
SENATE BILL 6345

State of Washington

55th Legislature

1998 Regular Session

By Senators Johnson, Anderson, Finkbeiner, Hale, Deccio, Rossi, Sellar, Oke, Hochstatter, McCaslin, Swecker, Schow, Stevens, Strannigan and Wood

Read first time . Referred to Committee on .

1 AN ACT Relating to charter schools; amending RCW 41.59.080; adding
2 a new section to chapter 41.56 RCW; adding a new section to chapter
3 41.59 RCW; adding a new chapter to Title 28A RCW; and declaring an
4 emergency.

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

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

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

14 (1) "Applicant" means a nonprofit corporation that has submitted an
15 application to a sponsor to obtain approval to operate a charter
16 school. The nonprofit corporation must either be a public benefit
17 nonprofit corporation as defined in RCW 24.03.490, or a nonprofit
18 corporation as defined in RCW 24.03.005 that has applied for tax-exempt

1 status under section 501(c)(3) of the internal revenue code of 1986 (26
2 U.S.C. Sec. 501(c)(3)). The nonprofit corporation may not be a
3 sectarian or religious organization and must meet all of the
4 requirements for a public benefit nonprofit corporation before
5 receiving any funding under section 12 of this act.

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

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

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

17 (5) "Sponsor" means: (a) The school district in which the charter
18 school is located; (b) beginning July 1, 2000, the state and regional
19 universities as defined in RCW 28B.10.016; or (c) beginning July 1,
20 2000, The Evergreen State College.

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

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

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

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

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

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

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

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

18 (4) All approved charter schools shall:

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

21 (b) Meet or exceed the student performance and assessment standards
22 as established for students in other public schools;

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--CHARTERING PROCESS.

16 (1) An applicant may apply to a sponsor to establish a charter school
17 as provided in this section.

18 (2) Before July 1, 2000, an applicant for a charter school must
19 submit its application to the local school district board of directors
20 of the district in which the proposed school is to be located. After
21 July 1, 2000, applications may be submitted to any qualified 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
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) Sponsors other than school districts must comply with the
37 procedures specified in subsections (1) through (4) of this section for

1 consideration of the charter application. The sponsor is not bound by
2 the school board's findings or decision to deny the application.

3 (6) The superintendent of public instruction shall maintain copies
4 of all approved charter applications. An applicant may obtain copies
5 of those applications from the office of the superintendent of public
6 instruction.

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

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

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

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

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

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

20 (6) A description of student performance standards, which must meet
21 or exceed student performance as established for students in other
22 public schools;

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

27 (8) A description of the financial plan for the school. The plan
28 shall include: (a) A proposed five-year budget of projected revenues
29 and expenditures; (b) a plan for starting the school; (c) a five-year
30 facilities plan; (d) evidence supporting student enrollment projections
31 of at least twenty students; and (e) a description of major contracts
32 planned for equipment and services, leases, improvements, purchases of
33 real property, and insurance;

34 (9) 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 (10) 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 at least one million dollars is
5 required;

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

8 (12) 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. A sponsor shall approve
12 an application for a charter school, if the sponsor finds:

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

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

19 (3) The school's proposed educational program is free from
20 religious or sectarian influence;

21 (4) The school's proposed educational program includes student
22 academic standards that meet or exceed student performance for students
23 in other public schools;

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

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

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

33 (8) The financial plan for the school is designed to reasonably
34 support the charter school's educational program based on a review of
35 the proposed five-year budget of projected revenues, expenditures, and
36 facilities;

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

4 (10) The assessment of the school's potential legal liability, and
5 the types and limits of insurance coverage the school plans to obtain,
6 are adequate. For purposes of this subsection, a liability policy of
7 at least one million dollars is required;

8 (11) The procedures the school plans to follow for discipline and
9 dismissal of students are reasonable and comply with federal law;

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

13 (13) The public benefit nonprofit corporation has been approved or
14 conditionally approved by the internal revenue service for tax exempt
15 status under section 501(c)(3) of the internal revenue code of 1986 (26
16 U.S.C. Sec. 501(c)(3)); and

17 (14) The approval of an application will not result in significant
18 financial impact on the district as a whole. The superintendent of
19 public instruction shall develop guidelines for determining what
20 constitutes a significant financial impact in consultation with the
21 chairs of the fiscal and education committees in the house of
22 representatives and senate and school district officials. The
23 guidelines must be developed by November 1, 1998.

24 NEW SECTION. **Sec. 10.** CHARTER AGREEMENT--AMENDMENT. (1) A
25 charter application approved by a sponsor with any changes made during
26 the appeal process, constitutes a charter.

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

29 NEW SECTION. **Sec. 11.** CHARTER RENEWAL AND REVOCATION. (1) An
30 approved plan to establish a charter school is effective for five years
31 from the first day of operation. At the conclusion of the first three
32 years of operation, the charter school may apply to the sponsor for
33 renewal. A request for renewal must be submitted no later than six
34 months before the expiration of the charter.

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

1 (a) A report on the progress of the charter school in achieving the
2 goals, student performance standards, and other terms of the charter;
3 and

4 (b) A financial statement that discloses the costs of
5 administration, instruction, and other expenditure objects and
6 activities of the charter school.

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

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

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

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

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

17 (4) A sponsor shall give written notice of its intent not to renew
18 the charter school's request for renewal to the charter school within
19 one month of the request for renewal to allow the charter school an
20 opportunity to correct identified deficiencies in its operation. At
21 the request of the board of directors of the charter school, the
22 sponsor shall review its decision for nonrenewal after the charter
23 school has corrected any identified deficiencies.

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

34 NEW SECTION. **Sec. 12.** FUNDING. (1) When the sponsor is a school
35 district:

36 (a) For purposes of funding, students in charter schools shall be
37 considered students of the sponsoring district for general fund
38 apportionment purposes. The sponsoring school district shall provide

1 funding for charter schools on a per student basis in amounts the
2 schools would have received if the students were enrolled in a
3 noncharter school in the district except that a charter school shall
4 not generate eligibility for small school assistance. Funding for
5 charter schools shall include regular apportionment, categorical, and
6 nonbasic education funds, as appropriate;

7 (b) No local levy moneys approved by the voters before the
8 effective date of a charter between a school district and an applicant
9 may be allocated to a charter school unless the sponsoring school
10 district determines it has received sufficient authority from voters to
11 allocate maintenance and operation excess tax levy money to the charter
12 school. For levies approved after the effective date of a charter,
13 charter schools shall be included in levy planning, budgets, and
14 funding distribution in the same manner as other schools in the
15 district; and

16 (c) A charter school is eligible for state matching funds for
17 common school construction if a sponsoring school district determines
18 it has received voter approval of local capital funds for the project.

19 (2) If the sponsor is not a school district, students in the
20 charter school shall be considered students of the district in which
21 the charter school is located for general fund apportionment purposes.
22 The superintendent of public instruction shall provide funding for
23 charter schools on a per student basis in amounts the schools would
24 have received if the students were enrolled in a noncharter school in
25 the district. The funding shall include regular apportionment,
26 categorical, and nonbasic education funds.

27 NEW SECTION. **Sec. 13.** ADMINISTRATION FEE. To offset costs of
28 oversight and administering the charter, a sponsor may retain up to
29 three percent of state funding and local excess levy funding, if
30 applicable, that is being driven to the charter school. Except for the
31 administration fee in this section, no other offsets or deductions are
32 allowed, whether for central administration or other off-site support
33 services, from a charter school's per-pupil share of state
34 appropriations, local levies, or other funds, unless the charter school
35 has contracted with a school district to obtain specific additional
36 services.

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

13 NEW SECTION. **Sec. 15.** RULES--GRANTS. The office of the
14 superintendent of public instruction shall adopt rules to implement
15 section 14 of this act.

16 If an applicant for a charter school receives a grant under section
17 14 of this act and fails to begin operating a charter school within the
18 next eighteen months, the applicant must immediately reimburse the
19 office of the superintendent of public instruction for the amount of
20 the grant.

21 NEW SECTION. **Sec. 16.** CONVERSION SCHOOLS. A public school
22 currently operated by a school district may apply for conversion to a
23 public charter school if the conversion to a charter school is
24 supported by fifty-one percent of the custodial parents or legal
25 guardians of students enrolled in that school and fifty-one percent of
26 the certificated employees at the school. Evidence of the results must
27 be attached to the application. If the parents and teachers decide to
28 convert the school to a charter school, the parents and teachers must
29 meet the definition of applicant in section 2 of this act to apply for
30 a charter. Teachers who do not want to remain employed at the charter
31 school may be reassigned to another school within the district without
32 any loss of benefits or status. If a parent does not want his or her
33 child to attend the charter school, the child may attend another school
34 within the district.

35 NEW SECTION. **Sec. 17.** LEAVES OF ABSENCE. If a school district
36 employee makes a written request for an extended leave of absence to

1 work at a charter school, the school district shall grant the request.
2 The school district may require that the request for a leave be made up
3 to ninety days before the employee would otherwise have to report for
4 duty. The leave shall be granted for up to three years. If the
5 employee returns to the school district within the three-year period,
6 the employee shall be hired before the district hires anyone else with
7 fewer years of service, with respect to any position for which the
8 returning employee is certificated or otherwise qualified.

9 NEW SECTION. **Sec. 18.** STUDY OF CHARTER SCHOOLS. The Washington
10 institute of public policy shall study the implementation and
11 effectiveness of this act. The institute shall make recommendations to
12 the legislature about the effectiveness of charter schools and the
13 impact of charter schools. The institute shall also recommend changes
14 to this chapter including improvements that could be made to the
15 application and approval process. A preliminary report of the study is
16 due to the legislature by September 1, 2000, and a final report is due
17 September 1, 2002.

18 NEW SECTION. **Sec. 19.** A new section is added to chapter 41.56 RCW
19 to read as follows:

20 This chapter applies to charter schools as defined in section 2 of
21 this act and the charter school's employees included in the bargaining
22 unit. The bargaining unit of employees of charter schools must be
23 limited to the employees of the charter school and must be separate
24 from other bargaining units in the school district or educational
25 service district.

26 NEW SECTION. **Sec. 20.** A new section is added to chapter 41.59 RCW
27 to read as follows:

28 This chapter applies to collective bargaining agreements between
29 charter schools and the employees of charter schools included in the
30 bargaining unit. The bargaining unit of employees of charter schools
31 must be limited to the employees of the charter school and must be
32 separate from other bargaining units in the school district.

33 **Sec. 21.** RCW 41.59.080 and 1975 1st ex.s. c 288 s 9 are each
34 amended to read as follows:

1 The commission, upon proper application for certification as an
2 exclusive bargaining representative or upon petition for change of unit
3 definition by the employer or any employee organization within the time
4 limits specified in RCW 41.59.070(3), and after hearing upon reasonable
5 notice, shall determine the unit appropriate for the purpose of
6 collective bargaining. In determining, modifying or combining the
7 bargaining unit, the commission shall consider the duties, skills, and
8 working conditions of the educational employees; the history of
9 collective bargaining; the extent of organization among the educational
10 employees; and the desire of the educational employees; except that:

11 (1) A unit including nonsupervisory educational employees shall not
12 be considered appropriate unless it includes all such nonsupervisory
13 educational employees of the employer; and

14 (2) A unit that includes only supervisors may be considered
15 appropriate if a majority of the employees in such category indicate by
16 vote that they desire to be included in such a unit; and

17 (3) A unit that includes only principals and assistant principals
18 may be considered appropriate if a majority of such employees indicate
19 by vote that they desire to be included in such a unit; and

20 (4) A unit that includes both principals and assistant principals
21 and other supervisory employees may be considered appropriate if a
22 majority of the employees in each category indicate by vote that they
23 desire to be included in such a unit; and

24 (5) A unit that includes supervisors and/or principals and
25 assistant principals and nonsupervisory educational employees may be
26 considered appropriate if a majority of the employees in each category
27 indicate by vote that they desire to be included in such a unit; and

28 (6) A unit that includes only employees in vocational-technical
29 institutes or occupational skill centers may be considered to
30 constitute an appropriate bargaining unit if the history of bargaining
31 in any such school district so justifies; and

32 (7) Notwithstanding the definition of collective bargaining, a unit
33 that contains only supervisors and/or principals and assistant
34 principals shall be limited in scope of bargaining to compensation,
35 hours of work, and the number of days of work in the annual employment
36 contracts; and

37 (8) The bargaining unit for employees of charter schools as defined
38 in section 2 of this act must be limited to the employees of the

1 charter school and must be separate from other bargaining units in the
2 school district or educational service district.

3 NEW SECTION. **Sec. 22.** CAPTIONS NOT LAW. Captions used in this
4 chapter do not constitute any part of the law.

5 NEW SECTION. **Sec. 23.** Sections 1 through 18 and 22 of this act
6 constitute a new chapter in Title 28A RCW.

7 NEW SECTION. **Sec. 24.** This act is necessary for the immediate
8 preservation of the public peace, health, or safety, or support of the
9 state government and its existing public institutions, and takes effect
10 immediately.

11 NEW SECTION. **Sec. 25.** If any provision of this act or its
12 application to any person or circumstance is held invalid, the
13 remainder of the act or the application of the provision to other
14 persons or circumstances is not affected.

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