

HOUSE BILL NO. HB0259

Charter schools-authorizer.

Sponsored by: Representative(s) Cohee, Edmonds, Pedersen,
Stubson, Teeters and Wallis and Senator(s)
Jennings

A BILL

for

1 AN ACT relating to charter schools; establishing a charter
2 school authorizer comprised of the school district board or
3 the Wyoming community college commission; accordingly
4 modifying provisions to allow charter school applications,
5 review and approval through the charter authorizer;
6 specifying basis for charter approval; granting rulemaking
7 authority and authorizing fees; modifying charter
8 application and contract provisions; specifying minimum
9 levels of charter funding and provided district services;
10 providing an appropriation; authorizing a position;
11 specifying application; and providing for an effective
12 date.

13

14 *Be It Enacted by the Legislature of the State of Wyoming:*

15

1 **Section 1.** W.S. 21-3-302(a) by creating new
2 paragraphs (iii) and (iv), by renumbering paragraphs (iii)
3 through (vi) as (v) through (viii) and by creating a new
4 paragraph (ix), 21-3-303(a) and (d), 21-3-304(b), (d), (g),
5 (j) and (k), 21-3-305(a), 21-3-306(a) and (b), 21-3-308(a),
6 (c) and (d), 21-3-310(a) and (b), 21-3-312, 21-3-314(c)
7 through (e) and 21-18-202 by creating a new subsection (h)
8 are amended to read:

9

10 **21-3-302. Definitions.**

11

12 (a) As used in this article:

13

14 (iii) "Charter applicant" means a person who
15 applies to a charter authorizer to establish a charter
16 school;

17

18 (iv) "Charter authorizer" means the Wyoming
19 community college commission or the district board of
20 application by the charter applicant;

21

22 ~~(iii)~~ (v) "District board" means the board of
23 trustees of a school district elected as the governing body
24 of the school district;

25

1 ~~(iv)~~(vi) "New charter school" means a charter
2 school established within the district which is located in
3 a facility or a portion of a facility which is not
4 currently being operated by the district as a public
5 school;

6
7 ~~(v)~~(vii) "School district" means each school
8 district now or hereafter legally organized as a body
9 corporate pursuant to W.S. 21-3-101, et seq.;

10

11 ~~(vi)~~(viii) "State board" means the state board
12 of education appointed pursuant to W.S. 21-2-301~~;~~;

13

14 (ix) "Wyoming community college commission"
15 means the Wyoming community college commission created
16 under W.S. 21-18-201.

17

18 **21-3-303. Charter school prohibitions.**

19

20 (a) This article shall not prohibit any private
21 person or organization from funding or providing other
22 assistance for the establishment or operation of a charter
23 school established pursuant to this article when the
24 district board or the community college commission

1 determines the funding or assistance is compatible with the
2 mission of the ~~district~~ state education system.

3

4 (d) No charter school shall enter into a contract
5 with an independent management company without the prior
6 written consent of the ~~district board~~. ~~The school district~~
7 ~~shall be a third party beneficiary to any management~~
8 ~~contract approved by the district board~~ charter authorizer
9 which granted the charter.

10

11 **21-3-304. Charter school; requirements; authority.**

12

13 (b) A charter school shall be a public school within
14 the school district ~~that grants its charter~~ in which the
15 school is located and shall be accountable to the ~~district~~
16 ~~board~~ charter authorizer for purposes of ensuring
17 compliance with applicable laws and charter provisions and
18 the requirements of the state constitution.

19

20 (d) A charter school shall be administered and
21 governed by a governing body in a manner agreed to by the
22 charter school applicant and the ~~school district~~ charter
23 authorizer. A charter school may organize as a nonprofit
24 corporation pursuant to the Wyoming Nonprofit Corporation

1 Act, which shall not affect its status as a public school
2 for any purposes under Wyoming law.

3

4 (g) Pursuant to contract, a charter school may
5 operate free from specified school district policies and
6 state regulations. Pursuant to contract, a school district
7 may waive locally imposed school district requirements,
8 without seeking approval of the state board. The state
9 board may waive state statutory requirements or rules
10 promulgated by the state board, except that the state board
11 shall not waive any statute or rule relating to the
12 assessments or standards required to be administered. Upon
13 request of the charter applicant, the state board shall
14 provide summaries of such regulations and policies to use
15 in preparing a charter school application. The department
16 of education shall prepare the summary of state regulations
17 within existing appropriations. Any waiver of state or
18 local school district regulations made pursuant to this
19 subsection shall be for the term of the charter for which
20 the waiver is made, except that a waiver of state statutes
21 or regulations by the state board shall be subject to
22 review every ~~two (2)~~ five (5) years and may be revoked if
23 the waiver is deemed no longer necessary by the state
24 board.

1

2 (j) A charter school approved by a charter authorizer
3 may negotiate and contract with a school district, the
4 governing body of a state college or university, or any
5 third party for the use of a school building and grounds,
6 the operation and maintenance thereof, and the provision of
7 any service, activity or undertaking that the charter
8 school is required to perform in order to carry out the
9 educational program described in its charter. Except as
10 provided by W.S. 21-3-314, any services for which a charter
11 school contracts with a school district shall be provided
12 by the district at cost. The charter school shall have
13 standing to sue and be sued in its own name for the
14 enforcement of any contract created pursuant to this
15 subsection. Any school district which refuses to negotiate
16 in good faith, provide services at cost or enter into an
17 agreement with an approved charter school shall be liable to
18 the charter school for any reasonable expense incurred by
19 the charter school in privately contracting for the service.

20

21 (k) A charter school shall not be required to pay
22 rent for space which is deemed available by the school
23 facilities commission from its inventory of school district
24 facilities, as negotiated by contract ~~., in school district~~

1 ~~facilities.~~ All other costs for the improvement,
2 modification, operation and maintenance of the facilities
3 used by the charter school shall be subject to negotiation
4 between the charter school and the district board.

5

6 **21-3-305. Charter schools; contract contents;**
7 **regulations.**

8

9 (a) ~~An approved~~ Following approval of a charter
10 application by the charter authorizer based upon adequate
11 public support for the application determined through the
12 public hearing held under W.S. 21-3-308, the school
13 district and the applicant shall ~~serve~~ use the approved
14 application as the basis for a contract between the charter
15 school and the school district.

16

17 **21-3-306. Application for establishing charter**
18 **schools; conversion of existing schools; application**
19 **process.**

20

21 (a) Any person may apply to ~~the district board~~ a
22 charter authorizer for the establishment of a new charter
23 school or a charter school within a school. ~~to be located~~
24 ~~within the school district~~ A charter authorizer is not

1 required to approve a charter school and may require an
2 applicant to modify or supplement an application as a
3 condition of approval.

4
5 (b) Administrators and teachers employed by ~~the~~a
6 district, parents of students enrolled in ~~the~~a district
7 and any special district advisory group comprised of
8 district residents may apply to ~~the district board~~a
9 charter authorizer to convert an existing public school
10 operating within ~~the~~a school district to a charter school.

11 An application filed under this subsection shall
12 demonstrate the support of not less than fifty percent
13 (50%) of the teachers employed by the school who teach at
14 the school proposed to be converted, and the parents of
15 fifty percent (50%) of all students attending the school
16 proposed to be converted.

17
18 **21-3-308. Hearing by charter authorizer; prohibited**
19 **actions by district board; criteria; compliance with state**
20 **standards; contractual authority.**

21
22 (a) Not later than thirty (30) days after receiving
23 an application for any charter school as defined in W.S.
24 21-3-302, the ~~district board~~charter authorizer shall hold

1 a public hearing on the application, ~~at which time the~~
2 ~~board shall consider~~ solely to determine the level of
3 community and parental support for the application if an
4 application for a new charter school, or the level of
5 teacher and parental support if an application for a
6 converted charter school or charter school within a school.
7 The measure of public support shall be based upon the
8 minimum level necessary for the applicant to successfully
9 initiate and operate the school, as computed in accordance
10 with methodology provided by the department of education.
11 Following review of the application and the public hearing,
12 if applicable, and in accordance with subsection (d) of
13 this section, the ~~district board~~ charter authorizer shall
14 either approve or deny the application within sixty (60)
15 days of receipt. Approval under this article may be
16 conditioned for purposes specified under subsection (c) of
17 this section. In addition, the ~~board~~ charter authorizer may
18 approve an application for the operation of a converted
19 charter school only if it determines teacher and parental
20 support for the conversion are established at the levels
21 required by W.S. 21-3-306(b). ~~Prior to approving an~~
22 ~~application for a charter school under this section, the~~
23 ~~board shall approve and adopt the content and terms of the~~
24 ~~contract as provided in W.S. 21-3-307.~~

1

2 (c) For purposes of contract negotiation, the3 ~~district board~~ charter authorizer shall require the

4 applicant to provide information regarding the proposed

5 operation and potential effects of the school, including

6 but not limited to the facilities to be utilized by the

7 school, the manner in which administrative services of the

8 school are to be provided and a demonstration that the

9 school is adequately insured for liability, including

10 errors and omissions coverage, and that the school district

11 is indemnified to the fullest extent possible. As

12 authorized under subsection (a) of this section, the

13 applicant may request the ~~district board and the board may~~14 charter authorizer to approve the charter application

15 subject to specified conditions which provide the applicant

16 sufficient time to acquire necessary funding for securing

17 or otherwise finalizing arrangements for facilities or

18 equipment necessary for the operation of the proposed

19 school. In addition, the ~~district board may~~ charter20 authorizer shall upon request of the applicant and approval21 of the charter school application and in coordination with22 the school district if the authorizer is the community23 college commission, make available for use by the charter24 school any ~~district~~ facility of the school district in

1 which the charter school is to be located, which is closed,
2 not operational and otherwise feasible for use as an
3 educational building as defined under W.S.
4 21-15-109(a)(ii).

5
6 (d) Upon the approval of any application by the
7 ~~district board~~ charter authorizer, the applicant shall
8 provide written notice of that approval including a copy of
9 the application to the state superintendent. If the
10 ~~district board~~ charter authorizer denies the application,
11 the ~~board~~ charter authorizer shall not later than forty-
12 five (45) days following the date of its decision, notify
13 the applicant of the denial in writing together with its
14 reasons for denial. Within thirty (30) days following
15 receipt of notification of denial, the charter applicant
16 may submit a revised application to the charter authorizer
17 for reconsideration, addressing the reasons for denial.

18
19 **21-3-310. Appeal; standard of review; procedures.**

20
21 (a) A charter applicant or any other person who
22 wishes to appeal a decision of a ~~district board~~ charter
23 authorizer concerning a charter school shall provide the
24 state board and the ~~district board~~ charter authorizer with

1 a notice of appeal within forty-five (45) days after
2 receiving the ~~local board's~~ charter authorizer's written
3 decision and reasons for denial. If the appeal is of a
4 denial, nonrenewal, or revocation of a charter, the person
5 bringing the appeal shall limit the grounds of the appeal
6 to the grounds for denial specified by the ~~district board~~
7 charter authorizer. The notice shall include a brief
8 statement of the reasons the charter school applicant
9 contends the ~~district board's~~ charter authorizer's denial
10 was in error.

11

12 (b) If the notice of appeal, or the motion to review
13 by the state board, relates to a ~~district board's~~ charter
14 authorizer's decision to deny, refuse to renew, or revoke a
15 charter or to a ~~district board's~~ charter authorizer's
16 unilateral imposition of conditions that are unacceptable
17 to the charter school or the charter applicant, the appeal
18 and review process shall be as follows:

19

20 (i) Within sixty (60) days after receipt of the
21 notice of appeal or the making of a motion to review by the
22 state board and after reasonable public notice, the state
23 board, at a public hearing which shall be held in the
24 school district in which the proposed charter school has

1 applied for a charter, shall review the decision of the
2 ~~district board~~ charter authorizer and make its findings. If
3 the state board finds that the ~~local board's~~ charter
4 authorizer's decision was contrary to the best interests of
5 the pupils, school district or community, the state board
6 shall remand ~~such~~ the decision to the ~~district board~~
7 charter authorizer with written instructions for
8 reconsideration. ~~thereof.~~ The instructions shall include
9 specific recommendations concerning the matters requiring
10 reconsideration;

11

12 (ii) Within thirty (30) days following the
13 remand of a decision to the ~~district board~~ charter
14 authorizer and after reasonable public notice, the ~~district~~
15 ~~board~~ charter authorizer, at a public hearing, shall
16 reconsider its decision and make a final decision;

17

18 (iii) If the ~~district board's~~ charter
19 authorizer's final decision is still to deny, refuse to
20 renew or revoke a charter or to unilaterally impose
21 conditions unacceptable to the charter school or the
22 charter applicant, a second notice of appeal may be filed
23 with the state board within thirty (30) days following ~~such~~
24 the final decision;

1

2 (iv) Within thirty (30) days following receipt
3 of the second notice of appeal or the making of a motion
4 for a second review by the state board and after reasonable
5 public notice, the state board, at a public hearing, shall
6 determine whether the final decision of the ~~district board~~
7 charter authorizer was contrary to the best interests of
8 the pupils, school district or community. If such a finding
9 is made, the state board shall remand the final decision to
10 the ~~local board~~ charter authorizer with instructions to
11 approve the charter application. The decision of the state
12 board may require changes to the contract to be executed by
13 the charter school and the school district.

14

15 **21-3-312. District board to report to state board.**

16

17 ~~Each district board~~ The charter authorizer granting a
18 charter pursuant to this article shall annually report to
19 the state board on each charter school ~~operating within the~~
20 ~~district~~ approved by the authorizer, compliance with the
21 provisions of the charter application and shall assure the
22 state board that students attending the charter school are
23 receiving an education consistent with the educational

1 opportunities available to all students ~~within the school~~
2 ~~district~~ as required by law.

3

4 **21-3-314. Students counted among district ADM;**
5 **determination of charter school funding.**

6

7 (c) As part of the charter school contract, the
8 charter school and the school district shall agree on
9 funding and any services to be provided by the school
10 district to the charter school, provided the charter school
11 receives the minimum funding amounts and district services
12 specified by this subsection and subsection (d) of this
13 section. If the Wyoming community college commission serves
14 as authorizer under this article, it shall ensure minimum
15 funding and service levels are provided by the district to
16 the charter school as required by this section and shall
17 monitor contractual obligations imposed upon the district.

18 The charter school and the school district shall begin
19 discussions on the contract using the following revenue
20 assumptions:

21

22 (i) The charter school shall be entitled to ~~the~~
23 ~~benefit of~~ an amount not less than one hundred percent
24 (100%) of the foundation program amount computed under W.S.

1 21-13-309(m) based upon the average daily membership of the
2 charter school, including special weights provided to
3 vocational education program attendance under W.S.
4 21-13-309(m)(v)(D) and students identified as at-risk in
5 accordance with W.S. 21-13-309(m)(v)(A), less any district
6 level amounts generated by the charter school's membership
7 under W.S. 21-13-309(m) and less amounts specified under
8 W.S. 21-13-309(m)(v)(E);

9
10 (ii) The charter school shall be entitled to ~~the~~
11 ~~benefit of~~ an amount not less than one hundred percent
12 (100%) of the amount to be contributed to the school
13 district under major maintenance payments pursuant to W.S.
14 21-15-109 based upon the proportion that the charter school
15 educational building gross square footage contributes to
16 the district educational building gross square footage;

17
18 (iii) The charter school shall be entitled to,
19 and the school district shall provide the charter school
20 with, transportation and special education services for
21 which the district is reimbursed under the foundation
22 program pursuant to W.S. 21-13-309(m)(v)(E);

23

1 (iv) The charter school shall be entitled to,
2 and the school district shall provide to the charter
3 school, federally required educational services for which
4 the district receives federal funds through the department
5 of education;

6
7 (v) The charter school shall be entitled to an
8 amount not less than one hundred percent (100%) of the
9 amounts within the foundation program for health insurance
10 as provided by W.S. 21-13-309(m) (v) (F).

11
12 (d) The charter school ~~may also~~ shall contract with
13 the school district for, and the school district shall
14 provide, centralized services ~~provided by~~ for which the
15 district receives foundation program funding under W.S.
16 21-13-309, including curriculum, media services, libraries
17 and ~~federally required educational services such as special~~
18 education central administrative services.

19
20 (e) In lieu of paragraph (a)(iv) and subsections (c)
21 and (d) of this section, the district and the charter
22 school applicant may by mutual agreement fund the charter
23 school through a specific budget for the charter school
24 provided the charter school does not receive less than the

1 minimum level of funding or services specified under
2 subsections (c) and (d) of this section.

3
4 **21-18-202. Powers and duties of the commission.**

5
6 (h) In addition to duties prescribed by this section,
7 the commission shall serve as a charter authorizer pursuant
8 to W.S. 21-3-302(a)(iv) and shall perform duties prescribed
9 under W.S. 21-3-301 through 21-3-314. The commission shall
10 by rule and regulation establish an application process
11 consistent with the requirements of W.S. 21-3-301 through
12 21-3-314 for the effective review of charter school
13 applications and the oversight of charter schools approved
14 by the commission. In addition and for purposes of
15 administering this subsection, the commission may assess an
16 administrative fee upon each approved charter school of not
17 more than one percent (1%) of state funds received by that
18 school under W.S. 21-3-314.

19
20 **Section 2.** W.S. 21-3-303(e) and 21-3-304(f) and (m)
21 are repealed.

22
23 **Section 3.** One hundred thousand dollars (\$100,000.00)
24 is appropriated from the public school foundation program
25 account to the community college commission for initial

1 costs associated with executing requirements and carrying
2 out additional duties imposed under this act. This
3 appropriation is for the period beginning on the effective
4 date of this section and ending June 30, 2010. From amounts
5 appropriated under this section, the commission is
6 authorized an additional full-time position.

7

8 **Section 4.** Nothing in this act shall apply to or
9 otherwise modify any charter contract entered into and
10 approved prior to July 1, 2009, until such time as that
11 charter contract is materially revised under W.S. 21-3-309
12 on and after July 1, 2009.

13

14 **Section 5.**

15

16 (a) Except as provided by subsection (b) of this
17 section this act is effective July 1, 2009.

18

1 (b) Notwithstanding subsection (a) of this section,
2 section 3 of this act is effective immediately upon
3 completion of all acts necessary for a bill to become law
4 as provided by Article 4, Section 8 of the Wyoming
5 Constitution.

6

7

(END)