

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2295

Chapter 22, Laws of 2004

58th Legislature
2004 Regular Session

CHARTER SCHOOLS

EFFECTIVE DATE: 6/10/04

Passed by the House March 10, 2004
Yeas 51 Nays 46

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 10, 2004
Yeas 27 Nays 22

BRAD OWEN

President of the Senate

Approved March 18, 2004.

GARY F. LOCKE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2295** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

March 18, 2004 - 12:52 p.m.

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2295

Passed Legislature - 2004 Regular Session

State of Washington

58th Legislature

2004 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Quall, Talcott, Rockefeller and Anderson)

READ FIRST TIME 02/10/04.

1 AN ACT Relating to charter schools; amending RCW 28A.150.010;
2 adding new sections to chapter 41.56 RCW; adding new sections to
3 chapter 41.59 RCW; adding a new section to chapter 41.32 RCW; adding a
4 new section to chapter 41.35 RCW; adding a new section to chapter 41.40
5 RCW; and adding a new chapter to Title 28A RCW.

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

7 NEW SECTION. **Sec. 1.** INTENT. The legislature intends to
8 authorize the establishment of public charter schools within the
9 general and uniform system of public schools for the primary purpose of
10 providing more high-quality learning environments to assist
11 educationally disadvantaged students and other students in meeting the
12 state's academic standards. The legislature intends for charter
13 schools to function as an integral element of the public school system
14 maintained at public expense, free from discrimination, and open to all
15 students in the state, and to be subject to the same or greater
16 academic standards and performance outcomes as other public schools.
17 The legislature intends to encourage school districts to consider using
18 the chartering process as an optional tool to achieve state and federal
19 academic accountability goals. The legislature finds that in addition

1 to providing more high-quality public school choices for families,
2 teachers, and students, public charter schools may be a tool to improve
3 schools in which significant numbers of students persistently fail to
4 meet state or federal standards. The legislature also intends to
5 authorize the use of the chartering process as a state intervention
6 strategy, consistent with the provisions of the federal no child left
7 behind act of 2001, to provide assistance to schools in which
8 significant numbers of students persistently fail to meet state and
9 federal standards. The legislature also intends to ensure
10 accountability of charter schools through the use of performance audits
11 and a comprehensive study of charter schools, and to use the
12 information generated to demonstrate how charter schools can contribute
13 to existing education reform efforts focused on raising student
14 academic achievement.

15 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
16 section apply throughout this chapter unless the context clearly
17 requires otherwise.

18 (1) "Alternate sponsor" means: (a) The board of directors of an
19 educational service district that has agreed to assume the rights and
20 responsibilities of an alternate sponsor and to implement and
21 administer a charter approved by the superintendent of public
22 instruction under section 7 of this act; or (b) the superintendent of
23 public instruction if the superintendent has approved a charter under
24 section 7 of this act.

25 (2) "Applicant" means a nonprofit corporation that has submitted an
26 application to a sponsor or has filed an appeal with the superintendent
27 of public instruction to obtain approval to operate a charter school.
28 The nonprofit corporation must be either a public benefit nonprofit
29 corporation as defined in RCW 24.03.490, or a nonprofit corporation as
30 defined in RCW 24.03.005 that has applied for tax-exempt status under
31 section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec.
32 501(c)(3)). The nonprofit corporation may not be a sectarian or
33 religious organization and must meet all of the requirements for a
34 public benefit nonprofit corporation before receiving any funding under
35 section 12 of this act.

36 (3) "Charter school board" means the board of directors appointed

1 or elected by the applicant to manage and operate the charter school,
2 and may include one member of the local school district board of
3 directors who may serve as an ex officio member.

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

8 (5) "Charter school" means a public school managed by a charter
9 school board and operating according to the terms of a charter approved
10 under this chapter and includes a new charter school and a conversion
11 charter school.

12 (6) "Conversion charter school" means a charter school created by
13 converting an existing public school in its entirety to a charter
14 school under this chapter.

15 (7) "Educationally disadvantaged students" includes students with
16 limited English proficiency; students with special needs, including
17 students with disabilities; economically disadvantaged students,
18 including students who qualify for free and reduced priced meals;
19 students exercising choice options and seeking supplemental services
20 under the federal no child left behind act of 2001; and other students
21 who may be at risk of failing to meet state and federal academic
22 performance standards.

23 (8) "New charter school" means any charter school created under
24 this chapter that is not a conversion charter school.

25 (9) "Sponsor" means the board of directors of the school district
26 in which the proposed charter school will be located, if the board has
27 approved a charter or if the board has agreed to administer and
28 implement a charter approved and authorized by the superintendent of
29 public instruction under the appeal process in section 7 of this act.

30 NEW SECTION. **Sec. 3.** CHARTER SCHOOLS--POWERS. (1) To carry out
31 its duty to manage and operate the charter school, the charter school
32 board may:

33 (a) Hire, manage, and discharge any charter school employee in
34 accordance with the terms of this chapter and that school's charter;

35 (b) Enter into a contract with any school district, or any other
36 public or private entity, also empowered to enter into contracts, for
37 any and all real property, equipment, goods, supplies, and services,

1 including educational instructional services; however, this authority
2 does not permit assigning, delegating, or contracting out the
3 administration and management of a charter school to a for-profit
4 entity;

5 (c) Rent, lease, or own property, but may not acquire property by
6 eminent domain. All charters and charter school contracts with other
7 public and private entities must include provisions regarding the
8 disposition of the property if the charter school fails to open as
9 planned or closes, or the charter is revoked or not renewed;

10 (d) Issue secured and unsecured debt to manage cash flow, improve
11 operations, or finance the acquisition of real property or equipment.
12 The issuance is not a general, special, or moral obligation of the
13 state, the charter school sponsor, the school district in which the
14 charter school is located, or any other political subdivision or agency
15 of the state. Neither the full faith and credit nor the taxing power
16 of the state, the charter school sponsor, the school district in which
17 the charter school is located, or any other political subdivision or
18 agency of the state may be pledged for the payment of the debt;

19 (e) Accept and administer for the benefit of the charter school and
20 its students, gifts, grants, and donations from other governmental and
21 private entities, excluding sectarian or religious organizations.
22 Charter schools may not accept any gifts or donations the conditions of
23 which violate this chapter.

24 (2) A charter school may not charge tuition, levy taxes, or issue
25 tax-backed bonds, however it may charge fees for optional noncredit
26 extracurricular events.

27 (3) Neither a charter school sponsor nor an alternate sponsor is
28 liable for acts or omissions of a charter school or its charter school
29 board, including but not limited to acts or omissions related to the
30 application, the charter, the operation, the performance, and the
31 closure of the charter school.

32 (4) A local school district board may appoint one of its directors
33 to serve as an ex officio member of the board of directors of a charter
34 school located in the school district.

35 NEW SECTION. **Sec. 4.** LEGAL STATUS. A charter school is a public
36 school including one or more of grades kindergarten through twelve,
37 operated by a board of directors appointed or elected by a charter

1 school applicant, according to the terms of a renewable five-year
2 contract granted by a sponsor or an alternate sponsor. A charter
3 school may offer any program or course of study that another public
4 school may offer. A charter school must allow students who are
5 receiving home-based instruction under chapter 28A.200 RCW to
6 participate in its programs on a part-time basis.

7 NEW SECTION. **Sec. 5.** CHARTER SCHOOLS--EXEMPTIONS. (1) A charter
8 school shall operate according to the terms of a charter approved by a
9 sponsor or by the superintendent of public instruction under this
10 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 including but not limited to rules regarding the expenditure of state
14 allocations as provided in section 12 of this act, except those
15 statutes and rules as provided for and made applicable to charter
16 schools in accordance with this chapter and in the school's approved
17 charter.

18 (3) A charter school's board of directors shall implement a quality
19 management system and conduct annual self-assessments.

20 (4) All approved charter schools shall:

21 (a) Comply with state and federal health, safety, parents' rights,
22 civil rights, and nondiscrimination laws, including, but not limited
23 to, the family educational rights and privacy act (20 U.S.C. 1232g),
24 chapter 28A.640 RCW (sexual equality), and Title IX of the education
25 amendments of 1972 (20 U.S.C. Sec. 1681 et seq.) applicable to school
26 districts, and to the same extent as school districts;

27 (b) Participate in free and reduced priced meal programs to the
28 same extent as is required for other public schools;

29 (c) Participate in nationally normed standardized achievement tests
30 as required in RCW 28A.230.190, 28A.230.193, and 28A.230.230 and the
31 elementary, middle school, and high school standards, requirements, and
32 assessment examinations as required in chapter 28A.655 RCW;

33 (d) Employ certificated instructional staff as required in RCW
34 28A.410.010, however charter schools may hire noncertificated
35 instructional staff of unusual competence and in exceptional cases as
36 specified in RCW 28A.150.260;

1 (e) Comply with the employee record check requirements in RCW
2 28A.400.303;

3 (f) Be subject to financial examinations and audits as determined
4 by the state auditor, including annual audits for legal and fiscal
5 compliance;

6 (g) Be subject to independent performance audits by a qualified
7 contractor selected jointly by the state auditor and the joint
8 legislative audit and review committee beginning at the conclusion of
9 the third year of the school's operation, and at least once every three
10 years thereafter; however, a charter school is not required to bear the
11 expense of the audits;

12 (h) Comply with the annual performance report under RCW
13 28A.655.110;

14 (i) Follow the performance improvement goals and requirements
15 adopted by the academic achievement and accountability commission by
16 rule under RCW 28A.655.030;

17 (j) Be subject to the accountability requirements of the federal no
18 child left behind act of 2001, including Title I requirements;

19 (k) Comply with and be subject to the requirements under the
20 individuals with disabilities education act, as amended in 1997;

21 (l) Comply with and be subject to the requirements under the
22 federal educational rights and privacy act;

23 (m) Report at least annually to the board of directors of the
24 school district in which the charter school is located, to the school's
25 alternate sponsor if the school is not sponsored by a school district,
26 and to parents of children enrolled at the charter school on progress
27 toward the student performance goals specified in the charter;

28 (n) Comply with the open public meetings act in chapter 42.30 RCW
29 and open public records requirements in RCW 42.17.250;

30 (o) Be subject to and comply with legislation enacted after the
31 effective date of this section governing the operation and management
32 of charter schools; and

33 (p) Conduct annual self assessments of its quality management
34 program.

35 (5) A member of a board of directors of a charter school is a board
36 member of a school district for the purposes of public disclosure
37 requirements and must comply with the reporting requirements in RCW
38 42.17.240.

1 NEW SECTION. **Sec. 6.** ADMISSION REQUIREMENTS. (1) To effectuate
2 the primary purpose for which the legislature established charter
3 schools, a charter school must be willing to enroll educationally
4 disadvantaged students and may not limit admission on any basis other
5 than age group and grade level. Consistent with the legislative intent
6 of this chapter, a charter school shall conduct timely outreach and
7 marketing efforts to educationally disadvantaged students in the school
8 district in which the charter school will be located.

9 (2) A conversion charter school must be structured to provide
10 sufficient capacity to enroll all students who wish to remain enrolled
11 in the school after its conversion to a charter school, and may not
12 displace students enrolled before the chartering process. If, after
13 enrollment of these students, capacity is insufficient to enroll all
14 other students remaining who have submitted a timely application, the
15 charter school must give enrollment priority to siblings of students
16 who are currently enrolled in the school. Students selected to fill
17 any remaining spaces must be selected only through an equitable
18 selection process, such as a lottery.

19 (3) A new charter school must enroll all students who submit a
20 timely application if capacity is sufficient. If capacity is
21 insufficient to enroll all students who apply, students must be
22 selected to fill any remaining spaces only through an equitable
23 selection process, such as a lottery. Siblings of enrolled students
24 must be given priority in enrollment.

25 NEW SECTION. **Sec. 7.** CHARTER APPLICATION--CHARTERING PROCESS.

26 (1) An applicant may apply to a sponsor or may appeal to the
27 superintendent of public instruction for approval to establish a
28 charter school under this section. An application may not be submitted
29 earlier than eighteen months before, nor later than four months before,
30 the proposed date of opening the school.

31 (2) The superintendent of public instruction shall establish
32 guidelines for the timely receipt and approval of applications to
33 facilitate the efficient implementation of this act. Guidelines
34 established under this subsection shall reflect efficient processes for
35 the expeditious and orderly start-up of charter schools in a timely
36 manner for the purpose of serving students.

1 (3) An application for a charter school must be submitted first to
2 the board of directors of the school district in which the proposed
3 charter school will be located, allowing for the board's consideration
4 of the application in accordance with subsections (4) and (5) of this
5 section, before an appeal may be filed with the superintendent of
6 public instruction. A copy of each application submitted to a sponsor
7 also must be provided to the superintendent of public instruction.

8 (4) The school district board of directors must decide, within
9 forty-five days of receipt of the application, whether to hold a public
10 hearing in the school district to take public comment on the
11 application and, if a hearing is to be held, must schedule it within
12 seventy-five days of receipt of the application. If the school board
13 intends to accept the application, one or more public hearings must be
14 held before granting a charter; however a school board is not required
15 to hold a public hearing before rejecting an application. The school
16 board must either accept or reject the application within one hundred
17 five days after receipt of the application. The one hundred five-day
18 deadline for accepting or rejecting the charter school application may
19 be extended for an additional thirty days if both parties agree in
20 writing.

21 (5) If the school board does not hold a public hearing or rejects
22 the application after holding one or more public hearings, the school
23 board must notify the applicant in writing of the reasons for that
24 decision. The applicant may submit a revised application for the
25 school board's reconsideration and the school board may provide
26 assistance to improve the application. If the school board rejects the
27 application after a revised application is submitted, the school board
28 must notify the applicant in writing of the reasons for the rejection.

29 (6) At the request of the applicant or the sponsor, the
30 superintendent of public instruction may review the charter application
31 and provide technical assistance.

32 (7) If a school district board does not approve an application to
33 start a new charter school, the applicant may file an appeal to the
34 superintendent of public instruction for further review of the
35 application.

36 (8) Upon receipt of a request for review, the superintendent must
37 attempt to mediate a resolution between the applicant and the school

1 district board, and may recommend to the applicant and school district
2 board revisions to the application.

3 (9) If the school district board does not accept the revisions and
4 does not approve the application, the superintendent must review the
5 application. The superintendent, after exercising due diligence and

6 good faith, must approve the application if the superintendent finds:
7 (a) The criteria in section 9 of this act have been met; (b) the
8 approval will be within the annual limits in section 16 (1) and (2) of
9 this act; and (c) the approval is consistent with the legislative
10 intent for which charter schools are authorized and is in the best
11 interests of the children of the proposed school. The superintendent
12 may permit the board of directors of an educational service district to
13 assume the rights and responsibilities of implementing and
14 administering a charter approved under this section, but if no such
15 board agrees to assume the role of alternate sponsor, the
16 superintendent of public instruction shall assume the rights and
17 responsibilities of implementing and administering the charter and
18 shall become the alternate sponsor.

19 (10) The superintendent must reject the application if the
20 superintendent finds: (a) The criteria in section 9 of this act have
21 not been met; (b) the approval will not be within the annual limits
22 established in section 16 (1) and (2) of this act; or (c) the approval
23 is inconsistent with the legislative intent for which charter schools
24 are authorized and is not in the best interests of the children of the
25 proposed school. If the superintendent rejects the application, the
26 superintendent must notify the applicant in writing of the reasons for
27 the rejection.

28 (11) Educational service districts and the superintendent of public
29 instruction are encouraged to assist schools and school districts in
30 which significant numbers of students persistently fail to meet state
31 standards with completing the chartering process. Assistance from an
32 educational service district or from the superintendent of public
33 instruction may include, but is not limited to, identifying potential
34 eligible applicants, and assisting with the charter application and
35 approval processes.

36 (12) Consistent with the corrective action provisions in the
37 federal no child left behind act of 2001, the superintendent of public
38 instruction may use the chartering process as an intervention strategy

1 to meet federal student achievement and accountability requirements.
2 The superintendent may require a local school district board of
3 directors to convert a public school to a charter public school or, if
4 the superintendent determines it would be more appropriate, may require
5 a local school district board of directors to consent to conversion of
6 the school by an educational service district board of directors or the
7 superintendent.

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

10 (1) The identification and description of the nonprofit corporation
11 submitting the application, including the names, descriptions,
12 curriculum vitae, and qualifications of the individuals who will
13 operate the school, all of which are subject to verification and
14 review;

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

17 (3) A mission statement for the proposed school, consistent with
18 the description of legislative intent in this chapter, including a
19 statement of whether the proposed charter school's primary purpose is
20 to serve educationally disadvantaged students;

21 (4) A description of the school's educational program, curriculum,
22 and instructional strategies, including but not limited to how the
23 charter school will assist its students, including educationally
24 disadvantaged students, in meeting the state's academic standards;

25 (5) A description of the school's admissions policy and marketing
26 program, and its deadlines for applications and admissions, including
27 its program for community outreach to families of educationally
28 disadvantaged students;

29 (6) A description of the school's student performance standards and
30 requirements that must meet or exceed those determined under chapter
31 28A.655 RCW, and be measured according to the assessment system
32 determined under chapter 28A.655 RCW;

33 (7) A description of the school's plan to evaluate student
34 performance and the procedures for taking corrective action if student
35 performance at the charter school falls below standards established in
36 its charter;

1 (8) A description of the financial plan for the school. The plan
2 shall include: (a) A proposed five-year budget of projected revenues
3 and expenditures; (b) a plan for starting the school; (c) a five-year
4 facilities plan; (d) evidence supporting student enrollment projections
5 of at least twenty students; and (e) a description of major contracts
6 planned for administration, management, equipment, and services,
7 including consulting services, leases, improvements, real property
8 purchases, and insurance;

9 (9) A description of the proposed financial management procedures
10 and administrative operations, which shall meet or exceed generally
11 accepted standards of management and public accounting;

12 (10) An assessment of the school's potential legal liability and a
13 description of the types and limits of insurance coverage the nonprofit
14 corporation plans to obtain. A liability insurance policy of at least
15 five million dollars is required;

16 (11) A description of the procedures to discipline, suspend, and
17 expel students;

18 (12) A description of procedures to assure the health and safety of
19 students, employees, and guests of the school and to comply with
20 applicable federal and state health and safety laws and regulations;

21 (13) A description of the school's program for parent involvement
22 in the charter school;

23 (14) Documentation sufficient to demonstrate that the charter
24 school will have the liquid assets available to operate the school on
25 an ongoing and sound financial basis;

26 (15) Supporting documentation for any additional requirements that
27 are appropriate and reasonably related to operating the charter school
28 that a sponsor or alternate sponsor may impose as a condition of
29 approving the charter; and

30 (16) A description of the quality management plan for the school,
31 including its specific components.

32 NEW SECTION. **Sec. 9.** APPROVAL CRITERIA. A sponsor or alternate
33 sponsor may approve an application for a charter school, if in the
34 sponsor's or alternate sponsor's reasonable judgment, after exercising
35 due diligence and good faith, the sponsor or alternate sponsor finds:

36 (1) The applicant is an eligible public benefit nonprofit
37 corporation and the individuals it proposes to manage and operate the

1 school are qualified to operate a charter school and implement the
2 proposed educational program that is free from religious or sectarian
3 influence;

4 (2) The public benefit nonprofit corporation has been approved or
5 conditionally approved by the internal revenue service for tax exempt
6 status under section 501(c)(3) of the internal revenue code of 1986 (26
7 U.S.C. Sec. 501(c)(3));

8 (3) The mission statement is consistent with the description of
9 legislative intent and restrictions on charter school operations in
10 this chapter. The sponsor or alternate sponsor must make a finding of
11 whether or not the charter school's primary purpose is to serve
12 educationally disadvantaged students;

13 (4) The school's educational program, including its curriculum and
14 instructional strategies, is likely to assist its students, including
15 its educationally disadvantaged students, in meeting the state's
16 academic standards;

17 (5) The school's admissions policy and marketing program is
18 consistent with state and federal law, and includes community outreach
19 to families of educationally disadvantaged students;

20 (6) The school's proposed educational program includes student
21 academic performance standards and requirements that meet or exceed
22 those determined under chapter 28A.655 RCW and are measured according
23 to the assessment system determined under chapter 28A.655 RCW;

24 (7) The application includes a viable plan to evaluate pupil
25 performance and procedures to take appropriate corrective action if
26 pupil performance at the charter school falls below standards
27 established in its charter;

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

32 (9) The school's financial and administrative operations, including
33 its audits, meet or exceed generally accepted standards of accounting
34 and management;

35 (10) The assessment of the school's potential legal liability, and
36 the types and limits of insurance coverage the school plans to obtain,
37 are adequate. A minimum liability insurance policy of five million
38 dollars is required;

1 (11) The procedures the school plans to follow to discipline,
2 suspend, and expel students are reasonable and comply with state and
3 federal law;

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

7 (13) The school has developed a program for parent involvement in
8 the charter school;

9 (14) The charter school will have the liquid assets available to
10 operate the school on an ongoing and sound financial basis;

11 (15) The applicant has met any additional requirements that are
12 appropriate and reasonably related to the operation of a charter school
13 that a sponsor or alternate sponsor imposed as a condition for approval
14 of the charter; and

15 (16) The quality management plan for the school is adequate.

16 NEW SECTION. **Sec. 10.** CHARTER AGREEMENT--AMENDMENT. (1) A
17 charter application approved by a sponsor or an alternate sponsor with
18 any changes or additions, and signed by an authorized representative of
19 the applicant and the sponsor or alternate sponsor, constitutes a
20 charter. A charter to convert a public school must include provisions
21 for the disposition, including assignment or reassignment, of the
22 employees of the school before its conversion and after conversion.

23 (2) A charter may be amended during its term at the request of the
24 charter school board of directors and on the approval of the sponsor or
25 alternate sponsor.

26 (3) A charter may not prohibit and must provide for the application
27 of laws applicable to charter schools or to charter school boards of
28 directors enacted after the effective date of this section.

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 original
33 sponsor or alternate sponsor for renewal. A request for renewal must
34 be submitted no later than six months before the expiration of the
35 charter.

36 (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, including the student performance
3 standards adopted by rule by the academic achievement and
4 accountability commission in accordance with RCW 28A.655.030; the
5 number and percentage of educationally disadvantaged students served;
6 and other terms of the charter;

7 (b) A financial statement that discloses the costs of
8 administration, instruction, and other expenditure objects and
9 activities of the charter school; and

10 (c) All audit information from independent sources regarding the
11 charter school, if available, and all self assessments and
12 corresponding corrective action plans.

13 (3) The sponsor or alternate sponsor shall reject the application
14 for renewal if the academic progress of students in the charter school,
15 as measured by the standards and assessments in chapter 28A.655 RCW, is
16 inferior, for the most recent two consecutive years, to the average
17 progress of students in the district in which the charter school is
18 located when similar student populations are compared.

19 (4) The sponsor or alternate sponsor may reject the application for
20 renewal if any of the following occurred:

21 (a) The charter school materially violated its charter with the
22 sponsor or alternate sponsor;

23 (b) The students enrolled in the charter school failed to meet
24 student performance standards identified in the charter, including the
25 student performance standards adopted by rule by the academic
26 achievement and accountability commission in accordance with RCW
27 28A.655.030;

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

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

32 (5) A sponsor or alternate sponsor shall give written notice of its
33 intent not to renew the charter school's request for renewal to the
34 charter school within three months of the request for renewal in order
35 to allow the charter school an opportunity to correct identified
36 deficiencies in its operation. At the request of the board of
37 directors of the charter school, the sponsor or alternate sponsor shall

1 review its decision for nonrenewal within forty-five days of receiving
2 a request for review and supporting documentation sufficient to
3 demonstrate that any deficiencies have been corrected.

4 (6)(a) The sponsor or alternate sponsor may revoke a previously
5 approved charter before the expiration of the term of the charter, and
6 before application for renewal, if any of the following occurred:

7 (i) The charter school materially violated its charter with the
8 sponsor or alternate sponsor;

9 (ii) The charter school failed to meet generally accepted standards
10 of fiscal management; or

11 (iii) The charter school violated provisions in law that have not
12 been waived in accordance with this chapter.

13 (b) Except in cases of emergency where the health and safety of
14 children are at risk, a charter may not be revoked unless the sponsor
15 or alternate sponsor first provides:

16 (i) Written notice to the charter school of the specific violations
17 alleged;

18 (ii) One or more public hearings in the school district in which
19 the charter school is located; and

20 (iii) A reasonable opportunity and a sufficient period of time for
21 the charter school to correct the identified deficiencies.

22 (c) If, after following the procedures in (b) of this subsection,
23 the sponsor or alternate sponsor determines that revoking the charter
24 is necessary to further the intent of this chapter, the sponsor or
25 alternate sponsor may revoke the charter. The sponsor or alternate
26 sponsor shall provide for an appeal process upon such a determination.

27 (d) If a sponsor or alternate sponsor revokes the charter, the
28 sponsor or alternate sponsor, upon a request by the charter school,
29 shall provide technical assistance to the charter school to complete
30 the plan required and carry out the tasks identified in subsection (7)
31 of this section.

32 (7) A charter school planning to close or anticipating revocation
33 or nonrenewal of its charter shall provide a plan setting forth a
34 timeline and the responsible parties for disposition of students and
35 student records and disposition of finances.

36 (a) Immediately following the decision to close a school, the
37 school must:

1 (i) Submit to the sponsor or alternate sponsor a list of parent
2 addresses and proof that the school has communicated the impending
3 closure of the school to all parents and staff;

4 (ii) Assign staff responsible for transition of student records and
5 for providing assistance to students and parents in transferring from
6 the charter school to the district public, private, or home school
7 chosen by the family;

8 (iii) Provide the names and contact information for staff
9 responsible for transfer of student records, as well as the projected
10 transition tasks and timelines to the sponsor or alternate sponsor, and
11 upon completion of student transition, provide a list of students and
12 a brief description of the disposition of their student records to the
13 sponsor or alternate sponsor.

14 (b) Before closing the charter school the charter school board of
15 directors shall:

16 (i) Identify a trustee who will, through the process of closing the
17 school and for a term of ten years after closing, assume responsibility
18 for school and student records, and notify the sponsor or alternate
19 sponsor of the name and contact information for the trustee;

20 (ii) Determine the amount of anticipated revenue due to the school
21 as well as anticipated liabilities, and provide a complete asset and
22 liability report to the sponsor or alternate sponsor;

23 (iii) Create a current and projected payroll and payroll benefits
24 commitment;

25 (iv) List each employee, job, and the funds necessary to complete
26 the educational calendar balance of the year, the transition of
27 students and records, and the administrative close-down tasks;

28 (v) Determine the total moneys required to complete contracts;

29 (vi) Schedule an audit and set aside funds to cover costs; and

30 (vii) Provide the sponsor or alternate sponsor with a plan to close
31 the school and to dispose of all property owned by the charter school.

32 NEW SECTION. **Sec. 12.** FUNDING. (1) The superintendent of public
33 instruction shall provide prompt and timely funding for a charter
34 school including regular apportionment, special education, categorical,
35 student achievement, and other nonbasic education moneys. Allocations
36 shall be based on the statewide average staff mix ratio of all
37 noncharter public schools from the prior school year and the school's

1 actual FTE enrollment, except that vocational education funding for
2 grades nine through twelve shall be provided based on eighteen and one-
3 half percent of the charter school's actual FTE enrollment for grades
4 nine through twelve. Enhanced staff ratio funding provided to school
5 districts through the omnibus appropriations act shall be allocated to
6 a charter school regardless of whether the school maintains the
7 enhanced staffing ratio. A charter school is not eligible for enhanced
8 small school assistance funding. Categorical funding shall be
9 allocated to a charter school based on the same funding criteria used
10 for noncharter public schools, except that the charter school is exempt
11 from rules and statutes regarding the expenditure of these funds. A
12 charter school is eligible to apply for state grants on the same basis
13 as a school district. Those allocations to a charter school that are
14 included in RCW 84.52.0531(3) (a) through (c) shall be included in the
15 levy base of the district in which the charter school is located.

16 (2) For charter schools sponsored by a school district:

17 (a) Conversion charter schools are eligible for local levy moneys
18 approved by the voters before the start-up date of the school as
19 determined by the sponsor, and the school district shall allocate levy
20 moneys to a conversion charter school.

21 (b) New charter schools are not eligible for local levy moneys
22 approved by the voters before the start-up date of the school as
23 determined by the sponsor, and the district shall not allocate those
24 levy moneys to a new school.

25 (c) For levies submitted to voters after the start-up date of a
26 charter school, the school shall be included in levy planning, budgets,
27 and funding distribution in the same manner as other district-sponsored
28 public schools.

29 (d) A conversion charter school is eligible for state matching
30 funds for common school construction if a sponsoring school district
31 determines it has received voter approval of local capital funds for
32 the project.

33 (e) A conversion charter school is entitled to the continued rent-
34 free use of its existing facility, regardless of whether the conversion
35 school is sponsored by the local school district or by an alternate
36 sponsor. The district remains responsible for major repairs and safety
37 upgrades that may be required for the continued use of the facility as

1 a public school. The charter school is responsible for routine
2 maintenance of the facility, including but not limited to, cleaning,
3 painting, gardening, and landscaping.

4 (3) No local levy money may be allocated to a charter school if the
5 charter school is sponsored by an alternate sponsor.

6 (4) Within available funds as the legislature may appropriate, new
7 charter schools operating for the primary purpose of serving
8 educationally disadvantaged students under section 16(2) of this act
9 that are not otherwise eligible for levy money shall receive state
10 funding in an amount not greater than the amount the school would have
11 received if eligible.

12 (5) Sponsors and alternate sponsors shall submit, by November 1st
13 of each year, to the office of the superintendent of public
14 instruction, annual year-end financial information, as prescribed by
15 the superintendent, for each charter school sponsored in the previous
16 school year.

17 NEW SECTION. **Sec. 13.** ADMINISTRATION FEE. To offset costs to
18 oversee and administer the charter, a sponsor or an alternate sponsor
19 may retain up to three percent of state funding and local excess levy
20 funding, if applicable, allocated to the charter school. Except for
21 the administration fee in this section, no other offsets or deductions
22 are allowed, whether for central administration or other off-site
23 support services, from a charter school's per-pupil share of state
24 appropriations, local levies, or other funds, unless the charter school
25 has contracted with a school district to obtain specific additional
26 services.

27 NEW SECTION. **Sec. 14.** LEAVES OF ABSENCE. If a school district
28 employee makes a written request for an extended leave of absence to
29 work at a charter school, the school district shall grant the request.
30 The school district may require that the request for leave be made up
31 to ninety days before the employee would otherwise have to report for
32 duty. The leave shall be granted for any request for up to two years.
33 If the employee returns to the school district within the two-year
34 period, the employee shall be hired before the district hires anyone
35 else with fewer years of statewide service, with respect to any

1 position for which the returning employee is certificated or otherwise
2 qualified.

3 NEW SECTION. **Sec. 15.** STUDY OF CHARTER SCHOOLS. Subject to
4 funding, the Washington institute for public policy shall study the
5 implementation and effectiveness of this act. The institute shall
6 report to the legislature on the effectiveness of charter schools in
7 raising student achievement and the impact of charter schools. The
8 institute also shall examine and discuss whether and how charter
9 schools have enhanced education reform efforts and recommend whether
10 relaxing or eliminating certain regulatory requirements for other
11 public schools could result in improved school performance at those
12 schools. The institute shall recommend changes to this chapter
13 including improvements that could be made to the application and
14 approval process. A preliminary report of the study is due to the
15 legislature by March 1, 2007, and a final report is due September 1,
16 2008.

17 NEW SECTION. **Sec. 16.** NUMBER OF CHARTER SCHOOLS. (1) A maximum
18 of forty-five new charter schools may be established statewide during
19 the six consecutive years in which new charter schools are authorized
20 to be created under this chapter.

21 (a) For purposes of this section, a year begins on July 1st and
22 ends on June 30th. In each of the three years beginning July 1, 2004,
23 and ending June 30, 2007, not more than five new charter schools may be
24 established. In each of the three years beginning July 1, 2007, and
25 ending June 30, 2010, not more than ten new charter schools may be
26 established.

27 (b) These annual allocations are cumulative so that if the maximum
28 number of allowable new charters is not reached in any given year the
29 maximums are increased accordingly for the successive years, but in no
30 case shall the total number exceed forty-five without further
31 legislative authorization.

32 (c) Applications for charter schools may be submitted on the
33 effective date of this section.

34 (d) The superintendent of public instruction shall maintain copies
35 of all approved charter applications. An applicant may obtain copies

1 of those applications from the office of the superintendent of public
2 instruction.

3 (2) Consistent with the legislative intent of this chapter, a
4 majority of the annual number of new charter schools that may be
5 established under subsection (1) of this section are reserved to
6 implement charter schools established for the primary purpose of
7 serving educationally disadvantaged students, and that are located in,
8 or accessible to students who live in, geographic areas in which a
9 large proportion of the students have difficulty meeting state academic
10 content and student achievement standards, or geographic areas,
11 including urban and rural areas, in which a large proportion or number
12 of public schools have been identified for improvement, corrective
13 action, or restructuring under the federal no child left behind act of
14 2001, as follows:

15 (a) For new schools allowed during the first year beginning July 1,
16 2004, a majority are reserved until the thirty-first day after the
17 effective date of this section; and

18 (b) For new schools allowed during the second through sixth years,
19 a majority are reserved until March 31st of each year.

20 (3) To ensure compliance with the annual limits for establishing
21 new charter schools, authorization from the superintendent of public
22 instruction must be obtained before implementing an approved charter
23 for a new school. Sponsors and alternate sponsors shall promptly
24 notify the superintendent of public instruction when a charter is
25 approved, and shall indicate whether the charter school's primary
26 purpose is to serve educationally disadvantaged students. Upon the
27 receipt of notice from a sponsor or alternate sponsor that a charter
28 has been approved, the superintendent shall authorize implementing the
29 approved charter establishing the school in compliance with the limits
30 on the maximum number of new charters allowed under subsection (1) of
31 this section and in compliance with the dates until which the majority
32 of new charters each year are reserved under subsection (2) of this
33 section. If the superintendent receives simultaneous notification of
34 approved charters that exceed the annual allowable limits in
35 subsections (1) and (2) of this section, the superintendent shall
36 select approved charters for authorization through a lottery process,
37 and shall assign implementation dates accordingly.

1 (4) If the number of charters reserved each year under subsection
2 (2) of this section is not reached by the thirty-first day after the
3 effective date of this section, or by March 31st of the second through
4 sixth years, the superintendent of public instruction shall notify the
5 sponsors or alternate sponsors of any other approved charters for which
6 authorization has not been granted under subsection (3) of this
7 section, and shall authorize implementing those charters within the
8 annual limits, regardless of whether those charters meet the
9 requirements of subsection (2) of this section.

10 (5) The superintendent of public instruction shall notify eligible
11 sponsors and eligible alternate sponsors when the maximum allowable
12 number of new charters has been reached each year. If the maximum
13 number is not reached by the thirty-first day after the effective date
14 of this section, or by March 31st of the second through sixth years,
15 the superintendent shall report on the number of charters approved.

16 (6) A school district board of directors may establish a conversion
17 charter school during the six consecutive years in which charter
18 schools are authorized under this chapter for any school, including an
19 alternative school, that has failed to make adequate yearly progress
20 for the most recent three consecutive years, or is eligible for school
21 improvement assistance. Determinations regarding adequate yearly
22 progress and eligibility for school improvement assistance must be made
23 by the superintendent of public instruction.

24 (7) A new charter school or a conversion charter school operating
25 according to the terms of its charter to the satisfaction of its
26 sponsor or alternate sponsor may continue to operate after June 30,
27 2010, under a charter renewed by its sponsor or alternate sponsor under
28 section 11 of this act.

29 NEW SECTION. **Sec. 17.** A new section is added to chapter 41.56 RCW
30 to read as follows:

31 In addition to the entities listed in RCW 41.56.020, this chapter
32 applies to new charter schools created under chapter 28A.-- RCW
33 (sections 1 through 16 and 25 of this act). Notwithstanding RCW
34 41.56.060 and 41.56.070, the bargaining units of classified employees
35 of a new charter school must be limited to the employees of the new
36 charter school and must be separate from other bargaining units in the
37 school district or educational service district for at least the first

1 five years of operation of the new charter school. After the five-year
2 period, the employees in a bargaining unit of a new charter school may
3 indicate by a majority vote that they desire to become members of a
4 bargaining unit in the school district in which the new charter school
5 is located.

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

8 At the time of creation of a conversion charter school under
9 chapter 28A.-- RCW (sections 1 through 16 and 25 of this act), the
10 employees of a conversion charter school remain in any existing
11 appropriate bargaining unit of employees of the school district in
12 which the conversion charter school is located. If an applicant for a
13 charter school or a charter school board requests one or more variances
14 from a collective bargaining agreement that applies to the relevant
15 school district bargaining unit to address needs that are specific to
16 the charter school and the employees of the charter school, the
17 following applies:

18 (1) At the request of either party, the public employer, in
19 consultation with the applicant or charter school board, and the
20 bargaining representative of the bargaining unit shall negotiate
21 concerning the issues raised in the variance request.

22 (2) If the parties are unable to conclude an agreement regarding
23 the variance request within twenty days of negotiations, either party
24 may declare an impasse and submit the dispute to the commission for
25 mediation. The commission shall appoint a mediator within two days of
26 the submission. Mediation under this subsection shall continue for up
27 to ten days unless the parties agree otherwise.

28 NEW SECTION. **Sec. 19.** A new section is added to chapter 41.59 RCW
29 to read as follows:

30 In addition to school districts, this chapter applies to new
31 charter schools created under chapter 28A.-- RCW (sections 1 through 16
32 and 25 of this act). Notwithstanding RCW 41.59.070 and 41.59.080, the
33 bargaining units of educational employees of a new charter school must
34 be limited to the educational employees of the new charter school and
35 must be separate from the bargaining units in the school district or
36 educational service district for at least the first five years of

1 operation of the new charter school. After the five-year period, the
2 employees in a bargaining unit of a new charter school may indicate by
3 a majority vote that they desire to become members of a bargaining unit
4 in the school district in which the new charter school is located.

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

7 At the time of creation of a conversion charter school under
8 chapter 28A.-- RCW (sections 1 through 16 and 25 of this act), the
9 employees of a conversion charter school remain in any existing
10 appropriate bargaining unit of employees of the school district in
11 which the conversion charter school is located. If an applicant for a
12 charter school or a charter school board requests one or more variances
13 from a collective bargaining agreement that applies to the relevant
14 school district bargaining unit to address needs that are specific to
15 the charter school and the employees of the charter school, the
16 following applies:

17 (1) At the request of either party, the employer, in consultation
18 with the applicant or charter school board, and the exclusive
19 bargaining representative of the bargaining unit shall negotiate
20 concerning the issues raised in the variance request.

21 (2) If the parties are unable to conclude an agreement regarding
22 the variance request within twenty days of negotiations, either party
23 may declare an impasse and submit the dispute to the commission for
24 mediation. The commission shall appoint a mediator within two days of
25 the submission. Mediation under this subsection shall continue for up
26 to ten days unless the parties agree otherwise.

27 NEW SECTION. **Sec. 21.** A new section is added to chapter 41.32 RCW
28 to read as follows:

29 This section designates charter schools as employers and charter
30 school employees as members, and applies only if the department of
31 retirement systems receives determinations from the internal revenue
32 service and the United States department of labor that participation
33 does not jeopardize the status of these retirement systems as
34 governmental plans under the federal employees' retirement income
35 security act and the internal revenue code.

1 NEW SECTION. **Sec. 22.** A new section is added to chapter 41.35 RCW
2 to read as follows:

3 This section designates charter schools as employers and charter
4 school employees as members, and applies only if the department of
5 retirement systems receives determinations from the internal revenue
6 service and the United States department of labor that participation
7 does not jeopardize the status of these retirement systems as
8 governmental plans under the federal employees' retirement income
9 security act and the internal revenue code.

10 NEW SECTION. **Sec. 23.** A new section is added to chapter 41.40 RCW
11 to read as follows:

12 This section designates charter schools as employers and charter
13 school employees as members, and applies only if the department of
14 retirement systems receives determinations from the internal revenue
15 service and the United States department of labor that participation
16 does not jeopardize the status of these retirement systems as
17 governmental plans under the federal employees' retirement income
18 security act and the internal revenue code.

19 **Sec. 24.** RCW 28A.150.010 and 1969 ex.s. c 223 s 28A.01.055 are
20 each amended to read as follows:

21 Public schools (~~shall~~) means the common schools as referred to in
22 Article IX of the state Constitution and those schools and institutions
23 of learning having a curriculum below the college or university level
24 as now or may be established by law and maintained at public expense,
25 including charter schools under chapter 28A.-- RCW (sections 1 through
26 16 and 25 of this act).

27 NEW SECTION. **Sec. 25.** CAPTIONS NOT LAW. Captions used in this
28 chapter are not any part of the law.

29 NEW SECTION. **Sec. 26.** Sections 1 through 16 and 25 of this act
30 constitute a new chapter in Title 28A RCW.

31 NEW SECTION. **Sec. 27.** If any provision of this act or its
32 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

Passed by the House March 10, 2004.

Passed by the Senate March 10, 2004.

Approved by the Governor March 18, 2004.

Filed in Office of Secretary of State March 18, 2004.