
SUBSTITUTE SENATE BILL 5764

State of Washington

55th Legislature

1997 Regular Session

By Senate Committee on Education (originally sponsored by Senators Johnson, Anderson, Benton, McCaslin, Oke, Deccio, Strannigan, Swecker, Hochstatter, Finkbeiner, Schow, Rossi, Sellar and West)

Read first time 03/05/97.

1 AN ACT Relating to charter schools; adding a new chapter to Title
2 28A RCW; creating a new section; and declaring an emergency.

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

4 NEW SECTION. **Sec. 1.** INTENT. The legislature intends to
5 authorize the establishment of charter schools for the purpose of
6 providing a unique setting for learning that will improve pupil
7 achievement and provide additional public school choices for students,
8 parents, and teachers.

9 NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context clearly
10 requires otherwise, the definitions in this section apply throughout
11 this chapter.

12 (1) "Applicant" means a nonprofit corporation that has submitted an
13 application to a sponsor to obtain approval to operate a charter
14 school. The nonprofit corporation must either be a public benefit
15 nonprofit corporation as defined in RCW 24.03.490, or a nonprofit
16 corporation as defined in RCW 24.03.005 that has applied for tax-exempt
17 status under section 501(c)(3) of the internal revenue code of 1986 (26
18 U.S.C. Sec. 501(c)(3)). The nonprofit corporation may not be a

1 sectarian or religious organization and must meet all of the
2 requirements for a public benefit nonprofit corporation before
3 receiving any funding under section 15 of this act.

4 (2) "Charter" means a contract between an applicant and a sponsor.
5 The charter establishes, in accordance with this chapter, the terms and
6 conditions for the management, operation, and educational program of
7 the charter school.

8 (3) "Charter school" means a public school managed by an
9 applicant's board of directors and operating independently of any
10 school district board under a charter approved in accordance with this
11 chapter.

12 (4) "Board of directors" means the board of directors of the public
13 benefit nonprofit corporation that manages and operates the charter
14 school.

15 (5) "Sponsor" means a school district or the state board of
16 education, whichever has approved a charter for a charter school.

17 NEW SECTION. **Sec. 3.** CHARTER SCHOOLS--POWERS. (1) The charter
18 school's board of directors may hire, manage, and discharge any charter
19 school employee in accordance with the terms of this chapter and that
20 school's charter.

21 (2) The charter school's board of directors may enter into a
22 contract with any school district, or any other public or private
23 entity, also empowered to enter into contracts, for any and all real
24 property, equipment, goods, supplies, and services, including
25 educational instructional services.

26 (3) Charter schools may rent, lease, or own property, but may not
27 acquire property by eminent domain. All charters and charter school
28 contracts with other public and private entities must include
29 provisions regarding the disposition of the property if the charter
30 school fails to open as planned, closes, or the charter is revoked or
31 not renewed. Charter schools may accept gifts and donations from other
32 governmental and private entities, excluding sectarian or religious
33 organizations. Charter schools may not accept any gifts or donations
34 the conditions of which violate this chapter.

35 (4) Charter schools may not charge tuition, levy taxes, or issue
36 bonds, however they may charge fees for optional noncredit
37 extracurricular events.

1 NEW SECTION. **Sec. 4.** LEGAL STATUS. A charter school is a public
2 school including one or more of grades kindergarten through twelve,
3 operated by a public benefit nonprofit corporation, according to the
4 terms of a renewable five-year contract granted by a sponsor.

5 NEW SECTION. **Sec. 5.** CHARTER SCHOOLS--EXEMPTIONS. (1) A charter
6 school shall operate independently of any school district board, under
7 a charter approved by a sponsor under this chapter.

8 (2) Charter schools are exempt from all state statutes and rules
9 applicable to school districts and school district boards of directors
10 except as provided in this chapter and in the school's approved
11 charter.

12 (3) A charter school's board of directors may elect to comply with
13 one or more provisions of the statutes or rules that are applicable to
14 school districts and school district board of directors.

15 (4) All approved charter schools shall:

16 (a) Comply with state and federal health, safety, and civil rights
17 laws applicable to school districts;

18 (b) Meet or exceed the student performance and assessment standards
19 as established for students in other public schools, including the
20 essential academic learning requirements and performance standards
21 developed under a performance-based education system according to RCW
22 28A.630.885;

23 (c) Participate in nationally normed standardized achievement tests
24 as required in RCW 28A.230.190, 28A.230.230, and 28A.230.240;

25 (d) Employ certificated instructional staff, however charter
26 schools may hire noncertificated instructional staff with money
27 received from nonstate sources;

28 (e) Comply with the employee record check requirements in RCW
29 28A.400.303;

30 (f) Be subject to the same financial and audit requirements as a
31 school district;

32 (g) Comply with the annual performance report under RCW
33 28A.320.205;

34 (h) Report at least annually to its sponsor and to parents of
35 children enrolled at the charter school on progress toward the student
36 performance goals specified in the charter; and

37 (i) Comply with the open public meetings act in chapter 42.30 RCW.

1 NEW SECTION. **Sec. 6.** ADMISSION REQUIREMENTS. (1) A charter
2 school must enroll all students who submit a timely application. If
3 capacity is insufficient to enroll all students who submit a timely
4 application, the charter school must give enrollment priority to
5 students who reside within the school district boundaries in which the
6 charter school is physically located. Priority also must be given to
7 siblings of students who are currently enrolled in the school.
8 Students must be selected through an equitable selection process, such
9 as a lottery, to fill any remaining spaces.

10 (2) A charter school may not limit admission based on race,
11 religion, ethnicity, national origin, gender, income level,
12 intellectual ability, disabling condition, proficiency in the English
13 language, or athletic ability. A charter school may limit admission to
14 students within a given age group or grade level.

15 NEW SECTION. **Sec. 7.** CHARTER APPLICATION--PROCESS. (1) An
16 applicant may apply to a sponsor to establish a charter school as
17 provided in this section.

18 (2) An applicant for a charter school must submit its application
19 to the local school district board of directors of the district in
20 which the proposed school is to be located before the applicant may
21 submit an application to another sponsor.

22 (3) The local school district board of directors must hold a public
23 hearing in the school district on the application within sixty days of
24 receipt of the application. The school board must either accept or
25 reject the application within thirty days after the hearing. The
26 thirty-day deadline for acceptance or rejection of the charter school
27 application may be extended for an additional thirty days if both
28 parties agree in writing.

29 (4) If the local school board rejects the application, the school
30 board must notify the applicant in writing of the reasons for the
31 rejection. The applicant may submit a revised application for the
32 school board's reconsideration. The school board may provide technical
33 assistance to improve the application. If the school board rejects the
34 application after submission of a revised application, the school board
35 must notify the applicant in writing of the reasons for the rejection.

36 (5) If the school board rejects the application, the applicant may
37 submit an application for a charter school to another sponsor or appeal
38 the local school board's decision to the superintendent of public

1 instruction. The alternate sponsor must comply with the procedures
2 specified in subsections (1) through (4) of this section for
3 consideration of the charter application. The alternative sponsor is
4 not bound by the local school board's findings or decision to deny the
5 application.

6 NEW SECTION. **Sec. 8.** APPLICATION REQUIREMENTS. The charter
7 school application is a proposed contract and must include:

8 (1) The identification and description of the nonprofit corporation
9 submitting the application, including the names and descriptions of the
10 individuals who will operate the school;

11 (2) The nonprofit corporation's articles of incorporation, bylaws,
12 and most recent financial statement and balance sheet;

13 (3) A mission statement for the proposed school, consistent with
14 the description of legislative intent in this chapter;

15 (4) A description of the school's educational program, including
16 curriculum and instructional strategies;

17 (5) A description of the school's admissions policy and marketing
18 program, including deadlines for applications or admission;

19 (6) A description of student performance standards, which must meet
20 those determined under RCW 28A.630.885(3)(b), and be measured according
21 to the assessment system determined under RCW 28A.630.885(3)(b);

22 (7) A description of the plan for evaluating student performance
23 and the procedures for taking corrective action in the event that
24 student performance at the charter school falls below standards
25 established in its charter;

26 (8) A description of school performance standards, including
27 measures of the value added by the proposed educational program, which
28 must meet those determined under any state-wide accountability system
29 adopted by the legislature under RCW 28A.630.885(3)(h)(i);

30 (9) A description of the proposed five-year budget of projected
31 revenues and expenditures, a plan for starting the school, and a
32 description of major contracts planned for equipment and services,
33 leases, improvements, purchases of real property, and insurance;

34 (10) A description of the proposed financial management procedures,
35 including annual audits of the school's financial and administrative
36 operations, which shall meet or exceed generally accepted standards of
37 management and public accounting;

1 (11) An assessment of the school's potential legal liability and a
2 description of the types and limits of insurance coverage the nonprofit
3 corporation plans to obtain that are adequate. For purposes of this
4 subsection, a liability policy of five hundred thousand dollars is
5 adequate;

6 (12) A description of the procedures to discipline and dismiss
7 students; and

8 (13) A description of procedures to assure the health and safety of
9 students, employees, and guests of the school and to comply with
10 applicable federal and state health and safety laws and regulations.

11 NEW SECTION. **Sec. 9.** APPROVAL CRITERIA. Charter school
12 applications shall be approved if, and only if, after the exercise of
13 due diligence and good faith:

14 (1) The public benefit nonprofit corporation and the individuals it
15 proposes to manage the school are reasonably qualified to operate a
16 charter school and implement the proposed educational program;

17 (2) The mission statement is consistent with the description of
18 legislative intent and restrictions on charter school operations in
19 this chapter;

20 (3) The school's proposed educational program describes student
21 performance standards that meet those determined under RCW
22 28A.630.885(3)(b) and are measured according to the assessment system
23 determined under RCW 28A.630.885(3)(b);

24 (4) The application describes a plan for evaluating pupil
25 performance and procedures for taking corrective action in the event
26 that pupil performance at the charter school falls below standards
27 established in its charter;

28 (5) The application describes school performance standards, which
29 must meet those determined under any state-wide accountability system
30 adopted by the legislature pursuant to RCW 28A.630.885(3)(h)(i);

31 (6) The school's educational program, including curriculum and
32 instructional strategies, has the potential to improve student
33 performance as measured under section 8(8) of this act;

34 (7) The school's admissions policy and marketing program is
35 consistent with state and federal law;

36 (8) The plan for the school is based on a review of the proposed
37 five-year budget of projected revenues and expenditures, the plan for
38 starting the school, and the major contracts planned for equipment and

1 services, leases, improvements, purchases of real property, and
2 insurance;

3 (9) The school's financial and administrative operations, including
4 its annual audits, meet or exceed generally accepted standards of
5 accounting and management;

6 (10) The assessment of the school's potential legal liability, and
7 the types and limits of insurance coverage the school plans to obtain,
8 are adequate. For purposes of this subsection, a liability policy of
9 five hundred thousand dollars is adequate;

10 (11) The procedures the school plans to follow to discipline and
11 dismiss students are reasonable;

12 (12) The procedures the school plans to follow to assure the health
13 and safety of students, employees, and guests of the school comply with
14 applicable state and federal health and safety laws and regulations;

15 (13) The applicant has met all the requirements for a public
16 benefit nonprofit corporation as defined in RCW 24.03.490. An
17 applicant must be a public benefit nonprofit corporation before
18 receiving any funding under section 15 of this act; and

19 (14) Applicants proposing the conversion of a public school
20 currently operated by a school district to charter school status
21 provide adequate evidence that the proposed plan received the approval
22 of fifty-one percent of the school's teachers. In addition, the
23 application must be supported by fifty-one percent of the custodial
24 parents or legal guardians of students enrolled in that school.

25 NEW SECTION. **Sec. 10.** APPEAL TO THE SUPERINTENDENT OF PUBLIC
26 INSTRUCTION. If a sponsor rejects a charter application, the applicant
27 may petition for appeal within thirty days to the superintendent of
28 public instruction. The superintendent of public instruction may adopt
29 reasonable procedures for handling appeals. The superintendent of
30 public instruction shall, within thirty days of receipt of the appeal,
31 review and make a determination on the appeal of a charter school
32 applicant whose application was denied. Decisions of the
33 superintendent of public instruction shall be in writing and shall
34 address the approval criteria in section 9 of this act. The
35 superintendent of public instruction may work with the sponsor and the
36 applicant to reach an agreement and may provide assistance to the
37 applicant to improve the application.

1 NEW SECTION. **Sec. 11.** APPEAL TO SUPERIOR COURT. Any
2 superintendent's decision denying the application may be appealed to a
3 superior court and reviewed to determine whether the superintendent's
4 decision is supported by the facts. Decisions unsupported by the facts
5 shall be remanded to the superintendent of public instruction with
6 orders to approve the charter application.

7 NEW SECTION. **Sec. 12.** STUDY OF APPEALS PROCESS. The Washington
8 institute of public policy shall study the implementation and
9 effectiveness of the appeals process established in sections 10 and 11
10 of this act. The institute shall collect information on how many
11 charter applications are filed, how many are denied, and how many are
12 granted or denied on appeal. The institute shall make recommendations
13 to the legislature about whether the legislature should create a
14 separate chartering authority within the state and other improvements
15 that could be made to the application and approval process. A report
16 of the study is due to the legislature by September 1, 1999.

17 NEW SECTION. **Sec. 13.** CHARTER AGREEMENT--AMENDMENT. (1) A
18 charter application approved by a sponsor with any changes made during
19 the appeal process, constitutes a charter.

20 (2) A charter may be amended during its term at the request of the
21 charter school board of directors and on the approval of the sponsor.

22 NEW SECTION. **Sec. 14.** CHARTER RENEWAL AND REVOCATION. (1) An
23 approved plan to establish a charter school is effective for five years
24 from the first day of operation. At the conclusion of the first three
25 years of operation, the charter school may apply to the sponsor for
26 renewal. A request for renewal must be submitted no later than six
27 months before the expiration of the charter.

28 (2) A charter school renewal application must include:

29 (a) A report on the progress of the charter school in achieving the
30 goals, student performance standards, and other terms of the charter;
31 and

32 (b) A financial statement that discloses the costs of
33 administration, instruction, and other expenditure objects and
34 activities of the charter school.

35 (3) The sponsor may reject the application for renewal if any of
36 the following occurred:

1 (a) The charter school materially violated its contract with the
2 sponsor, as set forth in the charter;

3 (b) The students enrolled in the charter school failed to meet
4 student performance standards identified in the charter;

5 (c) The charter school failed to meet generally accepted standards
6 of fiscal management; or

7 (d) The charter school violated provisions in law that have not
8 been waived in accordance with this chapter.

9 (4) A sponsor shall give written notice of its intent not to renew
10 the charter school's request for renewal to the charter school within
11 one month of the request for renewal to allow the charter school an
12 opportunity to correct identified deficiencies in its operation. At
13 the request of the board of directors of the charter school, the
14 sponsor shall review its decision for nonrenewal after the charter
15 school has corrected any identified deficiencies.

16 (5) The sponsor may revoke a previously approved charter before the
17 expiration of the term of the charter, and before application for
18 renewal, for any of the reasons specified in subsection (3) of this
19 section. Except in cases of emergency where the health and safety of
20 children are at risk, a charter may not be revoked unless the sponsor
21 first provides written notice of the specific violations alleged, a
22 public hearing, and a reasonable opportunity for the charter school to
23 correct the identified areas of concern. The sponsor of a charter
24 school shall provide for an appeal process upon a determination by the
25 sponsor that grounds exist to revoke a charter.

26 NEW SECTION. **Sec. 15.** FUNDING. (1) State funding to charter
27 schools for students shall be determined in accordance with applicable
28 statutes and rules that apply to school districts.

29 (2) For each annual full-time equivalent student enrolled in a
30 charter school, a charter school is entitled to an amount equal to one
31 hundred percent of the maintenance and operation excess tax levy rate
32 per annual average full-time equivalent student of the district in
33 which each full-time equivalent student who attends the charter school
34 resides less administrative fees authorized under section 16 of this
35 act.

36 NEW SECTION. **Sec. 16.** ADMINISTRATION FEE. To offset costs of
37 oversight and administering the charter, a sponsor may retain up to two

1 percent of state funding and local excess levy funding that is being
2 driven to the charter school.

3 NEW SECTION. **Sec. 17.** CHARTER SCHOOL ASSISTANCE ACCOUNT. The
4 charter school assistance account is created in the custody of the
5 state treasurer. All receipts from appropriations shall be deposited
6 into the account. Expenditures from the account may be used only to
7 provide financial grants to approved charter schools for start-up
8 costs. Charter schools may receive up to two hundred fifty dollars per
9 student for start-up costs. Only the superintendent of public
10 instruction or the superintendent's designee may authorize expenditures
11 from the account. The account is subject to allotment procedures under
12 chapter 43.88 RCW, but no appropriation is required for expenditures.
13 Start-up moneys shall be distributed to schools with approved charters
14 on a first-come, first-served basis.

15 NEW SECTION. **Sec. 18.** RULES--GRANTS. The office of the
16 superintendent of public instruction shall adopt rules to implement
17 section 17 of this act.

18 If an applicant for a charter school receives a grant under section
19 17 of this act and fails to begin operating a charter school within the
20 next eighteen months, the applicant must immediately reimburse the
21 office of the superintendent of public instruction for the amount of
22 the grant.

23 NEW SECTION. **Sec. 19.** CONVERSION SCHOOLS. A public school
24 currently operated by a school district may apply for conversion to a
25 public charter school if the conversion to a charter school is
26 supported by fifty-one percent of the custodial parents or legal
27 guardians of students enrolled in that school and fifty-one percent of
28 the certificated employees at the school. Evidence of the results must
29 be attached to the application. Teachers who do not want to remain
30 employed at the charter school may be reassigned to another school
31 within the district without any loss of benefits or status. If a
32 parent does not want his or her child to attend the charter school, the
33 child may attend another school within the district.

34 A public school that has converted to a charter school is entitled
35 to continue to use its current facility and related school property as

1 long as the applicant agrees in its charter to insure and maintain the
2 facility and property in a reasonable manner.

3 NEW SECTION. **Sec. 20.** LEAVES OF ABSENCE. If a school district
4 employee makes a written request for an extended leave of absence to
5 work at a charter school, the school district shall grant the request.
6 The school district may require that the request for a leave be made up
7 to ninety days before the employee would otherwise have to report for
8 duty. The leave shall be granted for up to three years. If the
9 employee returns to the school district within the three-year period,
10 the employee shall be hired before the district hires anyone else with
11 fewer years of service, with respect to any position for which the
12 returning employee is certificated or otherwise qualified.

13 NEW SECTION. **Sec. 21.** CAPS ON CHARTER SCHOOLS. (1) Until June 1,
14 2000, no more than a total of five percent of the annual average full-
15 time equivalent students eligible for enrollment in the school district
16 in which the charter school is located may be enrolled in a charter
17 school or schools in the district.

18 (2) Charter schools with fewer than fifteen students may not
19 receive state funding.

20 (3) The cap on enrollments in the charter school shall not apply to
21 public schools that convert to charter schools under section 19 of this
22 act.

23 NEW SECTION. **Sec. 22.** RIGHTS NOT LIMITED. This chapter does not
24 limit in any way the rights of parents to educate their children at
25 home or in approved private schools.

26 NEW SECTION. **Sec. 23.** CAPTIONS NOT LAW. Captions used in this
27 chapter do not constitute any part of the law.

28 NEW SECTION. **Sec. 24.** Sections 1 through 11 and 13 through 23 of
29 this act constitute a new chapter in Title 28A RCW.

30 NEW SECTION. **Sec. 25.** This act is necessary for the immediate
31 preservation of the public peace, health, or safety, or support of the
32 state government and its existing public institutions, and takes effect
33 immediately.

1 NEW SECTION. **Sec. 26.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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