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**HOUSE BILL 1744**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Representatives Rude, Santos, Schmidt, and Pollet

Read first time 02/03/23. Referred to Committee on Education.

1 AN ACT Relating to clarifying the responsibilities and  
2 accountability for the effective delivery and oversight of public  
3 education services to charter school students; amending RCW  
4 28A.710.030, 28A.710.040, 28A.710.070, 28A.710.100, 28A.710.120,  
5 28A.710.140, 28A.710.180, and 28A.710.190; and creating a new  
6 section.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** (1) The legislature finds that  
9 requirements governing the establishment and operations of charter  
10 schools have proven insufficient. While charter schools have  
11 experienced a steady growth in student enrollment, an unacceptably  
12 high number and percentage of these privately run public schools have  
13 closed in the decade since Washington voters authorized the  
14 establishment of charter schools. As a result, students, parents, and  
15 staff in several Puget Sound locations and in Walla Walla were left  
16 to make alternative arrangements for school and work, often  
17 unexpectedly and without adequate notice, when their charter school  
18 closed. Furthermore, in one western Washington charter school, the  
19 disappointment proved especially difficult as the charter school  
20 opened and permanently ceased operations within the span of a few  
21 months. Under no circumstances is an accountability and oversight

1 failure of this nature acceptable to the many students, families, and  
2 staff that were profoundly impacted by the closure, or the general  
3 public.

4 (2) The legislature also finds that the establishment and  
5 operational challenges of charter schools are not limited to charter  
6 school closures: Charter schools have failed to properly and timely  
7 comply with teacher certification requirements; charter school boards  
8 have demonstrated ineffective leadership and oversight, with the  
9 results too often leading to charter school closures; and the charter  
10 school commission has authorized charter schools that were not  
11 prepared or otherwise able to deliver sustained education services in  
12 the manner set forth in their charter school application or charter  
13 contract, as evidenced by multiple charter school closures and the  
14 disruptions they created for students, families, and staff.

15 (3) The legislature authorized the establishment of charter  
16 schools in 2016 after the supreme court invalidated charter school  
17 laws adopted through a voter initiative. As a result, the legislature  
18 has an obligation to ensure that the responsibilities for the  
19 oversight of charter public schools are clearly delineated and  
20 adequate to ensure the highest standards of practices and public  
21 accountability. The legislature, therefore, intends to clarify  
22 responsibilities and increase the accountability measures governing  
23 the effective delivery and oversight of public education services to  
24 charter school students.

25 **Sec. 2.** RCW 28A.710.030 and 2016 c 241 s 103 are each amended to  
26 read as follows:

27 (1) To fulfill its duty to manage and operate the charter school,  
28 and to execute the terms of its charter contract, a charter school  
29 board may:

30 (a) Hire, manage, and discharge charter school employees in  
31 accordance with the terms of this chapter and the school's charter  
32 contract;

33 (b) Receive and disburse funds for the purposes of the charter  
34 school;

35 (c) Enter into contracts with any school district, educational  
36 service district, or other public or private entity for the provision  
37 of real property, equipment, goods, supplies, and services, including  
38 educational instructional services, pupil transportation services,  
39 and for the management and operation of the charter school, provided

1 the charter school board maintains oversight authority over the  
2 charter school. Contracts for management operation of the charter  
3 school may only be with nonprofit organizations;

4 (d) Rent, lease, purchase, or own real property. All charter  
5 contracts and contracts with other entities must include provisions  
6 regarding the disposition of the property if the charter school fails  
7 to open as planned or closes, or if the charter contract is revoked  
8 or not renewed;

9 (e) Issue secured and unsecured debt, including pledging,  
10 assigning, or encumbering its assets to be used as collateral for  
11 loans or extensions of credit to manage cash flow, improve  
12 operations, or finance the acquisition of real property or equipment.  
13 However, the charter public school may not pledge, assign, or  
14 encumber any public funds received or to be received pursuant to RCW  
15 28A.710.220. Debt issued under this subsection (1)(e) is not a  
16 general, special, or moral obligation of the state, the charter  
17 school authorizer, the school district in which the charter school is  
18 located, or any other political subdivision or agency of the state.  
19 Neither the full faith and credit nor the taxing power of the state,  
20 or any political subdivision or agency of the state, may be pledged  
21 for the payment of the debt;

22 (f) Solicit, accept, and administer for the benefit of the  
23 charter school and its students, gifts, grants, and donations from  
24 individuals, or public or private entities, excluding sectarian or  
25 religious organizations. A charter school board may not accept any  
26 gifts or donations that violate this chapter or other state laws; and

27 (g) Issue diplomas to students who meet state high school  
28 graduation requirements established under RCW 28A.230.090. A charter  
29 school board may establish additional graduation requirements.

30 (2) A charter school board must contract for an independent  
31 performance audit of the school to be conducted: (a) The second year  
32 immediately following the school's first full school year of  
33 operation; and (b) every three years thereafter. The performance  
34 audit must be conducted in accordance with United States general  
35 accounting office government auditing standards. A performance audit  
36 in compliance with this section does not inhibit the state auditor's  
37 office from conducting a performance audit of the school.

38 (3) A charter school board may not levy taxes or issue tax-backed  
39 bonds.

1 (4) A charter school board may not acquire property by eminent  
2 domain.

3 (5) A charter school board, through website postings and written  
4 notice with receipt acknowledged by signature of the recipient, must  
5 advise families of new, ongoing, and prospective students of any  
6 ongoing litigation challenging the constitutionality of charter  
7 schools or that may require charter schools to cease operations.

8 (6) Each charter school board shall ensure that its members and  
9 administrative staff receive annual training to support the effective  
10 operation and oversight of the charter school, including compliance  
11 with requirements governing the employment of properly credentialed  
12 instructional staff, compliance with the requirements of chapters  
13 42.30 and 42.56 RCW, and the permitted uses of public funds.

14 **Sec. 3.** RCW 28A.710.040 and 2018 c 75 s 9 are each amended to  
15 read as follows:

16 (1) A charter school must operate according to the terms of its  
17 charter contract and the provisions of this chapter.

18 (2) A charter school must:

19 (a) Comply with local, state, and federal health, safety,  
20 parents' rights, civil rights, and nondiscrimination laws applicable  
21 to school districts and to the same extent as school districts,  
22 including but not limited to chapter 28A.642 RCW (discrimination  
23 prohibition) ~~((and))~~, chapter 28A.640 RCW (sexual equality), and  
24 chapter 28A.155 RCW (special education);

25 (b) Provide a program of basic education, that meets the goals in  
26 RCW 28A.150.210, including instruction in the ~~((essential academic~~  
27 ~~learning requirements))~~ state learning standards, and participate in  
28 the statewide student assessment system as developed under RCW  
29 28A.655.070;

30 (c) Comply with the screening and intervention requirements under  
31 RCW 28A.320.260;

32 (d) Employ certificated instructional staff as required in RCW  
33 28A.410.025. Charter schools, however, may hire noncertificated  
34 instructional staff of unusual competence and in exceptional cases as  
35 specified in RCW 28A.150.203(7). Beginning November 1, 2023, and  
36 annually thereafter, charter schools shall report the employment of  
37 all noncertificated instructional staff hired in accordance with this  
38 subsection (2)(d) during the current and preceding school year to the

1 executive director of the commission and the state board of education  
2 for inclusion in the annual report required by RCW 28A.710.250;

3 (e) Comply with the employee record check requirements in RCW  
4 28A.400.303;

5 (f) Adhere to generally accepted accounting principles and be  
6 subject to financial examinations and audits as determined by the  
7 state auditor, including annual audits for legal and fiscal  
8 compliance;

9 (g) Comply with the annual performance report under RCW  
10 28A.655.110;

11 (h) Be subject to the performance improvement goals adopted by  
12 the state board of education under RCW 28A.305.130;

13 (i) Comply with the open public meetings act in chapter 42.30 RCW  
14 and public records requirements in chapter 42.56 RCW; and

15 (j) Be subject to and comply with legislation enacted after  
16 December 6, 2012, that governs the operation and management of  
17 charter schools.

18 (3) Charter public schools must comply with all state statutes  
19 and rules made applicable to the charter school in the school's  
20 charter contract, and are subject to the specific state statutes and  
21 rules identified in subsection (2) of this section. For the purpose  
22 of allowing flexibility to innovate in areas such as scheduling,  
23 personnel, funding, and educational programs to improve student  
24 outcomes and academic achievement, charter schools are not subject  
25 to, and are exempt from, all other state statutes and rules  
26 applicable to school districts and school district boards of  
27 directors. Except as provided otherwise by this chapter or a charter  
28 contract, charter schools are exempt from all school district  
29 policies.

30 (4) A charter school may not engage in any sectarian practices in  
31 its educational program, admissions or employment policies, or  
32 operations.

33 (5) Charter schools are subject to the supervision of the  
34 superintendent of public instruction and the state board of  
35 education, including accountability measures such as the Washington  
36 achievement index developed by the state board of education under RCW  
37 28A.657.110, to the same extent as other public schools, except as  
38 otherwise provided in this chapter.

1       **Sec. 4.** RCW 28A.710.070 and 2020 c 49 s 2 are each amended to  
2 read as follows:

3       (1) The Washington state charter school commission is established  
4 as an independent state agency whose mission is to (~~authorize~~):

5       (a) Authorize high quality charter public schools throughout the  
6 state, especially schools that are designed to expand opportunities  
7 for at-risk students(~~(, and to ensure)~~);

8       (b) Ensure the highest standards of accountability and oversight  
9 for these schools; and

10       (c) Ensure that students in charter schools authorized under this  
11 chapter have opportunities for academic success that are not  
12 disrupted by unsatisfactory educational, operational, or financial  
13 oversight of the charter school, the charter school board, or both.

14       (2) The commission shall, through its management, supervision,  
15 and enforcement of the charter contracts and pursuant to applicable  
16 law, administer the charter schools it authorizes in the same manner  
17 as a school district board of directors administers other schools.

18       (3) (a) The commission shall consist of:

19       (i) Nine appointed members;

20       (ii) The superintendent of public instruction or the  
21 superintendent's designee; and

22       (iii) The chair of the state board of education or the chair's  
23 designee.

24       (b) Appointments to the commission shall be as follows: Three  
25 members shall be appointed by the governor; three members shall be  
26 appointed by the senate, with two members appointed by the leader of  
27 the largest caucus of the senate and one member appointed by the  
28 leader of the minority caucus of the senate; and three members shall  
29 be appointed by the house of representatives, with two members  
30 appointed by the speaker of the house of representatives and one  
31 member appointed by the leader of the minority caucus of the house of  
32 representatives. The appointing authorities shall assure diversity  
33 among commission members, including representation from various  
34 geographic areas of the state and shall assure that at least one  
35 member is the parent of a Washington public school student.

36       (4) Members appointed to the commission shall collectively  
37 possess strong experience and expertise in public and nonprofit  
38 governance; management and finance; public school leadership,  
39 assessment, curriculum, and instruction; and public education law.  
40 All appointed members shall have demonstrated an understanding of and

1 commitment to charter schooling as a strategy for strengthening  
2 public education.

3 (5) Appointed members shall serve four-year, staggered terms. The  
4 initial appointments from each of the appointing authorities must  
5 consist of one member appointed to a one-year term, one member  
6 appointed to a two-year term, and one member appointed to a  
7 three-year term, all of whom thereafter may be reappointed for a  
8 four-year term. No appointed member may serve more than two  
9 consecutive terms. Initial appointments must be made by July 1, 2016.

10 (6) Whenever a vacancy on the commission exists among its  
11 appointed membership, the original appointing authority must appoint  
12 a member for the remaining portion of the term within no more than  
13 thirty days.

14 (7) Commission members shall serve without compensation but may  
15 be reimbursed for travel expenses as authorized in RCW 43.03.050 and  
16 43.03.060.

17 (8) The commission may hire an executive director and may employ  
18 staff as necessary to carry out its duties under this chapter. The  
19 commission may delegate to the executive director the duties as  
20 necessary to effectively and efficiently execute the business of the  
21 commission, including the authority to employ necessary staff. In  
22 accordance with RCW 41.06.070, the executive director and the  
23 executive director's confidential secretary are exempt from the  
24 provisions of chapter 41.06 RCW.

25 (9) The commission shall reside within the office of the  
26 superintendent of public instruction for administrative purposes  
27 only.

28 (10) RCW 28A.710.090 and 28A.710.120 do not apply to the  
29 commission.

30 **Sec. 5.** RCW 28A.710.100 and 2016 c 241 s 110 are each amended to  
31 read as follows:

32 (1) Authorizers are responsible for:

33 (a) Ensuring that students in charter schools they authorize will  
34 have opportunities for academic success that are not disrupted by  
35 unsatisfactory educational, operational, or financial oversight of  
36 the charter school, the charter school board, or both;

37 (b) Soliciting and evaluating charter applications;

38 ~~((b))~~ (c) Approving charter applications that meet identified  
39 educational needs and promote a diversity of educational choices;

1       ~~((e))~~ (d) Denying charter applications that fail to meet  
2 statutory requirements, requirements of the authorizer, or both;

3       ~~((d))~~ (e) Negotiating and executing charter contracts with each  
4 authorized charter school;

5       ~~((e))~~ (f) Monitoring, in accordance with charter contract  
6 terms, the performance and legal compliance of charter schools  
7 including, without limitation, education and academic performance  
8 goals and student achievement; ~~(and~~

9       ~~(f))~~ (g) Determining whether each charter contract merits  
10 renewal, nonrenewal, or revocation; and

11       (h) Ensuring that charter school boards comply with the annual  
12 training requirements in RCW 28A.710.030(6).

13       (2) An authorizer may delegate its responsibilities under this  
14 section to employees or contractors.

15       (3) All authorizers must develop and follow chartering policies  
16 and practices that are consistent with the principles and standards  
17 for quality charter authorizing developed by the national association  
18 of charter school authorizers in at least the following areas:

19       (a) Organizational capacity and infrastructure;

20       (b) Soliciting and evaluating charter applications;

21       (c) Performance contracting;

22       (d) Ongoing charter school oversight and evaluation; and

23       (e) Charter renewal decision making.

24       (4) Each authorizer must submit an annual report to the state  
25 board of education, according to a timeline, content, and format  
26 specified by the board that includes:

27       (a) The authorizer's strategic vision for chartering and progress  
28 toward achieving that vision;

29       (b) The academic and financial performance of all operating  
30 charter schools under its jurisdiction, including the progress of the  
31 charter schools based on the authorizer's performance framework;

32       (c) The status of the authorizer's charter school portfolio,  
33 identifying all charter schools in each of the following categories:

34       (i) Approved but not yet open; (ii) operating; (iii) renewed; (iv)  
35 transferred; (v) revoked; (vi) not renewed; (vii) voluntarily closed;  
36 or (viii) never opened;

37       (d) The authorizer's operating costs and expenses detailed in  
38 annual audited financial statements that conform with generally  
39 accepted accounting principles; and



1 (e) The services purchased from the authorizer by the charter  
2 schools under its jurisdiction under RCW 28A.710.110, including an  
3 itemized accounting of the actual costs of these services.

4 (5) Neither an authorizer, individuals who comprise the  
5 membership of an authorizer in their official capacity, nor the  
6 employees of an authorizer are liable for acts or omissions of a  
7 charter school they authorize.

8 (6) No employee, trustee, agent, or representative of an  
9 authorizer may simultaneously serve as an employee, trustee, agent,  
10 representative, vendor, or contractor of a charter school under the  
11 jurisdiction of that authorizer.

12 **Sec. 6.** RCW 28A.710.120 and 2016 c 241 s 112 are each amended to  
13 read as follows:

14 (1) The state board of education is responsible for overseeing  
15 the performance and effectiveness of all authorizers approved under  
16 RCW 28A.710.090 and the commission.

17 (2) Persistently unsatisfactory performance of an authorizer's  
18 portfolio of charter schools, a pattern of well-founded complaints  
19 about the authorizer or its charter schools, a high percentage of  
20 charter school closures during the preceding 10-year period, or other  
21 objective circumstances may trigger a special review by the state  
22 board of education.

23 (3) In reviewing or evaluating the performance of authorizers,  
24 the state board of education must apply nationally recognized  
25 principles and standards for quality charter authorizing. Evidence of  
26 material or persistent failure by an authorizer to carry out its  
27 duties in accordance with these principles and standards constitutes  
28 grounds for revocation of the authorizing contract by the state board  
29 of education, as provided under this section.

30 (4) If at any time the state board of education finds that an  
31 authorizer is not in compliance with a charter contract, its  
32 authorizing contract, or the authorizer duties under RCW 28A.710.100,  
33 the board must notify the authorizer in writing of the identified  
34 problems, and the authorizer must have reasonable opportunity to  
35 respond and remedy the problems.

36 (5) (~~If~~) Except as provided otherwise in subsection (7) of this  
37 section if, after due notice from the state board of education, an  
38 authorizer persists in violating a material provision of a charter  
39 contract or its authorizing contract, or fails to remedy other

1 identified authorizing problems, the state board of education shall  
2 notify the authorizer, within a reasonable amount of time under the  
3 circumstances, that it intends to revoke the authorizer's chartering  
4 authority unless the authorizer demonstrates a timely and  
5 satisfactory remedy for the violation or deficiencies.

6 (6) In the event of revocation of any authorizer's chartering  
7 authority, the state board of education shall manage the timely and  
8 orderly transfer of each charter contract held by that authorizer to  
9 another authorizer in the state, with the mutual agreement of each  
10 affected charter school and proposed new authorizer. The new  
11 authorizer shall assume the existing charter contract for the  
12 remainder of the charter term.

13 (7) If the commission is the subject of the special review under  
14 this section, the state board of education shall have one year from  
15 the initiation of its review to complete the review and provide a  
16 report with findings and recommendations, including any  
17 recommendations for statutory revisions it deems necessary, to the  
18 governor, the superintendent of public instruction, and the  
19 appropriate committees of the house of representatives and the  
20 senate.

21 (8) The state board of education must establish timelines and a  
22 process for taking actions under this section in response to  
23 performance deficiencies by an authorizer.

24 **Sec. 7.** RCW 28A.710.140 and 2016 c 241 s 114 are each amended to  
25 read as follows:

26 (1) The state board of education must establish an annual  
27 statewide timeline for charter application submission and approval or  
28 denial that must be followed by all authorizers.

29 (2) In reviewing and evaluating charter applications, authorizers  
30 shall employ procedures, practices, and criteria consistent with  
31 nationally recognized principles and standards for quality charter  
32 authorizing. Authorizers shall give preference to applications for  
33 charter schools that are designed to enroll and serve at-risk student  
34 populations. However, nothing in this chapter may be construed as  
35 intended to limit the establishment of charter schools to those that  
36 serve a substantial portion of at-risk students, or to in any manner  
37 restrict, limit, or discourage the establishment of charter schools  
38 that enroll and serve other pupil populations under a nonexclusive,  
39 nondiscriminatory admissions policy. The application review process

1 must include thorough evaluation of each application, an in-person  
2 interview with the applicant group, and an opportunity to learn about  
3 and provide input on each application in a public forum including,  
4 without limitation, parents, community members, local residents, and  
5 school district board members and staff.

6 (3) In deciding whether to approve an application, authorizers  
7 must:

8 (a) Grant charters only to applicants that have demonstrated  
9 competence in each element of the authorizer's published approval  
10 criteria and are likely to open ~~((and)),~~ operate, and ensure the  
11 financial viability of a successful charter public school;

12 (b) Base decisions on documented evidence collected through the  
13 application review process;

14 (c) Follow charter-granting policies and practices that are  
15 transparent and based on merit; and

16 (d) Avoid any conflicts of interest, whether real or apparent.

17 (4) An approval decision may include, if appropriate, reasonable  
18 conditions that the charter applicant must meet before a charter  
19 contract may be executed.

20 (5) For any denial of an application, the authorizer shall  
21 clearly state in writing its reasons for denial. A denied applicant  
22 may subsequently reapply to that authorizer or apply to another  
23 authorizer in the state.

24 **Sec. 8.** RCW 28A.710.180 and 2016 c 241 s 118 are each amended to  
25 read as follows:

26 (1) Each authorizer must continually monitor the performance and  
27 legal compliance of the charter schools under its jurisdiction,  
28 including collecting and analyzing data to support ongoing evaluation  
29 according to the performance framework in the charter contract.

30 (2) An authorizer may conduct or require oversight activities  
31 that enable the authorizer to fulfill its responsibilities under this  
32 chapter, including conducting appropriate inquiries and  
33 investigations ~~((, if those activities are consistent with the intent  
34 of this chapter, adhere to the terms of the charter contract, and do  
35 not unduly inhibit the autonomy granted to charter schools))~~.  
36 Examples of permitted reasons for conducting or requiring oversight  
37 activities under this section include: The persistent unsatisfactory  
38 performance of a charter school; a pattern of well-founded complaints  
39 about a charter school; or other objective circumstances.

1 (3) In the event that a charter school's performance, financial  
2 status, or legal compliance appears unsatisfactory, the authorizer  
3 must promptly notify the school of the perceived problem and provide  
4 reasonable opportunity for the school to remedy the problem. However,  
5 if the problem warrants revocation of the charter contract, the  
6 revocation procedures under RCW 28A.710.200 apply.

7 (4) An authorizer may take appropriate corrective actions or  
8 exercise sanctions short of revocation in response to apparent  
9 deficiencies in charter school performance or legal compliance. These  
10 actions or sanctions may include, if warranted, requiring a school to  
11 develop and execute a corrective action plan within a specified time  
12 frame.

13 **Sec. 9.** RCW 28A.710.190 and 2016 c 241 s 119 are each amended to  
14 read as follows:

15 (1) A charter contract may be renewed by the authorizer, at the  
16 request of the charter school, for successive five-year terms. The  
17 authorizer, however, may vary the term based on the performance,  
18 demonstrated capacities, and particular circumstances of a charter  
19 school, and may grant renewal with specific conditions for necessary  
20 improvements to a charter school.

21 (2) No later than six months before the expiration of a charter  
22 contract, the authorizer must issue a performance report and charter  
23 contract renewal application guidance to the charter school. The  
24 performance report must summarize the charter school's performance  
25 record to date based on the data required by the charter contract,  
26 and must provide notice of any weaknesses or concerns perceived by  
27 the authorizer concerning the charter school that may, if not timely  
28 rectified, jeopardize its position in seeking renewal. The charter  
29 school has thirty days to respond to the performance report and  
30 submit any corrections or clarifications for the report.

31 (3) The renewal application guidance must, at a minimum, provide  
32 an opportunity for the charter school to:

33 (a) Present additional evidence, beyond the data contained in the  
34 performance report, supporting its case for charter contract renewal;

35 (b) Describe improvements undertaken or planned for the school;  
36 and

37 (c) Detail the school's plans for the next charter contract term.

38 (4) The renewal application guidance must include or refer  
39 explicitly to the criteria that will guide the authorizer's renewal

1 decisions, and this criteria must be based on the performance  
2 framework set forth in the charter contract.

3 (5) In making charter renewal decisions, an authorizer must:

4 (a) Ensure that students in the charter school will have  
5 opportunities for academic success that are not disrupted by  
6 unsatisfactory educational, operational, or financial oversight of  
7 the charter school, the charter school board, or both;

8 (b) Base its decisions in evidence of the school's performance  
9 over the term of the charter contract in accordance with the  
10 performance framework set forth in the charter contract;

11 ~~((b))~~ (c) Ensure that data used in making renewal decisions are  
12 available to the school and the public; and

13 ~~((e))~~ (d) Provide a public report summarizing the evidence  
14 basis for its decision.

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