

1       **AN ACT** *to amend* 20.505 (4) (kp), 118.40 (2) (a), 118.40 (2m) (a), 118.40 (2m) (am),  
2       118.40 (2r) (b) 1. (intro.), 118.40 (2r) (b) 2., 118.40 (2r) (b) 3. (intro.), 118.40 (2r)  
3       (b) 3. a., 118.40 (2r) (c) 1., 118.40 (2r) (f), 118.40 (3) (b), 118.40 (7) (am) 2. and  
4       227.43 (1) (bg); and *to create* 118.40 (2r) (b) 1. e., 118.40 (2r) (b) 1. f., 118.40 (2r)  
5       (b) 1. g., 118.40 (2r) (b) 1. h., 118.40 (2r) (b) 1. i., 118.40 (2w), 118.40 (3g), 118.40  
6       (3r), 227.43 (3) (f) and 227.43 (4) (f) of the statutes; **relating to:** permitting  
7       additional entities to establish charter schools and creating a process to request that  
8       consideration be given to establishing a charter school, a process to request that a  
9       charter school be established, and a process to appeal a decision not to establish a  
10      charter school or not to renew a charter.

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

**JOINT LEGISLATIVE COUNCIL PREFATORY NOTE:** This bill draft was prepared for the Joint Legislative Council’s Special Committee on Charter Schools. The draft: (a) permits additional entities to establish charter schools; (b) creates a process to request that consideration be given to establishing a charter school; (c) creates a process to request that a charter school be established; and (d) creates a process to appeal a decision not to establish a charter school or not to renew a charter.

***CURRENT LAW***

*Establishing a charter school.* Under current law, a school board may establish a charter school and contract with a person to operate a charter school. In addition, certain entities listed in s. 118.40 (2r) (b), stats., that are independent of school boards (referred to as “(2r) authorizers”) may establish and operate or contract for the operation of (referred to as “establish”) charter schools (referred to as (2r) or independent charter schools). Under current law, (2r) authorizers are limited to: the common council of the city of Milwaukee, the chancellor of the University of Wisconsin (UW)–Milwaukee, the chancellor of the UW–Parkside, and the Milwaukee area technical college (MATC) district board. (The

UW–Parkside is currently restricted to establishing only one charter school that is limited to 480 pupils and does not operate high school grades. The draft does not amend this restriction.)

School boards have 2 methods of establishing charter schools: (a) based on a teacher petition that contains 15 required elements under s. 118.40 (1m) (b), stats.; and (b) based on school board initiative under s. 118.40 (2m), stats. Within 30 days after receiving a teacher petition, the school board must hold a public hearing on the petition. At the hearing, the school board must consider the level of employee and parental support for the proposed charter school and the fiscal impact on the school district of establishing the charter school. The school board may, but is not required to, grant the petition. [s. 118.40 (2) (a), stats.] If the school board grants the petition, it must contract for the operation of the charter school with the person named in the petition as the person seeking to establish the school. [s. 118.40 (3) (a), stats.] If a teacher petition is presented to the board of school directors of the Milwaukee Public Schools (MPS), the MPS board is required to grant or deny the petition within 30 days after the public hearing. If the MPS board denies a teacher petition, the person seeking to establish the charter school may, within 30 days after the denial, appeal the denial to the department of public instruction (DPI). DPI must issue a decision within 30 days after receiving the appeal. DPI's decision is final and is not subject to judicial review under ch. 227, stats. [s. 118.40 (2) (c), stats.] Current law does not specify the criteria that DPI would use to review the MPS board's denial. Current law also does not specify any criteria a school board or (2r) authorizer must use in determining whether to establish a charter school.

This appeal process applies only to MPS and only with respect to the denial of a teacher petition. Current law does not provide an appeal process under any of the following scenarios: (a) a school board decides not to initiate a charter based on a request that is other than a teacher petition; (b) a (2r) authorizer decides not to initiate a charter; or (c) a school board other than the MPS board decides not to grant a teacher petition for a charter.

*Nonrenewal of a charter.* Under current law, a charter school contract may not exceed 5 school years. It can be renewed for one or more terms not exceeding 5 school years. [s. 118.40 (3) (b), stats.] Current statutes do not require that a school board or (2r) authorizer follow a certain process or consider certain factors before deciding not to renew a contract. Current statutes do not provide a clear process for appeal of a decision to nonrenew a charter, although an argument could be made that ch. 68, stats. (relating to review of municipal administrative decisions),

could be applied to nonrenewal decisions made by the MATC board or the common council of the city of Milwaukee (unless either has elected a different process) and that ch. 227, stats., could be applied to decisions made by the UW (2r) authorizers. Neither of these statutes would apply to nonrenewal decisions made by a school board. It is possible that, under common law, a court has discretion to hear a petition to review a nonrenewal decision.

*Pupil residency requirement for (2r) charter schools.* With the exception of certain pupils who attend the Woodlands School, current law provides that only pupils who reside in the school district in which a (2r) charter school is located may attend that (2r) charter school.

*Funding for charter schools.* A school board determines how much funding to provide to a charter school established by the school board. DPI pays the operators of (2r) charter schools according to a per pupil formula set forth in the statutes. The payment amount is \$7,669 per pupil in the 2006–07 school year. Under current law, funding equal to the estimated payment each year for (2r) charter schools is reduced proportionately from the general school aids paid to all school districts. In addition, the Racine Unified School District (RUSD) receives payments equal to its equalization aid per pupil multiplied by the number of pupils attending the charter school established by the UW–Parkside who were previously enrolled in RUSD. The draft does not amend these payment provisions.

### ***THE DRAFT***

The provisions of the draft are described in the NOTES following each SECTION.

1           **SECTION 1.** 20.505 (4) (kp) of the statutes is amended to read:

2           20.505 (4) (kp) *Hearings and appeals fees.* The amounts in the schedule for hearings  
3 and appeals services to the department of health and family services under s. 227.43 (1) (bu),  
4 the department of workforce development under s. 227.43 (1) (by) and to all agencies under  
5 s. 227.43 (1m). All moneys received from the fees charged under s. 227.43 (3) (c), (d) ~~and~~  
6 (e), and (f) shall be credited to this appropriation account.

**NOTE:** This SECTION credits the fees paid for services of the division of hearings and appeals in the department of administration (DOA) in connection with hearings on appeals filed for review of a denial of a

charter or refusal to renew a charter for a charter school to an appropriation to DOA for that program.

1       **SECTION 2.** 118.40 (2) (a) of the statutes is amended to read:

2       118.40 (2) (a) Within 30 days after receiving a petition under sub. (1m), the school board  
3 shall hold a public hearing on the petition. ~~At the hearing, the school board shall consider the~~  
4 ~~level of employee and parental support for the establishment of the charter school described~~  
5 ~~in the petition and the fiscal impact of the establishment of the charter school on the school~~  
6 ~~district.~~ After the hearing, the school board may grant or deny the petition. The school board's  
7 decision shall be based on the factors in sub. (2w) (a).

**NOTE:** See NOTE following SECTION 4.

8       **SECTION 3.** 118.40 (2m) (a) of the statutes is amended to read:

9       118.40 (2m) (a) A Subject to sub. (2w) (a), a school board may on its own initiative  
10 contract with a person to operate a school as a charter school. The contract shall include all  
11 of the provisions specified under sub. (1m) (b) and may include other provisions agreed to by  
12 the parties.

**NOTE:** See NOTE following SECTION 4.

13       **SECTION 4.** 118.40 (2m) (am) of the statutes is amended to read:

14       118.40 (2m) (am) At least 30 days before entering in a contract under this subsection  
15 that would convert a private school to a charter school or that would establish a charter school  
16 that is not an instrumentality of the school district, the school board shall hold a public hearing  
17 on the contract. ~~At the hearing, the school board shall consider the level of employee and~~  
18 ~~parental support for the establishment of the charter school and the fiscal impact of the~~  
19 ~~establishment of the charter school on the school district.~~

**NOTE:** Under current law, a school board must consider, *at a hearing* on a teacher petition or at a hearing to convert a private school to a charter school or establish a charter school that is not an instrumentality of the

school district, the level of employee and parental support for the charter school and the fiscal impact of the charter school on the school district. However, current law does not require the school board to consider these factors in making its decision to grant a petition or enter into a charter school contract on its own initiative.

SECTIONS 2 and 4 eliminate the requirement that a school board consider these 2 factors at a hearing. Instead, SECTIONS 2 and 3 require a school board to consider these and the other factors specified in s. 118.40 (2w) (a), as created in SECTION 16, below, in deciding whether to grant a teacher petition or enter into a charter school contract.

1           **SECTION 5.** 118.40 (2r) (b) 1. (intro.) of the statutes is amended to read:

2           118.40 (2r) (b) 1. (intro.) All Subject to sub. (2w) (b), all of the following entities may  
3 establish by charter and operate a charter school or, on behalf of their respective entities, may  
4 initiate a contract with an individual or group to operate a school as a charter school:

**NOTE:** Current law does not require a (2r) authorizer to consider certain factors in making a decision to establish a charter school. This SECTION requires a (2r) authorizer to consider the factors specified in s. 118.40 (2w) (b), as created in SECTION 16, below, in deciding whether to establish a charter school.

5           **SECTION 6.** 118.40 (2r) (b) 1. e. of the statutes is created to read:

6           118.40 (2r) (b) 1. e. The chancellor of any University of Wisconsin university, as  
7 defined in s. 36.05 (13), other than those specified in subd. par. b. or c.

**NOTE:** This SECTION authorizes the chancellor of any baccalaureate or graduate degree granting institution in the UW System (other than UW–Milwaukee and UW–Parkside, which may already do so) to establish charter schools. There are currently 13 such units, including UW–Milwaukee and UW–Parkside.

8           **SECTION 7.** 118.40 (2r) (b) 1. f. of the statutes is created to read:

9           118.40 (2r) (b) 1. f. The dean of any University of Wisconsin college campus, as defined  
10 in s. 36.05 (6m).

**NOTE:** This SECTION adds the dean of any 2–year UW college campus to the list of entities that may establish charter schools. There are currently 13 2–year UW college campuses in the state.

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

2           118.40 (2r) (b) 1. g. The [chief executive officer] [governing body] [chief executive  
3 officer or governing body] of an accredited private college or university in Wisconsin which  
4 is a member of the Wisconsin Association of Independent Colleges and Universities.

**NOTE:** This SECTION allows establishment of charter schools by an accredited private college or university in Wisconsin that is a member of the Wisconsin Association of Independent Colleges and Universities (WAICU). There are currently 20 member colleges or universities in WAICU.

**COMMENT:** Bracketed options are provided to allow establishment of a charter school by the chief executive officer, governing board, or either.  
*Which option does the committee prefer?*

5           **SECTION 9.** 118.40 (2r) (b) 1. h. of the statutes is created to read:

6           118.40 (2r) (b) 1. h. The district board of a technical college district, other than the board  
7 specified in subd. par. d.

**NOTE:** This SECTION permits a district board of a technical college district to establish charter schools (other than the MATC board, which is already authorized to establish charter schools). There are currently 16 technical college boards in the state, including the MATC board.

8           **SECTION 10.** 118.40 (2r) (b) 1. i. of the statutes is created to read:

9           118.40 (2r) (b) 1. i. The board of control of a cooperative educational service agency.

**NOTE:** This SECTION allows the board of control of each cooperative educational service agency (CESA) to establish charter schools. There are currently 12 CESA districts in the state.

10          **SECTION 11.** 118.40 (2r) (b) 2. of the statutes is amended to read:

11          118.40 (2r) (b) 2. A charter shall include all of the provisions specified under sub. (1m)  
12 (b) 3. to 14. A contract shall include all of the provisions specified under sub. (1m) (b) 1. to  
13 14. and shall specify the effect of the establishment of the charter school on the liability of the  
14 contracting entity under this paragraph. The contract may include other provisions agreed to  
15 by the parties. The chancellor of the University of Wisconsin–Milwaukee or of the University

1 ~~of Wisconsin–Parkside~~ a University of Wisconsin university or a dean of a University of  
2 Wisconsin college campus may not establish or enter into a contract for the establishment of  
3 a charter school under this paragraph without the approval of the board of regents of the  
4 University of Wisconsin System.

**NOTE:** This SECTION applies the current statute relating to approval by the UW System board of regents to all UW universities and college campuses authorized to establish charter schools.

5 **SECTION 12.** 118.40 (2r) (b) 3. (intro.) of the statutes is amended to read:

6 118.40 (2r) (b) 3. (intro.) If the chancellor of the University of Wisconsin–Parkside  
7 contracts for the establishment of a charter school, the contract shall also provide that the  
8 charter school must be operated by a governing board and that the chancellor or his or her  
9 designee must be a member of the governing board. [In addition, if the contract] ~~[In addition,~~  
10 ~~if the contract~~ If any contract entered into by the chancellor of a University of Wisconsin  
11 university, other than the chancellor of the University of Wisconsin–Milwaukee, or by the  
12 dean of a University of Wisconsin college campus] provides that the instructional staff of the  
13 charter school shall consist of employees of the board of regents of the University of  
14 Wisconsin System, the contract shall also include provisions that do all of the following:

**COMMENT:** See COMMENT following SECTION 13.

15 **SECTION 13.** 118.40 (2r) (b) 3. a. of the statutes is amended to read:

16 118.40 (2r) (b) 3. a. Delegate to the governing board of the charter school the board of  
17 regents' authority to establish and adjust all compensation and fringe benefits of instructional  
18 staff, subject to the terms of any collective bargaining agreement under subch. V of ch. 111  
19 that covers the instructional staff. In the absence of a collective bargaining agreement, the  
20 governing board may establish and adjust all compensation and fringe benefits of the  
21 instructional staff only with the approval of the chancellor of [the University of

1      Wisconsin–Parkside] [~~the University of Wisconsin–Parkside a University of Wisconsin~~  
 2      ~~university, other than the chancellor of the University of Wisconsin–Milwaukee, or of the dean~~  
 3      ~~of a University of Wisconsin college campus].~~

**COMMENT:** The provisions in s. 118.40 (2r) (b) 3., stats., currently apply only to the charter school established by the UW–Parkside. The language in the first brackets would retain current law. The language in the second brackets would, if adopted, make these provisions also applicable to other UW entities authorized to establish charter schools (other than the UW–Milwaukee), if they enter into a contract that provides that the instructional staff of the charter school consists of employees of the board of regents of the UW System. *Which option does the committee prefer?* Also, see SECTION 12, above, and SECTION 20, below.

If the committee decides to have the employee provisions apply to more than just UW–Parkside, then it will be necessary to amend a number of cross–references in the statutes to expand their applicability beyond UW–Parkside. Those statutes include the following:

1. Section 20.285 (1) (gs) and (kc), relating to appropriations for charter school operator payments and payments received from DPI for operation of the charter school established by UW–Parkside.
2. Section 20.923 (6) (m), relating to statutory salaries to UW staff providing services to the charter school established by UW–Parkside.
3. Sections 111.81 (7) (f), 111.815 (1) and (2) (f), and 111.92 (1) (c), relating to employment relations and treatment of charter school employees providing services under contract with UW–Parkside.
4. Section 230.08 (2) (dm), relating to civil service classification of instructional staff employed by the board of regents of the UW System who provide services for the charter school established by UW–Parkside.
5. Section 230.35 (1s), relating to leave of absence decisions involving employees providing services to the charter school established by UW–Parkside.

4      **SECTION 14.** 118.40 (2r) (c) 1. of the statutes is amended to read:

5      118.40 (2r) (c) 1. Except as provided in subd. 3., only pupils who reside in the school  
 6      district in which a charter school established under ~~this subsection~~ par. (b) 1. a. to d. is located

1 may attend the charter school. Only pupils who reside in this state may attend a charter school  
2 established by an entity under par. (b) 1. e. to i.

**NOTE:** Current statutes provide that, with the exception of the Woodlands School cited in s. 118.40 (2r) c. 3., stats., enrollment is open only to pupils who reside in the school district in which the (2r) charter school is located. For a (2r) charter school established by any of the new (2r) authorizers under this draft, this SECTION provides that only pupils residing in the state may attend.

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

4 118.40 (2r) (f) ~~If the chancellor of the University of Wisconsin–Parkside~~ If any entity  
5 under par. (b) 1. c., e., f., g., h., or i. establishes or contracts for the establishment of a charter  
6 school under this subsection, ~~biennially the chancellor~~ the entity shall submit a report  
7 biennially to the legislature under s. 13.172 (2). The report shall include information on the  
8 academic performance of the pupils who attend the charter school and on the success of the  
9 governance structure of the charter school.

**NOTE:** Current law requires a biennial report to the legislature about the UW–Parkside charter school. This SECTION retains the requirement with respect to the UW–Parkside but also makes it applicable to charter schools created by any other (2r) authorizer, except for the following current (2r) authorizers: the common council of the city of Milwaukee, the chancellor of UW–Milwaukee, and the MATC board.

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

11 118.40 (2w) DECISION FACTORS. (a) In determining whether to grant or deny a petition  
12 under sub. (2) (a) or enter into a contract under sub. (2m), a school board shall consider all of  
13 the following:

- 14 1. The level of employee and parental support for the establishment of the charter  
15 school.
- 16 2. The fiscal impact of the establishment of the charter school on the school district.
- 17 3. The broad goals or mission of the charter school.

1           4. The need for the charter school, how it differs from the schools currently available  
2 to pupils, and the population and grade levels it is intended to serve.

3           5. The preliminary budget for the charter school.

4           6. The provisions specified in sub. (1m) (b) 1. to 15.

5           (b) In determining whether to establish by charter and operate a charter school or enter  
6 into a contract for the operation of a charter school under sub. (2r), an entity specified in sub.  
7 (2r) (b) shall consider all of the following:

8           1. The level of employee and parental support for the establishment of the charter  
9 school.

10          2. The fiscal impact of the establishment of the charter school on the entity.

11          3. The broad goals or mission of the charter school.

12          4. The need for the charter school, how it differs from the schools currently available  
13 to pupils, and the population and grade levels it is intended to serve.

14          5. The preliminary budget for the charter school.

15          6. The provisions specified in sub. (1m) (b) 1. to 14. and the effect of the establishment  
16 of the charter school on the liability of the entity.

**NOTE:** This SECTION requires a school board to consider the factors specified in par. (a), above, in deciding whether to grant a teacher petition or enter into a charter school contract. This SECTION also requires a (2r) authorizer to consider these factors, as slightly modified to refer to (2r) authorizers, in deciding whether to establish a charter school.

17          **SECTION 17.** 118.40 (3) (b) of the statutes is amended to read:

18          118.40 (3) (b) A contract under par. (a) or under subs. sub. (2m) or (2r) may be for any  
19 term not exceeding 5 school years and may be renewed for one or more terms not exceeding  
20 5 school years. The contract shall specify the amount to be paid to the charter school during

1 each school year of the contract. A school board or entity under sub. (2r) (b) may not refuse  
2 to renew a contract unless the school board or entity has given written notice to the person with  
3 whom the school board or entity has contracted of intent not to renew the contract at least 100  
4 days prior to the expiration of the term of the contract. The notice of intent shall specify the  
5 reasons for the proposed nonrenewal. If notice is not timely given, unless the person with  
6 whom the school board or entity under sub. (2r) (b) has contracted agrees in writing to a shorter  
7 period, the term of the contract is extended for 12 months.

**NOTE:** Current statutes do not require a school board or (2r) authorizer to follow a certain process or consider certain factors before deciding not to renew a contract for a charter school. This SECTION requires that written notice of nonrenewal, including the reasons, be given at least 100 days before the expiration of the term of the contract. If timely notice is not given, unless the person with whom the school board or (2r) authorizer has contracted agrees in writing to a shorter period, the term of the contract is extended for 12 months.

8 **SECTION 18.** 118.40 (3g) of the statutes is created to read:

9 118.40 (3g) REQUEST TO CONSIDER ESTABLISHING A CHARTER SCHOOL. (a) *Definition.* In  
10 this subsection, “consider establishing a charter school” means undertake activities to  
11 determine whether to establish a charter school, such as signing an application for a grant for  
12 federal funds to plan a charter school, agreeing to participate in a consortium to review a  
13 concept for a charter school, or assigning a committee or staff to study a concept for a charter  
14 school.

15 (b) *Request to consider establishing.* A written request that a school board consider  
16 establishing a charter school under sub. (2m) may be filed with the school district clerk. A  
17 written request that an entity under sub. (2r) (b) consider establishing a charter school under  
18 sub. (2r) may be filed with that entity. A request to consider establishing a charter school shall  
19 include all of the following:

1 1. A statement of the broad goals or mission of the charter school.

2 2. A statement of why the charter school is needed, how it is different from the schools  
3 currently available to pupils, and the population and grade levels it is intended to serve.

4 3. A preliminary budget for the charter school.

5 (c) *Meeting required.* Within 30 days after receiving a request under par. (b), the school  
6 board or the entity under sub. (2r) (b) 1. a., b., c., d., e., f., h., or i., or the designee of that entity,  
7 shall hold a meeting at which the issue of whether to grant or deny the request shall be  
8 considered. The school board or entity under sub. (2r) (b) 1. a., b., c., d., e., f., h., or i., or the  
9 designee of that entity, may, but is not required to, hold a public hearing on the request at that  
10 meeting.

**NOTE:** This SECTION establishes a procedure by which a person may request that a school board or (2r) authorizer consider establishing a charter school. If such a request is made, the draft requires the school board or (2r) authorizer (other than a private college or university under sub. (2r) (b) 1. g.), or the (2r) authorizer's designee, to hold a meeting on the request within 30 days. The meeting may, but is not required to, include a public hearing. While par. (b) permits a request to be made to a private college or university as a (2r) authorizer, par. (c) does not require the private college or university to take action on the request.

The draft simply requires that a meeting be held on a request to consider establishing a charter school. (Again, this requirement does not apply to a private university or college.) The draft does not require a school board or (2r) authorizer to issue a decision on such a request and does not provide for an appeal of any decision made. If a person wants a decision that can be appealed to the division of hearings and appeals, the person must submit a request to establish a charter school under proposed s. 118.40 (3r), below, and include additional information. (As noted above, current law provides that the decision of the MPS board of directors on a teacher petition to establish a charter school is appealable to DPI. The draft does not affect that appeal process. Also, the draft does not create an appeal process for denial of a teacher petition made to any school board other than the MPS board.)

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

1           118.40 **(3r)** REQUEST TO ESTABLISH A CHARTER SCHOOL; APPEAL OF REFUSAL TO ESTABLISH  
2 A CHARTER SCHOOL OR RENEW A CHARTER. (a) *Definition.* In the subsection, “division of  
3 hearings and appeals” means the division of hearings and appeals in the department of  
4 administration.

5           (b) *Request to establish.* A written request that a school board establish a charter school  
6 under sub. (2m) may be filed with the school district clerk. The request shall include the  
7 information specified in sub. (2w) (a) 1. to 6. A written request that an entity under sub. (2r)  
8 (b) establish a charter school under sub. (2r) may be filed with that entity. The request shall  
9 include the information specified in sub. (2w) (b) 1. to 6. A request may be made under this  
10 subsection without filing a request under sub. (3g).

11           (c) *Meeting required.* Within 30 days after receiving a request under par. (b), the school  
12 board or entity under sub. (2r) (b) 1. a., b., c., d., e., f., h., or i., or the designee of that entity,  
13 shall hold a meeting at which the issue of whether to grant or deny the request shall be  
14 considered. The school board or entity under sub. (2r) (b) 1. a., b., c., d., e., f., h., or i., or the  
15 designee of that entity, may, but is not required to, hold a public hearing on the request at that  
16 meeting.

17           (d) *Decision required.* Within 30 days after the date of the meeting in par. (c), the school  
18 board or entity under sub. (2r) (b) 1. a., b., c., d., e., f., h., or i. shall either grant or deny the  
19 request based on the factors in sub. (2w) (a) or (b), as applicable, unless the person making  
20 the request consents in writing to a later date. A denial shall be in writing and shall specify  
21 the reasons for denial.

22           (e) *Appeal rights for refusal to establish or nonrenew.* 1. If a school board or entity  
23 under sub. (2r) (b) 1. a., b., c., d., e., f., h., or i. denies a request under par. (d), the person who  
24 submitted the request may, within 30 days after the date the denial was issued, appeal the

1 denial by filing a written request for a hearing under s. 227.44 to the division of hearings and  
2 appeals.

3 2. If a school board or entity under sub. (2r) (b) 1. a., b., c., d., e., f., h., or i. issues a notice  
4 of intent not to renew under sub. (3) (b), the person with whom the school board or entity under  
5 sub. (2r) (b) 1. a., b., c., d., e., f., h., or i. contracted may, within 30 days after the date the notice  
6 of intent not to renew was issued, appeal the proposed nonrenewal by filing a written request  
7 for a hearing under s. 227.44 to the division of hearings and appeals.

8 (f) *Appellate procedure and decision.* 1. The division of hearings and appeals shall  
9 commence the hearing within 30 days after receipt of the request for the hearing unless all of  
10 the parties agree in writing to a later date. The division of hearings and appeals shall issue a  
11 final decision within 30 days after the close of the hearing unless all of the parties consent in  
12 writing to a later date.

13 2. The division of hearings and appeals shall consider whether procedures were  
14 followed and whether there was a reasonable basis for the decision.

15 3. In addition to other relief that the division of hearings and appeals deems appropriate,  
16 orders of the division of hearings and appeals may include the following:

17 a. For an appeal of a denial under par. (e) 1., that the school board or other entity  
18 negotiate in good faith regarding the terms of a contract to establish the charter school.

19 b. For an appeal regarding a notice of intent not to renew under par. (e) 2., that the school  
20 board or other entity renew the contract or negotiate in good faith regarding renewal of the  
21 contract with amended provisions.

22 4. The department shall establish a program for the mediation of disputes between the  
23 parties about establishing the terms of a contract under subd. 3. a. or b., which either party may  
24 request be used. The mediator's compensation is the responsibility of the parties.

- 1           5. Proceedings before the division of hearings and appeals are governed by ch. 227.  
2           The decision of the division of hearings and appeals is final and is not subject to judicial review  
3           under ch. 227.

**NOTE:** This SECTION of the draft does the following:

a. Permits a person to make a written request to a school board or (2r) authorizer to establish a charter school. The draft also specifies that it is not necessary to make a request to consider establishing a charter school under proposed s. 118.40 (3g) before a request to establish a charter school may be made.

b. Provides that a request to establish a charter school must include the information on which an approval or denial decision must be based, that is: (1) the information in proposed s. 118.40 (3g) (a statement of the broad goals or mission of the charter school; a statement of why the charter school is needed, how it is different from the schools currently available to pupils, and the population and grade levels it is intended to serve; and a preliminary budget for the charter school); (2) the 2 elements required to be considered at certain hearings under current law (the level of employee and parental support for the establishment of the charter school and the fiscal impact of the establishment of the charter school on the school district (with the 2nd element modified to apply to (2r) authorizers); and (3) the 15 required elements that must be in a teacher petition for a charter school and in a school board charter school contract. (However, for a request to a (2r) authorizer to establish a charter school, the effect of the establishment of the charter school on the liability of the (2r) authorizer is substituted for the 15th required element since that element (effect on the liability of the school district) applies only to school boards.)

c. Requires the school board or (2r) authorizer, other than a private college or university, that received a request to establish a charter school to hold a meeting within 30 days to consider whether to grant or deny the request. A (2r) authorizer may designate a person or entity to hold the meeting. The draft permits, but does not require, the school board or (2r) authorizer, or (2r) authorizer's designee, to hold a public hearing on the request at that meeting.

d. Requires the school board or (2r) authorizer, other than a private college or university, to grant or deny the request within 30 days after the date of the meeting unless the person making the request consents in writing to a later date. A denial must be in writing and specify the reasons for denial.

e. Permits the person who submitted the request to appeal a denial to the division of hearings and appeals in DOA if the appeal is filed within 30 days after the date of the denial.

f. If a notice of intent not to renew is issued (as set forth in proposed s. 118.40 (3) (b), above), permits the person with whom the school board or (2r) authorizer, other than a private college or university, has contracted to, within 30 days after the date the notice of intent not to renew was issued, appeal the proposed nonrenewal by filing a written request for a hearing with the division of hearings and appeals.

g. Requires the division of hearings and appeals to commence the hearing within 30 days after receipt of the request unless all of the parties agree in writing to a later date. The draft also requires the division of hearings and appeals to issue its final decision within 30 days after the close of the hearing unless all of the parties consent in writing to a later date. The draft provides that the division of hearings and appeals must consider whether procedures were followed and whether there was a reasonable basis for the decision.

h. Provides that, in addition to other relief that the division of hearings and appeals deems appropriate, orders of the division of hearings and appeals may include the following: (1) for an appeal of a refusal of a request to establish a charter school, that the school board or (2r) authorizer negotiate in good faith regarding the terms of a contract to establish the charter school; and (2) for an appeal regarding a notice of intent not to renew, that the contract be renewed or the parties negotiate in good faith regarding renewal of a contract with amended provisions.

i. Requires DPI to establish a program for the mediation of disputes between the parties about establishing the terms of a contract in item h. which either party may request be used. The draft provides that the mediator's compensation is the responsibility of the parties.

j. Provides that proceedings before the division of hearings and appeals are governed by ch. 227, relating to administrative actions. The draft also provides that the decision of the division of hearings and appeals is final and is not subject to judicial review under ch. 227, stats.

1           **SECTION 20.** 118.40 (7) (am) 2. of the statutes is amended to read:

2           118.40 (7) (am) 2. A charter school established under sub. (2r) or a private school  
3 located in the school district operating under ch. 119 that is converted to a charter school is  
4 not an instrumentality of any school district and no school board may employ any personnel

1 for the charter school. If [the chancellor of the University of Wisconsin–Parkside] [the  
 2 ~~chancellor of the University of Wisconsin–Parkside~~ a chancellor of a University of Wisconsin  
 3 university, other than the chancellor of the University of Wisconsin–Milwaukee, or the dean  
 4 of a University of Wisconsin college campus] contracts for the establishment of a charter  
 5 school under sub. (2r), the board of regents of the University of Wisconsin System may  
 6 employ instructional staff for the charter school.

**COMMENT:** The second sentence of s. 118.40 (7) (am) 2. applies only to a charter school established by the UW–Parkside. The language in the first bracket retains current law. The language in the second bracket would, if adopted, permit the board of regents of the UW System to employ instructional staff at charter schools established by all UW universities and college campuses, other than the UW–Milwaukee. Also, see SECTIONS 12 and 13, above. *Which option does the committee prefer?*

7 **SECTION 21.** 227.43 (1) (bg) of the statutes is amended to read:

8 227.43 (1) (bg) Assign a hearing examiner to preside over any hearing or review under  
 9 ss. 84.30 (18), 84.305, 84.31 (6) (a), 85.013 (1), 86.073 (3), 86.16 (5), 86.195 (9) (b), 86.32  
 10 (1), 101.935 (2) (b), 101.951 (7) (a) and (b), 114.134 (4) (b), 114.135 (9), 114.20 (19), 118.40  
 11 (3r), 175.05 (4) (b), 194.145 (1), 194.46, 218.0114 (7) (d) and (12) (b), 218.0116 (2), (4), (7)  
 12 (a), (8) (a) and (10), 218.0131 (3), 218.11 (7) (a) and (b), 218.22 (4) (a) and (b), 218.32 (4)  
 13 (a) and (b), 218.41 (4), 218.51 (5) (a) and (b), 341.09 (2m) (d), 342.26, 343.69 and 348.25 (9).

**NOTE:** This SECTION requires the administrator of the division of hearings and appeals to assign a hearing examiner to preside over the hearings on appeals for refusal to establish a charter school and for nonrenewal of a charter as set forth in proposed s. 118.40 (3r) (f).

14 **SECTION 22.** 227.43 (3) (f) of the statutes is created to read:

15 227.43 (3) (f) The administrator of the division of hearings and appeals may set the fees  
 16 to be charged for any services under section 118.40 (3r) (f). The fee shall cover the total cost  
 17 of the services.

1           **SECTION 23.** 227.43 (4) (f) of the statutes is created to read:

2           227.43 (4) (f) The party requesting the hearing under section 118.40 (3r) (e) 1. or 2. shall  
3           pay all costs of the services of a hearing examiner, including support services, according to  
4           the fees set under sub. (3) (f).

**NOTE:** SECTIONS 22 and 23 provide that the administrator of the division of hearings and appeals sets the fees for the division's services for hearings on appeals for refusal to establish a charter school and for nonrenewal of a charter. The draft requires the party requesting the hearing to pay the division's fees.

5           **SECTION 24. Initial applicability.**

6           (1) The treatment of section 118.40 (2) (a) and (2w) (a) of the statutes first applies to  
7           hearings held on and decisions made about petitions received on the effective date of this  
8           subsection.

**NOTE:** This provision applies the factors considered on hearings held on and decisions made about teacher petitions to teacher petitions received on or after the effective date of the bill.

9           (2) The treatment of section 118.40 (3) (b) of the statutes with respect to requiring  
10          written notice of intent not to renew a contract first applies as follows:

11          (a) Except as provided in par. (b), to contracts that are entered into or renewed on the  
12          effective date of this subsection.

13          (b) To contracts that expire 101 days after the effective date of this subsection if the  
14          contract was in effect on the effective date of this subsection but did not include a provision  
15          requiring notice of intent not to renew.

**NOTE:** In general, this provision applies the proposed statute requiring at least a 100-day advance notice of intent not to renew a charter school contract to contracts that are entered to or renewed on or after the effective date of the bill. However, if a contract was in effect on the effective date of the bill and did not include a provision requiring notice of intent not to renew, this provision applies the advance notice

requirement to all such contracts that expire 101 or more days after the effective date of the bill.

1

(END)