



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873  
Email: [fiscal.bureau@legis.wisconsin.gov](mailto:fiscal.bureau@legis.wisconsin.gov) • Website: <http://legis.wisconsin.gov/lfb>

March 27, 2017

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: January 2017 Special Session Assembly Bill 6: Authorizing a Recovery Charter School

January 2017 Special Session Assembly Bill 6 would authorize the establishment of a recovery charter school. The bill was introduced on February 17, 2017, and referred to the Assembly Committee on Education. On March 9, the Assembly Committee on Education adopted Assembly Amendment 1 to SS AB 6 on a vote of 13-0 and Assembly Amendment 2 to SS AB 6 on a vote of 14-0, and adopted the bill, as amended, on a vote of 16-0. The bill was referred to the Joint Committee on Finance on March 16.

A Senate companion bill, Special Session Senate Bill 6, was introduced on February 21 and referred to the Senate Committee on Education. Senate Amendment 1 was offered on February 27, 2017.

### **BACKGROUND**

Charter schools are public schools created by a contract between an authorizing entity and the school's governing board. Charter schools are generally not subject to statutory provisions governing K-12 education. Under the independent charter school program, specified entities other than school districts are allowed to authorize charter schools. The 2015-17 biennial budget act (2015 Act 55) created an Office of Educational Opportunity (OEO) in the University of Wisconsin System. Under Act 55, the Director of the OEO is allowed to contract for the establishment of charter schools located only in school districts with membership over 25,000 pupils (currently Milwaukee and Madison). There is no limit on the number of schools the OEO Director can establish, and there are no geographic restrictions on which pupils can attend these schools. No charter schools are operating under a contract with the OEO Director in the 2016-17 school year.

Act 55 created a sum sufficient appropriation from the general fund for per pupil payments to charter schools authorized by the OEO Director. The Department of Public Instruction (DPI) will pay the operators of these charter schools the same statutorily-determined per pupil amount as

that for currently-operating independent charter schools, which is \$8,188 in 2016-17. This per pupil payment is indexed, with the payment in a given year equal to the sum of the amount paid per pupil in the previous year plus the per pupil revenue limit adjustment for the current year, if positive, plus the change in the amount of statewide categorical aid per pupil between the previous year and the current year, if positive. DPI is required to make payments equal to 25% of the total due to each school in September, December, February and June of each school year.

A pupil attending a charter school authorized by the OEO Director will be counted by their district of residence for the calculation of revenue limits and general school aids. DPI will be required to reduce a school district's general aid payment (and categorical aid, if necessary) in an amount equal to the total of the per pupil payments made for pupils residing in the district. A district will not be able to levy to backfill, or replace, that aid reduction

## **SUMMARY OF BILL**

*General Provisions.* The bill would authorize the Director of the OEO to enter into a contract to establish, as a pilot project, one recovery charter school. The bill would require that the recovery charter school operate only high school grades and limit enrollment to no more than 15 pupils. The recovery charter school would not be subject to the current law requirement that a school chartered by the OEO Director be located in a school district with more than 25,000 pupils, but the school would be required to be located in this state. The term of the contract for the school would be limited to four consecutive school years.

Under the bill, the recovery charter school operator would be required to provide an academic curriculum that satisfies the high school graduation requirements in statute and provide therapeutic programming and support for pupils in recovery from substance use disorder or dependency. Prospective pupils would be required to apply to attend the charter school, and eligibility for enrollment would be conditioned on the applicant having begun treatment in a substance use disorder or dependency program, having maintained sobriety for at least 30 days prior to attending the charter school, and submitting to a drug screening assessment and, if indicated, a drug test. An applicant who tests positive for the presence of a drug in his or her system would not be able to be enrolled in the charter school. As a condition of continuing enrollment, an applicant would be required to receive counseling from substance use disorder or dependency counselors employed by the charter school, and submit claims for coverage of therapeutic programming and support and counseling provided by the charter school to any health care plan under which the applicant is covered for mental health services.

The charter school operator would be required to establish suspension and expulsion policies for pupils attending the charter school that provide for incremental and rehabilitative discipline and that are modelled on the statutory procedures for expulsion hearings and appeals that apply to public schools. The operator would also be required to establish a policy under which a pupil attending the charter school may choose to end their enrollment in the school upon the completion of any required treatment program. A school district would be required to enroll a resident pupil who was enrolled in but has withdrawn from the recovery charter school in the

appropriate grade in a school in the school district and apply all credits earned at the recovery charter school towards the statutory high school graduation requirements.

Under the bill, the recovery charter school would be exempt from the provisions of charter school law under which charter schools are required to give preference to the siblings of pupils enrolled in the school, under which authorizers are required to give preference in awarding contracts to those charter schools that serve children at risk, and under which a charter school governing board may enter into more than one contract for the establishment of a school.

The bill would generally prohibit any health insurance policy, plan, or contract from excluding coverage for mental health or behavioral health treatment or services provided by the recovery charter school if the policy, plan, or contract covers mental health or behavioral health treatment or services provided by another health care provider. This prohibition would apply to any insurer, any limited service health organizations, preferred provider plan, or defined network plan, any self-insured health plan offered by a city, village, town, or school district, or any health care plan operated by a cooperative health care association. Because of a federal preemption against state regulation of non-governmental self-insured plans, this restriction would not apply to those self-insured plans.

The bill would require the OEO Director to report, in writing, to the Department of Health Services (DHS) on the operation and effectiveness of the recovery charter school following the fourth school year of the school's operation. The OEO Director would be required to include in the report an evaluation of the effectiveness of the charter school on long-term student recovery outcomes.

*Funding.* The bill would create a new sum sufficient appropriation from the general fund for payments to the recovery charter school. The creation of that appropriation would take effect on July 1, 2017, or on the second day after publication of the 2017-19 biennial budget act, whichever is later. The bill would specify that the per pupil payment and payment schedule for pupils in the recovery charter school would be the same as the payment for other currently-operating independent charter schools. Under the bill, pupils enrolled in the recovery charter school would be counted by their resident district for the calculation of revenue limits and general school aids, similar to pupils that would be enrolled in other schools authorized by the OEO Director. There would, however, be no aid reduction made to the general aid that would otherwise be paid to the resident district related to pupils enrolled in the recovery charter school.

Under the bill, if a pupil who had enrolled in the recovery charter school withdraws from the school and enrolls in a public school in a school district after the third Friday in September, each installment of the per pupil payment that was not paid to the recovery charter school in that school year would instead be paid to the school district in which the pupil enrolls. These payments would be made from the current law appropriation for payments to charter schools authorized by the OEO Director, rather than the appropriation created under the bill for payments to the recovery charter school.

The bill would authorize the State Superintendent to award a start-up grant of up to \$50,000

to the OEO Director from the newly-created appropriation for the purpose of establishing the recovery charter school, provided that the OEO Director procures matching funds for the same purpose equal to the amount of the grant. Under the bill, the authority to provide the grant would be sunset on July 1, 2018.

The bill would authorize DHS, during the 2017-19 biennium, to seek and apply for any federal moneys for the purpose of awarding a grant to the OEO for the operation of the recovery charter school, and would authorize DHS to award moneys to the OEO if the Department receives such a grant.

### **ASSEMBLY AMENDMENT 1**

AA 1 would make the following changes to the bill: (a) delete the provision specifying that each installment of the per pupil charter payment that was not paid to the recovery charter school for a pupil who withdraws be paid to the school district in which the pupil enrolls; (b) specify that the required report from the OEO Director to DHS on the operation and effectiveness of the recovery charter school be submitted following the third, rather than the fourth, school year of the school's operation; and (c) delete the provision requiring a school district to enroll a resident pupil who has withdrawn from the recovery charter school in the appropriate grade in a school in the school district, and instead require the school district to provide assistance to a person who has control over the pupil to meet the statutory requirements related to compulsory school attendance.

### **ASSEMBLY AMENDMENT 2**

AA 2 would specify that general prohibition on any health insurance policy, plan, or contract excluding coverage for mental health or behavioral health treatment or services provided by the recovery charter school would apply if the policy, plan, or contract covers the mental health or behavioral health treatment or services when they are provided by another health care provider.

### **FISCAL EFFECT**

Under the bill, the State Superintendent would be authorized to award a start-up grant of up to \$50,000 in 2017-18 to the OEO Director for the purpose of establishing the recovery charter school, which would increase GPR expenditures by an estimated \$50,000 in 2017-18. Assuming 15 pupils attended the recovery charter school beginning in 2018-19, total expenditures for these pupils would be an estimated \$122,800, based on the 2016-17 independent charter school payment of \$8,188. Actual expenditures would depend on the per pupil payments in that year, which would be determined by the revenue limit and categorical aid provisions of the 2017-19 budget. Under the Governor's budget proposal, the independent charter school payment would increase to an estimated \$8,622 by 2018-19, which would result in total expenditures of \$129,300 GPR. The increased general fund expenditures under the bill would not be offset by any reductions to the general aid that would otherwise be paid to school districts.

The effect of the recovery charter school on the school finance system would depend on whether the pupils would otherwise have attended another public school if the new charter school

had not opened. If the 15 pupils would have otherwise attended a public school, there would be no change to the revenue limits, per pupil aid, or general aid of their resident districts. If the 15 pupils would not have otherwise attended a public school, revenue limits and per pupil aid for the resident districts would increase as a result of the charter school. Using the statewide average revenue limit per pupil, prior to adjustments, of \$9,973 in 2016-17, the revenue limits for the resident districts would increase, in total, by an estimated \$150,000 once all the pupils have been fully incorporated into the three-year rolling average pupil enrollment used to calculate revenue limits. Because per pupil aid is calculated using the same three-year rolling average pupil enrollment as revenue limits, per pupil aid eligibility for the resident districts would increase by \$3,800 once all the pupils have been fully incorporated into enrollment, using the 2016-17 payment amount of \$250 per pupil. Under the Governor's budget proposal, per pupil aid would total up to \$654 per pupil in 2018-19, which would increase costs to \$9,800 for these pupils on an annualized basis. Finally, these pupils and the related shared costs resulting for the increased revenue limit authority would be included in the calculation of general aid for the resident districts in the following year.

Prepared by: Russ Kava