
Education Committee

HB 1744

Brief Description: Clarifying the responsibilities and accountability for the effective delivery and oversight of public education services to charter school students.

Sponsors: Representatives Rude, Santos, Schmidt and Pollet.

Brief Summary of Bill

- Makes various changes to provisions governing the administration and oversight of charter schools, including new and modified duties for charter schools, charter school boards, charter school authorizers, the Charter School Commission, and the State Board of Education.

Hearing Date: 2/9/23

Staff: Ethan Moreno (786-7386).

Background:

Overview.

Washington's charter school system was established in 2013 after voter approval of Initiative 1240. In 2016 the Legislature enacted a modified a charter school system after the Washington Supreme Court invalidated all charter school statutes.

Charter schools are privately run public schools that operate according to the terms of renewable five-year charter contracts that establish the roles, powers, responsibilities, and performance expectations of the parties to the contracts. Charter schools are alternatives to traditional public schools and are operated and funded separately from the traditional public school system. Charter schools are required by law to be tuition-free and open to all children and may offer any program or course of study that any other public school may offer.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Charter schools cannot be funded from state revenue sources dedicated to traditional public schools (although they are funded at a comparable level by the state), and they cannot access local school levy revenues approved by voters.

The management and operation of each charter school occurs through a charter school board, the board of directors appointed or selected under the terms of the charter application. Charter school boards have numerous powers and obligations established in statute, including the authority to employ personnel, enter into contracts, and issue diplomas to students that meet state high school graduation requirements.

Except as provided otherwise, charter schools are subject to the supervision of the Superintendent of Public Instruction (SPI) and the State Board of Education (SBE), including accountability measures, to the same extent as other public schools

Sixteen charter schools currently operate in Washington and two more are slated to open in the fall of 2023. Five previously operational charter schools have closed and one reverted to a private school.

Washington State Charter School Commission.

The eleven-member Washington State Charter School Commission (Commission) is charged with assisting in the establishment and oversight of charter schools. Its stated mission is to authorize high quality charter public schools throughout the state, especially schools that are designed to expand opportunities for at-risk students, and to ensure the highest standards of accountability and oversight for these schools.

The Commission consists of appointed and non-appointed members. The SPI and the Chair of the SBE (or their designees) are the non-appointed members, with three members each appointed by the Governor, caucus leaders of the Senate, and caucus leaders of the House.

Establishment and Operations.

While charter schools are subject to numerous statutory provisions governing their establishment, operation, and oversight, they are exempted from most statutory and rule-based requirements governing traditional public schools.

The statutory period for establishing additional charter schools concluded April 3, 2021. During the establishment period, charter schools could be authorized by the Commission or by a school district board of directors if the proposed school was within their district boundaries and the board of directors was approved by the SBE as a charter school authorizer.

Charter school authorizers have numerous responsibilities prescribed in statute, including:

- soliciting and evaluating charter applications;
- approving charter applications that meet identified educational needs and promote a diversity of educational choices;

- negotiating and executing charter contracts with each authorized charter school;
- monitoring, in accordance with charter contract terms, the performance and legal compliance of charter schools, including, without limitation, education and academic performance goals and student achievement;
- determining whether each charter contract merits renewal, nonrenewal, or revocation; and
- revoking or refusing to renew charter contracts if the authorizer determines that the charter school failed to comply with legal requirements.

Authorizers must continually monitor the performance and legal compliance of the charter schools under its jurisdiction, including collecting and analyzing data to support ongoing evaluation according to the performance framework in the charter contract. Authorizers may conduct or require oversight activities, including conducting appropriate inquiries and investigations, provided those activities are consistent with the intent of charter school laws, adhere to the terms of the charter contract, and do not unduly inhibit the autonomy granted to charter schools.

If a charter school's performance or legal compliance appears unsatisfactory, the authorizer must promptly notify the school of the perceived problem and provide reasonable opportunity for the school to remedy the problem.

Authorizer Oversight by the State Board of Education.

The SBE is responsible for overseeing the performance and effectiveness of all school district boards of directors that have been granted charter school authorization authority by the SBE. A special review of the authorizer by the SBE may be triggered by a persistently unsatisfactory performance of an authorizer's portfolio of charter schools, a pattern of well-founded complaints about the authorizer or its charter schools, or other objective circumstances.

In reviewing or evaluating the performance of authorizers, the SBE must apply nationally recognized principles and standards for quality charter authorizing. Evidence of material or persistent failure by an authorizer to carry out its duties in accordance with these principles and standards constitutes grounds for revocation of the authorizing contract by the SBE.

If the SBE finds that an authorizer is not in compliance with a charter contract, its authorizing contract, or the authorizer duties, the SBE must notify the authorizer in writing of the identified problems, and the authorizer must have reasonable opportunity to respond and remedy the problems.

If an authorizer persists in violating a material provision of a charter contract or its authorizing contract, or fails to remedy other identified authorizing problems, the SBE may initiate a process to revoke the authorizer's chartering authority unless the authorizer demonstrates a timely and satisfactory remedy for the violation or deficiencies.

Summary of Bill:

Numerous changes are made to provisions governing the administration and oversight of charter schools, including new and modified duties for charter schools, charter school boards, charter school authorizers, the Commission, and the SBE. A summary of the changes, by entity type, is provided below.

Charter Schools. Beginning November 1, 2023, and annually thereafter, charter schools must report the employment of all noncertificated instructional staff hired in accordance with a provision permitting the hiring of noncertificated instructional staff of unusual competence and in exceptional cases. The report must address the current and preceding school year and be submitted to the executive director of the Commission and the SBE for inclusion in its annual report on the performance of the state's charter schools.

Charter schools are expressly made subject to the Washington Achievement index developed by the SBE to the same extent as other public schools.

Charter School Boards. Each charter school board is directed to ensure that its members and administrative staff receive annual training to support the effective operation and oversight of the charter school, including compliance with requirements governing the employment of properly credentialed instructional staff, compliance with the requirements of the Open Public Meetings Act and the Public Records Act, and the permitted uses of public funds.

The Washington State Charter School Commission. The Commission's statutory mission is amended to require it to ensure that students in charter schools have opportunities for academic success that are not disrupted by unsatisfactory educational, operational, or financial oversight of the charter school, the charter school board, or both.

Charter School Authorizers. Authorizers' duties are expanded to require them to ensure that:

- students in charter schools they authorize will have opportunities for academic success that are not disrupted by unsatisfactory educational, operational, or financial oversight of the charter school, the charter school board, or both; and
- charter school boards comply with the annual training requirements to support the effective operation and oversight of charter schools.

In deciding whether to approve an application, authorizers must grant charters only to applicants that have met specified requirements and are likely to open, operate, and ensure the financial viability of a successful charter public school.

In making charter renewal decisions, authorizers must ensure that students in the charter school will have opportunities for academic success that are not disrupted by unsatisfactory educational, operational, or financial oversight of the charter school, the charter school board, or both.

The authority of authorizers to conduct or require oversight activities that enable them to fulfill their responsibilities is modified by removing specified limitations on that authority, such as maintaining consistency with the intent of charter school laws. Examples of permitted reasons

for conducting or requiring oversight activities include:

- the persistent unsatisfactory performance of a charter school;
- a pattern of well-founded complaints about a charter school; or
- other objective circumstances.

State Board of Education. The responsibility of the SBE for overseeing the performance and effectiveness of authorizers is extended to include the Commission. The list of factors that may trigger a special review of authorizers, including the Commission, by the SBE is expanded to include a high percentage of charter school closures during the preceding 10-year period.

If the Commission is the subject of the special review, the SBE has one year from the initiation of its review to complete the review and provide a report with findings and recommendations, including any recommendations for statutory revisions it deems necessary, to the Governor, the SPI, and the appropriate committees of the Legislature.

Appropriation: None.

Fiscal Note: Requested on February 2, 2023.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.