



Summary of Initiative 1240

Prepared for members of the Washington House of Representatives by the House Office of Program Research.

This information has been prepared in response to various requests for a summary of Initiative 1240. It is provided for analytical and legislative policy purposes only. It is not provided as an expression of support for or opposition to any ballot measure. These materials are intended to provide general information and are not intended to be an exhaustive analysis of all issues presented by the measure.

BRIEF SUMMARY

- Authorizes the establishment of up to 40 charter schools over a five-year period.
- Defines charter schools as tuition-free public schools within the state system of common schools.
- Specifies the nature, powers, and responsibilities of charter applicants, charter school boards, and charter authorizers.
- Requires that only qualifying nonreligious and nonprofit organizations may operate a charter school.
- Outlines minimum content for charter applications and charter contracts based on a performance framework.
- Requires the State Board of Education to approve and oversee charter authorizers.
- Provides for the allocation of state funds to support charter schools and exempts them from most state laws pertaining to other public schools.

BACKGROUND

Initiative 1240

Initiative 1240 was certified for the ballot on July 25, 2012. The ballot title and summary prepared by the Attorney General, as amended by court order on June 18, 2012, are as follows:

Ballot Title

Statement of Subject: Initiative Measure No. 1240 concerns creation of a public charter school system.

Concise Description: This measure would authorize up to forty publicly-funded charter schools open to all students, operated through approved, nonreligious, nonprofit organizations, with government oversight; and modify certain laws applicable to them as public schools.

Should this measure be enacted into law? Yes [] No []

Ballot Measure Summary

This measure would allow a newly-created state commission or approved local school boards to authorize qualifying nonreligious, nonprofit organizations to operate public charter schools, limited to forty schools over five years. Public charter schools would receive standard per-student public school funding and be open to all students without tuition. Public charter schools would be subject to teacher certification requirements, government oversight, and performance reporting requirements, but exempt from certain state laws and school district policies.

Overview

Under the state Constitution, the Legislature must provide for a general and uniform system of public schools. Management and operation of this system occurs through 295 school districts which are headed by locally-elected boards of directors. School districts receive allocations of operating and capital funding from the state and federal government. School districts also have authority to seek voter approval to raise local funds through property tax levies for operating and capital purposes.

A charter school is a tuition-free public school, financed by public funds, and governed by the terms of a charter contract between a charter applicant and a charter authorizer. There are currently 41 states with charter school laws. These state laws vary regarding who may be a charter applicant, which entities may authorize charter contracts, state oversight of charter schools and charter authorizers, and allocation of funds. A charter school may also be exempt from some state laws that apply to other public schools. Typically the governance of a charter school is separate from the governance of other public schools. Instead, the charter school has its own board, and the charter contract specifies performance expectations and accountability provisions. Some state laws limit the number of charter schools that may be established.

SUMMARY

Definitions and Authorities

A charter school is defined as a public, common school that is open to all children free of charge and is governed by a charter school board under the terms of a renewable five-year charter contract. Charter schools are included within the statutory definition of the system of common schools referred to in the state Constitution. A charter school may be a new school, or may be a "conversion" charter created by converting an existing public school in its entirety into a charter school. A charter school is considered a local education agency (the same as a school district) for purposes of federal education laws.

Charter school boards are authorized to hire employees, receive and disburse funds, contract for services, acquire property, incur debt, solicit and accept gifts, and issue diplomas to students who meet state graduation requirements. If the charter school board contracts for educational instructional services or management of a charter school, the contract must be with a nonprofit organization. Any debt incurred is not an obligation of the state, and the charter school may not pledge any public funds to secure the debt. A charter school board is not authorized to levy taxes or issue tax-backed bonds.

Applicants

To apply to establish a charter school, an entity must be a tax-exempt non-profit corporation or a non-profit corporation that has submitted an application for tax-exempt status. Applicants may not be sectarian or religious organizations. An applicant must achieve tax-exempt status before receiving any allocation of state funds.

Authorizers

Two types of entities may authorize the establishment of a charter school:

- (1) a local school board that has been approved by the State Board of Education (SBE) as a charter school authorizer, but only for charter schools located within its district; and
- (2) a new Washington Charter School Commission (Commission), which is established for the purpose of authorizing charter schools throughout the state, particularly to expand opportunities for at-risk students.

The Commission has nine members, with no more than five members of the same political party. Three members each are appointed by the Governor, the Speaker of the House of Representatives, and the President of the Senate to staggered four-year terms. At least one member must be a parent of a public school student. Initial operational support is provided by the Office of the Governor, with initial funding from gifts, grants, or donations.

Charter school authorizers are responsible for approving charter applications, negotiating and monitoring charter contracts, following national best practices in charter authorizing, and reporting annually to the SBE. The Commission, through its management of charter contracts, administers the charter schools it authorizes in the same manner as a school district board of directors.

Authorizer Approval and Oversight

The SBE must establish an annual application and approval process for local school boards that seek to be charter school authorizers. Minimum information for an application is specified. Approved authorizers operate under the terms of a six-year, renewable contract with the SBE.

The SBE is responsible for overseeing the performance and effectiveness of approved authorizers. Persistently unsatisfactory performance of an authorizer's charter schools, a pattern of well-founded complaints about the authorizer or its schools, or other objective circumstances may trigger a special review by the SBE. If an authorizer persists in violating a material provision of a charter contract or fails to remedy other identified problems, the SBE may revoke the authorizer's chartering authority and transfer its charter contracts to another authorizer.

The SBE must also establish a statewide formula for an authorizer oversight fee, not to exceed 4 percent of the state funding allocated to each charter school of the authorizer. Authorizers may provide contracted services to their charter schools for a separate fee.

The Commission is not subject to approval and oversight by the SBE, but has the same responsibilities and powers of other charter school authorizers.

Charter Applications and Charter Contracts

The SBE must establish annual timelines for authorizers to solicit, receive, and review charter school applications. Each authorizer must issue a request for proposals that outlines the authorizer's strategic vision for chartering, the authorizer's performance framework for charter school oversight, and criteria for approval of applications. Details of the required contents of a charter school application are specified. Conversion charters must be supported by a petition signed by a majority of teachers or parents associated with the school. If the charter school intends to contract with a non-profit organization to provide substantial educational services or school management, the applicant must provide information about the contract terms and the organization's success in serving similar student populations.

Authorizers must give preference to applications for charter schools that are designed to enroll and serve at-risk student populations; however, the establishment of charter schools is not limited to those that serve substantial at-risk populations. "At-risk student" is defined as a student who has an academic or economic disadvantage that requires assistance or special services to succeed in educational programs.

Within 90 days after an application is approved, the authorizer and applicant must negotiate a five-year charter contract where the charter school agrees to provide educational services that, at a minimum, meet basic education standards, in return for an allocation of public funds. The charter contract must include academic and performance expectations, indicators, and metrics based on the authorizer's performance framework. Minimum performance indicators and metrics are specified; an authorizer may include additional indicators to augment evaluation of a charter school's performance.

Authorizers must continually monitor the performance and legal compliance of the charter schools they oversee, and may take corrective actions in response to deficiencies, including nonrenewal, revocation, and termination of a charter school as follows:

- A charter contract may be renewed for periods of up to five years upon application by the charter school and after review of the school's performance by the authorizer.
- A charter contract may be nonrenewed or revoked for failure to comply with applicable laws or the terms of the contract, failure to meet generally accepted standards of fiscal management, or failure to make sufficient progress toward the contract's performance expectations.
- Except under exceptional circumstances, a charter contract may not be renewed if the school's performance falls in the bottom quartile on the SBE's school accountability index.

In the event of the dissolution of the nonprofit organization that is a charter school applicant, provisions are made for disposition of any funds in the charter school's accounts. A charter contract may be transferred to a different applicant or another authorizer only with the approval of the SBE.

Limits

A maximum of 40 charter schools may be established over a five-year period, with no more than eight established each year unless fewer than eight were established in the prior year. Authorizers must forward approved applications to the SBE for certification on a first-come, first-served basis to ensure that any new charter schools are within the annual limit.

Applicability of State Laws

Charter schools must comply with a specific list of state laws and rules, including any laws and rules that are made applicable through the charter contract, but are exempt from all other state laws and rules that apply to other public schools for the purpose of allowing flexibility to innovate. Charter schools may not engage in sectarian practices.

Charter schools must:

- comply with local, state, and federal health, safety, parents' rights, civil rights, and nondiscrimination laws;
- provide basic education, as defined by the state Basic Education Goals, including providing instruction in the Essential Academic Learning Requirements and participating in the state assessment system;
- hire appropriately certified instructional staff and conduct employee background checks;
- adhere to generally accepted accounting principles and be subject to audits by the State Auditor;
- provide the annual school report card and be subject to performance improvement goals established by the SBE;
- comply with laws requiring open public meetings and disclosure of public records; and
- comply with any subsequently-enacted laws that govern charter schools.

Charter schools are subject to the supervision of the Superintendent of Public Instruction and the SBE to the same extent as other public schools, except as otherwise provided.

Students

A charter school is open to any student in the state, tuition-free and regardless of his or her location of residence. However, a charter school may organize around a special emphasis or theme, including focusing on services for particular groups of students. If the charter school is a conversion from a regular public school, sufficient capacity must be provided for all previously-enrolled students. If applications exceed capacity of a charter school, students must be selected through a lottery, except that a preference must be given to siblings of students already attending the school. Credits earned at a charter school must be accepted by other public schools in the state.

Employees

Charter schools are covered by state collective bargaining laws for classified and certificated school employees. Bargaining units at charter schools must be separate from other bargaining units in school districts, educational service districts, or institutions of higher education. Charter schools may participate in state health benefits programs under contract with the Health Care Authority. Employees become members of state retirement systems if the Department of Retirement Systems receives

determinations from the Internal Revenue Service and the United States Department of Labor that their membership does not jeopardize the federal tax status of these retirement systems.

For certificated employees, years of service in a charter school count for determining placement on the statewide salary allocation schedule, but this does not require a charter school to pay a particular salary to certificated employees.

Funding and Facilities

State funding for charter schools is based on a per-pupil allocation of state Basic Education funds and other state funds for education. The allocation is calculated based on the statewide average staff mix ratio for non-charter public schools. Charter schools must report student enrollment in the same manner as other public schools. Allocations for pupil transportation are based on the prior year's per-pupil allocation to the school district in which the charter school is located. In its first year of operation, a charter school receives funds based on projected rather than actual enrollment, with differences reconciled in the second year.

Conversion charter schools must receive previously-authorized local levy funds from the school district, as determined by the charter school authorizer. New charter schools are not eligible for previously-authorized levy funds unless the local school board is the authorizer. All charter schools must be included in levy planning, budgeting, and funding distribution for levies authorized after their creation, in the same manner as other public schools in the district.

Charter schools are eligible for state matching funds for school construction. A conversion charter school may continue to use its existing facility without paying rent but subject to reasonable and customary terms of use set forth in the charter contract. The school district remains responsible for major repairs and safety upgrades, and the charter school is responsible for routine maintenance.

Report

The SBE, in collaboration with the Commission, must report annually on the status of charter schools, beginning December 1 after the first full school year of charter school operations. The report prepared after the fifth year of school operations must include a recommendation regarding whether the Legislature should authorize establishment of additional charter schools.

Effective Date: The initiative takes effect 30 days after the election at which it is approved.

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