

HOUSE BILL REPORT

ESHB 2910

As Passed House:
February 27, 1996

Title: An act relating to charter schools.

Brief Description: Authorizing charter schools.

Sponsors: Representatives B. Thomas, Foreman, Talcott, Cairnes, Robertson, L. Thomas, Horn, Johnson, Cooke, Kessler, Huff, D. Sommers, Basich, Campbell, Smith, Quall and Carlson.

Brief History:

Committee Activity:

Education: 1/30/96, 2/2/96 [DPS];
Appropriations: 2/3/96, 2/5/96 [DPS(ED)].

Floor Activity:

Passed House: 2/27/96, 65-32.

HOUSE COMMITTEE ON EDUCATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Brumsickle, Chairman; Elliot, Vice Chairman; Johnson, Vice Chairman; Fuhrman; McMahan; Pelesky; Quall; Radcliff; Smith; Talcott; B. Thomas and Thompson.

Minority Report: Do not pass. Signed by 7 members: Representatives Cole, Ranking Minority Member; Keiser, Assistant Ranking Minority Member; Clements; Hatfield; Linville; Poulsen and Veloria.

Staff: Robert Butts (786-7111).

Background: The basic concept of charter schools is to allow a group of teachers or others to plan and operate a school. The schools are generally free from many state laws and regulations and are provided funds approximately equal to the amount going to other public schools. Accountability is to be based not on procedural requirements, but on the achievement of the school's students and its ability to enroll students.

In 1991 Minnesota was the first state to pass charter school legislation. Since then 18 other states have passed legislation in various forms. In the states with charter school legislation, there are approximately 230 charter schools.

Summary of Bill:

Purpose and Intent. The Legislature authorizes the establishment of alternative public schools to be called charter schools. Charter schools are to be granted greater autonomy in instructional programs and operations in exchange for assurance of accountability for student performance and sound fiscal management.

Legal Status and Powers. Charter schools are to be discrete legal entities that may contract, sue, and be sued to the same extent as a public school district.

Members of a charter school's governing council are to be deemed public agents authorized by the state to operate the charter school. The council may hire, manage, and discharge school employees in accordance with the terms of the act.

Charter schools may rent, lease, or own property, but may not acquire property by eminent domain.

Charter schools may not charge tuition, levy taxes, or issue bonds.

Requirements. A charter school is a public school managed by a governing council, which operates independently of a school district, under a charter granted by a sponsor.

Charter schools are exempt from all statutes and rules relating to school districts except as provided in the act and in the school's approved charter.

Charter schools shall

- be nonsectarian in their programs, admission policies, employment practices, and all other operations in accordance with the constitution;
- comply with state and federal health, safety, and civil rights laws and rules applicable to school districts;
- have a governing council that is responsible for the policy and operational decisions of the charter school;
- provide a comprehensive program of instruction, except that a school may offer a curriculum with an emphasis on a specific learning philosophy, style, educational need, or specific subject;

- meet or exceed the student performance and assessment standards as established for students in other public schools;
- take the 4th, 8th, and 11th grade standardized achievement tests;
- comply with laws relating to the education of children with disabilities;
- employ certificated staff;
- comply with the employee record check requirements;
- be subject to the same financial and audit requirements as a school district;
- complete an annual school performance report;
- report at least annually to their sponsor and parents;
- maintain adequate insurance; and
- comply with open public meeting and public disclosure requirements.

Admission requirements. A charter school is to enroll students who submit timely applications. If capacity is insufficient, priority is to be given to students who reside within the school district in which the charter school is located and to siblings of students who are currently enrolled in the school. Students shall be selected through an equitable selection process to fill remaining spaces.

A charter school is to use the same admission criteria as other public schools. It may not limit admission based on race, ethnicity, national origin, intellectual ability, religion, gender, income level, disabling condition, proficiency in the English language, or athletic ability.

Provisions are included with regard to the admission of students in school districts that are party to an agreement directed toward remediating racial discrimination.

A student may not be required to attend a charter school.

Initial application process. Nonprofit corporations or cooperatives, public colleges and universities, existing public schools, other public bodies, private persons, and private organizations may apply to establish charter schools. Applicants seeking to establish a charter school are to submit an application to the school board of the school district in which the school is to be located. Contents of the application are specified, which include, but are not limited to

- a description of the proposed school's legal form, governance structure, organizational structure and staff responsibilities, including the procedures to be followed to ensure parental involvement;
- evidence of parent and community support for the school;
- the academic performance standards that will be expected of students, which must meet or exceed any standards of the school district in which the charter school is located;
- the school's educational program and curriculum;
- the assessment methods that will be used and corrective actions that will be taken in the event that student performance falls short of standards;
- a three-year financial plan;
- how the school plans to meet the transportation needs of its students; and
- if an existing school is converting to a charter school, a proposal for reassignment of students who choose not to attend the charter school.

The school board must hold at least one public hearing on the application. Within 60 calendar days, the school board must either approve or reject the application based on a determination that the applicant has or has not met the requirements of this section. Upon approval, the school board shall appoint the members of the school's governing council.

If the application is rejected, the school board must notify the applicant in writing of the reasons for the rejection. The application may be resubmitted for reconsideration.

Application appeal process. If the school board rejects an application, the superintendent of the Educational Service District in which the school district is located, at the request of the applicant, shall convene a review panel to review the decision of the school board. If the review panel determines that the school board failed to consider the charter application appropriately, or acted in an arbitrary manner in rejecting the application, the review panel shall request the school board to reconsider the application.

After December 31, 1998, charter applications rejected by a school board may be submitted to the Superintendent of Public Instruction (SPI) for sponsorship. SPI shall approve the application if it meets the requirements of this chapter. Upon approval, SPI shall appoint the members of the school's governing council. A school board has no responsibility for a charter school sponsored by SPI.

Duties of the Superintendent of Public Instruction. In addition to sponsoring charter schools after December 31, 1998, SPI is to disseminate information and provide technical assistance regarding charter schools, monitor the performance of the schools, and annually report to the Legislature regarding the status of charter schools.

A school district is directed to notify SPI when it receives and approves or rejects an application and takes action regarding revocation and renewal of charters.

Charter renewal and revocation. An initial approval is effective for five years. A process and criteria for renewing the application are provided. Grounds for revocation also are provided.

Funding - School district sponsored schools. SPI is to allocate to charter schools approved by a school board basic education funds based on the number of students enrolled in the school multiplied by the estimated statewide annual average per student allocation.

Funding for students who are eligible for special education, the learning assistance program, and the bilingual program are to be determined in accordance with rules applicable to school districts. Transportation funding is to be based on the average student transportation allocation for transported students in the district or on the formula used by school districts.

Charter schools are entitled to an amount equal to 98% of the maintenance and operation per student levy of the district in which a student resides.

Charter schools are eligible to apply for education grant programs and special education safety net funding and may receive funds from other governmental and private sources, excluding sectarian organizations.

Charter schools shall not charge tuition, levy taxes, or issue bonds.

Funding - SPI sponsored schools. The legislative fiscal committees are jointly to study alternative means of providing funding to charter schools sponsored by SPI and make recommendations to the Legislature by December 1, 1997.

Employees. School district employees may take leaves of absence to work in a charter school. If the employee returns to the school district, the employee shall receive first consideration for rehire.

Charter schools may choose to participate in the state retirement system. The Legislative Joint Committee on Pension Policy is to provide alternative means of providing retirement benefits to charter school employees.

Employees may organize and bargain collectively. Bargaining units at a charter school are to be separate from any other units.

Charter School Districts. A school board may apply to an Educational Service District (ESD) board to receive approval for the school district to be designated a charter school district. Charter school districts are exempt from all state education statutes and rules relating to school districts except as provided in this section and in the charter school district's approved charter.

Interested school boards are to submit an application to the ESD in which the district is located. The application is to include the goals and mission of the school district; affirmation that the school district will meet the requirements for charter school districts; evidence of community support; steps taken to solicit public input on the application; student academic performance standards; district curriculum and assessment methods; what steps will be taken if students fail to achieve the standards; state laws with which the school district will comply; and other information as determined by the ESD.

A charter school district must

- be free from sectarian and religious influence or control;
- comply with state and federal laws pertaining to health, safety, civil rights, school board membership and selection, maintenance and operation levy limitations, and employee compensation limitations;
- meet student performance and assessment standards at least as rigorous as those established for students in other public school districts;
- participate in the state mandates standardized tests;
- comply with laws relating to the education of children with disabilities;
- employ certificated instructional staff;
- comply with the employee record check requirements;
- be subject to the same financial and audit requirements as other school districts;
- comply with the annual school performance report requirement;
- report at least annually to its sponsor and to parents;
- maintain adequate insurance; and

- comply with the Open Public Meetings act and with public disclosure requirements.

The ESD board shall approve or deny an application based on whether the applicant has met the requirements pertaining to charter school districts. However, an ESD may not approve more than one charter school district. If multiple applications are submitted, the ESD board is given discretion in deciding which application to approve.

State funding for charter school districts shall be the same as with other school districts. However, except as required in this section, charter school districts shall not be required to comply with state funding requirements and restrictions unless SPI finds that non-compliance with the requirements and restrictions would likely lead to unacceptable reductions in fiscal and financial accountability.

Vacant Buildings. SPI, in conjunction with the Department of General Administration, shall annually publish a list of vacant and unused buildings that are owned by this state or by school districts and that may be suitable for a charter school.

Alternative to Initiative 177. This act is to constitute an alternative to Initiative 177.

Appropriation: None.

Fiscal Note: Requested on January 23, 1996.

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

Testimony For: Charter schools are not a revolution; they are an evolution. The legislation puts in a structure that will allow schools the freedom to innovate. We will have many laboratories of innovation. This is a strong charter school bill that will allow applicants to appeal applications denied by local school district boards.

Testimony Against: As written, charter schools created as a result of this legislation will increase inequities and remove accountability from school boards, which are accountable to the voters. Applicants should not be allowed to appeal decisions to a state level board, especially a board composed of individuals that are required to be "supportive of charter schools."

Testified: Representative Thomas, prime sponsor; Walter Ball, Association of School Principals (con); Larry Davis, State Board of Education (con); Barbara Mertens, Washington Association of School Administrators (con); Judy Hartmann, Washington Education Association (concerns); Roger Valdez, Washington State School Directors'

Association (con); Fawn Spady, Education Excellence Coalition (pro); and Lynn Harsh, Evergreen Freedom Foundation (pro).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Education be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Huff, Chairman; Pelesky, Vice Chairman; Beeksma; Brumsickle; Carlson; Cooke; Crouse; Dyer; Foreman; Hickel; Lambert; McMorris; Reams; Sheahan; Silver and Talcott.

Minority Report: Do not pass. Signed by 15 members: Representatives Clements, Vice Chairman; H. Sommers, Ranking Minority Member; Valle, Assistant Ranking Minority Member; Basich; Chappell; Dellwo; Grant; Hargrove; Jacobsen; Kessler; Linville; Poulsen; Rust; Sehlin and Wolfe.

Staff: Jack Daray (786-7178).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Education: No new changes were recommended.

Appropriation: None.

Fiscal Note: Requested on January 23, 1996.

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

Testimony For: None.

Testimony Against: A more common-sense approach is needed for this experimental concept, one that balances experimentation with thoughtful policy making. Paying charter school employees will have an effect on the state pension system if they get a higher salary, especially if these employees are getting the higher salary is one or two years from retirement. This bill allows local levy money to follow the students. If a charter school begins when a two-year levy is already in place in that school district, then that levy money is diluted if that charter school is a former private charter school. In the conversion of private schools there will be a corresponding state cost. There are concerns that will dilute the basic education dollars especially under the limitations of 601. We are not adequately funding current public schools to offer state funding to currently private schools.

Testified: Doug Nelson, Public School Employees of Washington; and Karen Davis, Washington Education Association.