



Pride of the Ojibwe

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To: Tribal Caucus of the Special Committee on State-Tribal Relations

From: Russell "Rusty" Barber, Vice-Chairman
Kekek Jason Stark, Legal Director / Tribal Attorney
James H. Schlender Jr., Tribal Attorney

Re: Establishment and Operation of a Charter School by an American Indian Tribe or Band

Date: December 3, 2014

This Memo provides a brief overview of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians proposal for consideration by the Tribal Caucus of the Special Committee on State-Tribal Relations pertaining to a statutory change governing the establishment and operation of charter schools, with particular attention to those statutes that would apply to a school chartered by an American Indian tribe or band.

As described by Memo No. 14-3, Charter Schools are designed to create innovative educational options for students and parents. They are nonsectarian and are created through contract, or charter, between an operator and a chartering authority. The charter defines the schools mission and methods and describes how the school will meet the special needs and interests of its community, parents, and students. The statutes exempt charter schools from most state rules and regulations in exchange for greater accountability with regard to results. The principle statute governing charter schools is s. 118.40, Stats.

The statutes provide three mechanisms by which a charter school can be established: 1) Petition by Teachers, 2) School Board Initiative, and 3) Initiative of an Independent Authorizer. The Lac Courte Oreilles Band proposes three potential Legislative options authorizing tribes to charter schools as independent authorizers.

Option I:

As proposed in WLC 0020/2, the Tribal Caucus can propose an amendment adding Tribal Colleges to the list of independent authorizers. In order to accomplish this option, the following statutes would be affected:

- Section 118.40(2r)(a) of the statutes is amended to read: In this subsection, ~~“instructional; 1. “Instructional~~ staff” has the meaning given in the rules promulgated by the department under s. 121.02(1)(a)2.

- Section 118.40(2r)(a)2 of the statutes is created to read: “Tribal college” means an accredited college operated or controlled by a federally recognized American Indian Tribe or Band in this state [that meets the requirements of 25 USC 1804].
- Section 118.40(2r)(b)1.e of the statutes is created to read: a tribal college.

Option II:

The Tribal Caucus can propose an amendment adding a Tribe or Band to the list of independent authorizers. In order to accomplish this option, the following statutes would be affected:

- Section 118.40(2r)(b)1.e of the statutes is created to read: A federally recognized American Indian tribe or band in this state to establish a charter school within the boundaries of the tribe's or band's reservation.

The benefit of this option is that the Tribe does not need to add additional bureaucratic red tape to the process and can directly contract or charter a school.

Option III:

As the Tribal Caucus proposed in 2005 and was introduced by the Joint Legislative Council as 2005 Senate Bill 302, the Tribal Caucus can propose to establish the Tribal Charter School Authorizing Board. The board would consist of one member representing each of Wisconsin's 11 federally recognized American Indian tribes and bands, appointed by and serving at the pleasure of the governing body of each tribe. This bill creates an independent state agency, the Tribal Charter School Authorizing Board. This amendment would authorize the board to contract for the establishment of charter schools as an independent authorizer. This amendment would also require that any charter school established be located on reservation or off-reservation trust land. Only pupils who reside in the attendance area established by the board for that charter school may attend the charter school. In order to accomplish this option, the following statutes would be affected:

- Section 15.07(1)(a)7 of the statutes is created to read: Members of the tribal charter school authorizing board shall be appointed as provided under s. 15.97.
- Section 15.97 of the statutes is created to read:
 - (1) There is created a tribal charter school authorizing board consisting of one person representing each of the following federally recognized American Indian tribes and bands, appointed by and serving at the pleasure of the governing body of that tribe:
 - (a) Bad River Band of Lake Superior Chippewa Indians.
 - (b) Red Cliff Band of Lake Superior Chippewa Indians.
 - (c) Forest County Potawatomi Indian Community.
 - (d) Ho-Chunk Nation of Wisconsin.
 - (e) Lac Courte Oreilles Band of Lake Superior Chippewa Indians.
 - (f) Lac du Flambeau Band of Lake Superior Chippewa Indians.
 - (g) Menominee Indian Tribe of Wisconsin.
 - (h) Oneida Tribe of Indians of Wisconsin.
 - (i) Sokaogon Chippewa (Mole Lake) Community of Wisconsin.
 - (j) St. Croix Chippewa Indians of Wisconsin.

(k) Stockbridge–Munsee Community of Wisconsin.

(2) Notwithstanding s. 15.07 (4), a majority of the persons who have been appointed to the tribal charter school authorizing board constitutes a quorum to do business.

Whenever, the governing body of a tribe specified in sub. (1) appoints a person to or removes a person from the tribal charter school authorizing board, the governing body shall notify the chairperson of the board.

- Section 118.40(2r)(b)1.e of the statutes is created to read: The tribal charter school authorizing board.
- Section 118.40(2r)(b)1.m of the statutes is created to read: The tribal charter school authorizing board may initiate a contract with an individual or group to operate a school as a charter school. The board shall designate an attendance area for each charter school established under this subdivision and shall include a provision in the contract prohibiting the charter school from enrolling any pupil who does not reside in that attendance area.
- Section 118.40 (2r) (bm) of the statutes is amended to read: The common council of the city of Milwaukee, the chancellor of the University of Wisconsin–Milwaukee, and the Milwaukee area technical college district board may only establish or enter into a contract for the establishment of a charter school located in the school district operating under ch. 119. The chancellor of the University of Wisconsin–Parkside may only establish or enter into a contract for the establishment of a charter school located in a unified school district that is located in the county in which the University of Wisconsin–Parkside is situated or in an adjacent county. The tribal charter school authorizing board may only enter into a contract for the establishment of a charter school located on reservation or off-reservation trust land.
- Section 118.40(2r)(c)5 of the statutes is created to read: A pupil may attend a charter school established by the tribal charter school authorizing board under par. (b)1.e if the pupil resides in the attendance area established for that charter school by the tribal charter school authorizing board.
- Nonstatutory provisions. Notwithstanding section 15.97 (2) of the statutes, as created by this act, until the first meeting of the tribal charter school authorizing board, the governing body of each tribe authorized to appoint a person to the board shall notify the secretary of administration when it appoints a person to the board.

Schools chartered as independent authorizers receive funding directly from the state, in the amount calculated according to a statutory formula, which is on a per-pupil basis. Pursuant to section 118.40(2n): In the 2014-15 school year, from the appropriation under s. 20.255 (2) (fm), the department shall pay to the operator of the charter school an amount equal to \$8,075 multiplied by the number of pupils attending the charter school. In addition, charter schools may apply for grants. This formula relieves the potential burden of lost revenue on any individual district and spreads the cost to each of the districts across the state.

Miigwech (Thank You) in advance considering this proposal. Please let us know if we can be of any further assistance or provide additional information.

