



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2011 Senate Bill 22

**Senate Substitute
Amendment 1, as Amended**

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Senate Bill 22 makes various changes to current law relating to charter schools. This memo describes Senate Substitute Amendment 1 to the bill and Senate Amendments 5, 6, 8, 9, and 10 to the substitute amendment.

SENATE SUBSTITUTE AMENDMENT 1

Contracts to Establish a Charter School by Entities Other Than School Boards

Current Law

Under current law, a school board, on its own initiative or upon the petition of a specific percentage of the school district's teachers, may contract with a person to operate a charter school.

Current law also permits all of the following entities to establish and operate a charter school or, on behalf of their respective entities, to initiate a contract with an individual or group to operate a school as a charter school:

- The Common Council of the City of Milwaukee.
- The chancellor of the University of Wisconsin (UW)-Milwaukee.
- On a pilot basis, the chancellor of UW-Parkside.
- The Milwaukee Area Technical College district board.

The Substitute Amendment

The substitute amendment creates the state-level Charter School Authorizing Board (CSAB) and provides that the CSAB or the board of a cooperative educational service agency (CESA) may also contract for the operation of a charter school.

Under the substitute amendment, the CSAB is required to contract only with nonprofit organizations to operate charter schools. In addition, of the entities other than school boards that may contract for the establishment of a charter school, only a CESA board may contract for the establishment of a virtual school and my contract for the establishment of a charter school that is outside the CESA's territory.

Charter School Authorizing Board

The CSAB is comprised of nine members who are appointed for three-year terms.

The CSAB is funded by a fee imposed on charter schools authorized by the CSAB and all moneys received as gifts and grants. The fee is equal to the amount determined by dividing the operational costs of all charter schools that are operated under contract with the CSAB in the previous year by the number of pupils enrolled in the schools in the previous year, multiplied by 0.02.

Membership of the CSAB

The State Superintendent of Public Instruction is a member of the CSAB. In addition, six members are appointed by the Governor and two members are appointed by the State Superintendent from a list of nominees submitted jointly by the Wisconsin Association of School Boards and the Wisconsin Association of School District Administrators.

Requirements for Applications to the CSAB to Operate a Charter School

Under the substitute amendment, if a nonprofit corporation wishes to contract with the CSAB to operate a charter school, it must submit, by July 1, an application concurrently to the CSAB and the school board of the school district in which the corporation wishes to locate the charter school.

By October 1, the school board must either enter into a contract with the governing board of the nonprofit corporation to operate a charter school as an instrumentality of the school district or refer the application to the CSAB unless the school board and the governing body of the nonprofit corporation jointly request the CSAB for an additional 30 days.

The CSAB must review an application referred to it by February 1 and either enter into a contract with the governing body of the nonprofit corporation to operate a charter school or deny the application.

Limits on Contracts to Establish Charter Schools

The substitute amendment provides that a contract with the CSAB may only authorize the establishment of charter schools located in one school district or in the territory of one CESA.

Under the substitute amendment, the CSAB may have in effect up to the following number of contracts for the operation of charter schools in the following school years:

- In the 2012-13 school year, five contracts.
- In the 2013-14 school year, 10 contracts.
- In the 2014-15 school year, 15 contracts.
- In the 2015-16 school year, 20 contracts.
- In the 2016-17 school year, 25 contracts.
- In the 2017-18 school year or any school year thereafter, any number.

Conversion of All Public Schools in a District to Charter Schools

Current Law

Under current law, a written petition requesting the school board to establish a charter school may be filed with the school district. The petition must be signed by at least 10% of the teachers employed by the school district or by at least 50% of the teachers employed at one school of the school district. Current law specifies what must be included in such a petition. A school board may grant a petition that would result in the conversion of all public schools in the school district to charter schools if all of the following apply:

- At least 50% of the teachers employed by the school district sign the petition.
- The school board provides alternative public school attendance arrangements for pupils who do not wish to attend or are not admitted to a charter school.

If a school board does not comply with the requirement to provide alternate public school attendance arrangements, it may not enter into a contract with a person to operate a charter school that would result in the conversion of all of the public schools in the school district to charter schools.

Under current law, no pupil may be required to attend a charter school without his or her approval, if the pupil is an adult, or the approval of his or her parents or legal guardian, if the pupil is a minor.

The Substitute Amendment

Under the substitute amendment, a school board may grant a petition that would result in the conversion of all public schools in the school district to charter schools regardless of whether at least 50% of the teachers employed by the school district sign the petition. In addition, under the substitute amendment, a school board is not required to provide alternative public school attendance arrangements for pupils in order to enter into a contract with a person to operate a charter school that would result in the conversion of all of the public schools in the school district to charter schools.

The substitute amendment provides that the provision that a pupil may not be required to attend a charter school without his or her, or his or her parents' approval does not apply if all of the public schools in a school district have been converted to charter schools.

Accepting Pupils to Attend a Charter School

Current Law

Under current law, if a charter school replaces a public school in whole or in part, the charter school must give preference in admission to any pupil who resides within the attendance area or former attendance area of that public school.

The Substitute Amendment

Under the substitute amendment, except as provided under current law for charter schools that replace a public school in whole or in part, a contract with a charter school and an authorizing entity (other than a school district) must require that if the capacity of the charter school is insufficient to accept all pupils who apply, the charter school must accept pupils at random. The requirement to accept pupils at random is also subject to the following:

- A charter school must give preference in enrollment to pupils who were enrolled in the charter school in the previous school year and to siblings of pupils who are enrolled in the charter school.
- A charter school may give preference in enrollment to the children of the charter school's founders, governing board members, and full-time employees, but the total number of such children given preference may constitute no more than 10% of the charter school's total enrollment.

Annual Report by Charter School Authorizers

The Substitute Amendment

The substitute amendment requires a school board or other entity contracting for the operation of a charter school to annually submit to the State Superintendent and to the Legislature a report that includes the following:

- An identification of each charter school under contract with it, each charter school that operated under a contract with it but had its contract nonrenewed or revoked or that closed, and each charter school under contract with it that has not yet begun to operate.
- The academic and financial performance of each charter school operated under contract with it.
- The operating costs it incurred in soliciting and evaluating charter school applications; adhering to the principles and standards for quality charter schools established by the National Association of Charter School Authorizers; giving preference in awarding

contracts to charter schools that serve children at risk; approving only high quality charter school applications that meet identified educational needs and promote diversity of educational choices; and monitoring the performance and compliance of each charter school with current law of each charter school with which it contracts.

State Aid to School Districts

Current Law

Under current law, through the 2010-11 school year, general school aid paid to all school districts in the state is reduced proportionately by an amount equal to the estimated payment each year for charter schools that are not instrumentalities of a school district. In the 2011-12 school year and each school year thereafter, the amount of the reduction is limited to the amount paid in the 2010-11 school year. Also, for purposes of state aid calculations, pupils enrolled in a charter school that is an instrumentality of the school district are counted as enrolled in that school district.

The Substitute Amendment

The substitute amendment modifies the amount by which general school aid is reduced to the amount paid for charter schools that are not instrumentalities of the school district in the school year of the payment so that the reduction is not limited to the amount paid in the 2010-11 school year.

In addition, under the substitute amendment, DPI must annually determine, for each school district, the number of resident pupils attending a charter school under contract with the CSAB or a CESA board. DPI must reduce each school district's general school aid payment by an amount equal to the number of pupils multiplied by the per pupil amount paid to charter schools that are not instrumentalities of a school district under current law. If the state aid payment is insufficient to cover the reduction, DPI must reduce other state aid payments by the remaining amount. If a pupil attends a charter school for less than a full school term, DPI must prorate the aid reduction based on the number of days that school is in session and or the number of days the pupil attends the charter school.

The substitute amendment additionally allows a school district to count, as pupils enrolled, pupils who are enrolled in a charter school under contract with a school board, the CSAB, or the CESA, for purposes of revenue limits and general equalization aid.

Teaching License

The substitute amendment requires DPI to write rules establishing a charter school teaching license that allows such a teacher to teach multiple subjects.

Lease of City-Owned Property in the City of Milwaukee

The substitute amendment creates a new provision under which, for any city-owned property used for school purposes that is in effect on January 1, 2011, between the Board of Directors of the Milwaukee Public Schools and a charter school that is not an instrumentality of the school district, when the lease is extended, modified, or renewed, the City of Milwaukee must be made a party to the lease

and may negotiate with the charter school to modify the terms of the lease if the Common Council adopts a resolution to do so.

SENATE AMENDMENT 5 TO THE SUBSTITUTE AMENDMENT

Senate Amendment 5 requires the annual report by charter school authorizers to include a description of the services the school board or other entity has provided to the charter schools under contract with it and an itemized accounting of the cost of the services. In addition, Senate Amendment 5 specifies that the operating costs that must be reported must be detailed in an audited financial statement prepared in accordance with generally accepted accounting principles.

SENATE AMENDMENT 6 TO THE SUBSTITUTE AMENDMENT

Senate Amendment 6 provides that no contract with the CSAB may authorize the establishment of a charter school in a school district with fewer than 2,000 pupils in its membership. However, if the membership of a school district declines below 2,000 after such a charter school is established, the charter school may continue to operate and the restriction does not apply to the establishment of additional charter schools in the school district by the same nonprofit corporation.

SENATE AMENDMENT 8 TO THE SUBSTITUTE AMENDMENT

Senate Amendment 8 provides that the governing board of a nonprofit corporation that has established one or more charter schools under a contract with a school board or an entity other than a school board, not including the CSAB, may contract with the CSAB to operate a charter school without following the requirements to submit an application concurrently with the CSAB and the school district in which the organization proposes to locate the school if certain conditions are met.

The governing board must provide the CSAB with all of the following information:

- A timeline for the opening of the proposed charter school.
- The location of the proposed charter school.
- A description of the proposed charter school's facilities.
- The maximum number of pupils who may be safely accommodated at the proposed charter school.

The CSAB must contract with the governing board to operate the proposed charter school if it determines that all of the following apply:

- The proposed charter school will be located in a school district in which the nonprofit corporation has established one or more charter schools under a contract with a school board or other entity.
- The school district has a graduation rate that is lower than 75%, excluding the pupils attending the charter schools located in the school district.

- If the school district is one in which fewer than 50% of the pupils, excluding pupils attending charter schools located in the school district, are eligible for free or reduced-price lunch, in the three previous school years an average of at least 90% of the pupils attending charter schools operated by the governing board of the nonprofit corporation in that school district scored at the proficient or advanced level in the reading and mathematics portions of the WKCE examinations.
- If the school district is one in which at least 50% of the pupils, excluding pupils attending charter schools located in the school district, are eligible for free or reduced-price lunch, in the three previous school years an average of at least 75% of the pupils attending charter schools operated by the governing board of the nonprofit corporation in that school district scored at the proficient or advanced level in the reading and mathematics portions of the WKCE examinations.

SENATE AMENDMENT 9 TO THE SUBSTITUTE AMENDMENT

Senate Amendment 9 specifies that the chairperson of the CSAB must be designated by the Governor. For the membership of the CSAB appointed by the Governor and members of the Legislature, the amendment requires the following members instead of the members specified in the substitute amendment:

- Two members appointed by the Governor, at least one of whom has served on a charter school governing board of a charter school established by an entity other than a school board, has been employed by such a charter school, or has served on the governing board of an entity that may contract for the establishment of a charter school.
- One member, who is not a legislator, appointed by the Senate Majority Leader.
- One member, who is not a legislator, appointed by the Senate Minority Leader.
- One member, who is not a legislator, appointed by the Speaker of the Assembly.
- One member, who is not a legislator, appointed by the Assembly Minority Leader.

The State Superintendent must also be a member of the CSAB.

SENATE AMENDMENT 10 TO THE SUBSTITUTE AMENDMENT

Senate Amendment 10 makes technical changes to the substitute amendment and updates the language of the substitute amendment to reflect changes to current law that have been enacted this legislative session.

Legislative History

Senate Substitute Amendment 1 was offered by Senators Olsen and Darling. Senate Amendment 5 to Senate Substitute Amendment 1 was offered by the Senate Committee on Education. Senate Amendments 6 and 8 to the substitute amendment were offered by Senator Olsen. Senate Amendment 8

to the substitute amendment was offered by Senator Darling. Senate Amendment 10 to the substitute amendment was offered by the Joint Committee on Finance.

On October 19, 2011, the Joint Committee on Finance recommended adoption of the following amendments to the substitute amendment: Senate Amendment 5 on a vote of Ayes, 14; Noes, 0; Senate Amendment 6 on a vote of Ayes, 11; Noes, 3; Senate Amendment 8 on a vote of Ayes, 12; Noes, 3; Senate Amendment 9 on a vote of Ayes, 12; Noes, 3; and Senate Amendment 10 on a vote of Ayes, 15, Noes, 0. The committee then recommended adoption of Senate Substitute Amendment 1 and passage of the bill, as amended, on votes of Ayes, 12; Noes, 3.

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