

FINAL BILL REPORT

ESHB 1744

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Synopsis as Enacted

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

Sponsors: House Committee on Education (originally sponsored by Representatives Rude, Santos, Schmidt and Pollet).

House Committee on Education
Senate Committee on Early Learning & K-12 Education
Senate Committee on Ways & Means

Background:

Overview.

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

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

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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 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:

- 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.

Audit Requirements.

Charter schools are subject to audit requirements. Each charter school board must contract for an independent performance audit of their school. These audits must be conducted the second year immediately following the school's first full school year of operation and subsequently every three years. Charter schools also must adhere to generally accepted accounting principles and be subject to financial examinations and audits of the State Auditor, including annual audits for legal and fiscal compliance.

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.

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:

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 Washington State Charter School Commission (Commission), and the State Board of Education (SBE). A summary of the changes 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.

Each charter school must prominently post and maintain on its website information about the school's process and instructions for submitting complaints about the operation and administration of the charter school by its enrolled students and their parents. This information must include a designated point of contact at the charter school and a link to an online complaint system required of the Commission.

Charter schools are expressly made subject to the Washington Achievement index developed by the SBE, the Transitional Bilingual Instruction Program, and special education requirements to the same extent as other public schools.

Charter School Boards.

Each charter school board must 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.

Provisions governing audit requirements for charter school boards are modified. Charter school boards must obtain an accountability audit for their schools instead of contracting for an independent performance audit. The accountability audits must occur after the school's first full year of operation and subsequently at least every three years.

The Washington State Charter School Commission.

The Commission's statutory mission is amended to require it to hold charter school boards accountable for: ensuring that students of charter schools have opportunities for academic success; and exercising effective educational, operational, and financial oversight of charter schools.

Beginning with the 2023-24 school year, the Commission must promote the effective administration and operation of charter schools through the provision of technical assistance to requesting charter schools, charter school boards, or both. The principal objective of the technical assistance, a defined term, which may be provided by Commission staff or

through a contractor, must be to support charter schools and charter school boards in achieving and maintaining compliance with requirements governing charter schools.

In responding to requests for technical assistance, the Commission must prioritize the provision of assistance to charter schools that have been in operation for three or fewer school years. Additionally, the technical assistance is unrelated to, and does not affect or otherwise modify, duties of the Commission in its role as an authorizer.

By November 1, 2023, the Commission must establish and maintain on its website an online system for students who attend charter schools, and the parents of those students, to submit complaints about the operation and administration of one or more charter schools, including complaints about the provision of education services and complaints alleging noncompliance with requirements governing charter schools.

The Commission must adopt rules for the online complaint system and must acknowledge the receipt of each received complaint within 10 business days. The Commission, in a timely manner, must also perform any inquiries or other actions it deems necessary and appropriate to respond to each received complaint.

Charter School Authorizers.

Authorizers' duties are expanded to require them to:

- hold the charter school board of each authorized charter school accountable for: ensuring that students in the charter school have opportunities for academic success; and exercising effective educational, operational, and financial oversight of the charter school; and
- ensure that 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 school.

Similarly, in making charter renewal decisions, authorizers must hold the charter school board accountable for: ensuring that students of the charter school have opportunities for academic success; and exercising effective educational, operational, and financial oversight of the charter school.

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;
- the authority to conduct oversight activities as provided in statute, rule, or charter

- contract; or
- other objective circumstances.

State Board of Education.

The responsibility of the SBE to oversee the performance and effectiveness of authorizers that are school districts is extended to include all authorizers, therefore applying to the Commission in its role as an authorizer. 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 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 Superintendent of Public Instruction, and the appropriate committees of the Legislature.

Votes on Final Passage:

House	95	0	
Senate	49	0	(Senate amended)
House	98	0	(House concurred)

Effective: July 23, 2023