



WISCONSIN LEGISLATIVE COUNCIL

CHARTER SCHOOLS

225 Northwest
State Capitol, Madison

December 19, 2006
10:00 a.m. – 2:30 p.m.

[The following is a summary of the December 19, 2006 meeting of the Special Committee on Charter Schools. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting. A digital recording of the meeting is available on our Web site at <http://www.legis.state.wi.us/lc>.]

Call to Order and Roll Call

Chair Vukmir called the meeting to order. The roll was called and it was determined that a quorum was present.

COMMITTEE MEMBERS PRESENT: Rep. Leah Vukmir, Chair; Reps. Scott Newcomer and Christine Sinicki; Sen. Alberta Darling; and Public Members Bill Baumgart, Craig Jefson, Sandra Mills, Noelle Mudrak, Rachel Schultz, Ben Vogel, and Cindy Zautcke.

COMMITTEE MEMBERS EXCUSED: Sen. Ted Kanavas; and Public Members Diane Barkmeier, Philip Ertl, Howard Fuller, and Barbara Horton.

COUNCIL STAFF PRESENT: Joyce L. Kiel and Russ Whitesel, Senior Staff Attorneys.

Approval of the Special Committee's November 28, 2006 Minutes

Representative Newcomer, seconded by Mr. Vogel, asked unanimous consent to approve the minutes of the November 28, 2006 meeting as distributed. There was no objection.

Description of Materials Distributed

Mr. Whitesel noted that the items listed on the agenda were materials distributed prior to the meeting and would be discussed later in the meeting. He also noted that materials distributed at the

meeting were: (1) a memorandum from Ms. Zautcke about the number of inquiries made to the Institute for Transformation of Learning about starting a charter school; and (2) a letter distributed by the Department of Employee Trust Funds (DETF) from the Internal Revenue Service (IRS) dated February 5, 2004, about the Minnesota retirement plan for teachers.

Committee Discussion of Participation of Charter School Employees in the Wisconsin Retirement System

At the previous committee meeting, DETF staff was asked to obtain a copy of a letter the IRS ostensibly had written about coverage of charter school employees under the Minnesota retirement plan for teachers. John Vincent, Administrator, Division of Trust Finance and Employer Services, and Bob Conlin, Director, Legislation, Communications, and Planning, DETF, delivered the letter to the committee and were called on to explain it. They indicated that the letter was not particularly useful to the committee's discussion as it was not specific to charter schools but, rather, related to an inquiry made to the IRS about various changes in Minnesota law and whether the Minnesota Teachers Retirement Association Plan would continue to be a qualified governmental plan in light of those changes.

Chair Vukmir indicated that she thought the committee should not pursue the issue of eligibility of noninstrumentality charter school employees in the Wisconsin Retirement System as there were many complex issues to resolve and insufficient time for the committee to do so. She asked if there was a consensus with her view and determined that there was.

Committee Discussion of Memo No. 4, *Draft Legislation to Authorize Additional Entities to Establish Charter Schools*, and Enclosure, WLC: 0030/1, Relating to Permitting Additional Entities to Establish Charter Schools

Mr. Whitesel reviewed Memo No. 4 regarding draft legislation to authorize additional entities to establish charter schools and WLC: 0030/1, the preliminary bill draft relating to that topic. He noted that two of the items distributed before the meeting were: (1) a list of the members of the Wisconsin Association of Independent Colleges and Universities (WAICU); and (2) a list of the colleges and schools accredited by the Higher Learning Commission (HLC).

Preliminary to discussing whether additional entities should be authorized to establish charter schools, Ms. Mudrak asked if there is evidence that entities which currently are not allowed to establish charter schools have been asking to do so. Chair Vukmir and Senator Darling indicated that it is important to create an innovative environment that would enable the creation of more charter schools but predicted that there would not be a huge rush to create more charter schools due to the difficulty in establishing a school.

Ms. Mills indicated that universities feel a need to educate children and are especially interested in charter schools. Mr. Baumgart expressed concern that if colleges and universities were authorized to establish charter schools, their charter schools might focus on college preparatory curriculum, instead of helping at-risk pupils.

Mr. Baumgart suggested that the committee focus on determining why school districts do not establish more charter schools, which he said is likely due to funding issues. He predicted that allowing

more entities to establish charter schools would exacerbate the financial problems which school districts currently face. He also noted that, unlike current Wisconsin law which provides for a reduction in aid to all school districts to pay for independent charter schools (that is, those established by entities other than school districts under s. 118.40 (2r), Stats.), Minnesota does not do so when a non-school district charter school is created. Representative Sinicki said she thought parents should work with a school district if they are interested in establishing a charter school and noted that many have done so. Chair Vukmir and Ms. Zautcke commented that allowing other authorizers will increase competition and encourage school boards to make changes.

Committee members expressed varying opinions about whether independent charter schools would be more of a benefit to advantaged or disadvantaged pupils.

It was noted that there appears to be no comprehensive study in Wisconsin comparing the performance of charter schools that are instrumentalities of school districts to those that are not.

Chair Vukmir asked that the committee discuss which of the entities listed in WLC: 0030/1 as additional authorizers should be included in the next bill draft, rather than debate whether there should be additional authorizers. She noted that a committee member could vote against the final draft if the member disagreed with adding authorizers.

Several committee members wanted all of the University of Wisconsin (UW) universities and college campuses to be included (that is, retain page 1, lines 13 to 14, and page 2, line 1), subject to the approval of the UW System (UWS) Board of Regents. It was noted that the approval by the UWS Board of Regents currently is required in order for the UW-Milwaukee and UW-Parkside chancellors to establish charter schools. However, several committee members expressed concern about having the UWS Board of Regents as an independent authorizer (that is, delete page 2, line 2). Chair Vukmir asked that the next draft not include the Board of Regents as an independent authorizer.

It was noted that current statutes include many special provisions pertinent only to the chartering authority of the UW-Parkside, including treatment of employees, a limitation to one school and 480 pupils, and a special aid payment to the Racine Unified School District (RUSD) for charter school pupils who formerly attended RUSD. Legislative members of the committee commented that these compromises were made to overcome the initial resistance to including UW-Parkside as an additional authorizer. After extended discussion as to whether to continue the provisions specific to UW-Parkside, it was agreed that the next draft should not disturb these special provisions in current law but that a note should be included that the issue of limiting the UW-Parkside to one charter school with a maximum of 480 pupils should be looked at in the future.

There was also general agreement to retain provisions in current law specific to the other current non-school district authorizers under s. 118.40 (2r), Stats., that is, the UW-Milwaukee, City of Milwaukee, and Milwaukee Area Technical College.

With respect to which private colleges and universities to add, the committee discussed whether to require that a college or university be a member of WAICU or be accredited by the HLC. Speaking from the audience, Janet Washbon from the Technical College Board, noted that WAICU members were nonprofit organizations whereas HLC accreditation could also be obtained by for-profit organizations such as electronic schools. It was also noted that WAICU members are accredited. After further

discussion, it was agreed that the next draft should provide that private colleges and universities that were members of WAICU could be additional authorizers.

It was also agreed that technical college district boards and cooperative educational service agencies should be included in the next draft as additional authorizers.

Committee members discussed whether to limit the number of pupils that may attend a charter school established by one of the new authorizers and whether to require that the pupils come from a certain attendance area as required under current law with respect to current (2r) authorizers. It was noted that transportation will be the responsibility of parents and that there may be virtual charter schools. It was generally agreed that the next draft should not limit the number of pupils at a charter school established by a new authorizer. It was also generally agreed that the next draft should not specify an attendance area for a charter school established by a new (2r) authorizer but should, rather, permit any pupil who is a Wisconsin resident to attend. Again, the committee asked that the next draft not change current law with respect to current (2r) authorizers.

When it was stated that any situation in which there were more applicants than spaces would be settled by a lottery, Ms. Kiel noted that state statutes do not require a lottery. She added that charter schools which receive federal funds are required by federal law to conduct a lottery if oversubscribed but that this would not apply if federal funds were not involved.

It was noted that a biennial report to the Legislature is required under s. 118.40 (2r) (f), Stats., with respect to the UW-Parkside's charter school. Committee members requested that the next draft require this biennial report for all the new (2r) authorizers.

Committee Discussion of WLC: 0031/1, Relating to Creating a Process to Request that Consideration be Given to Establishing a Charter School and a Process to Appeal a Decision Not to Establish a Charter School or Not to Renew a Charter

Committee members next discussed WLC: 0031/1 which creates a process to request that a charter school be created as well as a process to request that consideration be given to establishing a charter school. Ms. Kiel noted that under the draft the request for consideration process requires less information and must result in a meeting but would not result in a decision that could be appealed. On the other hand, if a request to establish a charter school is made (which would require more information), a written decision is required and a decision to deny may be appealed. She noted that the request for consideration is an optional step and that the bill draft does not require that a request for consideration be made before a request to establish a charter school may be made. Committee members generally agreed that the draft should retain these two approaches.

Ms. Kiel also said that the draft creates a process to appeal a denial of a request to establish a charter and a decision to nonrenew a charter but, as instructed by the committee at the previous meeting, does not include a process to appeal a revocation of a charter or a process to appeal a denial of a teacher petition made to a school board other than the Milwaukee Public Schools (MPS) Board of Directors.

Ms. Schultz asked if there is a need for an appeal process if additional authorizers are allowed as discussed in the previous draft (WLC: 0030/1) since the person whose request was denied could present the request to an alternative authorizer. However, Mr. Vogel said that having an appeal process likely

would encourage the entity to which a proposal is made to more seriously consider and discuss the matter.

As for who the appeal should be made to, committee members generally preferred using the Division of Hearings and Appeals in the Department of Administration, even though the cost, which would be paid by the appellant, would be higher than the alternative proposal of a board. Several committee members stated that the Division of Hearings and Appeals would be neutral and professional.

Committee members agreed that there should be no appeal process applicable to private colleges and universities (when they are approached to be an authorizer as would be permitted in WLC: 0030/1) because the government should not compel a private entity to participate in a program in which it has no interest.

Sixty days was selected as the number of days for an appellate decision unless the parties agree to an extension. In consequence, the deadline selected for a notice of intent not to renew was selected as 100 days (to account for the 30-day deadline to appeal and the 60-day deadline for the appellate decision).

With regard to the basis for a decision to establish or not to establish a charter school, the committee generally agreed that the next draft should specify: (1) the two factors in current law that are considered at a hearing (the level of employee and parental support and the fiscal impact); (2) the three items of information to be provided in a request to consider establishing a charter ((a) statement of goals and mission; (b) why the charter is needed, how it will differ from what is currently available, and the population and grade levels to be served; and (c) a preliminary budget); and (3) the 15 elements currently required in a teacher petition or charter contract. It was also agreed that these factors should apply to decisions made by (2r) authorizers.

Additionally, it was generally agreed that the next draft should specify that the reviewing entity is to consider all of these factors. Ms. Kiel noted that a reviewing entity will not substitute its own judgment and that it is likely that a reviewing entity would rarely overturn a decision based on whether there was a reasonable basis for the decision based on these factors inasmuch as a reasonable basis typically can be found for a decision. After discussion, the committee agreed that the reasonable basis language and whether procedures had been followed should be retained as the standards for the reviewing entity.

With regard to the remedy that could be ordered by the reviewing entity, requiring a signature on an implementation grant will be deleted (page 10, lines 4 to 5) since the charter contract would have been signed before the implementation grant application is made. It was generally agreed that a mediation program should be available, as long as it was not mandatory that it be used. There was also no objection to including a 12-month extension as a remedy in the event a nonrenewal notice was not timely sent.

With respect to the meeting that must be held when a request is made to a (2r) authorizer for consideration to establish or to establish a charter school, committee members suggested that it be held by the authorizing entity or the designee of that authorizing entity instead of, with respect to UWS institutions, the UWS Board of Regents.

With regard to when a decision on a request to establish a charter school must be made, WLC: 0031/1 required 30 days, as patterned after the deadline for a teacher petition decision by the MPS Board of Directors. It was suggested that the next bill draft specify that the requester may consent to a longer period so that a decision is not rushed if the requester still thinks progress is being made.

Plans for Future Meetings

Chair Vukmir stated that she would schedule the next meeting of the committee early next year after more information became available about the legislative calendar for the 2007-08 Legislative Session.

Adjournment

The committee adjourned at 2:00 p.m.

JLK:ksm