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CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2295
Chapter 22, Laws of 2004

FILED

58th Legislature
2004 Regular Session

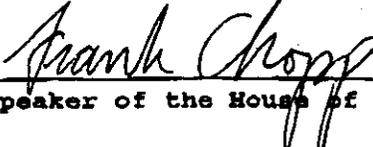
MAR 29 2004

EFFECTIVE DATE: June 10, 2004

SECRETARY OF STATE
STATE OF WASHINGTON

REFERENDUM MEASURE 55

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

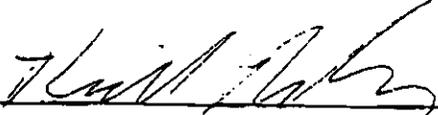

Speaker of the House of Representatives

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.

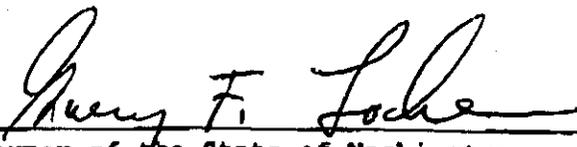
Passed by the Senate March 10, 2004
Yeas 27 Nays 22


President of the Senate


Chief Clerk

Approved **MAR 18 2004**

FILED


Governor of the State of Washington

MAR 18 2004

Time 12:52 p.m.

Secretary of State
State of Washington

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.

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 hereen set forth.**

RICHARD NAFZIGER
Chief Clerk

FILED

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

GARY F. LOCKE
Governor of the State of Washington

**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.

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

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

NEW SECTION. **Sec. 1.** **INTENT.** The legislature intends to authorize the establishment of public charter schools within the general and uniform system of public schools for the primary purpose of providing more high-quality learning environments to assist educationally disadvantaged students and other students in meeting the state's academic standards. The legislature intends for charter schools to function as an integral element of the public school system maintained at public expense, free from discrimination, and open to all students in the state, and to be subject to the same or greater academic standards and performance outcomes as other public schools. The legislature intends to encourage school districts to consider using the chartering process as an optional tool to achieve state and federal academic accountability goals. The legislature finds that in addition to providing more high-quality public school choices for families, teachers, and students, public charter schools may be a tool to improve schools in which significant numbers of

students persistently fail to meet state or federal standards. The legislature also intends to authorize the use of the chartering process as a state intervention strategy, consistent with the provisions of the federal no child left behind act of 2001, to provide assistance to schools in which significant numbers of students persistently fail to meet state and federal standards. The legislature also intends to ensure accountability of charter schools through the use of performance audits and a comprehensive study of charter schools, and to use the information generated to demonstrate how charter schools can contribute to existing education reform efforts focused on raising student academic achievement.

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

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

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

(3) "Charter school board" means the board of directors appointed or elected by the applicant to manage and operate the charter school, and may include one member of the local school district board of directors who may serve as an ex officio member.

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

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

(6) "Conversion charter school" means a charter school created by

converting an existing public school in its entirety to a charter school under this chapter.

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

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

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

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

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

(b) Enter into a contract with any school district, or any other public or private entity, also empowered to enter into contracts, for any and all real property, equipment, goods, supplies, and services, including educational instructional services; however, this authority does not permit assigning, delegating, or contracting out the administration and management of a charter school to a for-profit entity;

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

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

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

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

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

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

NEW SECTION. **Sec. 4.** LEGAL STATUS. A charter school is a public school including one or more of grades kindergarten through twelve, operated by a board of directors appointed or elected by a charter school applicant, according to the terms of a renewable five-year contract granted by a sponsor or an alternate sponsor. A charter school may offer any program or course of study that another public school may offer. A charter school must allow students who are receiving home-based instruction under chapter 28A.200 RCW to participate in its programs on a part-time basis.

NEW SECTION. **Sec. 5.** CHARTER SCHOOLS--EXEMPTIONS. (1) A charter school shall operate according to the terms of a charter approved by a sponsor or by the superintendent of public instruction under this chapter.

(2) Charter schools are exempt from all state statutes and rules applicable to school districts and school district boards of directors, including but not limited to rules regarding the expenditure of state allocations as provided in section 12 of this act, except those statutes and rules as provided for and made applicable to charter schools in accordance with this chapter and in the school's approved charter.

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

(4) All approved charter schools shall:

(a) Comply with state and federal health, safety, parents' rights, civil rights, and nondiscrimination laws, including, but not limited to, the family educational rights and privacy act (20 U.S.C. 1232g), chapter 28A.640 RCW

(sexual equality), and Title IX of the education amendments of 1972 (20 U.S.C. Sec. 1681 et seq.) applicable to school districts, and to the same extent as school districts;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

schools; and

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

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

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

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

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

NEW SECTION. **Sec. 7. CHARTER APPLICATION--CHARTERING PROCESS.** (1) An applicant may apply to a sponsor or may appeal to the superintendent of public instruction for approval to establish a charter school under this section. An application may not be submitted earlier than eighteen months before, nor later than four months before, the proposed date of opening the school.

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

(3) An application for a charter school must be submitted first to the

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

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

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

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

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

(8) Upon receipt of a request for review, the superintendent must attempt to mediate a resolution between the applicant and the school district board, and may recommend to the applicant and school district board revisions to the application.

(9) If the school district board does not accept the revisions and does not approve the application, the superintendent must review the application. The superintendent, after exercising due diligence and good faith, must approve the application if the superintendent finds: (a) The criteria in section 9 of this act have been met; (b) the approval will be within the

annual limits in section 16 (1) and (2) of this act; and (c) the approval is consistent with the legislative intent for which charter schools are authorized and is in the best interests of the children of the proposed school. The superintendent may permit the board of directors of an educational service district to assume the rights and responsibilities of implementing and administering a charter approved under this section, but if no such board agrees to assume the role of alternate sponsor, the superintendent of public instruction shall assume the rights and responsibilities of implementing and administering the charter and shall become the alternate sponsor.

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

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

(12) Consistent with the corrective action provisions in the federal no child left behind act of 2001, the superintendent of public instruction may use the chartering process as an intervention strategy to meet federal student achievement and accountability requirements. The superintendent may require a local school district board of directors to convert a public school to a charter public school or, if the superintendent determines it would be more appropriate, may require a local school district board of directors to consent to conversion of the school by an educational service district board of directors or the superintendent.

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

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

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

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

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

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

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

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

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

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

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

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

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

(13) A description of the school's program for parent involvement in the

charter school;

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

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

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

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

(1) The applicant is an eligible public benefit nonprofit corporation and the individuals it proposes to manage and operate the school are qualified to operate a charter school and implement the proposed educational program that is free from religious or sectarian influence;

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

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

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

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

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

(7) The application includes a viable plan to evaluate pupil performance

and to take appropriate corrective action if pupil performance at

the charter school falls below standards established in its charter;

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. **Sec. 11.** CHARTER RENEWAL AND REVOCATION. (1) An approved

plan to establish a charter school is effective for five years from the first day of operation. At the conclusion of the first three years of operation, the charter school may apply to the original sponsor or alternate sponsor for renewal. A request for renewal must be submitted no later than six months before the expiration of the charter.

(2) A charter school renewal application must include:

(a) A report on the progress of the charter school in achieving the goals; student performance standards, including the student performance standards adopted by rule by the academic achievement and accountability commission in accordance with RCW 28A.655.030; the number and percentage of educationally disadvantaged students served; and other terms of the charter;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Assign staff responsible for transition of student records and for providing assistance to students and parents in transferring from the charter

school to the district public, private, or home school chosen by the family;

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

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

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

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

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

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

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

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

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

NEW SECTION. **Sec. 12.** **FUNDING.** (1) The superintendent of public instruction shall provide prompt and timely funding for a charter school including regular apportionment, special education, categorical, student achievement, and other nonbasic education moneys. Allocations shall be based on the statewide average staff mix ratio of all noncharter public schools from the prior school year and the school's actual FTE enrollment, except that vocational education funding for grades nine through twelve shall be provided based on eighteen and one-half percent of the charter school's actual FTE enrollment for grades nine through twelve. Enhanced staff ratio funding provided to school districts through the omnibus appropriations act shall be allocated to a charter school regardless of whether the school maintains the enhanced staffing ratio. A charter school is not eligible for enhanced small school assistance funding. Categorical funding shall be allocated to a charter school based on the same funding criteria used for noncharter public schools, except that the charter school is exempt from rules and statutes regarding the expenditure of these funds. A charter school is eligible to

apply for state grants on the same basis as a school district. Those allocations to a charter school that are included in RCW 84.52.0531(3) (a) through (c) shall be included in the levy base of the district in which the charter school is located.

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

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

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

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

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

(e) A conversion charter school is entitled to the continued rent-free use of its existing facility, regardless of whether the conversion school is sponsored by the local school district or by an alternate sponsor. The district remains responsible for major repairs and safety upgrades that may be required for the continued use of the facility as a public school. The charter school is responsible for routine maintenance of the facility, including but not limited to, cleaning, painting, gardening, and landscaping.

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

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

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

NEW SECTION. Sec. 13. ADMINISTRATION FEE. To offset costs to oversee and administer the charter, a sponsor or an alternate sponsor may retain up to three percent of state funding and local excess levy funding, if applicable,

allocated to the charter school. Except for the administration fee in this section, no other offsets or deductions are allowed, whether for central administration or other off-site support services, from a charter school's per-pupil share of state appropriations, local levies, or other funds, unless the charter school has contracted with a school district to obtain specific additional services.

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

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

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

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

(b) These annual allocations are cumulative so that if the maximum number

of allowable new charters is not reached in any given year the maximums are increased accordingly for the successive years, but in no case shall the total number exceed forty-five without further legislative authorization.

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

(d) The superintendent of public instruction shall maintain copies of all approved charter applications. An applicant may obtain copies of those applications from the office of the superintendent of public instruction.

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

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

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

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

(4) If the number of charters reserved each year under subsection (2) of

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

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

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

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

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

In addition to the entities listed in RCW 41.56.020, this chapter applies to new charter schools created under chapter 28A.-- RCW (sections 1 through 16 and 25 of this act). Notwithstanding RCW 41.56.060 and 41.56.070, the bargaining units of classified employees of a new charter school must be limited to the employees of the new charter school and must be separate from other bargaining units in the school district or educational service district for at least the first five years of operation of the new charter school. After the five-year period, the employees in a bargaining unit of a new charter school may indicate by a majority vote that they desire to become members of a bargaining unit in the school district in which the new charter school is located.

NEW SECTION. **Sec. 18.** A new section is added to chapter 41.56 RCW to

read as follows:

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

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

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

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

In addition to school districts, this chapter applies to new charter schools created under chapter 28A.-- RCW (sections 1 through 16 and 25 of this act). Notwithstanding RCW 41.59.070 and 41.59.080, the bargaining units of educational employees of a new charter school must be limited to the educational employees of the new charter school and must be separate from the bargaining units in the school district or educational service district for at least the first five years of operation of the new charter school. After the five-year period, the employees in a bargaining unit of a new charter school may indicate by a majority vote that they desire to become members of a bargaining unit in the school district in which the new charter school is located.

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

At the time of creation of a conversion charter school under chapter 28A.-- RCW (sections 1 through 16 and 25 of this act), the employees of a conversion charter school remain in any existing appropriate bargaining unit of employees of the school district in which the conversion charter school is

located. If an applicant for a charter school or a charter school board requests one or more variances from a collective bargaining agreement that applies to the relevant school district bargaining unit to address needs that are specific to the charter school and the employees of the charter school, the following applies:

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

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

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

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

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

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

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

This section designates charter schools as employers and charter school employees as members, and applies only if the department of retirement systems receives determinations from the internal revenue service and the United States department of labor that participation does not jeopardize the status of these retirement systems as governmental plans under the federal employees'

retirement income security act and the internal revenue code.

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

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

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

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

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