
SENATE BILL 5663

State of Washington

56th Legislature

1999 Regular Session

By Senators Johnson, Patterson, Finkbeiner, Morton, Swecker, Oke, McDonald, Rossi, McCaslin, Horn and Hale

Read first time 02/01/1999. Referred to Committee on Education.

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; creating a new
4 section; and declaring an 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) the state and regional universities as defined
19 in RCW 28B.10.016; or (c) The Evergreen State College. Charter schools
20 sponsored under (b) or (c) of this subsection shall be approved by the
21 governing board of the sponsoring institution or by an official or
22 agency designated by and accountable to the governing board.

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

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

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

1 organizations. Charter schools may not accept any gifts or donations
2 the conditions of which violate this chapter.

3 (4) Neither a charter school sponsor nor the school district in
4 which the charter school is located is liable for acts or omissions of
5 a charter school, including acts or omissions related to the
6 application, the charter, the operation, and the performance of the
7 charter school.

8 (5) Charter schools may not charge tuition, levy taxes, or issue
9 bonds, however they may charge fees for optional noncredit
10 extracurricular events.

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

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

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

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

25 (4) All approved charter schools shall:

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

28 (b) All charter schools shall participate in nationally normed
29 standardized achievement tests as required in RCW 28A.230.230 and
30 28A.230.240 and the elementary, middle school, and high school
31 standards and assessment examinations as required in RCW 28A.630.885;

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

36 (d) Comply with the employee record check requirements in RCW
37 28A.400.303;

1 (e) Be subject to the same financial and audit requirements as a
2 school district;

3 (f) Comply with the annual performance report under RCW
4 28A.320.205;

5 (g) Report at least annually to its sponsor and to parents of
6 children enrolled at the charter school on progress toward the student
7 performance goals specified in the charter; and

8 (h) Comply with the open public meetings act in chapter 42.30 RCW.

9 NEW SECTION. **Sec. 6.** ADMISSION REQUIREMENTS. (1) A charter
10 school must enroll all students who submit a timely application. If
11 capacity is insufficient to enroll all students who submit a timely
12 application, the charter school must give enrollment priority to
13 students who reside within the school district boundaries in which the
14 charter school is physically located. Priority also must be given to
15 siblings of students who are currently enrolled in the school.
16 Students must be selected through an equitable selection process, such
17 as a lottery, to fill any remaining spaces. Schools that convert to
18 charter schools must also give priority to the students who are
19 currently enrolled in school.

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

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

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

28 (2) An application for a charter school may be submitted to any
29 qualified sponsor.

30 (3) The local school district board of directors must hold a public
31 hearing in the school district on the application within sixty days of
32 receipt of the application. The school board must either accept or
33 reject the application within thirty days after the hearing. The
34 thirty-day deadline for acceptance or rejection of the charter school
35 application may be extended for an additional thirty days if both
36 parties agree in writing.

1 (4) If the local school board rejects the application, the school
2 board must notify the applicant in writing of the reasons for the
3 rejection. The applicant may submit a revised application for the
4 school board's reconsideration. The school board may provide
5 assistance to improve the application. If the school board rejects the
6 application after submission of a revised application, the school board
7 must notify the applicant in writing of the reasons for the rejection.

8 (5) Sponsors other than school districts must comply with the
9 procedures specified in subsections (1) through (4) of this section for
10 consideration of the charter application. The sponsor is not bound by
11 the school board's findings or decision to deny the application.

12 (6) The superintendent of public instruction shall maintain copies
13 of all approved charter applications. An applicant may obtain copies
14 of those applications from the office of the superintendent of public
15 instruction.

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

18 (1) The identification and description of the nonprofit corporation
19 submitting the application, including the names and descriptions of the
20 individuals who will operate the school;

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

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

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

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

29 (6) A description of student performance standards that must meet
30 those determined under RCW 28A.630.885, and be measured according to
31 the assessment system determined under RCW 28A.630.885;

32 (7) A description of the plan for evaluating student performance
33 and the procedures for taking corrective action in the event that
34 student performance at the charter school falls below standards
35 established in its charter;

36 (8) A description of the financial plan for the school. The plan
37 shall include: (a) A proposed five-year budget of projected revenues
38 and expenditures; (b) a plan for starting the school; (c) a five-year

1 facilities plan; (d) evidence supporting student enrollment projections
2 of at least twenty students; and (e) a description of major contracts
3 planned for equipment and services, leases, improvements, purchases of
4 real property, and insurance;

5 (9) A description of the proposed financial management procedures,
6 including annual audits of the school's financial and administrative
7 operations, which shall meet or exceed generally accepted standards of
8 management and public accounting;

9 (10) An assessment of the school's potential legal liability and a
10 description of the types and limits of insurance coverage the nonprofit
11 corporation plans to obtain that are adequate. For purposes of this
12 subsection, a liability policy of between one million and five million
13 dollars is required;

14 (11) A description of the procedures to discipline and dismiss
15 students; and

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

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

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

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

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

31 (4) The school's proposed educational program includes student
32 academic performance standards that meet those determined under RCW
33 28A.630.885 and are measured according to the assessment system
34 determined under RCW 28A.630.885;

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

1 (6) The school's educational program, including curriculum and
2 instructional strategies, has the potential to improve student
3 performance as measured under section 5 of this act;

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

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

9 (9) The financial plan for the school is designed to reasonably
10 support the charter school's educational program based on a review of
11 the proposed five-year budget of projected revenues, expenditures, and
12 facilities;

13 (10) The school's financial and administrative operations,
14 including its annual audits, meet or exceed generally accepted
15 standards of accounting and management;

16 (11) The assessment of the school's potential legal liability, and
17 the types and limits of insurance coverage the school plans to obtain,
18 are adequate. For purposes of this subsection, a liability policy of
19 between one million and five million dollars is required;

20 (12) The procedures the school plans to follow for discipline and
21 dismissal of students are reasonable and comply with federal law;

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

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

30 NEW SECTION. **Sec. 10.** CHARTER AGREEMENT--AMENDMENT. (1) A
31 charter application approved by a sponsor with any changes constitutes
32 a charter.

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

35 NEW SECTION. **Sec. 11.** CHARTER RENEWAL AND REVOCATION. (1) An
36 approved plan to establish a charter school is effective for five years
37 from the first day of operation. At the conclusion of the first three

1 years of operation, the charter school may apply to the sponsor for
2 renewal. A request for renewal must be submitted no later than six
3 months before the expiration of the charter.

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

5 (a) A report on the progress of the charter school in achieving the
6 goals, student performance standards, and other terms of the charter;
7 and

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

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

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

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

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

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

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

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

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

3 (a) For purposes of funding, students in charter schools shall be
4 considered students of the sponsoring district for general fund
5 apportionment purposes. The sponsoring school district shall provide
6 funding for charter schools on a per student basis in amounts the
7 schools would have received if the students were enrolled in a
8 noncharter school in the district except that a charter school shall
9 not generate eligibility for small school assistance. Funding for
10 charter schools shall include regular apportionment, categorical, and
11 nonbasic education funds, as appropriate and shall be based on
12 enrollment and other financial information submitted by the charter
13 school to the school district as is required to determine state
14 apportionment amounts;

15 (b) Local levy moneys approved by the voters before the effective
16 date of a charter between a school district and an applicant shall not
17 be allocated to a charter school unless the sponsoring school district
18 determines it has received sufficient authority from voters to allocate
19 maintenance and operation excess tax levy money to the charter school.
20 For levies approved after the effective date of a charter, charter
21 schools shall be included in levy planning, budgets, and funding
22 distribution in the same manner as other schools in the district; and

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

26 (2) Public schools converting to charter schools shall receive
27 funding in the same manner as other charter schools.

28 (3) If the sponsor is not a school district, students in the
29 charter school shall be considered students of the district in which
30 the charter school is located for general fund apportionment purposes.
31 The superintendent of public instruction shall provide funding for
32 charter schools on a per student basis in amounts the schools would
33 have received if the students were enrolled in a noncharter school in
34 the district except that a charter school shall not generate
35 eligibility for small school assistance. The funding shall include
36 regular apportionment, categorical, and nonbasic education funds and
37 shall be based on enrollment and other financial information submitted
38 by the charter school to the school district as is required to
39 determine state apportionment amounts.

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

3 NEW SECTION. **Sec. 13.** ADMINISTRATION FEE. To offset costs of
4 oversight and administering the charter, a sponsor may retain up to
5 three percent of state funding and local excess levy funding, if
6 applicable, that is being driven to the charter school. Except for the
7 administration fee in this section, no other offsets or deductions are
8 allowed, whether for central administration or other off-site support
9 services, from a charter school's per-pupil share of state
10 appropriations, local levies, or other funds, unless the charter school
11 has contracted with a school district to obtain specific additional
12 services.

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

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

28 If an applicant for a charter school receives a grant under section
29 14 of this act and fails to begin operating a charter school within the
30 next eighteen months, the applicant must immediately reimburse the
31 office of the superintendent of public instruction for the amount of
32 the grant.

33 NEW SECTION. **Sec. 16.** LEAVES OF ABSENCE. If a school district
34 employee makes a written request for an extended leave of absence to
35 work at a charter school, the school district shall grant the request.

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

8 NEW SECTION. **Sec. 17.** STUDY OF CHARTER SCHOOLS. The Washington
9 institute of public policy shall study the implementation and
10 effectiveness of this act. The institute shall make recommendations to
11 the legislature about the effectiveness of charter schools and the
12 impact of charter schools. The institute shall also recommend changes
13 to this chapter including improvements that could be made to the
14 application and approval process. A preliminary report of the study is
15 due to the legislature by September 1, 2001, and a final report is due
16 September 1, 2003.

17 NEW SECTION. **Sec. 18.** NUMBER OF CHARTER SCHOOLS. (1) The maximum
18 number of charters that can be granted under this chapter is twenty in
19 any given year commencing July 1, 1999, for the first four years.
20 These annual allocations shall be cumulative so that if the maximum is
21 not reached in any given year the maximum shall be increased
22 accordingly for the successive years.

23 (2) A sponsor may not sponsor a charter school in a school district
24 with a student enrollment of less than one thousand students until June
25 1, 2001.

26 (3) For purposes of monitoring compliance with this section and
27 providing information to new charter school applicants, the
28 superintendent of public instruction shall maintain a running total of
29 the projected and actual enrollment at charter schools and the number
30 of charters granted.

31 (4) For purposes of implementing this subsection, a sponsor shall
32 notify the office of the superintendent of public instruction when it
33 receives a charter school application, when it approves a charter
34 school, and when a charter school is terminated.

35 (5) The maximum number of charter schools allowed under this
36 section does not include public schools converting to charter schools.

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

3 This chapter applies to charter schools as defined in section 2 of
4 this act and the charter school's employees included in the bargaining
5 unit. The bargaining unit of employees of charter schools must be
6 limited to the employees of the charter school and must be separate
7 from other bargaining units in the school district or educational
8 service district.

9 This section, designating charter schools as employers and charter
10 schools as members under the teachers' retirement systems and the
11 public employees' retirement systems, takes effect only if the
12 department of retirement systems receives determinations from the
13 internal revenue service and the United States department of labor that
14 such participation does not jeopardize the status of these retirement
15 systems as governmental plans under the federal employees' retirement
16 income security act and the internal revenue code.

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

19 This chapter applies to collective bargaining agreements between
20 charter schools and the employees of charter schools included in the
21 bargaining unit. The bargaining unit of employees of charter schools
22 must be limited to the employees of the charter school and must be
23 separate from other bargaining units in the school district.

24 This section, designating charter schools as employers and charter
25 schools as members under the teachers' retirement systems and the
26 public employees' retirement systems, takes effect only if the
27 department of retirement systems receives determinations from the
28 internal revenue service and the United States department of labor that
29 such participation does not jeopardize the status of these retirement
30 systems as governmental plans under the federal employees' retirement
31 income security act and the internal revenue code.

32 **Sec. 21.** RCW 41.59.080 and 1998 c 244 s 11 are each amended to
33 read as follows:

34 The commission, upon proper application for certification as an
35 exclusive bargaining representative or upon petition for change of unit
36 definition by the employer or any employee organization within the time
37 limits specified in RCW 41.59.070(3), and after hearing upon reasonable

1 notice, shall determine the unit appropriate for the purpose of
2 collective bargaining. In determining, modifying or combining the
3 bargaining unit, the commission shall consider the duties, skills, and
4 working conditions of the educational employees; the history of
5 collective bargaining; the extent of organization among the educational
6 employees; and the desire of the educational employees; except that:

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

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

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

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

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

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

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

33 (8) The bargaining unit of certificated employees of school
34 districts, educational service districts, or institutions of higher
35 education that are education providers under chapter 28A.193 RCW must
36 be limited to the employees working as education providers to juveniles
37 in each adult correctional facility maintained by the department of
38 corrections and must be separate from other bargaining units in school

1 districts, educational service districts, or institutions of higher
2 education; and

3 (9) The bargaining unit for employees of charter schools as defined
4 in section 2 of this act must be limited to the employees of the
5 charter school and must be separate from other bargaining units in the
6 school district or educational service district.

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

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

11 NEW SECTION. Sec. 24. This act is necessary for the immediate
12 preservation of the public peace, health, or safety, or support of the
13 state government and its existing public institutions, and takes effect
14 immediately.

15 NEW SECTION. Sec. 25. If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected.

19 NEW SECTION. Sec. 26. If specific funding for the purposes of
20 this act, referencing this act by bill or chapter number, is not
21 provided by June 30, 1999, in the omnibus appropriations act, this act
22 is null and void.

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