

2011 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB22)

Received: **04/26/2011**

Received By: **pgrant**

Wanted: **As time permits**

Companion to LRB:

For: **Luther Olsen (608) 266-0751**

By/Representing: **Sarah Archibald**

May Contact:

Drafter: **pgrant**

Subject: **Education - charter schools**

Addl. Drafters:

Extra Copies: **TKK**

Submit via email: **YES**

Requester's email: **Sen.Olsen@legis.wisconsin.gov**

Carbon copy (CC:) to: **sarah.archibald@legis.wisconsin.gov**
Anne.Sappenfield@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Charter schools

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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13 yrs 5/24/11
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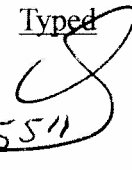
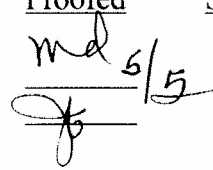
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FE Sent For:

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for s.sub to
SB 22

rec'd 4/26/11
Olson
Sarah
3 p.m.
60151

Composition of Charter School Authorizing Board

pp. 3-4, Section 2:

15.56 Charter school authorizing board. (1) There is created a charter school authorizing board consisting of the following nine members:

- (a) Six of the members shall be appointed for 3-year terms by the governor.
- (b) Two of the members shall be appointed for 3-year terms by the state superintendent of public instruction from a list of nominees provided by the Wisconsin Association of School Boards and the Wisconsin Association of School District Administrators.
- (c) One member shall be the state superintendent of public instruction.

(2) The appointing authorities under sub. (1) shall ensure to the extent feasible that members appointed to the board are geographically diverse and have experience and expertise in governing public and nonprofit organizations; in management and finance; in public school leadership, assessment, and curriculum and instruction; and in education law; and understand and are committed to the use of charter schools to strengthen public education.

(3) Except for the state superintendent of public instruction, no member of the board may serve more than 2 consecutive terms.

(4) The board does not have rulemaking authority.

pp. 20-21, Section 65:

65. Nonstatutory provisions. (1) Notwithstanding 15.56 (1) of the statutes, as created by this act, of the initial members appointed to the charter school authorizing board under section 15.56 (1) (a) of the statutes, as created by this act, two members shall be appointed for a term expiring on May 1, 2013, two members shall be appointed for a term expiring on May 1, 2014, and two members shall be appointed for a term expiring on May 1, 2015; and of the initial members appointed under section 15.56 (1) (b) of the statutes, as created by this act, one member shall be appointed for a term expiring on May 1, 2013 and one member shall be appointed for a term expiring on May 1, 2014.

Path to Charter School Authorizing Board

- (a) This section is only applicable to applications to the charter school authorizing board.
- (b) An applicant for a public charter school shall submit an application concurrently to the local school board in which the school is to be located and the charter school authorizing board.
- (c) Within ninety (90) days from the date the application is received, the local school board must either: (i) consider the application, approve it, and enter into a mutually

agreed upon contract with the applicant; or (ii) consider the application and deny it; or (iii) refer the application to the charter school authorizing board.

(d) The charter school authorizing board may either: (i) consider the application and approve it by a majority vote; or (ii) consider the application and deny it by a majority vote. The charter school authorizing board shall take into consideration any support or opposition by the local school board on an application when it votes to approve or deny an application.

Charter School Authorizing Board-Approved Charter Contracts

(a) This section is only applicable to charter contracts authorized by the charter school authorizing board.

(b) The charter school authorizing board may authorize no more than five charter contracts in fiscal year 2012.

(c) During each fiscal year after fiscal year 2012, the maximum number of charter contracts authorized by the charter school authorizing board is increased by five.

(d) The limits resulting from subsections (b) and (c) are cumulative from year to year.

(e) This section is repealed in fiscal year 2017.

11-12 : 5
12-13 : 10
13-14 : 15
14-15 : 20
15-16 : 25

Immunity from Civil and Criminal Liability

On p. 16, delete lines 11-15.

Authorizer Reporting

(f) Annually, submit to the state superintendent and to the legislature under s. 13.172 (2) a report that includes all of the following:

1. An identification of each charter school operating under contract with the school board or entity under sub. (2r) (b), each charter school that operated under a contract with the school board or entity but had its contract non-renewed or revoked or that closed, and each charter school under contract with the school board or entity that has not yet begun to operate.
2. The academic and financial performance of each charter school operated under contract with the school board or entity under sub. (2r) (b).
3. The operating costs of the school board or entity under sub. (2r) (b) incurred under pars. (a) to (e) detailed in an annual budget for the school board or entity under sub. (2r) (b).

- + include payments att'd

0569

- WETF : copies of technical 1's
from math stores

will contact me

- + att'd list

4/26/11

Dave Lippnow - Layla Merrifield
for Sarah Archibald / Sen. Olsen

amnt to SB 22

pay (2r) charters like open enrollment -

i.e.: for ch. schools under 1c w/ state auth bid.

sch. list. of res. wants kids enrolled
in a ch. sch. under 1c w/ (for st. aid + rev. et. purposes

+ DPI subtracts from their sd. the
(2r) amt amt. per pupil

use OPE model

ask Sarah:

60951

1) exclude ancient authorizations, et? ✓

2) include CESA's? (new authorizer) Yes

~~use~~ use in some years
as content

Grant, Peter

From: Stohr, Matthew [Matthew.Stohr@etf.state.wi.us]
Sent: Wednesday, April 27, 2011 10:52 AM
To: Archibald, Sarah
Cc: Grant, Peter; Hurley, Steve - ETF
Subject: Proposed Amendments for SB-22 4-27-2011.docx
Importance: High
Attachments: Proposed Amendments for SB-22 4-27-2011.docx

Sarah:

Per our discussion, please find attached ETF's recommended changes to SB 22. The attachment includes draft language (in the white areas) and an explanation about each change (in the gray areas). The attachment was prepared by Steve Hurley, ETF Policy Director. If you or Peter have questions about ETF's suggestions, please contact Steve at 267.2847.

Thanks again,
Matt Stohr, Administrator
Division of Retirement Services
WI Department of Employee Trust Funds
608.266.1210 (phone)
etf.wi.gov



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Recommended Changes to 2011 SB-22 (Charter Schools)

April 27, 2011

- **Delete Section 4 (Page 4):** A separate health insurance appropriation is not necessary if charter schools are considered employers under the Wisconsin Retirement System. All WRS employers are automatically accorded the option of health insurance coverage.

SECTION 4. ~~20.515 (1) (g) of the statutes is created to read:~~

~~20.515 (1) (g) *Benefit and coverage payments; charter school health care coverage.* All moneys received from charter school governing boards under s. 40.515 who elect to provide coverage for their employees in a health care coverage plan under s. 40.51 (7), for the payment of benefits and the cost of administering benefits under s. 40.515.~~

- **Delete Sections 10 and 11 (Page 6):** Under the current system all other employers must first become a WRS employers before opting for health insurance coverage. The provisions in sections 10 and 11 would permit charter schools to opt for health insurance coverage without first becoming a WRS employer. All WRS employers are automatically accorded the option of health insurance coverage under current law.

SECTION 10. ~~40.51 (1) of the statutes is amended to read:~~

~~40.51 (1) The procedures and provisions pertaining to enrollment, premium transmitted and coverage of eligible employees and employees eligible for health care coverage under s. 40.515 for health care benefits shall be established by contractor rule except as otherwise specifically provided by this chapter.~~

SECTION 11. ~~40.515 of the statutes is created to read:~~

~~40.515 Health care coverage for individuals employed by charter school governing boards. Beginning on the January 1 that first occurs after the effective date of this subsection [LRB inserts date], any charter school governing board operating a charter school under contract with the charter school authorizing board may elect coverage for its employees under any health care coverage plan offered to local government employees under s. 40.51 (7), during any applicable enrollment period, subject to any conditions established by contract or by rule under s. 40.51 (1).~~

- **Amend Section 44 (Page 16) and Create New Section 10:** Under the current system, when a new entity takes over educating students, that new entity assumes the WRS responsibilities (for example, in a school district consolidation). It is not clear in SB-22 how outstanding prior service liabilities would be covered in the event a charter school terminates participation in the WRS. The proposed amendment and new s. 40.05 (2) (f) 9 would allocate liability to the successor employer first, and if there is none, the liability is allocated to the relevant school board or authorizing entity.

Recommended Changes to 2011 SB-22 (Charter Schools)

April 27, 2011

SECTION 44. 118.40 (4) (e) of the statutes is created to read:

118.40 (4) (e) *Immunity from civil and criminal liability.* A school board or an entity under sub. (2r) (b), and its officers and employees, are immune from civil and criminal liability for any activities of a charter school with which the school board or entity under sub. (2r) (b) contracts: except as provided in s. 40.05 (2) (f) 9.

SECTION 10. 40.05 (2) (f) 9 of the statutes is created to read:

If the participating employer was a charter school under contract with a school board or with an authorizing entity specified in s. 118.40 (2r) (b) 1, and there is no successor employer to assume any outstanding obligations under the terms of this paragraph, the outstanding obligation shall be the responsibility of the school board or authorizing entity that contracted for the establishment of the charter school.

Grant, Peter

From: Hurley, Steve [Steve.Hurley@etf.state.wi.us]
Sent: Thursday, April 28, 2011 11:23 AM
To: Grant, Peter
Subject: FW: Proposed Amendments for SB-22 4-27-2011.docx

From: Hurley, Steve
Sent: Thursday, April 28, 2011 11:22 AM
To: 'Grant, Peter '
Cc: Stohr, Matthew; Conlin, Bob; Smith, Shawn
Subject: RE: Proposed Amendments for SB-22 4-27-2011.docx

Peter,

Thanks sending this over. In my opinion the passage you quoted should indeed be amended in light of ETF's proposed changes. Under ETF's changes, every charter school whose authorizing entity (including the Charter School Authorizing Board, which is only one of several such authorizing entities under s. 118.40(2r)(b)) elects for the charter school to participate as an employer in the Wisconsin Retirement System, may subsequently elect to provide health care for its employees under the Group Insurance Board health coverage plan for local government employees. I would suggest something like the following:

The bill allows ~~every~~ a charter school under contract with an authorizing entity, including the Charter School Authorizing Board, to provide health care for its employees under the Group Insurance Board health coverage plan for local government employees, provided that the charter school has become a participating employer in the Wisconsin Retirement System. Although a charter school's employees are not state employees and may not be local government employees, the bill provides that a charter school's governing board may elect to become a participating employer under the Wisconsin Retirement System.

The other part of the LRB analysis that should probably change is their reference to civil and criminal immunity. Here is some suggested language:

The bill provides that a charter school authorizer is immune from civil and criminal liability for the activities of the charter schools with which it has contracted, except for outstanding required contributions to the Wisconsin Retirement System that are left unpaid by a defunct Charter School and which are not assumed by a successor Charter School or other successor employer performing the governmental function previously performed by the defunct Charter School.

Please let me know if I can help further. Thanks.

Steve

Steve Hurley, Director

4/28/2011

Office of Policy, Privacy & Compliance
Wisconsin Department of Employee Trust Funds
(☎) (608) 267-2847

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From: Grant, Peter [mailto:Peter.Grant@legis.wisconsin.gov]
Sent: Thursday, April 28, 2011 9:45 AM
To: Hurley, Steve
Subject: RE: Proposed Amendments for SB-22 4-27-2011.docx

Hi Steve,

Can you tell me whether the changes recommended by ETF require changes to the LRB analysis of the bill? The relevant portion of the analysis reads as follows:

The bill allows every charter school under contract with the Charter School Authorizing Board to provide health care for its employees under the Group Insurance Board health coverage plan for local government employees. Although a charter school's employees are not state employees and may not be local government employees, the bill provides that a charter school's governing board may elect to become a participating employer under the Wisconsin Retirement System.

I'm not familiar with this area of law at all, so I really appreciate you looking at this.

Peter

From: Stohr, Matthew [mailto:Matthew.Stohr@etf.state.wi.us]
Sent: Wednesday, April 27, 2011 10:52 AM
To: Archibald, Sarah
Cc: Grant, Peter; Hurley, Steve - ETF
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Division of Retirement Services
WI Department of Employee Trust Funds
608.266.1210 (phone)
etf.wi.gov

Grant, Peter

From: Archibald, Sarah
Sent: Wednesday, April 27, 2011 1:07 PM
To: Grant, Peter
Subject: Please add LRB 0588/1 to the sub

Hi Peter,

Ok, this should be the last thing. Really. Please add LRB 0588/1 to the sub.

Thanks,
Sarah

Grant, Peter

From: Archibald, Sarah
Sent: Tuesday, April 26, 2011 3:17 PM
To: Grant, Peter
Subject: Additional changes for the sub on SB 22

Attachments: Amendment rationale (2)from Gee.docx

Hi Peter,

Here's the other list. Also, the amendment that you drafted for Luther, LRBa0569/2, should also be part of the sub. And I'm still trying to track down the ETF issue...

Thanks!
Sarah

From: Emerson, James
Sent: Friday, April 08, 2011 4:17 PM
To: Archibald, Sarah
Subject:



Amendment
rationale (2)from Ge

Below is a chart of the amendments drafted. All of these represent fixes to the bill to clarify the original intention of the provisions.

Subject	Amendment	Section	Rationale
<i>Ability of charters to join the state healthcare program.</i>	Clarifies the original language allowing charter schools the option to join the state healthcare program.	Page 6, lines 20, 22	Without this change only charter schools authorized by the state board would be able to join the health care program. The intention is for all of the independent charters to have the option to join.
<i>Constitution of charter governing boards.</i>	Clarifies the original language related to who can serve on charter governing boards.	Page 10, line 19 Page 14, line 24	Without this change, teachers and other school personnel in local districts would not be able to serve on charter governing boards for schools authorized by their own districts.
<i>Independent charters being their own LEAs</i>	Clarifies the original language to make only 2r schools their own LEAs.	Page 12, line 15 Page 16, line 16	Without this change, the bill would try to make district charters their own LEAs, which is not possible or legal.
<i>Random enrollment process for charters.</i>	Adds language to allow standard student preferences, such as sibling preferences, to the enrollment process.	Page 13, line 12	Without this change, charter schools would not be able to guarantee seats to siblings.
<i>Formula for the state board to charge fees.</i>	Fixes an error in the formula that determines the fees the state authorizing board can collect for its operations.	Page 15, lines 6, 7, 11	Without this change, the state authorizing board would have grossly insufficient funds to operate.
<i>City of Milwaukee involvement in MPS leases to charters.</i>	Fixes the language for the city of Milwaukee's participation in school leases of MPS buildings to Non Instrumentality schools.	Page 19, line 19	This change allows for more flexibility on the part of the city of Milwaukee for dealing with MPS leases to Non Instrumentality charter schools.

Below is a chart of the amendments drafted. All of these represent fixes to the bill to clarify the original intention of the provisions.

Subject	Amendment & LRB#	Section	Rationale
<i>Ability of charters to join the state healthcare program.</i>	Clarifies the original language allowing charter schools the option to join the state healthcare program. LRB 0566	Page 6, lines 20, 22	Without this change only charter schools authorized by the state board would be able to join the health care program. The intention is for all of the independent charters to have the option to join.
<i>Constitution of charter governing boards.</i>	Clarifies the original language related to who can serve on charter governing boards. LRB 0565	Page 10, line 19 Page 14, line 24	Without this change, teachers and other school personnel in local districts would not be able to serve on charter governing boards for schools authorized by their own districts.
<i>Independent charters being their own LEAs</i>	Clarifies the original language to make only 2r schools their own LEAs. LRB 0568	Page 12, line 15 Page 16, line 16	Without this change, the bill would try to make district charters their own LEAs, which is not possible or legal.
<i>Random enrollment process for charters.</i>	Adds language to allow standard student preferences, such as sibling preferences, to the enrollment process. LRB 0589	Page 13, line 12	Without this change, charter schools would not be able to guarantee seats to siblings.
<i>Formula for the state board to charge fees.</i>	Fixes an error in the formula that determines the fees the state authorizing board can collect for its operations. LRB 0567	Page 15, lines 6, 7, 11	Without this change, the state authorizing board would have grossly insufficient funds to operate.
<i>City of Milwaukee involvement in MPS leases to charters.</i>	Fixes the language for the city of Milwaukee's participation in school leases of MPS buildings to Non Instrumentality schools. LRB 0549	Page 19, line 19	This change allows for more flexibility on the part of the city of Milwaukee for dealing with MPS leases to Non Instrumentality charter schools.