



July 18, 2012

SUMMARY OF INITIATIVE 1240

Concerning public charter schools.

*This summary has been prepared in response to specific questions about the provisions and effects of Initiative 1240 and is provided for legislative purposes only; it is **not** provided as an expression for or against the ballot measure. Please remember that it is inappropriate to use public resources to support or oppose a ballot measure. Please refer to pages 8-9 of the 2011 Legislative Ethics Manual or contact Senate Counsel for further guidance on when and how commenting on ballot measures is appropriate.*

BRIEF SUMMARY

Initiative 1240 authorizes either a newly-created state commission or approved local school boards to authorize qualifying nonreligious, nonprofit organizations to establish public charter schools that are operated by a charter school board. A maximum of forty charter schools over five years may be established. A charter school will receive standard state public school funding and be open to all students without payment of tuition. Charter schools will be subject to teacher certification requirements, specified governmental oversight, and performance reporting requirements but will operate independently of a school district board of directors and be exempt from most state laws and school district policies.

BACKGROUND

Common or public schools in Washington State are publically financed, governed by elected school boards, and subject to federal and state laws and rules. The state laws define the roles and responsibilities of school districts, and establish requirements for the management, operation, and educational program of schools. School districts' authority to establish salaries for instructional staff is limited by a state required minimum and average salary level.

Washington law does not currently authorize charter schools. In states where charter schools are authorized the charter schools are considered public schools that are publically financed, operate under a written charter contract with the charter authorizer, independent of elected school boards, and not subject to most state laws and school district policies. The charter contract establishes the requirements for the management, operation, and educational program of the school.

In 1991 Minnesota became the first state to authorize public charter schools. According to the National Conference of State Legislatures, 41 states and the District of Columbia have adopted charter school enabling legislation and 5,275 public charter schools currently operate nationwide.

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Initiative 1240 establishes the authority and process for creating and operating a limited number of publically funded charter schools that operate independently of an elected school district board of directors and most state laws and school district policies.

Charter Schools. A charter school is a public common school under the state Constitution and is maintained at public expense. Charter schools may offer, tuition-free, any program or course of study that a non-charter public school may offer, including one or more K-12 grades. A charter school is operated and managed by a charter school board according to the terms of a renewable five-year contract with the charter school authorizer. A charter school may be created by converting an existing non-charter public school in its entirety into a charter school (called a conversion charter school) or by creating a new charter school. School districts must provide enrollment options information to parents and the public about charter schools located within the district.

Limited Number of Charter Schools. A maximum of 40 charter schools may be established over a five year period, with no more than eight established in a single year. If fewer than eight schools are established in a year, then additional schools up to the difference between the number established and eight may be established in subsequent years.

Charter School Applicant. A charter school applicant must be a nonprofit corporation (a corporation whose income is not distributable to its members, directors, or officers) that also has or has applied for federal tax exempt status. An applicant may not be a sectarian or religious organization.

Charter School Authorizers. Either the Washington Charter School Commission (Commission) or an approved school district may authorize charter schools.

The Commission may authorize charter schools anywhere in Washington State. Established as a state agency, it consists of nine members who serve four-year terms, with no more than five of the same political party. Three members must be appointed by the Governor, three by the Senate, and three by the House of Representatives. The appointing authorities must assure the diversity of the Commission members, including representation from various geographic areas of the state, and collectively possess relevant experience and expertise and have a commitment to charter schooling. At least one member must be a parent of a public school student. The members serve without compensation but may be reimbursed for travel expenses. The Office of the Governor must provide staff support for the Commission until the Commission has resources for separate staff.

If approved by the State Board of Education (SBE), a school district board of directors may authorize charter schools within the school district. The SBE must establish a process and timeline for approving school district authorizers, which includes specified information that must be submitted by the district. The authorization lasts for six years and may be renewed.

The SBE must establish an authorizer oversight fee within set parameters to be used by an authorizer to fulfill its duties; which includes approving and monitoring its authorized charter schools and may include taking corrective actions, imposing sanctions, and revoking, renewing or non-renewing a charter.

The SBE will oversee the performance of all authorizers, both school districts and the Commission. The SBE must establish timelines and a process for taking actions in response to performance deficiencies by an authorizer or its charter schools. The authorizer must receive written notification of identified problems and be provided a reasonable opportunity to respond and remedy the problems prior to a revocation of the authorizer's chartering authority. If an authorizer's authority is revoked then the SBE must transfer each charter contract to another authorizer with the mutual agreement of the charter school and the proposed new authorizer.

Charter Process. The SBE must establish a timeline for charter school application submissions, approvals and denials. An authorizer must solicit, evaluate, and approve or deny charter applications that address specified information. The Initiative details the criteria for approving an application. All authorizers must give preference to charter school applications that are designed to enroll and serve at-risk student populations; however, no charter school is limited to serving only a substantial portion of at-risk students.

Once the application is approved then, in accordance with a timeline and process provided in the Initiative, the authorizer and the charter school board must execute a five year charter contract. The contract must contain specified components, including academic and operational performance expectations and measures for the charter school. The authorizer must monitor the charter school's performance and legal compliance with the charter contract.

The Initiative provides guidelines for charter contract renewal, nonrenewal and revocation guidelines. A charter contract may be non-renewed or revoked if the authorizer determines that the charter school commits a material and substantial violation of the charter contract or laws applicable to the charter school; fails to meet or make sufficient progress toward the performance expectations in the charter contract; or fails to meet generally accepted standards of fiscal management. A charter contract may also not be renewed if at the time of the renewal application the charter school's performance falls in the bottom quartile of schools on the SBE's accountability index, unless the charter school demonstrates exceptional circumstances that the authorizer finds justifiable. Before nonrenewal or revocation of a charter contract, the authorizer must develop a charter school termination protocol to ensure an orderly transition.

Charter School Board. The charter application provides for the formation of a charter school board to manage and operate one or more charter schools. A charter school board may not levy taxes or issue tax-backed bonds; and may not acquire property by eminent domain. In accordance with the charter contract, the board may:

- Hire, manage, and discharge charter school employees;
- Establish additional graduation requirements and issue diplomas;
- Receive and disburse funds;
- Enter into contracts for real property, equipment, goods, supplies, and services. Contracts for management and operation of a charter school may only be with nonprofit organizations;
- Rent, lease, or own real property;
- Solicit and accept gifts, but not from sectarian or religious organizations; and

- Issue secured and unsecured debt. The debt is not an obligation of the state, the charter school authorizer, the school district in which the charter school is located, or any other political subdivision or agency of the state.

State and Federal Law. A charter school is exempt from all state laws, rules and school district policies applicable to schools, except as provided in the Initiative and in the approved charter contract. No charter school may engage in sectarian practices. All charter schools must:

- Comply with state and federal health, safety, parents' rights, civil rights, and non-discrimination laws applicable to school districts; employee record checks requirements; the annual performance report; the Open Public Meetings Act; the Public Records Act; and future legislation enacted governing charter schools;
- Provide basic education in the essential academic learning requirements, participate in the statewide student assessment system, and be subject to the SBE's performance improvement goals;
- Employ certificated instructional staff, except in exceptional cases (the same as public non-charter and private schools);
- Adhere to generally accepted accounting principles and be subject to financial examinations and audits as determined by the state auditor; and
- Be subject to the supervision of the Superintendent of Public Instruction and the SBE, including accountability measures, except as otherwise provided in the Initiative.

Student Admissions. A charter school is open to any student in the state, tuition-free. However, a charter school may organize around a special emphasis or theme, including focusing on services for particular groups of students. If student applications exceed the capacity of a charter school, then students must be selected based on a lottery. Although, conversion charter schools must enroll all students who wish to remain enrolled after the conversion and provide the siblings of current students an enrollment preference. If a student transfers from a charter school to a non-charter school, the non-charter school must accept the student's credits in the same manner as non-charter school credits.

Funding. State funding for charter schools is allocated in the same manner as for public non-charter schools, including basic education and non-basic education funding. Salaries for certificated staff are allocated based on the statewide average of education level and experience in public non-charter schools; however, a charter school is not required to pay a particular salary to its staff. Allocations for pupil transportation are based on a per-pupil calculation of the previous year's allocations to the school district in which the charter school is located. A charter school is eligible for state school construction assistance and may apply for state grants.

Charter schools may not levy taxes or issue tax-backed bonds. Locally raised funds through a school district tax levy approved before the start-up date of a charter school are only available to new charter schools authorized by a school district and to conversion schools and not to a charter school authorized by the Commission. For levies submitted to voters after the start-up date of any new or conversion charter school the charter school must be included in the levy process and levy fund distribution in the same manner as other public schools in the school district.

Employees. Charter school employees are hired, managed, and discharged in accordance with the Initiative provisions and the charter school contract. The employees are included in the established state employee insurance and health care systems and are included in the state retirement systems if it does not jeopardize the status of the systems as governmental plans. Classified and certificated charter school employee bargaining units must be separate from other school district bargaining units.

Facilities. Charter schools can purchase or lease, at or below fair market value, facilities or property of the school district from which it draws its students. A charter school may contract with a school district, the governing body of a public college or university, or any other public or private entity for the use of a facility as a school building. Public libraries, community service organizations, museums, performing arts venues, theaters, and public or private colleges and universities may provide space within their facilities for charter schools to use. A conversion school may continue to use its existing facility without paying rent.

Annual Reports. Each charter school authorizer must submit an annual report to the SBE that includes specified components, including the academic and financial performance of each charter school overseen by the authorizer. The SBE, in collaboration with the Commission, must submit to the public, Governor, and Legislature, an annual report based on the authorizer reports. The SBE report must contain specified information, including a comparison of the student performance of charter schools with non-charter schools. After five years, the SBE, in collaboration with the Commission, must recommend whether or not the Legislature should authorize additional public charter schools.

Fiscal Impact. As required under RCW 29A.72.025, the Office of Financial Management (OFM) must estimate any impact that Initiative 1240 could have on state and local revenues, costs, or expenditures.

For information on assumptions, see the OFM statement of fiscal impacts (given in total dollars only) at the following website: <http://www.ofm.wa.gov/initiatives/default.asp>. (The fiscal impact statements will be available after August 10th).

For further information please contact:
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This summary should not be considered legislative history for purposes of interpreting Initiative 1240.