



2003 SENATE BILL 321

November 19, 2003 - Introduced by Senators DARLING, STEPP, LAZICH, REYNOLDS, ROESSLER and A. LASEE, cosponsored by Representatives JENSEN, LEMAHIEU, LADWIG, MCCORMICK, ALBERS, HINES, STONE, GUNDERSON, TOWNS, GIELOW and HUNDERTMARK. Referred to Committee on Education, Ethics and Elections.

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 and requiring the exercise
3 of rule-making 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 a school board. Under the bill, a person seeking to operate a charter school under contract with a school board 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.

SENATE BILL 321

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

3. A school board refuses to renew a charter school contract with the person.

4. A school board 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, or 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.

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 the appeal may include in the decision an order for the school board 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.

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:

SENATE BILL 321

1 **SECTION 1.** 118.40 (2) (c) of the statutes is repealed.

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 may appeal to the state superintendent within 15 days of the denial, refusal, or
6 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. A school board refuses to renew a person's charter.

14 4. A school board revokes a person's charter under sub. (5).

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

17 2. Failure to act on a proposed contract submitted to a school board under sub.
18 (2m) (a) within 60 days after its submittal constitutes denial of the request under par.
19 (a) 2.

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

22 (c) The state superintendent may hear an appeal received under par. (a) or may
23 appoint an impartial person or persons to hear the appeal. The person or persons
24 appointed shall be residents of this state who do not reside within the school district
25 in which the proposed or existing charter school is or will be located and who are not

SENATE BILL 321**SECTION 2**

1 officials of, employed by, or affiliated with the department, a school district, or a
2 charter school.

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

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

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

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

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

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

