

ESSB 5012 - S AMD 467
By Senator Johnson

ADOPTED 06/10/2003

1 Strike everything after the enacting clause and insert the
2 following:

3 NEW SECTION. **Sec. 1.** INTENT. The legislature intends to
4 authorize the establishment of public charter schools within the
5 general and uniform system of public schools for the primary purpose of
6 providing more, high quality learning environments to assist
7 educationally disadvantaged students and other students in meeting the
8 state's academic standards. The legislature intends for charter
9 schools to function as an integral element of the public school system
10 maintained at public expense, free from discrimination, and open to all
11 students in the state, and to be subject to the same academic standards
12 and performance outcomes as other public schools. The legislature
13 intends to encourage school districts to consider using the chartering
14 process as an optional tool for achieving state and federal
15 accountability goals. The legislature finds that in addition to
16 providing more, high quality public school choices for families,
17 teachers, and students, public charter schools may be a tool for the
18 improvement of schools in which significant numbers of students
19 persistently fail to meet state standards. The legislature also
20 intends to authorize the use of the chartering process as a state
21 intervention strategy, consistent with the provisions of the federal no
22 child left behind act of 2001, to provide assistance to schools in
23 which significant numbers of students persistently fail to meet state
24 standards.

25 NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context clearly
26 requires otherwise, the definitions in this section apply throughout
27 this chapter.

28 (1) "Alternate sponsor" means either: (a) The board of directors
29 of the educational service district in which the proposed charter

1 school will be located; or (b) the governing board of a state or
2 regional university as defined in RCW 28B.10.016 or of The Evergreen
3 State College, when such board has approved a charter.

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

14 (3) "Board of directors" means the board of directors appointed or
15 elected by the applicant to manage and operate the charter school.

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

20 (5) "Charter school" means a public school managed by an
21 applicant's board of directors and operating independently of any
22 school district board under a charter approved in accordance with this
23 chapter.

24 (6) "Conversion charter school" means a public school converted to
25 a charter public school through the chartering process in accordance
26 with this chapter.

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

34 (8) "Sponsor" means the board of directors of the school district
35 in which the proposed charter school will be located, when such board
36 has approved a charter.

1 NEW SECTION. **Sec. 3.** CHARTER SCHOOLS--POWERS. (1) In carrying
2 out its duty to manage and operate the charter school, the board of
3 directors of a charter school may:

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

6 (b) Enter into a contract with any school district, or any other
7 public or private entity, also empowered to enter into contracts, for
8 any and all real property, equipment, goods, supplies, and services,
9 including educational instructional services;

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

15 (d) Issue secured and unsecured debt to manage cash flow, improve
16 operations, or finance the acquisition of real property or equipment.
17 Such an issuance does not constitute an obligation, either general,
18 special, or moral of the state, the charter school sponsor, the school
19 district in which the charter school is located or any other political
20 subdivision or agency of the state. Neither the full faith and credit
21 nor the taxing power of the state, the charter school sponsor, the
22 school district in which the charter school is located, or any other
23 political subdivision or agency of the state may be pledged for the
24 payment of such debt;

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

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

33 (3) Neither a charter school sponsor, an alternate sponsor, nor the
34 school district in which the charter school is located is liable for
35 acts or omissions of a charter school, including but not limited to
36 acts or omissions related to the application, the charter, the
37 operation, the performance, and the closure of the charter school.

1 NEW SECTION. **Sec. 4.** LEGAL STATUS. A charter school is a public
2 school including one or more of grades kindergarten through twelve,
3 operated by a board of directors appointed or elected by a charter
4 school applicant, according to the terms of a renewable five-year
5 contract granted by a sponsor or an alternate sponsor. A charter
6 school may offer any program or course of study that another public
7 school may offer.

8 NEW SECTION. **Sec. 5.** CHARTER SCHOOLS--EXEMPTIONS. (1) A charter
9 school shall operate independently of any school district board, under
10 a charter approved by a sponsor or an alternate sponsor under this
11 chapter.

12 (2) Charter schools are exempt from all state statutes and rules
13 applicable to school districts and school district boards of directors
14 except those statutes and rules as provided for and made applicable to
15 charter schools in accordance with this chapter and in the school's
16 approved charter.

17 (3) A charter school's board of directors is encouraged to
18 implement a quality management system and to conduct an annual self-
19 assessment.

20 (4) All approved charter schools shall:

21 (a) Comply with state and federal health, safety, parents' rights,
22 civil rights, and nondiscrimination laws, including, but not limited
23 to, chapter 28A.640 RCW (sexual equality) and Title IX of the education
24 amendments of 1972 (20 U.S.C. Sec. 1681 et seq.) applicable to school
25 districts, and to the same extent as school districts;

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

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

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

1 (e) Comply with the employee record check requirements in RCW
2 28A.400.303;

3 (f) Be subject to the same financial and audit requirements as a
4 school district, as determined by the state auditor, including annual
5 audits for legal and fiscal compliance;

6 (g) Be subject to periodic independent performance audits conducted
7 by or at the direction of a competent state authority to the same
8 extent as other public agencies, however, a charter school is not
9 required to bear the expense of such a performance audit;

10 (h) Comply with the annual performance report under RCW
11 28A.655.110;

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

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

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

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

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

26 (n) Be subject to and comply with legislation enacted after the
27 effective date of this section governing the operation and management
28 of charter schools.

29 (5) A member of a board of directors of a charter school shall be
30 considered the equivalent of a board member of a school district for
31 the purposes of public disclosure requirements and must comply with the
32 reporting requirements in RCW 42.17.240.

33 NEW SECTION. **Sec. 6.** ADMISSION REQUIREMENTS. (1) To effectuate
34 the primary purpose for which the legislature established charter
35 schools, a charter school must be willing to enroll educationally
36 disadvantaged students and may not limit admission on any basis other

1 than age group and grade level. Consistent with the legislative intent
2 of this chapter, a charter school shall conduct timely outreach and
3 marketing efforts to educationally disadvantaged students in the school
4 district in which the charter school will be located.

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

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

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

23 (1) An applicant may apply to a sponsor or an alternate sponsor to
24 establish a charter school in accordance with this section.

25 (2) An application for a charter school must be submitted first to
26 the board of directors of the school district in which the proposed
27 charter school will be located, allowing for the board's consideration
28 of the application in accordance with subsections (3) and (4) of this
29 section, before the application may be submitted to an alternate
30 sponsor.

31 (3) The school district board of directors must decide, within
32 forty-five days of receipt of the application, whether to hold a public
33 hearing in the school district for the purpose of taking public comment
34 on the application and, if a hearing is to be held, must schedule such
35 a hearing within seventy-five days of receipt of the application. If
36 the school board intends to accept the application, one or more public

1 hearings must be held prior to the granting of a charter; however a
2 school board is not required to hold a public hearing prior to
3 rejecting an application. The school board must either accept or
4 reject the application within one hundred five days after receipt of
5 the application. The one hundred five-day deadline for acceptance or
6 rejection of the charter school application may be extended for an
7 additional thirty days if both parties agree in writing.

8 (4) If the school board elects not to hold a public hearing or
9 rejects the application after holding one or more public hearings, the
10 school board must notify the applicant in writing of the reasons for
11 that decision. The applicant may submit a revised application for the
12 school board's reconsideration and the school board may provide
13 assistance to improve the application. If the school board rejects the
14 application after submission of a revised application, the school board
15 must notify the applicant in writing of the reasons for the rejection.

16 (5) Applications for the conversion of a public school to a charter
17 public school may not be submitted to an alternate sponsor without the
18 prior consent of the school district board of directors. At the
19 request of the applicant, the sponsor, or the alternate sponsor, the
20 superintendent of public instruction may review the charter application
21 and provide technical assistance.

22 (6) Alternate sponsors must comply with the procedures in
23 subsections (1) through (4) of this section for consideration of the
24 charter application. An alternate sponsor is not bound by a school
25 district's or another alternate sponsor's findings or decision to deny
26 the application.

27 (7) The governing board of an institution of higher education that
28 has approved a charter application may, after exercising due diligence,
29 assign authority for the administration of the charter and the
30 oversight and monitoring of the charter school to an agency or official
31 designated by and accountable to the governing board of the
32 institution. In all cases, the governing board of the institution is
33 responsible for ensuring that the duties of the alternate sponsor under
34 this chapter are fulfilled.

35 (8) The superintendent of public instruction shall maintain copies
36 of all approved charter applications. An applicant may obtain copies

1 of those applications from the office of the superintendent of public
2 instruction.

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

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

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

23 (1) The identification and description of the nonprofit corporation
24 submitting the application, including the names, descriptions,
25 curriculum vitae, and qualifications, which shall be subject to
26 verification and review, of the individuals who will operate the
27 school;

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

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

34 (4) A description of the school's educational program, curriculum,
35 and instructional strategies, including but not limited to how the

1 charter school will assist its students, including educationally
2 disadvantaged students, in meeting the state's academic standards;

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

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

11 (7) A description of the school's plan for evaluating student
12 performance and the procedures for taking corrective action in the
13 event that student performance at the charter school falls below
14 standards established in its charter;

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

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

26 (10) An assessment of the school's potential legal liability and a
27 description of the types and limits of insurance coverage the nonprofit
28 corporation plans to obtain. For purposes of this subsection, a
29 liability insurance policy of five million dollars is required;

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

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

35 (13) A description of the school's program for parent involvement
36 in the charter school;

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

4 (15) Supporting documentation for any additional requirements that
5 are appropriate and reasonably related to the operation of a charter
6 school that a sponsor or alternate sponsor may impose as a condition of
7 approving the charter.

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

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

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

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

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

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

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

1 (7) The application includes a viable plan for evaluating pupil
2 performance and procedures for taking appropriate corrective action in
3 the event that pupil performance at the charter school falls below
4 standards established in its charter;

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

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

12 (10) The assessment of the school's potential legal liability, and
13 the types and limits of insurance coverage the school plans to obtain,
14 are adequate. For purposes of this subsection, a liability insurance
15 policy of five million dollars is required;

16 (11) The procedures the school plans to follow for discipline,
17 suspension, and expulsion of students are reasonable and comply with
18 state and federal law;

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

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

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

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

30 NEW SECTION. **Sec. 10.** CHARTER AGREEMENT--AMENDMENT. (1) A
31 charter application approved by a sponsor or an alternate sponsor with
32 any changes or additions, and signed by an authorized representative of
33 the applicant and the sponsor or alternate sponsor, constitutes a
34 charter. A charter for the conversion of a public school must include
35 provisions for the disposition, including assignment or reassignment,

1 of the employees of the school prior to its conversion and after
2 conversion.

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

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

9 NEW SECTION. **Sec. 11.** CHARTER RENEWAL AND REVOCATION. (1) An
10 approved plan to establish a charter school is effective for five years
11 from the first day of operation. At the conclusion of the first three
12 years of operation, the charter school may apply to the original
13 sponsor or alternate sponsor for renewal. A request for renewal must
14 be submitted no later than six months before the expiration of the
15 charter.

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

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

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

26 (c) All audit information from independent sources regarding the
27 charter school, if available.

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

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

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

3 (b) The students enrolled in the charter school failed to meet
4 student performance standards identified in the charter, including the
5 student performance standards adopted by rule by the academic
6 achievement and accountability commission in accordance with RCW
7 28A.655.030;

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

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

12 (5) A sponsor or alternate sponsor shall give written notice of its
13 intent not to renew the charter school's request for renewal to the
14 charter school within three months of the request for renewal to allow
15 the charter school an opportunity to correct identified deficiencies in
16 its operation. At the request of the board of directors of the charter
17 school, the sponsor or alternate sponsor shall review its decision for
18 nonrenewal within forty-five days of receiving a request for review and
19 supporting documentation sufficient to demonstrate that any
20 deficiencies have been corrected from the board of directors of the
21 charter school.

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

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

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

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

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

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

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

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

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

8 (d) If a sponsor or alternate sponsor elects to revoke the charter,
9 the sponsor or alternate sponsor, upon a request by the charter school,
10 shall provide technical assistance to the charter school in completing
11 the plan required and carrying out the tasks identified in subsection
12 (7) of this section.

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

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

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

22 (ii) Assign staff responsible for transition of student records and
23 for providing assistance to students and parents in transferring from
24 the charter school to the district public, private, or home school
25 chosen by the family;

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

32 (b) Prior to closing the charter school the charter school board of
33 directors shall:

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

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

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

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

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

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

11 (vii) Provide the sponsor or alternate sponsor with a plan for the
12 closure of the school and final disposition of all property owned by
13 the charter school.

14 NEW SECTION. **Sec. 12.** FUNDING. (1) For charter schools sponsored
15 by a school district:

16 (a) For purposes of funding, students in charter schools shall be
17 considered students of the sponsoring district for state apportionment
18 purposes. Without violating section 13 of this act, the sponsoring
19 school district shall provide prompt and timely funding for charter
20 schools in amounts the schools would have generated if the students
21 were enrolled in a noncharter public school in the district except that
22 a charter school shall not generate eligibility for small school
23 assistance. Funding for charter schools shall include regular
24 apportionment, categorical, student achievement, and nonbasic education
25 moneys, as appropriate and shall be based on enrollment, staffing, and
26 other financial information submitted by the charter school to the
27 school district as required to determine state apportionment amounts;

28 (b) Local levy moneys approved by the voters before the effective
29 date of a charter between a school district and an applicant shall not
30 be allocated to a new charter school; however, the school district
31 shall allocate levy moneys to a conversion charter school. For levies
32 approved after the effective date of a charter, charter schools shall
33 be included in levy planning, budgets, and funding distribution in the
34 same manner as other district-sponsored public schools in the district;
35 and

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

4 (2) For charter schools sponsored by an educational service
5 district or an institution of higher education:

6 (a) For purposes of funding, the charter school shall be considered
7 a separate school district only for state apportionment purposes and
8 safety net eligibility. Without violating section 13 of this act, the
9 superintendent of public instruction shall provide prompt and timely
10 funding for charter schools through the apportionment funding formulas
11 in amounts the schools would have generated if the students were
12 enrolled in a school district except that a charter school shall not
13 generate eligibility for small school assistance. The funding shall
14 include regular apportionment, categorical, student achievement, and
15 nonbasic education moneys and shall be based on enrollment, staffing,
16 and other financial information submitted by the charter school to the
17 superintendent of public instruction, as required to determine state
18 apportionment amounts. Those allocations to charter schools that are
19 included in RCW 84.52.0531(3) (a) through (c) shall be included in the
20 levy base of the district in which the charter school is located.

21 (b) No local levy money may be allocated to a charter school if the
22 charter school is sponsored by an educational service district or an
23 institution of higher education.

24 (3) To be eligible to receive state categorical program funding, a
25 charter school must serve students who would be eligible for program
26 funding if served by the school district.

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

32 (5) A conversion charter school shall be entitled to the continued
33 rent-free use of its existing facility, regardless of whether the
34 conversion school is sponsored by the local school district, or by an
35 alternate sponsor if the district has consented to such alternate
36 sponsorship. The district shall remain responsible for major repairs
37 and safety upgrades that may be required for the continued use of the

1 facility as a public school. The charter school shall be responsible
2 for routine maintenance of the facility, including but not limited to
3 cleaning, painting, gardening, and landscaping.

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

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

25 NEW SECTION. **Sec. 15.** STUDY OF CHARTER SCHOOLS. Subject to
26 funding, the Washington institute for public policy shall study the
27 implementation and effectiveness of this act. The institute shall
28 report to the legislature on the effectiveness of charter schools in
29 raising student achievement and the impact of charter schools. The
30 institute also shall examine and discuss whether and how charter
31 schools have enhanced education reform efforts and recommend whether
32 relaxing or eliminating certain regulatory requirements for other
33 public schools could result in improved school performance at those
34 schools. The institute shall recommend changes to this chapter

1 including improvements that could be made to the application and
2 approval process. A preliminary report of the study is due to the
3 legislature by March 1, 2006, and a final report is due September 1,
4 2007.

5 NEW SECTION. **Sec. 16.** NUMBER OF CHARTER SCHOOLS. (1)
6 Applications for charter schools may begin on the effective date of
7 this section. The maximum number of new charter schools that may be
8 established under a charter approved in accordance with this chapter
9 is:

10 (a) In the first year commencing July 1, 2003, and in the second
11 year commencing July 1, 2004, not more than five per year; and

12 (b) In each of the next four years, commencing July 1st of each
13 year beginning in 2005 and ending in 2008, not more than fifteen per
14 year.

15 (2) These annual allocations shall be cumulative so that if the
16 maximum number of allowable new charters is not reached in any given
17 year the maximums shall be increased accordingly for the successive
18 years.

19 (3) Consistent with the legislative intent of this chapter, a
20 majority of the annual allowable new charter schools that may be
21 established under subsection (1) of this section shall be reserved
22 until the 31st day after the effective date of this section, and until
23 April 1st of each year beginning in 2004 and ending in 2008, for the
24 implementation of charter schools established for the primary purpose
25 of serving educationally disadvantaged students, and that are located
26 in, or accessible to students who live in, geographic areas in which a
27 large proportion of the students have difficulty meeting state academic
28 content and student achievement standards, or geographic areas,
29 including urban and rural areas, in which a large proportion or number
30 of public schools have been identified for improvement, corrective
31 action, or restructuring under the federal no child left behind act of
32 2001.

33 (4) Sponsors and alternate sponsors shall promptly notify the
34 superintendent of public instruction when a charter is approved, and
35 shall indicate whether the charter school's primary purpose is to serve
36 educationally disadvantaged students. In order to ensure compliance

1 with the annual limits for the establishment of new charter schools,
2 authorization from the superintendent of public instruction must be
3 obtained before implementing an approved charter for a new school. If
4 the maximum number of new charters under subsections (1) and (3) of
5 this section has not been reached when the sponsor notifies the
6 superintendent of the approval, the superintendent shall authorize the
7 implementation of the approved charter and the establishment of the
8 school. If the charters reserved under subsection (3) of this section
9 are not authorized within thirty days of the effective date of this
10 section, or by March 31st of each year thereafter and ending in 2008,
11 the superintendent of public instruction shall notify the sponsors and
12 alternate sponsors of any other approved charters for which
13 authorization has not been granted, and shall authorize the
14 implementation of those charters within the annual limits, regardless
15 of whether those charters meet the requirements of subsection (3) of
16 this section.

17 (5) The superintendent of public instruction shall notify eligible
18 sponsors and eligible alternate sponsors when the maximum allowable
19 number of new charters is approved each year. If the maximum number is
20 not reached by the 31st day after the effective date of this section,
21 or by March 31st of each year thereafter, the superintendent shall
22 report on the number of charters approved.

23 (6) If the superintendent receives simultaneous notification of
24 approved charters that exceed the annual allowable limits in
25 subsections (1) and (3) of this section, the superintendent shall
26 select approved charters for authorization under subsection (4) of this
27 section through a lottery process, and shall assign implementation
28 dates accordingly.

29 (7) The maximum number of charter schools allowed under this
30 section does not include public schools converting to charter public
31 schools; however, conversion charter schools shall be considered
32 charter schools for the purpose of notice to the superintendent of
33 public instruction required under subsection (4) of this section.

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

36 This section applies to charter schools as defined in section 2 of

1 this act and the charter school's employees included in the bargaining
2 unit. The bargaining unit of employees of charter schools must be
3 limited to the employees of the charter school and must be separate
4 from other bargaining units in the school district or educational
5 service district unless the charter school is a public school that has
6 converted to a charter school. The employees of public schools that
7 have converted to a charter school shall remain members of the
8 bargaining units in the school district.

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

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

20 (1) This section applies to collective bargaining agreements
21 between charter schools and the employees of charter schools included
22 in the bargaining unit.

23 (a) The bargaining unit of employees of conversion charter schools
24 must be limited to the employees of the charter school and must be
25 separate from other bargaining units in the school district or
26 educational service district for at least the first five years of
27 operation of the charter school, after which the employees of a
28 conversion charter school may indicate by a majority vote they desire
29 to become members of the bargaining unit in the school district in
30 which the charter school is located.

31 (b) The bargaining unit of employees of new charter schools must be
32 limited to the employees of the charter school and must be separate
33 from other bargaining units in the school district or educational
34 service district for at least the first five years of operation of the
35 charter school, after which the employees of a new charter school may

1 indicate by a majority vote they desire to become members of the
2 bargaining unit in the school district in which the charter school is
3 located.

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

13 **Sec. 19.** RCW 41.59.080 and 1998 c 244 s 11 are each amended to
14 read as follows:

15 The commission, upon proper application for certification as an
16 exclusive bargaining representative or upon petition for change of unit
17 definition by the employer or any employee organization within the time
18 limits specified in RCW 41.59.070(3), and after hearing upon reasonable
19 notice, shall determine the unit appropriate for the purpose of
20 collective bargaining. In determining, modifying or combining the
21 bargaining unit, the commission shall consider the duties, skills, and
22 working conditions of the educational employees; the history of
23 collective bargaining; the extent of organization among the educational
24 employees; and the desire of the educational employees; except that:

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

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

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

34 (4) A unit that includes both principals and assistant principals
35 and other supervisory employees may be considered appropriate if a

1 majority of the employees in each category indicate by vote that they
2 desire to be included in such a unit; and

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

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

11 (7) Notwithstanding the definition of collective bargaining, a unit
12 that contains only supervisors and/or principals and assistant
13 principals shall be limited in scope of bargaining to compensation,
14 hours of work, and the number of days of work in the annual employment
15 contracts; and

16 (8) The bargaining unit of certificated employees of school
17 districts, educational service districts, or institutions of higher
18 education that are education providers under chapter 28A.193 RCW must
19 be limited to the employees working as education providers to juveniles
20 in each adult correctional facility maintained by the department of
21 corrections and must be separate from other bargaining units in school
22 districts, educational service districts, or institutions of higher
23 education; and

24 (9) Except as provided in sections 17 and 18 of this act, the
25 bargaining unit for employees of charter schools as defined in section
26 2 of this act must be limited to the employees of the charter school
27 and must be separate from other bargaining units in the school district
28 or educational service district.

29 **Sec. 20.** RCW 28A.150.010 and 1969 ex.s. c 223 s 28A.01.055 are
30 each amended to read as follows:

31 Public schools shall mean the common schools as referred to in
32 Article IX of the state Constitution and those schools and institutions
33 of learning having a curriculum below the college or university level
34 as now or may be established by law and maintained at public expense,
35 including charter schools under chapter 28A.-- RCW (sections 1 through
36 16 and 21 of this act).

1 NEW SECTION. **Sec. 21.** CAPTIONS NOT LAW. Captions used in this
2 chapter do not constitute any part of the law.

3 NEW SECTION. **Sec.22.** Sections 1 through 16 and 21 of this act
4 constitute a new chapter in Title 28A RCW.

5 NEW SECTION. **Sec. 23.** If any provision of this act or its
6 application to any person or circumstance is held invalid, the
7 remainder of the act or the application of the provision to other
8 persons or circumstances is not affected."

ESSB 5012 - S AMD 467
By Senator Johnson

ADOPTED 06/10/2003

9 On page 1, line 1 of the title, after "schools;" strike the
10 remainder of the title and insert "amending RCW 41.59.080 and
11 28A.150.010; adding a new section to chapter 41.56 RCW; adding a new
12 section to chapter 41.59 RCW; and adding a new chapter to Title 28A
13 RCW."

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