



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-0333/P4  
FFK:eev&jld:jm

DOA:.....Stritchko, BB0096 - Charter school authorizing board

**FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION**

**AN ACT** ...; **relating to:** the budget.

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*Analysis by the Legislative Reference Bureau*

**EDUCATION**

**PRIMARY AND SECONDARY EDUCATION**

Under current law, a school board may enter into a contract with a person to establish a charter school, which operates with fewer constraints than traditional public schools. Current law also permits UW-Milwaukee, UW-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 such charter schools. Subject to certain exceptions, only pupils who reside in the school district in which an independent charter school is located may attend the charter school.

This bill creates the Charter School Oversight Board (CSOB), attached to DPI, and authorizes it to approve nonprofit, nonsectarian organizations, or consortia of such organizations, to contract with persons to operate independent charter schools. The CSOB consists of the state superintendent of public instruction and ten other members. Of the latter members, two are appointed by the state superintendent, two are appointed by the governor, and six by the leaders in the senate and assembly. The bill prohibits the CSOB from promulgating administrative rules and provides that any policy or standard adopted by the CSOB is exempt from the rule-making process.

For any charter school established on or after the bill's effective date, the bill eliminates the authority of the entities specified above, and of any approved

nonprofit organization, to establish an independent charter school directly. Under the bill, a charter school may be established only by contract and must be operated by a charter school governing board, although an existing independent charter school authorizer may continue to operate a charter school itself if the school is established before the effective date of this bill. The bill removes the restrictions that limit who may attend an independent charter school.

A nonprofit, nonsectarian organization or consortium of such organizations that wishes to contract with a charter school governing board to operate a charter school must apply to the CSOB. The application must include a strategic plan for such contracting; a performance framework for use in supervising and evaluating charter schools; an assurance that the organization or consortium will ensure accountability and transparency on the part of the governing boards with which it contracts; a plan, including corrective action strategies, designed to improve a charter school, or close such a school, that fails to meet contractual performance standards; a description of the types of charter schools it is seeking to establish; information on its finances; and a plan for entering into additional contracts in order to replicate successful charter schools. The CSOB must approve or deny an application within 90 days.

The bill provides that the contract between an authorizing entity and the independent charter school's governing board must allow the former to charge the governing board a fee. The contract must also allow the charter school governing board to open additional charter schools if in DPI's most recent school accountability report, DPI placed the charter school governed by the contract in one of the top two performance categories, which are currently known as "exceeds expectations" and "significantly exceeds expectations." The bill makes this provision applicable to existing contracts with independent charter schools as well.

The bill allows a charter school contract to provide for more than one charter school, and allows a charter school governing board to enter into more than one contract. The bill allows a school board to prohibit a pupil who resides in the school district from attending an independent charter school unless the school district's enrollment is at least 4,000 and at least two schools in the school district were in one of the bottom two performance categories, which are currently known as "meets few expectations" and "fails to meet expectations" in DPI's most recent school report.

The bill requires that a charter school accept pupils at random if the capacity of the school is insufficient to accept all applicants. A charter school must, however, give preference in enrollment to pupils who were enrolled in the school in the previous school year and to siblings of pupils who are enrolled in the school. In addition, the bill allows a charter school to give preference in enrollment to children of the charter school's founders, governing board members, and full-time employees so long as the number of such children given preference constitutes no more than 10 percent of the school's enrollment.

The bill requires each charter school authorizer to submit an annual report to the legislature and DPI that includes the following:

1. An identification of each charter school under contract with it and each charter school that had its contract nonrenewed or revoked or that closed.

2. The academic and financial performance of each charter school.
3. Its operating costs, detailed in an audited financial statement.
4. The services it provided to the charter schools under contract with it.

The bill directs each nonprofit organization or consortium that has been approved by the CSOB to contract with a charter school operator annually to submit an identical report to the CSOB.

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

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

**SECTION 1.** 15.07 (2) (c) of the statutes is created to read:

15.07 (2) (c) The chairperson of the charter school oversight board shall be designated by the governor.

**SECTION 2.** 15.375 (1) of the statutes is created to read:

15.375 (1) CHARTER SCHOOL OVERSIGHT BOARD. (a) There is created a charter school oversight board attached to the department of public instruction under s. 15.03. The board shall consist of the state superintendent of public instruction or his or her designee and the following members appointed for 3-year terms:

1. Two members appointed by the governor, at least one of whom has served on the governing board of a charter school established under s. 118.40 (2r), has been employed by a charter school established under s. 118.40 (2r), or has served on the governing body of an entity specified in s. 118.40 (2r) (b) 1.

2. a. Two members, who are not legislators, appointed by the senate majority leader.

- b. One member, who is not a legislator, appointed by the senate minority leader.

- c. Two members, who are not legislators, appointed by the speaker of the assembly.

d. One member, who is not a legislator, appointed by the assembly minority leader.

3. Two members, appointed by the state superintendent of public instruction, who in addition to the qualifications under par. (b) have served on the governing board of a charter school established under s. 118.40 (2r), have been employed by a charter school established under s. 118.40 (2r), or have served on the governing body of an entity specified in s. 118.40 (2r) (b) 1.

(b) The appointing authorities under par. (a) 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.

(c) No member of the board appointed under par. (a) may serve more than 2 consecutive terms.

(d) The board does not have rule-making authority.

**SECTION 3.** 111.81 (7) (f) of the statutes is amended to read:

111.81 (7) (f) Instructional staff employed by the board of regents of the University of Wisconsin System who provide services for a charter school established by contract under s. 118.40 (2r) (cm), 2013 stats.

**SECTION 4.** 111.825 (1r) (ef) of the statutes, as affected by [2011 Wisconsin Act 32](#), is amended to read:

111.825 (1r) (ef) Instructional staff employed by the board of regents of the University of Wisconsin System who provide services for a charter school established by contract under s. 118.40 (2r) (cm), 2013 stats.

**SECTION 5.** 111.92 (1) (c) of the statutes is amended to read:

111.92 (1) (c) Any tentative agreement reached between the governing board of the charter school established by contract under s. 118.40 (2r) (cm), 2013 stats., acting for the state, and any labor organization representing a collective bargaining unit specified in s. 111.825 (1r) (ef) shall, after official ratification by the labor organization and approval by the chancellor of the University of Wisconsin-Parkside, be executed by the parties.

**SECTION 6.** 115.001 (1) of the statutes is amended to read:

115.001 (1) CHARTER SCHOOL. "Charter school" means a school under contract with a school board under s. 118.40 or with ~~one of the entities~~ an entity under s. 118.40 (2r) (b) 1., or a school established and operated by ~~one of the entities~~ an entity under s. 118.40 (2r) (b) 1. a. to d.

**SECTION 7.** 118.40 (2r) (b) 1. (intro.) of the statutes is amended to read:

118.40 (2r) (b) 1. (intro.) ~~All~~ Except as provided in subd. 3., any of the following entities may establish by charter and operate a charter school or, on behalf of their respective entities, ~~may initiate a contract with an individual or group~~ a person to operate a school as a charter school:

**SECTION 8.** 118.40 (2r) (b) 1. e. of the statutes is created to read:

118.40 (2r) (b) 1. e. Any nonprofit, nonsectarian organization or consortium of such organizations approved by the charter school oversight board under par. (bm).

**SECTION 9.** 118.40 (2r) (b) 2. of the statutes is renumbered 118.40 (2r) (b) 2. (intro.) and amended to read:

118.40 (2r) (b) 2. (intro.) A charter shall include all of the provisions specified under sub. (1m) (b) 3. to 14. A contract shall include all of the provisions specified under sub. (1m) (b) 1. to 14. and shall specify the effect of the establishment of the

charter school on the liability of the contracting entity under this paragraph. The contract shall also include all of the following provisions and may include other provisions agreed to by the parties. ~~The chancellor of the University of Wisconsin-Milwaukee or of the University of Wisconsin-Parkside may not establish or enter into a contract for the establishment of a charter school under this paragraph without the approval of the board of regents of the University of Wisconsin System.~~

\*\*\*NOTE: This is reconciled s. 118.40 (2r) (b) 2. This SECTION has been affected by drafts with the following LRB numbers: -0333/P2 and -0971/P4.

**SECTION 10.** 118.40 (2r) (b) 2. a. to k. of the statutes are created to read:

118.40 (2r) (b) 2. a. A requirement that the charter school governing board adhere to specified annual academic and operational performance standards developed in accordance with the performance framework of the entity with which it is contracting.

b. Provisions detailing the corrective measures the charter school governing board will take if the charter school fails to meet performance standards.

c. A provision allowing the governing board of a charter school that is assigned one of the top 2 grade levels in the most recent school report published by the department under s. 115.385 to open one or more additional charter schools. If the charter school governing board opens one or more additional charter schools, the existing contract applies to the new school or schools unless the parties agree to amend the existing contract or enter into a new contract.

\*\*\*NOTE: This is reconciled s. 118.40 (2r) (b) 2. c. This SECTION has been affected by drafts with the following LRB numbers: -0333/P3 and -1509/P2.

d. The methodology that will be used by the charter school governing board to monitor and verify pupil enrollment, credit accrual, and course completion.

- e. A requirement that the entity under subd. 1. have direct access to pupil data.
- f. A description of the administrative relationship between the parties to the contract.
- g. A requirement that the charter school governing board hold parent–teacher conferences at least annually.
- h. A requirement that if more than one charter school is operated under the contract, the charter school governing board reports to the entity under subd. 1. on each charter school separately.
- i. A requirement that the charter school governing board provide the data needed by the entity under subd. 1. for purposes of making the report required under sub. (3m) (a) 6.
- j. A requirement that the charter school governing board participate in any training provided by the entity under subd. 1.
- k. A description of all fees that the entity under subd. 1. will charge the charter school governing board.

**SECTION 11.** 118.40 (2r) (b) 3. of the statutes is repealed and recreated to read:  
118.40 (2r) (b) 3. If an entity specified in subd. 1. a. to d. was operating a charter school itself immediately prior to the effective date of this subdivision ... [LRB inserts date], it may continue to do so.

\*\*\*NOTE: This is reconciled s. 118.40 (2r) (b) 3. This SECTION has been affected by drafts with the following LRB numbers: –0333/P2 and –0971/P4.

**SECTION 12.** 118.40 (2r) (bm) of the statutes is repealed and recreated to read:  
118.40 (2r) (bm) 1. A nonprofit, nonsectarian organization or a consortium of such organizations that wishes to contract with a charter school governing board to operate a charter school shall submit an application to the charter school oversight

board. The application shall include all of the following and any other information requested by the board:

a. A strategic plan for contracting with charter school governing boards that submit high-quality proposals for charter schools that meet identified educational needs and promote a diversity of educational choices.

b. A performance framework for use in supervising and evaluating charter schools that addresses pupil academic proficiency, growth in pupil academic achievement, gaps in achievement between groups of pupils, pupil attendance, the readiness of pupils for postsecondary education, the financial proficiency and sustainability of charter schools, and charter school management.

c. An assurance that the organization or consortium will ensure accountability and transparency on the part of those charter school governing boards with which it contracts.

d. A plan, including corrective action strategies, designed to improve a charter school under contract with the organization or consortium, or to close such a charter school, based on contractual performance standards.

e. A description of the types of charter schools the organization or consortium is seeking to establish, and their potential attendance areas.

f. Information on the organization's or consortium's finances and other resources necessary for the charter school oversight board to determine the applicant's ability to perform its functions under this section.

g. A plan for entering into additional contracts in order to replicate successful charter schools.

2. The charter school oversight board shall approve or deny an application within 90 days of receiving the application.

**SECTION 13.** 118.40 (2r) (c) of the statutes is repealed and recreated to read:

118.40 **(2r)** (c) 1. An entity under par. (b) 1. may contract for the operation of a charter school located anywhere in this state.

5. a. A school board may prohibit a pupil who resides in the school district from attending a charter school established under this subsection unless the school district's membership, as defined in s. 121.004 (5), is at least 4,000 and a total of at least 2 public schools in the school district were assigned one of the bottom 2 grade levels in the most recent school report published by the department under s. 115.385.

\*\*\*NOTE: This is reconciled s. 118.40 (2r) (c) 5. a. This SECTION has been affected by drafts with the following LRB numbers: -0333/P3 and -1509/P2.

b. A pupil who wishes to attend a charter school established under this subsection and who resides in a school district in which the school board may prohibit pupils from attending a charter school established under this subsection shall submit an application to the school board. Within 30 days of receiving the application, the school board shall issue a decision allowing or prohibiting the pupil from attending the charter school.

**SECTION 14.** 118.40 (2r) (cm) of the statutes is repealed.

**SECTION 15.** 118.40 (2r) (f) of the statutes is created to read:

118.40 **(2r)** (f) A charter school established under this subsection is a local educational agency under [20 USC 6301 to 6578](#) and as such is eligible for funding as a local educational agency, and shall comply with all requirements of local educational agencies, under [20 USC 6301 to 6578](#).

**SECTION 16.** 118.40 (2r) (g) of the statutes is created to read:

118.40 **(2r)** (g) If a charter school established by contract with an entity under par. (b) 1. a. to d. is in operation on the effective date of this paragraph .... [LRB inserts

**SECTION 16**

date], and the charter school is assigned one of the top 2 grade levels in the most recent school report published by the department under s. 115.385, the person operating the charter school may open one or more additional charter schools notwithstanding the terms of the existing contract. All provisions of the existing contract, other than any provision that conflicts with this paragraph, apply to the new school or schools unless parties agree to amend the existing contract or enter into a new contract.

\*\*\*\*NOTE: This is reconciled s. 118.40 (2r) (g). This SECTION has been affected by drafts with the following LRB numbers: -0333/P3 and -1509/P2.

**SECTION 17.** 118.40 (3) (d) of the statutes is renumbered 118.40 (3m) (a) 3. and amended to read:

118.40 **(3m)** (a) 3. ~~A school board or an entity under sub. (2r) (b) shall give~~ Give preference in awarding contracts for the operation of charter schools to those charter schools that serve children at risk, as defined in s. 118.153 (1) (a).

**SECTION 18.** 118.40 (3) (e) of the statutes is renumbered 118.40 (3m) (a) 2. and amended to read:

118.40 **(3m)** (a) 2. ~~When establishing or contracting for the establishment of a charter school under this section, a school board or entity specified under sub. (2r) (b) shall consider~~ adhere to the principles and standards for quality charter schools established by the National Association of Charter School Authorizers.

**SECTION 19.** 118.40 (3) (f) of the statutes is created to read:

118.40 **(3)** (f) A contract with a school board or an entity under sub. (2r) (b) may provide for the establishment of more than one charter school, and a charter school governing board may enter into more than one contract with a school board or entity under sub. (2r) (b).

**SECTION 20.** 118.40 (3) (g) of the statutes is created to read:

118.40 (3) (g) 1. Except as provided in subds. 2. and 3. and sub. (4) (ar) 1., a contract with a school board or an entity under sub. (2r) (b) shall require that if the capacity of the charter school is insufficient to accept all pupils who apply, the charter school shall accept pupils at random.

2. A charter school shall 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.

3. 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 percent of the charter school's total enrollment.

**SECTION 21.** 118.40 (3m) (title) and (a) (intro.) of the statutes are created to read:

118.40 (3m) (title) AUTHORIZING ENTITY DUTIES. (a) (intro.) A school board or entity under sub. (2r) (b) shall do all of the following:

**SECTION 22.** 118.40 (3m) (a) 1. and 4. to 6. of the statutes are created to read:

118.40 (3m) (a) 1. Solicit and evaluate charter school applications.

4. Approve only high-quality charter school applications that meet identified educational needs and promote a diversity of educational choices.

5. In accordance with the terms of each charter school contract, monitor the performance and compliance with this section of each charter school with which it contracts.

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

a. An identification of each charter school operating 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.

b. The academic and financial performance of each charter school operated under contract with it.

c. The operating costs of the school board or entity under sub. (2r) (b) incurred under subds. 1. to 5., detailed in an audited financial statement prepared in accordance with generally accepted accounting principles.

d. The services the school board or entity under sub. (2r) (b) has provided to the charter schools under contract with it and an itemized accounting of the cost of the services.

**SECTION 23.** 118.40 (3m) (b) of the statutes is created to read:

118.40 **(3m)** (b) An organization or consortium approved by the charter school oversight board under sub. (2r) (bm) annually shall submit a report to the charter school oversight board that includes all the information specified in par. (a) 6.

**SECTION 24.** 118.40 (4) (title) of the statutes is amended to read:

118.40 **(4)** (title) CHARTER SCHOOL GOVERNING BOARD; DUTIES, POWERS, AND RESTRICTIONS.

**SECTION 25.** 118.40 (4) (a) of the statutes is renumbered 118.40 (4) (ar), and 118.40 (4) (ar) (intro.), as renumbered, is amended to read:

118.40 **(4)** (ar) *Duties.* (intro.) A charter school governing board shall do all of the following:

**SECTION 26.** 118.40 (4) (ag) of the statutes is created to read:

118.40 (4) (ag) *Governing board.* Each charter school shall be governed by a governing board that is a party to the contract with the authorizing entity. No more than a minority of the governing board's members may be employees of the charter school or employees or officers of the school district in which the charter school is located.

**SECTION 27.** 118.40 (4) (b) (intro.) of the statutes is amended to read:

118.40 (4) (b) *Restrictions.* (intro.) A charter school governing board may not do any of the following:

**SECTION 28.** 118.40 (4) (b) 2. of the statutes is amended to read:

118.40 (4) (b) 2. Except as provided in ~~par. (e)~~ sub. (3) (h), discriminate in admission or deny participation in any program or activity on the basis of a person's sex, race, religion, national origin, ancestry, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional or learning disability.

**SECTION 29.** 118.40 (4) (c) of the statutes is renumbered 118.40 (3) (h) and amended to read:

118.40 (3) (h) ~~*Single-sex schools and courses.*~~ A school board ~~may enter into a contract for,~~ and an entity under sub. (2r) ~~may establish or enter into a contract for,~~ ~~the establishment of~~ establish a charter school that enrolls only one sex or that provides one or more courses that enroll only one sex if the school board or entity under sub. (2r) makes available to the opposite sex, under the same policies and criteria of admission, schools or courses that are comparable to each such school or course.

**SECTION 30.** 118.40 (4) (d) of the statutes is created to read:

118.40 (4) (d) *Powers*. Subject to the terms of its contract, a charter school governing board has all the powers necessary to carry out the terms of its contract, including all of the following:

1. To receive and disburse funds for school purposes.

2. To secure appropriate insurance.

3. To enter into contracts, including contracts with a University of Wisconsin institution or college campus, technical college district board, or private college or university, for technical or financial assistance, academic support, curriculum review, or other services.

4. To incur debt in reasonable anticipation of the receipt of funds.

5. To pledge, assign, or encumber its assets to be used as collateral for loans or extensions of credit.

6. To solicit and accept gifts or grants for school purposes.

7. To acquire real property for its use.

8. To sue and be sued in its own name.

**SECTION 31.** 118.51 (1) (a) of the statutes is renumbered 118.51 (1) (ag).

**SECTION 32.** 118.51 (1) (ad) of the statutes is created to read:

118.51 (1) (ad) “Charter school” excludes a school under contract with an entity under s. 118.40 (2r) (b).

**SECTION 33.** 227.01 (13) (sm) of the statutes is created to read:

227.01 (13) (sm) Is a standard or statement of policy adopted by the charter school oversight board.

**SECTION 34.** 230.35 (1s) of the statutes is amended to read:

230.35 (1s) Annual leave of absence with pay for instructional staff employed by the board of regents of the University of Wisconsin System who provide services

for a charter school established by contract under s. 118.40 (2r) (cm), 2013 stats., shall be determined by the governing board of the charter school established by contract under s. 118.40 (2r) (cm), 2013 stats., as approved by the chancellor of the University of Wisconsin-Parkside.

**SECTION 9134. Nonstatutory provisions; Public Instruction.**

(1) CHARTER SCHOOL OVERSIGHT BOARD. Notwithstanding section 15.375 (1) of the statutes, as created by this act, the initial members appointed to the charter school oversight board under section 15.375 (1) (a) of the statutes, as created by this act, shall be appointed as follows:

(a) One member under section 15.375 (1) (a) 1. of the statutes, as created by this act, shall be appointed for a term expiring on May 1, 2018, and one member shall be appointed for a term expiring on May 1, 2019.

(b) One member under section 15.375 (1) (a) 2. a. of the statutes, as created by this act, shall be appointed for a term expiring on May 1, 2017, and one member shall be appointed for a term expiring on May 1, 2019.

(c) The member under section 15.375 (1) (a) 2. b. of the statutes, as created by this act, shall be appointed for a term expiring on May 1, 2018.

(d) One member under section 15.375 (1) (a) 2. c. of the statutes, as created by this act, shall be appointed for a term expiring on May 1, 2017, and one member shall be appointed for a term expiring on May 1, 2019.

(e) The member under section 15.375 (1) (a) 2. d. of the statutes, as created by this act, shall be appointed for a term expiring on May 1, 2020.

(f) One member under section 15.375 (1) (a) 3. of the statutes, as created by this act, shall be appointed for a term expiring on May 1, 2018, and one member shall be appointed for a term expiring on May 1, 2020.

**SECTION 9334. Initial applicability; Public Instruction.**

(1) CHARTER SCHOOL CONTRACTS. The treatment of section 118.40 (2r) (b) 2. and (c), (3) (e) and (g), and (4) (d) of the statutes first applies to a contract for the establishment of a charter school that is entered into, renewed, or modified on the effective date of this subsection.

**SECTION 9434. Effective dates; Public Instruction.**

(1) CHARTER SCHOOL GOVERNING BOARD. The treatment of section 118.40 (4) (ag) of the statutes takes effect on September 1, 2015.

(END)