

# SENATE BILL REPORT

## SB 6163

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As of January 21, 2016

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

**Brief Description:** Authorizing district charter schools.

**Sponsors:** Senators Billig, Baumgartner, Sheldon and McAuliffe.

**Brief History:**

**Committee Activity:** Early Learning & K-12 Education: 1/12/16.

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### SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

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

**Background:** Initiative 1240. In November 2012, Washington State voters approved Initiative 1240, which established a process for creating and operating a limited number of publically funded charter schools that operate independently of an elected school district board of directors as well as most state laws and school district policies. The first charter school began serving students in the 2014-15 school year. Nine charter schools served students in the 2015-16 school year. Seven of the schools were authorized by the Washington Charter School Commission and two were authorized by Spokane Public School District.

Charter School Lawsuit. On September 4, 2015, the Washington Supreme Court ruled the charter school law unconstitutional and declined to reconsider the ruling on November 19, 2015. The Court found that charter schools are not common schools because they are not subject to and under the complete control of the qualified voters of the school district. The Court also found that since charter schools are not common schools, they cannot receive funds from the common school construction fund or be funded by the common school state property tax, because under the state constitution both are to be used exclusively for common schools. The Court declared that because the charter school law could not be implemented without the impermissible funds the law in its entirety was unconstitutional and void.

Local School Levies. Article VII, section 2 of the Washington State Constitution requires that local school district levies be used for the support of common schools.

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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.*

**Summary of Bill:** Amends or repeals the Initiative 1240 provisions to address the Court's concerns of non-common school status and funding source by authorizing school districts to create district charter schools within the district.

District Charter School. A district charter school is a public common school that is open to all children and is tuition free. It is managed and operated by a district charter school board according to a renewable seven-year district charter contract, but the local school district retains governance authority over the school.

Chartering Process. If a school district board of directors chooses to authorize district charter schools, the district is responsible for soliciting applications to establish a charter school. An applicant submits an application that contains specified information to the school district board in which the district charter school will be located. The school district must evaluate and approve or deny the charter application. The district must give preference to applications for district charter schools that are designed to enroll and serve at-risk student populations but nothing limits a district charter school to serving a substantial portion of at-risk students. If approved, the school district and the district charter school board must execute a seven-year charter contract that contains specified components, including a student performance framework and targets. The school district may develop and use an abbreviated application process to approve charter schools previously approved under prior state law.

Applicant. A district charter school applicant must be a nonprofit corporation. Applicants may not be a sectarian or religious organization.

Authorizer. The local school district board of directors in which the district charter school will be located may be an authorizer of a district charter school. Duties of the school district as an authorizer include soliciting, evaluating, approving, and denying charter applications. The district also negotiates and executes charter contracts with the district charter school board. The district monitors the district charter school's performance & compliance with the contract. The district may take corrective actions or sanctions and may revoke, renew or non-renew a charter. These responsibilities may be delegated to the school district superintendent or superintendent's designee. However, the local school board retains sole authority to deny an application.

Caps and Limits. Not more than the greater of one school or ten percent of the public schools in the district can be charter schools.

District Charter School Board of Directors. The power of the district charter school board is subject to the authority granted in the district charter school contract, except that a district charter school board may not levy taxes or issue tax-backed bonds and may not acquire property by eminent domain. The district charter school board must meet regularly with the school district board, at least once annually in a joint public meeting. If provided in the charter contract, the district charter school board may:

1. hire, manage, and discharge district charter school employees;
2. establish additional graduation requirements and issue diplomas;
3. enter into contracts for real property, equipment, goods, supplies, and services;
  - a. Contracts for management and operation of a district charter school may only be with nonprofit organizations; and

- b. any contracts must not exceed the term of the charter contract or create current or future obligations for the school district;
4. rent, lease, or own real property;
5. solicit and accept gifts, but not from sectarian or religious organizations, and the local school district must separately account for any funds received by the district charter school board; and
6. issue diplomas to those who meet the state high school graduation requirements.

State and Federal Law. A district charter school must comply with all state statutes and rules, including teacher and principal evaluations, unless exempted in the charter contract. Flexibility may be specifically granted by the local school board in the following areas:

- length of school day, including number of instructional hours;
- length of school year, including number of instructional hours;
- human resources-related issues: professional development, staffing levels, and the hiring & firing of the district charter school employees, if due process protections provided;
- the curriculum used, if free from sectarian or religious influence or control;
- selected budgeting decisions as agreed to in the district charter contract; and
- other operational and instructional areas as allowed by law.

Employees. District charter school employees are hired, managed, and discharged by the charter school board of directors. The employees are included in the established state employee insurance and health care systems and are included in the state retirement systems if it does not jeopardize the status of the systems as governmental plans. The state collective bargaining laws for classified and certificated district charter school employees apply. The bargaining units for district charter schools must be separate from other school district bargaining units. Years of service in a district charter school are included in the service calculation for the statewide salary allocation schedule, but a district charter school is not required to pay a particular salary. The district charter school may be granted flexibility in the charter contract on human resources-related issues, including professional development, staffing levels, and the hiring and firing of the district charter school employees, except that due process protections must be provided.

Student Admissions. A district charter school is open to all children, tuition-free, and may not limit admission except by age group, grade level, or enrollment capacity. However, a district charter school may organize around a special emphasis or theme, including focusing on services for particular groups of students. Enrollment capacity is determined by the local school board and may be adjusted annually. If student applications exceed the capacity of a district charter school, then the school must grant an enrollment preference to siblings of enrolled students, with any remaining enrollments allocated through a lottery. A district charter school authorized under prior state law that is reauthorized must provide sufficient capacity to enroll all students who wish to remain enrolled. If a student transfers from a district charter school to a non-charter school, the non-charter school must accept the student's credits in the same manner as non-charter school credits. School districts must provide information to parents and the public about district charter schools and any other alternative public schools located within the district as an enrollment option for students.

Interscholastic & Extracurricular Programs. District charter schools may participate in state- or district-sponsored interscholastic programs to the same extent as other public schools and may charge for extracurricular events and activities in the same manner as other public schools.

Facilities. District charter schools should be included in the school district's facility planning. School districts providing facilities to serve district charter school students are eligible for state matching funds for common school construction. The Office of the Superintendent of Public Instruction may create rules for a district charter school facility funding process. District charter schools can purchase or lease, at or below fair market value, facilities or property of the school district in which the district charter school is located. A charter school may contract with a public or private entity for the use of a facility as a school building at or below fair market rent. Health and safety regulations applicable to K-12 public schools are applicable to these facilities used as a school building. Public libraries, community service organizations, museums, performing arts venues, theaters, and public or private colleges and universities may provide space within their facilities for charter schools to use. A conversion school may continue to use its existing facility according to the conditions provided in the district charter contract.

Reports. Each district charter school board must submit an annual report to the local school board that includes specified components.

Renewal, Nonrenewal, and Revocation. Guidelines for charter contract renewal, nonrenewal and revocation are provided. A school district may non-renew a district charter school for any reason. A district charter contract may be non-renewed or revoked if the authorizer determines that the charter school:

- commits a material and substantial violation of the charter contract or laws applicable to the charter school;
- fails to meet or make sufficient progress toward the performance expectations in the charter contract; or
- fails to meet generally accepted standards of fiscal management.

A charter contract may be revoked entirely at the discretion of the school district board, but only if notice is provided by September 1 of the year prior to the school year that the revocation is to take effect. Before nonrenewal or revocation of a charter contract the authorizer must develop a charter school termination protocol to ensure an orderly transition.

Funding. State funding for charter schools is allocated in the same manner as for public non-charter schools, including basic education and non-basic education funding. Salaries for certificated staff are distributed based on the average education level and experience of certificated staff in the public non-charter schools in the district, i.e. "district staff mix." However, a charter school is not required to pay a particular salary to its staff. Allocations for pupil transportation are based on a per-pupil calculation of the previous year's allocations to the school district in which the district charter school is located. A district charter school is eligible for state school construction assistance and may apply for state grants, but the school must coordinate any application for state grants through the school district board. Funds raised locally through a school district tax levy that are approved before the start-up date of a charter school are only available to new charter schools authorized by a school district and to

conversion schools, not to a charter school authorized by the Commission. For levies submitted to voters after the start-up date of any new or conversion charter school, the charter school must be included in the levy process and levy fund distribution in the same manner as other public schools in the district. District charter schools must receive levy and LEA revenue on a per-pupil basis as agreed to by the school district board and the district charter school board.

**Appropriation:** None.

**Fiscal Note:** Requested on January 7, 2016.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: The goal of this bill is to provide certainty for today's charter school students in their educational future by making charter schools constitutional with reliable funding. By requiring charter schools to work with the school district ensures the charter schools will be complementary to the rest of the education system. The one size of traditional schools does not fit all students. Charter schools are one part of a solution to provide all students with a quality education and ensure an educated workforce. We need to give the students the most robust, innovative and flexible choices and alternative learning environments to serve the needs of students. But it can and will also work in other parts of the state. The Superintendent of Public Instruction adopted emergency rules to extend the Alternative Learning Experiences to the students in the charter schools so that they could continue their education. But that "fix" is only for this school year. Charter schools have greater accountability than other public schools. Spokane charter schools are accountable to the elected Spokane school board and they must meet measures to remain open, which is not the case for the traditional public schools.

CON: There is no great demand for charter schools in this state. There is no evidence that charter schools are better than traditional public schools. Charters have a high failure rate, which harms low income and minority children who were attending when the school closes. Charter schools are the first step toward privatization of our educational system. The current law provides flexibility for all school districts to have innovative schools. The focus of legislature in this short session should be on getting out of contempt of court by developing a plan and the necessary revenue to fulfill the state's constitutional duty to amply fund public schools for all of the one million students without diverting taxpayer dollars to privatized charter schools. This bill does not maintain local control. While school district boards authorize charter schools under this bill it is still managed by a non-elected charter school board so it is unconstitutional. Charter schools were formed in school districts that do not support charter schools so this bill does not restore this option for those students and that is unfair.

**Persons Testifying:** PRO: Senator Billig, prime sponsor; Senator Baumgartner, sponsor; Randy Dorn, Superintendent of Public Instruction; Brenda McDonalds Pride Prep; Jeffery Bunch, parent, Spokane International Academy; Shawn Lewis, Spokane Public Schools; Neil

Strege, Washington Roundtable; Amy Anderson, AWB; Dan Steele, WASA; Alan Burke, WSSDA.

CON: Lucinda Young, WEA; David Spring, Coalition to Protect our Public Schools; Melissa Westbrook, Seattle Schools Community Forum Blog; Steve Nesich, Washington Voters for Public Education; Pat Griffith, League of Women Voters of Washington; Cris Shardelman.