

HOUSE BILL REPORT

HB 2019

As Reported By House Committee On:

Education
Appropriations

Title: An act relating to charter schools.

Brief Description: Authorizing charter schools.

Sponsors: Representatives Quall, Talcott, Linville, Johnson, Mason, Sterk, Romero, Smith, Hatfield, Koster, Chopp, Dickerson, Sheahan, Doumit, D. Sommers, Poulsen, Thompson, Veloria, Honeyford, Kastama, Sehlin, Wood, Delvin, O'Brien, Boldt, Anderson, Mitchell, Ogden, Benson, Morris, Huff, Sump, Scott, Lantz, Mastin, Buck, Dunshee, Costa, Tokuda, Sullivan, Regala, Backlund, Grant, Kessler, Kenney, Cody, Crouse, Radcliff, Mielke, Bush, Alexander, Sherstad, Hankins, Pennington, Sheldon, Gombosky, Murray, D. Schmidt, Wensman, Appelwick, Cooke, Zellinsky, Wolfe, Carlson, Hickel, Dunn, B. Thomas, L. Thomas, Van Luven, Keiser and Blalock.

Brief History:

Committee Activity:

Education: 2/25/97, 3/3/97 [DPS];
Appropriations: 3/8/97 [DP2S(w/o sub ED)].

HOUSE COMMITTEE ON EDUCATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Johnson, Chairman; Hickel, Vice Chairman; Cole, Ranking Minority Member; Keiser, Assistant Ranking Minority Member; Linville; Quall; Smith; Sterk; Talcott and Veloria.

Minority Report: Without recommendation. Signed by 1 member: Representative Sump.

Staff: Pat Shelledy (786-7149).

Background: Individual schools within a school district do not have independent legal status. Instead, they are administrative elements of a school district. Traditional public schools are operated under the direction of the local school board, the district superintendent, and administrators in the school district's central office. The school district board of directors generally sets policies applicable to the district

in conformance with state laws and rules and regulations adopted by the Superintendent of Public Instruction and the State Board of Education.

Various mechanisms exist to increase the autonomy of participants in the public school system. Such mechanisms include alternative schools or programs within the traditional framework of the school district, site-based management and shared decision-making combined with limited waiver provisions, creation of charters– or contract– schools, giving vouchers to parents, and allowing parents to home school their children.

The charter school concept combines proposals to increase school autonomy with degrees of measures of accountability and oversight and is often viewed as an extensive of site based management. The degree of autonomy and oversight varies with different models.

The Washington Constitution contains several provisions governing public education. Article IX, Section 1, of the state constitution states that it is the paramount duty of the state to make ample provision for the education of children residing within its borders. Article IX, Section 2, provides that the Legislature must provide for a general and uniform system of public schools. Article IX, Section 4, provides that all schools maintained or supported wholly or in part by public funds must remain free of sectarian control or influence. Article III, Section 22, provides that the Superintendent of Public Instruction (SPI) shall have supervision over all matters pertaining to public schools. The Legislature has defined basic education– for purposes of meeting the state’s obligation under the constitution. That definition contains funding allocation formulas and is based primarily on funding teacher salaries.

Employees of a school district are entitled to engage in collective bargaining with school districts on a district-wide level.

A number of states have enacted legislation authorizing charter schools.

Summary of Substitute Bill: *General provisions:* The Legislature authorizes creation of charter schools. A charter school is a public school managed by a board of directors of a public benefit nonprofit corporation. A public benefit nonprofit corporation is a tax exempt nonprofit corporation organized and operated for, among other things, educational purposes. The public benefit corporation may not be a sectarian or religious organization. A charter– is a contract between the nonprofit corporation and a sponsor. A sponsor of a charter school may only be the school district in which the school will be located. The SPI acts as an appellate body when an applicant for a charter school appeals a sponsor’s decision to reject a charter application. The contract establishes the conditions for the management, operation,

and educational program of the charter school. The charter may be renewed every five years.

Admissions: A charter school must enroll all students who submit a timely application. If capacity at the school is insufficient to enroll all applicants, the school must give priority to students who reside within the school district boundaries in which the school is located. Priority must also be given to siblings of current enrollees. 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 schools may not charge tuition but may charge fees for optional non-credit extracurricular events.

Powers: Charter schools will be managed independently of school districts. The charter school board of directors may enter into contracts to operate the school. Charter schools may not levy taxes or issue bonds. Acceptance of gifts or donations is permitted except from sectarian or religious entities.

Exemptions from state laws and rules: Charter schools are exempt from state laws and rules with certain exceptions and except as provided in the charter. All charter schools must

- o comply with state and federal health, safety, and civil rights laws and rules applicable to school districts;
- o meet or exceed student performance and assessment standards established for students in other public schools, including the essential academic learning requirements and performance standards under education reform and total program hour offerings;
- o participate in nationally normed standardized achievement tests;
- o employ certificated instructional staff;
- o comply with employee record check requirements;
- o be subject to the same financial and audit requirements as a school district;
- o report at least annually to the sponsor and to parents of children enrolled at the charter school on the student's progress and comply with the annual performance report;
- o comply with the Open Public Meetings Act; and
- o meet the obligations of other school districts to spend allocations of state funding for the purposes of funding basic education, special education, learning assistance programs, transitional bilingual programs, and student transportation.

Application and approval process: An applicant for a charter school must submit an application to the local school board of directors in which the proposed school is to be located. The local school board must hold a hearing on the application within 60 days of receipt of the application. The school board must accept or reject the application

within 30 days after the hearing. If the school board rejects the application, the school board must notify the applicant in writing and explain the reasons for rejecting the application. The applicant may submit a revised application and the school board may provide assistance to improve the application. Upon a final rejection, the applicant may appeal the school board's decision to the SPI. A review panel selected by may work with the applicant and the sponsor to reach an agreement. If the SPI approves the application, the sponsor must enter into a charter with the applicant. If the superintendent denies the application, the applicant may appeal to the courts.

The application is a proposed agreement and must include various provisions such as information about the nonprofit corporation; a description of the curriculum and instructional strategies; a description of the powers the applicant proposes to relinquish, the state laws and rules the applicants intends to elect to comply with, and the portions of public school financing the applicant proposes to relinquish; the school's admission policies; a description of the student performance standards that must meet the requirements of education reform; evidence that the plan for the school is economically viable, including a proposed a five-year budget, start-up costs, a description of major contracts, and a description of proposed financial management procedures; a description of the procedure to discipline and dismiss students; and a description of procedures to assure the health and safety of all participants of guests of the charter school.

Charter school applications must be approved if, after the exercise of due diligence and good faith, the sponsor finds that the applicant meets several criteria that relate to the criteria in the application.

Charter renewal and revocation: A charter must be renewed within five years from the first date of operation. A charter school must submit an application for renewal to the sponsor. The application must include information about meeting the terms of the charter, student performance, and a current financial statement.

The sponsor may deny an application for renewal if the charter school has materially violated the terms of the charter, the students failed to meet student performance standards, the charter school failed to meet generally accepted standards of fiscal management, or the charter school violated provisions of law that have not been waived.

The sponsor must give the charter school notice of the sponsor's intention not to renew the contract to allow the charter school an opportunity to correct deficiencies.

The sponsor may revoke a charter under certain circumstances. Those circumstances include the same reasons for not renewing a charter. In addition, a charter may be revoked after two years if the academic achievement of students is significantly below the academic achievement of comparable students in the school district. A charter

school must be given written notice of deficiencies, a public hearing, and an opportunity to correct deficiencies before revocation except when the health and safety of children in the school are at risk. A charter must include an appellate process.

Funding. State funds: State funding to charter schools must be determined according to rule applicable to funding for school districts.

Levy funds: A charter school is entitled to an amount equal to 100 percent of the maintenance and operation excess tax levy rate per annual average full-time equivalent student of the district in which each full-time equivalent student who attends the charter school resides.

Administration fee. To offset costs of oversight and administering the charter, a sponsor may retain up to 2 percent of state funding and local excess levy funding that is being driven to the charter school.

Grant assistance: A charter school assistance account is created. A charter school may receive a grant for up to \$250 per pupil for start-up costs. Start-up moneys will be distributed to schools with approved charters on a first-come, first-served basis. If an applicant for a charter school fails to begin operating a school within 18 months of receiving the loan, the applicant must immediately repay the grant.

Conversions: A public school currently operated by a school district may apply to convert to a charter school. The conversion must be supported by a majority of the custodial parents of students enrolled in the school and a majority of the certificated employees at the school. If the parents and teachers decide to convert to a charter school, the parents and teachers must incorporate as a public nonprofit corporation.

Teachers who do not want to remain at the charter school may be reassigned to another school within the district without any loss of benefits or status. If a parent does not want his or her child to attend the charter school, the child may attend another school within the district.

Leaves of absence: A leave of absence must be granted to a school employee for up to three years if the employee wants to work at the charter school.

Caps: Until January 1, 2001, no more than a total of 5 percent of the annual average full-time equivalent students eligible for enrollment in the school district in which the charter school is located may be enrolled in a charter school. The cap does not apply to converted schools.

Labor relations: Certificated and classified employees of charter schools have the right to organize and enter into collective bargaining agreements with the nonprofit corporation. However, the bargaining unit is restricted to the employees of the

charter school and must be separate from other districts. The employees are eligible for and retain their status in the public retirement systems.

Substitute Bill Compared to Original Bill: A number of substantive and technical changes are made. Sponsorship is limited to school districts. The SPI's role is limited to an appellate capacity. The chartering application and approval process is clarified and expanded to include various criteria including more references to education reform. The funding provision is modified. Deleted is a provision that required the SPI to maintain a record of vacant buildings. The loan assistance account is changed to a grant program.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 4, 1997.

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

Testimony For: Charter schools offer expanded choices and opportunities for teachers and parents. California has successful charter schools and has demonstrated that this can be done. Fiscal autonomy is important. Charter schools empower teachers, improve parent involvement and return power to local communities. Charter schools have built-in accountability. The bill solves an important problem by offering a new mechanism of accountability without abandoning education reform. Schools will be held accountable by parents based on student performance. Charter schools are not an escape from education reform or public schools but are part of them. The charter school movement is not a white suburban phenomenon. They are often created by communities who feel less well served by traditional public school programs.

Testimony Against: There should be multiple sponsors so that the school district and the applicant are not forced to enter into a charter together. School boards are frequently hostile to charters. The levy base of school districts should not be eroded and the bill presents concerns about state funding and levy funding. The SPI should not be a sponsor. It is unclear how this bill is intended to be integrated with SHB 1303, the waiver bill. Appeals should be simple and should not involve courts. The bill insults taxpayers. Sixty-seven percent of the voters just voted down two versions of similar legislation and now the state is imposing it on the locally elected school boards. As the bill is currently drafted it moves too far away from education reform which has not yet had an opportunity to be fully implemented.

Testified: Representative Quall, prime sponsor; Representative Talcott, sponsor; Terry Bergeson, Superintendent of Public Instruction (con); Raymond Jackson, ATOP Academy, Arizona (pro); Paul Hill, Reinventing Education (pro); Bill Pinnick,

Principal (pro); Sharon Simas, Issaquah New Alternative School (pro); Alex Medler, Education Commission of the States; Sue Nathanson, teacher (pro); Carla Dietsch, Washington Charter School Association (pro); Lisa Wilkerson, parent (pro); Jeanette Newman, parent (pro); Janet Hollander, parent (pro); Erika Cranmer, citizen (con); Chris Shardelman, citizen (con); Dwayne Slate, Washington State School Directors' Association (con); Barbara Mertens, Washington Association of School Administrators (on); Steve Mullin, Washington Roundtable (pro); Robert Dawson, citizen (pro); Linda Carpenter, State Board of Education (concerns); Emory Gleason, citizen (pro); William Lehr, parent (pro); Jeff Kemp, Washington Family Council (pro); Lloyd Gardner, citizen (pro); Edsel Hammond, citizen (pro); Kathy Rainley, citizen (pro); Virginia DeForest, American Association of University Women (concerns); Joe Pope, Association of Washington School Principals (concerns); Judy Hartmann, Washington Education Association (con); and Doug Nelson, Public School Employees (con).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Education. Signed by 30 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; Wensman, Vice Chairman; H. Sommers, Ranking Minority Member; Doumit, Assistant Ranking Minority Member; Gombosky, Assistant Ranking Minority Member; Benson; Carlson; Chopp; Cody; Cooke; Crouse; Grant; Keiser; Kenney; Kessler; Lambert; Linville; Lisk; Mastin; McMorris; Parlette; Poulsen; Regala; D. Schmidt; Sehlin; Sheahan; Talcott and Tokuda.

Staff: Jack Daray (786-7178).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Education: State funding is to be allocated to school districts for charter school students on the same basis as non-charter school enrollees of the district. School districts are to provide funding from all funding sources to charter schools on the same basis as if the student were a non-charter enrollee in the district. This legislation will become law only if it is referenced and funded in the biennial budget act.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 4, 1997.

Effective Date Ninety days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Testimony For: The current version should be modified to allow districts to allocate funds to charter schools similar to the current weighted student– budgeting approaches. Charter schools offer expanded choices and opportunities for teachers, parents and students. California has had successful charter schools. Charter schools empower teachers and parents. Charter school applicants will have to pass high qualifying standards. Charter schools have been successful with at-risk students. There will be a tough standard of accountability to charter school patrons and sponsoring district.

Testimony Against: Local levy money should not be spent on charter schools if they are not accountable to the school board responsible for raising local taxes. Funding should not be diverted from existing public schools. This is another education experiment like so many in the past which have had mixed results, therefore any trial should limit the number of charter school sites. The ultimate accountability of charter schools is not clear.

Testified: Representative Dave Quall, prime sponsor; Representative Gigi Talcott; Representative Peggy Johnson; Joseph Olchefske, Seattle School District (con); Carla Dietsch, Washington Charter School Association (pro); Bob Mackenzie, Business, Family (pro); Sharon Simas, Issaquah Charter School (pro); Dwayne Slate, Washington School Directors’ Association (con); Robert Butts, Office of the Superintendent of Public Instruction (concerns); Doug Nelson, Public School Employees (con); Rainer Houser, Association of Washington State Principals (concerns); Karen Davis, Washington Education Association (pro); and Barbara Mertens, Washington Association of School Administrators (pro).