approved authorizers. The SBE may revoke an authorizer's chartering authority and transfer its charter contracts to another authorizer.

*Charter Applications and Charter Contracts.* The SBE must establish annual timelines for authorizers to solicit, receive, and review charter school applications. Details of the required contents of a charter school application are specified. Conversion charters must be supported by a majority of teachers or parents associated with the school. After an application is approved, the authorizer and applicant negotiate a five-year charter contract, including specified academic and performance expectations and metrics based on the authorizer's performance framework.

Authorizers may take corrective actions for lack of progress under the performance framework. A charter contract may also be revoked for failure to comply with applicable laws or the terms of the contract. Authorizers must develop a protocol for closure of a charter school.

*Limits.* A maximum of 50 charter schools may be established, with no more than 10 established each year. A majority of the charter schools each year until a date specified by the SBE are reserved for those that serve educationally-disadvantaged students.

The SBE must report annually on the status of charter schools.

#### Transformation Zone District.

*Establishment.* The Transformation Zone District (TZD) is established as a statewide school district. Schools are transferred to the TZD on a temporary basis because they are among a subset of the persistently lowest-performing schools in the state. The Superintendent of Public Instruction (SPI) exercises all powers over the TZD that are otherwise legally granted to a school district board of directors, except that the TZD is not a taxing district, and the SPI does not have authority for local levies, purchase or sale of real property, bonded indebtedness, or eminent domain.

*Transfer of Schools.* The SPI must adopt criteria and make a recommendation annually to the SBE beginning January 2013 regarding transferring schools to the temporary jurisdiction of the TZD. Eligible schools are those identified under current criteria as persistently lowest-performing and furthermore are among the lowest performing of those schools. Schools under a Required Action Plan or receiving federal school improvement grants are not eligible. Any identified charter schools are referred to their authorizer for charter revocation.

At least 10 and no more than 20 schools each year must be transferred. The SBE considers, but may modify, the recommendation of the SPI. A transfer takes effect September 1st following the SBE decision. The school district in which a transferred school is located is called the original district.

*TZD School Operation.* The SPI must contract with Learning Management Organizations (LMOs) to manage operation of schools in the TZD. The contract must include a performance framework that sets forth the academic and performance indicators for improving student learning. The contract must also include expectations and indicators for parent and community involvement.

The original district must notify employees of the school that their contracts are non-renewed. The SPI delegates hiring, assignment, evaluation, and dismissal of new staff to the LMO, who are considered employees of the TZD. Existing staff may apply to the LMO to continue working in the school, or apply for a transfer to a different school in the original district. The SPI is considered the employer for purposes of collective bargaining, but each school has separate bargaining units. The SPI must consult with the LMO when negotiating bargaining agreements.

The original district must notify parents if a school is to be transferred to the TZD. Parents may transfer their students to another school in the original district; otherwise student assignment

follows the normal policy of the original district. Students in a transferred school may participate in extra-curricular activities in the original district.

*Applicability of State Laws.* The TZD and the schools under its jurisdiction are exempt from all state laws and rules that apply to other public schools and districts, except for the following:

- state and federal health, safety, parents' rights, civil rights, and nondiscrimination laws;
- requirements to provide instruction in the Essential Academic Learning Requirements, participate in the state assessment system, and be held accountable to performance improvement goals established by the SBE;
- the annual school report card;
- hiring of appropriately certified instructional staff and conduct of employee background checks;
- adherence to generally accepted accounting principles and annual audits as determined by the State Auditor; and
- laws pertaining to open public meetings and disclosure of public records.

*Funding and Facilities.* State funding for a school in the TZD is calculated on a per-student basis based on the allocation and funding formulas for its original district. The OSPI deducts the amount from the regular apportionment. The deducted amount for each school must be spent for that school or placed in an account to be used in a future year for that school. The deducted amount is still used to calculate the original district levy base, and original districts with local levies must transfer a per-student amount of the levy to the OSPI for the support of the school.

State and federal funds for pupil transportation and food services are allocated to the original district, which must continue to provide services as though the school had not been transferred.

The original district retains ownership of all land, buildings, and equipment, but a school transferred to the TZD is not required to pay rent. The original district remains responsible for major capital repairs and projects, but the TZD pays for daily maintenance.

*Return of Schools.* The SBE must adopt performance criteria for monitoring the progress of a school in the TZD. A school may be returned to its original district if it meets the criteria for three consecutive years. Once a school is eligible to be returned, the SPI negotiates with the original district for the transition, including addressing the employment status of employees. The SPI transfers any unspent fund balances for the school back to the original district.

**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.