

# HOUSE BILL REPORT

## HB 2415

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**As Reported By House Committee On:**

Education  
Appropriations

**Title:** An act relating to charter public schools.

**Brief Description:** Authorizing charter public schools.

**Sponsors:** Representatives Quall, Talcott, Rockefeller, Carlson, D. Schmidt, Pflug, Thomas, Haigh, Van Luven, Linville, Ruderman and Esser.

**Brief History:**

**Committee Activity:**

Education: 1/20/00, 2/4/00 [DP];

Appropriations: 2/5/00, 2/7/00 [DP].

### Brief Summary of Bill

- Charter public schools are authorized. The applicant must be a public benefit nonprofit corporation or a nonprofit organization that meets the requirements for a public benefit nonprofit corporation. The applicant may not be a sectarian or religious organization. The maximum number of charter public schools is twenty, excluding public schools that converted to chartered public schools.
- A sponsor of a charter public school may be the school district in which the school will be located, a state or regional university, or The Evergreen State College. A charter public school must enroll all students who submit a timely application; priority given to those in the district and siblings.
- Charter public schools are managed independently of school districts. Charter public schools are exempt from most state laws and rules.
- The local school board must hold a hearing on the application within 60 days. A sponsor other than the school district is not bound by a school board's decision to deny the application.
- State funding for charter public schools is provided by general fund apportionment through the local school district except for small school assistance provisions. Funding is on a per student basis. Charter public schools sponsored by a school district are entitled to local levy moneys approved after the effective date of this act.
- A sponsor may retain up to 3 percent of funding that is being driven to the charter public school. A charter public school may receive a grant for up to \$250 per pupil for start-up costs.

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### HOUSE COMMITTEE ON EDUCATION

**Majority Report:** Do pass. Signed by 9 members: Representatives Quall, Democratic Co-Chair; Talcott, Republican Co-Chair; Haigh, Democratic Vice Chair; Schindler, Republican Vice Chair; Carlson; Rockefeller; D. Schmidt; Thomas and Wensman.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Cox; Keiser; Santos and Stensen.

**Staff:** Charlie Gavigan (786-7340).

**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 (SPI) and the State Board of Education.

The Washington Constitution contains several provisions governing public education. Article IX, Section 1, of the state constitution makes it the paramount duty of the state to make ample provision for the education of children residing within its borders. Article IX, Section 2, states 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 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, as including basic education, special education, learning assistance programs, transitional bilingual programs, and student transportation. This definition contains funding allocation formulas and is based primarily on funding teacher salaries. There are also constitutional provisions prohibiting the amendment of existing statutes by reference and prohibiting the improper delegation of legislative authority.

In addition to statutory provisions on basic and special education, the education code also has provisions regarding, among other things, the following: highly capable students, compulsory attendance and truancy, food services, hiring of staff, student discipline and rights, student programs like high school student options, and parent access.

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

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**Summary of Bill:**

General provisions: The Legislature authorizes creation of charter public schools. A charter public school is a public school managed by an applicant's board of directors. The applicant must be a public benefit nonprofit corporation, a tax exempt nonprofit corporation organized and operated for, among other things, educational purposes, or a nonprofit organization that meets the requirements for a

public benefit nonprofit corporation. The applicant may not be a sectarian or religious organization. A "charter" is a contract between the applicant and a sponsor. A sponsor of a charter public school may be the school district in which the school will be located, a state or regional university, or The Evergreen State College. The contract establishes the conditions for the management, operation, and educational program of the charter public school. The charter is renewable every five years.

Admissions: A charter public 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 public school may not discriminate in its admissions policy but may limit admission to students within a given age group or grade level. Charter public schools may not charge tuition but may charge fees for optional non-credit extracurricular events.

Powers: Charter public schools are managed independently of school districts. The charter public school board of directors may enter into contracts to operate the school. Charter public 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 public schools are exempt from state laws and rules except for the following, and except as provided in the charter; charter public schools must: (1) comply with state and federal health, safety, and civil rights laws and rules applicable to school districts; (2) participate in nationally normed standardized achievement tests and state assessments; (3) employ certificated instructional staff except for staff of unusual competence; (4) comply with employee record check requirements; (5) be subject to the same financial and audit requirements as a school district; (6) report at least annually to the sponsor and to parents of children enrolled at the charter school on the student's progress; and (7) comply with the Open Public Meetings Act.

Application and approval process: An applicant for a charter public school must submit an application to a sponsor. The local school board must hold a hearing on the application within 60 days of receipt of the application, including when the sponsor is not the school district. 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. A sponsor other than the school district is not bound by a school board's decision to deny the application.

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; the school's mission statement, admission policies, and marketing plan; a description of the student performance standards that meet the essential academic learning requirements; a five-year financial plan; a description of the procedure to discipline and dismiss students; and a description of procedures to assure the health and safety of all participants and guests of the charter public school. A charter public school must be able to enroll at least 20 students and be in a school district with at least 2000 students.

Charter public school applications may be approved by the sponsor 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 public 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 public school has materially violated the terms of the charter, the students failed to meet student performance standards, the charter public school failed to meet generally accepted standards of fiscal management, or the charter public school violated provisions of law that have not been waived.

The sponsor must give the charter public school notice of the sponsor's intention not to renew the contract to allow the charter public school an opportunity to correct deficiencies. The sponsor may revoke a charter under certain circumstances; the circumstances include the same reasons for not renewing a charter.

Funding: State funding for charter public schools is provided by general fund apportionment through the local school district except for small school assistance provisions. Funding is on a per student basis. Charter public schools that are sponsored by school districts are entitled to local levy moneys approved after the effective date of this act.

Administration fee: To offset costs of oversight and administering the charter, a sponsor may retain up to 3 percent of state funding and local excess levy funding that is being driven to the charter public school.

Grant assistance: A charter public school assistance account is created. A charter public 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 public school fails to begin operating a school within 18 months of receiving the grant, the applicant must immediately repay the grant.

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

Limit on number of charter public schools: The maximum number of charter public schools is 20, excluding public schools that converted to chartered public schools.

Labor relations: Certificated and classified employees of charter public schools have the right to organize and enter into collective bargaining agreements. However, the bargaining unit is restricted to the employees of the charter public school and must be separate from other districts. The employees are eligible for and retain their status in the public retirement systems if this does not violate federal law.

Null and void clause: The bill is null and void if funding is not specifically provided in the supplemental operating budget by June 30, 2000.

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**Appropriation:** None.

**Fiscal Note:** Requested on January 19, 2000.

**Effective Date:** The bill contains an emergency clause and takes effect immediately. However, the bill is null and void unless funded in the budget.

**Testimony For:** Charter schools have shown great results, and generally serve the underprivileged. Thirty-seven states have legislation authorizing charter schools; its time for Washington to join them. Charter schools provide greater accountability, more flexibility, and provide greater innovation. Charter schools empower teachers and principals to get positive results faster. 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.

**Testimony Against:** Charter schools exclude children whose parents can't or don't participate. There are significant issues regarding collective bargaining, hiring non-certificated staff, and retirement system provisions. Resources are taken away from the public school system.

**Testified:** (In support) Representative Dave Quall, prime sponsor; Jim Spady, Education Excellence Coalition; Don Brunell, Association of Washington Business; Jim Sawatzki, Bethel School District; Andrew Face, Prudential Securities; Tom Bourne; Jeff Petty; Carla Dietsch; Community Partnership Schools; Robert Hall, Michelle Heacox; Ken Bedell; and Jim Kelley, Vulcan Northwest.

(Opposed) Dwayne Slate, School Directors Association; Gary King, Washington Education Association; Doug Nelson, Public School Employees of Washington; Catherine Ahl, League of Women Voters; and Barbara Mertens, Washington Association of School Administrators;

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass. Signed by 23 members: Representatives Huff, Republican Co-Chair; H. Sommers, Democratic Co-Chair; Barlean, Republican Vice Chair; Doumit, Democratic Vice Chair; D. Schmidt, Republican Vice Chair; Alexander; Benson; Boldt; Clements; Crouse; Gombosky; Grant; Kessler; Lambert; Linville; Lisk; Mastin; McMorris; Parlette; Rockefeller; Ruderman; Sump and Wensman.

**Minority Report:** Do not pass. Signed by 9 members: Representatives Cody; Kagi; Keiser; Kenney; McIntire; Mulliken; Regala; Sullivan and Tokuda.

**Staff:** Julie Salvi (786-7349).

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

**Appropriation:** None.

**Fiscal Note:** Requested on January 21, 2000.

**Effective Date:** Ninety days after adjournment of session in which bill is passed. However, the bill is null and void if not funded in the budget.

**Testimony For:** This bill is an agreed upon version that has passed the House Education Committee without any amendments. Charter schools are a proven commodity.

(Concerns) There should be guidelines on approval or denial for what would constitute a significant financial hardship on a local district. If an institution is the sponsor of a public charter school, their board of regents or governing body

should be the approval entity, which would be on par with the elected school board when the local district is a sponsor.

**Testimony Against:** This bill presents a question of priorities. It creates a bow wave with higher expenditures in the next biennium and requires additional staff at the state agency. These dollars are needed in public schools to meet high standards and to create options in public schools to make sure that all students in public schools, under the authority of locally elected school boards, are receiving state funds. The current program needs to be recognized and upgraded before starting new programs. Student health services, replacement of school buses that are more than 23 years old, and school security are a higher priority than this bill.

**Testified:** (In support) Representative Gigi Talcott.

(Concerns) Ken Kanikeberg, Office of the Superintendent of Public Instruction.

(Opposed) Barbara Mertens, Washington Association of School Administrators; Karen Davis, Washington Education Association; and Doug Nelson, Public School Employees of Washington.