



DN

✓ P3

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT *to repeal* 118.40 (2) (c); and *to create* 118.40 (8) of the statutes; relating
2 to: appeals of decisions relating to charter schools.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 118.40 (2) (c) of the statutes is repealed.

4 SECTION 2. 118.40 (8) of the statutes is created to read:

5 118.40 (8) APPEALS. (a) If any of the following occurs, a person seeking to
6 operate or to continue to operate a charter school under contract with a school board
7 or an entity under sub. (2r) (b) may appeal to the state superintendent within 15 days
8 of the denial ^{, refusal,} or revocation:

9 1. The person has filed a petition with the school district clerk under sub. (1m)

10 (a) and the school board has denied the petition.

1 2. The person has submitted a proposed contract that includes all of the
2 provisions specified in sub. (1m) (b) to the school board, requesting the school board
3 to contract with the person under sub. (2m), and the school board has denied the
4 person's request.

5 3. The person has submitted a proposed contract that includes all of the
6 provisions specified in sub. (1m) (b) to an entity under sub. (2r) (b), requesting the
7 entity to contract with the person under sub. (2r), and the entity has denied the
8 person's request.

9 4. A school board, or the entity that contracted with the person to operate a
10 charter school under sub. (2r) (b), ~~revokes the person's charter under sub. (5) or~~
11 refuses to renew the person's charter.

2-11 →

12 (b) 1. Failure to act on a petition within 60 days after the public hearing under
13 sub. (2) (a) constitutes denial of the petition under par. (a) 1.

14 2. Failure to act on a proposed contract submitted to a school board under sub.
15 (2m) (a) or to an entity under sub. (2r) (b) within 60 days ^{after} of its submittal constitutes
16 denial of the request under par. (a) 2. or 3.

2-16 →

17 (c) ~~Within 15 days of receiving an appeal under par. (a), the state~~
18 ~~superintendent shall~~ ^{an impartial person or persons} appoint a ~~charter school appeal board~~ ^{The person or persons appointed} to hear the appeal. ~~The~~
19 ~~charter school appeal board~~ ^{be} shall consist of ~~8~~ residents of this state who do not reside
20 within the school district in which the proposed or existing charter school is located
21 and ^{who} are not officials of, employed by, or affiliated with ~~any~~ ^{the department, a} school district, ^{an} entity
22 specified under sub. (2r) (b), or ^a charter school. ~~The state superintendent shall set the~~
23 ~~time and place for meetings of the board. The charter school appeal board does not~~
24 ~~have rule-making authority.~~

The state superintendent may hear an appeal ^{received} under par. (a) or may

In reaching a decision on an appeal received under par. (a) 1. state superintendent or person or persons appointed under par. (e)

(d) ~~In making its decision,~~ the charter school appeal board shall consider the following factors:

1. The level of support for the charter school among the parents of pupils who attend or who may attend the charter school.
2. The potential for the charter school to offer additional educational choices for pupils.

~~3. The plans of the charter school or proposed charter school for school governance and for measuring pupil academic progress.~~

3.4. The potential for the charter school to improve public education through the implementation of innovative educational programs or methods.

(f) ~~(e)~~ The charter school appeal board shall issue a decision on an appeal within 60 ~~90~~ days of its ~~appointment~~ ^{receipt by the state superintendent} under par. (a). ~~limits~~ ^{(a) The} decision, ~~the board~~ ^{include an} may order the school board or entity under sub. (2r) (b) to enter into, renew, or maintain a charter school contract with the appellant. ^{ins. 3-14} The charter school appeal board's decision is final and not subject to judicial review under ch. 227. ~~Upon issuing its decision, the charter school appeal board is terminated.~~

SECTION 3. Initial applicability.

(1) The treatment of section 118.40 (2) (c) of the statutes first applies to appeals received by the department of public instruction on the effective date of this subsection.

(END)

3-10 →

this paragraph

2-11. ✓

5. A school board, or the entity that
contracted with the person to operate a
charter school under sub. (2v)(b), revokes
the person's charter under sub. (5). ✓

2-16

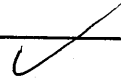
3. Failure to renew a contract within
30 days after its expiration constitutes refusal
to renew under par. (a) 4.

3-10 ✓

~~(e) If an appeal is received under par. (a) 5,~~

(e) In reaching a decision on an appeal received under par. (a) 5, the state superintendent ^{or} ~~or~~ person ^{or} ~~or~~ persons appointed by the state under par. (c) shall determine whether ~~the~~ ~~charter~~ ~~substantive~~ grounds for ~~renewal~~ ~~revocation~~ of the charter is justified under sub. (5).

3-14



~~the board~~ ^{allow} OR may authorize any entity
 authorized to contract with ~~an individual or~~
 for the
~~group's~~ operation of a school as a charter school
 under sub. (2r)(b) to contract with the appellant
 to operate a charter school. If the decision
 does the latter, ~~sub.~~

~~If the decision is limited to~~
~~Subsections~~ (2r)(b), (c), (e) 2., and (f)
 does
 not apply to the charter school established

DN

: King:

Senn:

Do you want to require that a charter school established under sub. (8) (f) by a different entity be established in the school district in which the appellant ^{originally} wanted the ~~original~~ charter school?

PG

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2716/P3dn
PG:kmg:pg

September 11, 2003

Senn:

Do you want to require that a charter school established under sub. (8) (f) by a different entity be established in the school district in which the appellant originally wanted the charter school?

*9/11/03
John Brown : NO , don't limit it to that*

Peter R. Grant
Managing Attorney
Phone: (608) 267-3362
E-mail: peter.grant@legis.state.wi.us

DN

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SOON

1 AN ACT to repeal 118.40 (2) (c); and to create 118.40 (8) of the statutes; relating
2 to: appeals of decisions relating to charter schools.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

see attached

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 118.40 (2) (c) of the statutes is repealed.

4 SECTION 2. 118.40 (8) of the statutes is created to read:

5 118.40 (8) APPEALS. (a) If any of the following occurs, a person seeking to
6 operate or to continue to operate a charter school under contract with a school board
7 or an entity under sub. (2r) (b) may appeal to the state superintendent within 15 days
8 of the denial, refusal, or revocation:

9 1. The person has filed a petition with the school district clerk under sub. (1m)
10 (a) and the school board has denied the petition.

1 2. The person has submitted a proposed contract that includes all of the
2 provisions specified in sub. (1m) (b) to the school board, requesting the school board
3 to contract with the person under sub. (2m), and the school board has denied the
4 person's request.

5 3. The person has submitted a proposed contract that includes all of the
6 provisions specified in sub. (1m) (b) to an entity under sub. (2r) (b), requesting the
7 entity to contract with the person under sub. (2r), and the entity has denied the
8 person's request.

9 4. A school board, or the entity that contracted with the person to operate a
10 charter school under sub. (2r) (b), refuses to renew the person's charter.

11 5. A school board, or the entity that contracted with the person to operate a
12 charter school under sub. (2r) (b), revokes the person's charter under sub. (5).

13 (b) 1. Failure to act on a petition within 60 days after the public hearing under
14 sub. (2) (a) constitutes denial of the petition under par. (a) 1.

15 2. Failure to act on a proposed contract submitted to a school board under sub.
16 (2m) (a) or to an entity under sub. (2r) (b) within 60 days after its submittal
17 constitutes denial of the request under par. (a) 2. or 3.

18 3. Failure to renew a contract within 30 days after its expiration constitutes
19 refusal to renew under par. (a) 4.

20 (c) The state superintendent may hear an appeal received under par. (a) or may
21 appoint an impartial person or persons to hear the appeal. The person or persons
22 appointed shall be residents of this state who do not reside within the school district
23 in which the proposed or existing charter school is ^{or will be} located and who are not officials
24 of, employed by, or affiliated with the department, a school district, an entity
25 specified under sub. (2r) (b), or a charter school.

1 (d) In reaching a decision on an appeal received under par. (a) 1. to 4., the state
2 superintendent or person or persons appointed under par. (c) shall consider the
3 following factors:

4 1. The level of support for the charter school among the parents of pupils who
5 attend or who may attend the charter school.

6 2. The potential for the charter school to offer additional educational choices
7 for pupils.

8 3. The potential for the charter school to improve public education through the
9 implementation of innovative educational programs or methods.

10 (e) In reaching a decision on an appeal received under par. (a) 5., the state
11 superintendent or person or persons appointed under par. (c) shall determine
12 whether revocation of the charter is justified under sub. (5).

13 (f) The state superintendent or person or persons appointed under par. (c) shall
14 issue a decision on an appeal within 60 days of its receipt by the state superintendent
15 under par. (a). The decision may include an order for the school board or entity under
16 sub. (2r) (b) to enter into, renew, or maintain a charter school contract with the
17 appellant or may allow any entity authorized to contract for the operation of a school
18 as a charter school under sub. (2r) (b) to contract with the appellant to operate a
19 charter school. If the decision does the latter, sub. (2r) (bm), (cm), (e) 2., and (f) does
20 not apply to the charter school established. The decision under this paragraph is
21 final and not subject to judicial review under ch. 227.

22 **SECTION 3. Initial applicability.**

✓
(g) Subchapter III of ch. 227 applies to appeals
under this subsection insofar as it does not conflict
with this subsection.

ANALYSIS

2003 SENATE BILL 220

July 30, 2003 - Introduced by Senators DARLING, WELCH, KANAVAS, ROESSLER, LAZICH and STEPP, cosponsored by Representatives JENSEN, ZIEGELBAUER, VUKMIR, TOWNS, GIELOW, KRAWCZYK, JESKEWITZ, GROTHMAN, NISCHKE, NASS, LEMAHIEU, MCCORMICK, OWENS, J. WOOD and ALBERS. Referred to Committee on Education, Ethics and Elections.

1 AN ACT to amend 118.40 (2r) (c) 1 and 121.54 (2) (c); and to repeal and recreate
2 118.40 (2r) (c) 2. of the statutes; relating to: charter schools located in a 1st
3 class city school district.

Analysis by the Legislative Reference Bureau

Under current law, school boards may enter into contracts with individuals, groups, businesses, or governmental bodies to establish charter schools, which operate with fewer constraints than traditional public schools. Current law also permits the University of Wisconsin-Milwaukee, the University of Wisconsin-Parkside, the Milwaukee Area Technical College, and the city of Milwaukee to operate charter schools (independent charter schools) directly or to contract for the operation of charter schools. Only pupils who reside in the school district in which an independent charter school is located may attend the charter school.

~~This bill allows a pupil who resides outside the Milwaukee school district to attend an independent charter school located in the Milwaukee school district. The bill also explicitly authorizes a school board to transport pupils to and from a charter school. If a school board elects to do so, it receives state transportation aid.~~

insert

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

insert

At Currently, if the board of directors of the Milwaukee Public Schools (MPS) denies a petition from a person requesting ~~the school board~~ ^{MPS} to establish a charter school, the person seeking to operate the charter school may appeal the denial to the State Superintendent of Public Instruction. This provision applies only to denials of petitions by MPS.

This bill establishes an appeal process for denials of petitions, as well as other ^{types of} decisions relating to charter schools, by any school board or other entity authorized to establish independent charter schools. Under the bill, a person seeking to operate a charter school under contract with a school board or other entity may

appeal to the State Superintendent if any of the following occurs:

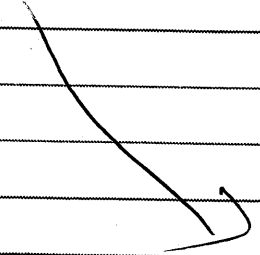
1. The person has filed a petition requesting ~~with~~ a school board to establish a charter school and the school board has denied the petition.

2. The person has submitted a charter school or other entity, proposed a contract to a school board and the school board or other entity has denied the person's request to enter into the contract.

3. A school board or other entity ~~has~~ refuses to renew a charter school contract with the person.

4. A school board or other entity revokes the person's charter school contract.

The State Superintendent may hear the appeal or may appoint a person or persons to hear the appeal. Appointees ~~must~~ may not be residents of the school district in which the proposed or existing charter school is or will be located or officials of, employed by, or affiliated with the Department of Public Instruction, a school district, a charter school, or an entity authorized to establish a charter school. The person or persons hearing the appeal must consider the following factors in reaching a decision unless the appeal concerns ~~such~~ revocation of a contract:



1 (d) In reaching a decision on an appeal received under par. (a) 1. to 4., the state
2 superintendent or person or persons appointed under par. (c) shall consider the
3 following factors:

4 1. The level of support for the charter school among the parents of pupils who
5 attend or who may attend the charter school.

6 2. The potential for the charter school to offer additional educational choices
7 for pupils.

8 3. The potential for the charter school to improve public education through the
9 implementation of innovative educational programs or methods.

10 (e) In reaching a decision on an appeal received under par. (a) 5., the state
11 superintendent or person or persons appointed under par. (c) shall determine
12 whether revocation of the charter is justified under sub. (5).

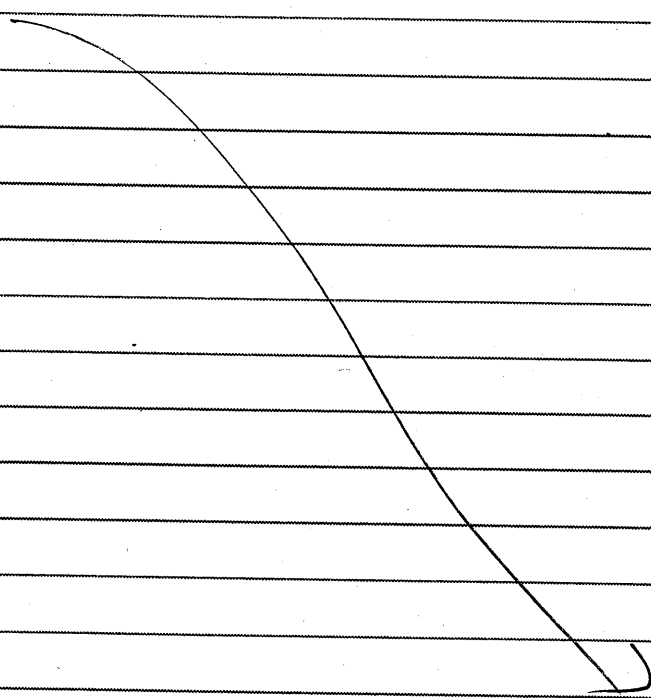
13 (f) The state superintendent or person or persons appointed under par. (c) shall
14 issue a decision on an appeal within 60 days of its receipt by the state superintendent
15 under par. (a). The decision may include an order for the school board or entity under
16 sub. (2r) (b) to enter into, renew, or maintain a charter school contract with the
17 appellant or may allow any entity authorized to contract for the operation of a school
18 as a charter school under sub. (2r) (b) to contract with the appellant to operate a
19 charter school. If the decision does the latter, sub. (2r) (bm), (cm), (e) 2., and (f) does
20 not apply to the charter school established. The decision under this paragraph is
21 final and not subject to judicial review under ch. 227.

22 **SECTION 3. Initial applicability.**



¶ If the appeal concerns revocation of a contract, the person or persons hearing the appeal must determine whether revocation is justified; ^(I) i.e., whether any of the following

~~applies~~
applies



Section #. 118.40 (5) of the statutes

118.40 (5) CHARTER REVOCATION. A charter may be revoked by the school board or the entity under sub. (2r) (b) that contracted with the charter school if the school board or, if applicable, the entity under sub. (2r) (b) finds that any of the following occurred:

1. ~~(b)~~ The charter school violated its contract with the school board or ^{other} ~~the~~ entity ~~under sub (2r)(b)~~.
2. ~~(b)~~ The pupils enrolled in the charter school failed to make sufficient progress toward attaining the ^{statutory} educational goals ~~under 118.40~~.
3. ~~(b)~~ The charter school failed to comply with generally accepted accounting standards of fiscal management.
4. ~~(b)~~ The charter school violated ~~this section~~ ^{the charter school law}.

History: 1993 a. 16, 490; 1995 a. 27 ss. 3983m to 3992m, 9145 (1); 1997 a. 27, 238-252; 1999 a. 9; 1999 a. 150 s. 672; 2001 a. 16, 105; 2003 a. 33.

¶ The person or persons hearing ~~the~~ an appeal may include in the decision an order for the school board or other entity to enter into, renew, or maintain a charter school contract with the appellant. Alternatively, the decision may allow ~~any~~ the University of Wisconsin - Milwaukee, the University of Wisconsin - Parkside, ^{the} Milwaukee Area Technical College, or the city of Milwaukee to contract with the appellant to operate a charter school. If the decision does so, ~~the~~ the bill provides that none of the current statutory limitations on these contracts ~~would~~ ^{applies} apply. (For example, current law allows the University of Wisconsin - Parkside to establish only one charter school, which may not operate high school grades, ~~and~~ which may

not accommodate more ~~than~~ ^{(than} 400 pupils.)

¶ Finally, the bill provides that the decision is final and not subject to judicial review.

FE-SL

DN

: King:

Penn:

I address par. (g), providing that subch. III of ch. 22T applies to the appeals insofar as it does not conflict with other provisions in

sub. (8). OK? ^{III} That Subchapter provides ~~for~~ answers to numerous questions, such as: ^{CAA} ~~as to~~ ^{→ Who} ~~are~~ the parties? Is cross-examination allowed?

What kind of notice of the hearing is required?

Must there be ^e a ^e conference ^{conference} before the hearing?

~~Potential~~ ^g ~~will~~ the hearing be recorded?

Who has access ^{access} to the recording? Who ~~is~~ ^{is}

entitled to ^g copy of the decision?

PG

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2716/1dn
PG:kmg:jf

September 16, 2003

Senn:

I added par. (g), providing that subch. III of ch. 227 applies to the appeals insofar as it does not conflict with provisions in sub. (8). OK? Subchapter III provides answers to numerous questions, such as: Who are the parties? Is cross-examination allowed? What kind of notice of the hearing is required? Must there be a conference before the hearing? Will the hearing be recorded? Who has access to the recording? Who is entitled to a copy of the decision?

Peter R. Grant
Managing Attorney
Phone: (608) 267-3362
E-mail: peter.grant@legis.state.wi.us

9/22/03

TC w/ John Brown

1. A p. 2 R 10-11, Subch. 3 of 227

does not apply; DOI must adopt rules for
these appeals.

2. Allow only sch-bds. to appeal.



500

2003 BILL

1 AN ACT to repeal 118.40 (2) (c); and to create 118.40 (8) of the statutes; relating
2 to: appeals of decisions relating to charter schools.

Men. Cat -

and requiring the exercise of policymaking authority

Analysis by the Legislative Reference Bureau

Under current law, school boards may enter into contracts with individuals, groups, businesses, or governmental bodies to establish charter schools, which operate with fewer constraints than traditional public schools. Current law also permits the University of Wisconsin-Milwaukee, the University of Wisconsin-Parkside, the Milwaukee Area Technical College, and the city of Milwaukee to operate charter schools (independent charter schools) directly or to contract for the operation of charter schools. Only pupils who reside in the school district in which an independent charter school is located may attend the charter school.

Currently, if the board of directors of the Milwaukee Public Schools (MPS) denies a petition requesting MPS to establish a charter school, the person seeking to operate the charter school may appeal the denial to the state superintendent of public instruction. This provision applies only to denials of petitions by MPS.

This bill establishes an appeal process for denials of petitions, as well as other types of decisions relating to charter schools, by ~~any school board or entity authorized to establish independent charter schools~~. Under the bill, a person seeking to operate a charter school under contract with a school board ~~or other entity~~ may appeal to the state superintendent if any of the following occurs:

1. The person has filed a petition requesting a school board to establish a charter school and the school board has denied the petition.

a

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2. The person has submitted a proposed charter school contract to a school board ~~or other entity~~ and the school board ~~or other entity~~ has denied the person's request to enter into the contract.

3. A school board ~~or other entity~~ refuses to renew a charter school contract with the person.

4. A school board ~~or other entity~~ revokes the person's charter school contract.

The state superintendent may hear the appeal or may appoint a person or persons to hear the appeal. Appointees may not be residents of the school district in which the proposed or existing charter school is or will be located or officials of, employed by, or affiliated with the Department of Public Instruction, a school district, a charter school, ~~or an entity authorized to establish a charter school~~. The person or persons hearing the appeal must consider the following factors in reaching a decision unless the appeal concerns revocation of a contract:

1. The level of support for the charter school among the parents of pupils who attend or who may attend the charter school.

2. The potential for the charter school to offer additional educational choices for pupils.

3. The potential for the charter school to improve public education through the implementation of innovative educational programs or methods.

If the appeal concerns revocation of a contract, the person or persons hearing the appeal must determine whether revocation is justified; *i.e.*, whether any of the following applies:

1. The charter school violated its contract with the school board ~~or other entity~~.

2. The pupils enrolled in the charter school failed to make sufficient progress toward attaining the statutory educational goals.

3. The charter school failed to comply with generally accepted accounting standards of fiscal management.

4. The charter school violated ^{the} charter school law.

The person or persons hearing an appeal may include in the decision an order for the school board ~~or other entity~~ to enter into, renew, or maintain a charter school contract with the appellant. Alternatively, the decision may allow the University of Wisconsin-Milwaukee, the University of Wisconsin-Parkside, the Milwaukee Area Technical College, or the city of Milwaukee to contract with the appellant to operate a charter school. If the decision does so, the bill provides that none of the current statutory limitations on those contracts applies. (For example, current law allows the University of Wisconsin-Parkside to establish only one charter school, which may not operate high school grades, and which may not accommodate more than 400 pupils.)

Finally, the bill provides that the decision is final and not subject to judicial review.

BILL

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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2 **SECTION 2.** 118.40 (8) of the statutes is created to read:

3 118.40 (8) APPEALS. (a) If any of the following occurs, a person seeking to
4 operate or to continue to operate a charter school under contract with a school board
5 ~~or an entity under sub. (2r) (b)~~ may appeal to the state superintendent within 15 days
6 of the denial, refusal, or revocation:

7 1. The person has filed a petition with the school district clerk under sub. (1m)
8 (a) and the school board has denied the petition.

9 2. The person has submitted a proposed contract that includes all of the
10 provisions specified in sub. (1m) (b) to the school board, requesting the school board
11 to contract with the person under sub. (2m), and the school board has denied the
12 person's request.

13 3. The person has submitted a proposed contract that includes all of the
14 provisions specified in sub. (1m) (b) to an entity under sub. (2r) (b), requesting the
15 entity to contract with the person under sub. (2r), and the entity has denied the
16 person's request.

17 3. ~~2~~ A school board, ~~or the entity that contracted with the person to operate a~~
18 ~~charter school under sub. (2r) (b)~~, refuses to renew ^a the person's charter.

19 4. ~~3~~ A school board, ~~or the entity that contracted with the person to operate a~~
20 ~~charter school under sub. (2r) (b)~~, revokes ^a the person's charter under sub. (5).

BILL

1 (b) 1. Failure to act on a petition within 60 days after the public hearing under
2 sub. (2) (a) constitutes denial of the petition under par. (a) 1.

3 2. Failure to act on a proposed contract submitted to a school board under sub.
4 (2m) (a) ~~or to an entity under sub. (2) (a)~~ within 60 days after its submittal
5 constitutes denial of the request under par. (a) 2. ~~or~~

6 3. Failure to renew a contract within 30 days after its expiration constitutes
7 refusal to renew under par. (a) ~~4~~ ^{3 ✓ u}

8 (c) The state superintendent may hear an appeal received under par. (a) or may
9 appoint an impartial person or persons to hear the appeal. The person or persons
10 appointed shall be residents of this state who do not reside within the school district
11 in which the proposed or existing charter school is or will be located and who are not
12 officials of, employed by, or affiliated with the department, a school district, ~~an entity~~
13 ~~specified under sub. (2) (a)~~ or a charter school.

14 (d) In reaching a decision on an appeal received under par. (a) 1. to ³ ~~4~~, the state
15 superintendent or person or persons appointed under par. (c) shall consider the
16 following factors:

17 1. The level of support for the charter school among the parents of pupils who
18 attend or who may attend the charter school.

19 2. The potential for the charter school to offer additional educational choices
20 for pupils.

21 3. The potential for the charter school to improve public education through the
22 implementation of innovative educational programs or methods.

23 (e) In reaching a decision on an appeal received under par. (a) ~~4~~ ⁴, the state
24 superintendent or person or persons appointed under par. (c) shall determine
25 whether revocation of the charter is justified under sub. (5).

BILL

1 (f) The state superintendent or person or persons appointed under par. (c) shall
 2 issue a decision on an appeal within 60 days of its receipt by the state superintendent
 3 under par. (a). The decision may include an order for the school board ~~or entity under~~
 4 ~~sub. (2r) (b)~~ to enter into, renew, or maintain a charter school contract with the
 5 appellant or may allow any entity authorized to contract for the operation of a school
 6 as a charter school under sub. (2r) (b) to contract with the appellant to operate a
 7 charter school. If the decision does the latter, sub. (2r) (bm), (cm), (e) 2., and (f) does
 8 not apply to the charter school established. The decision under this paragraph is
 9 final and not subject to judicial review under ch. 227.

10 (g) Subchapter III of ch. 227 ^{does not apply} applies to appeals under this subsection ^{insofar}
 11 ~~as it does not conflict with this subsection.~~ The state superintendent shall

SECTION 3. Initial applicability.

12 (1) The treatment of section 118.40 (2) (c) of the statutes first applies to appeals
 13 received by the department of public instruction on the effective date of this
 14 subsection.
 15
 16

(END)

promulgate rules
 establishing procedures
 for appeals under

(ES)