

1 HOUSE BILL NO. 251

2 INTRODUCED BY D. BEDEY, L. JONES

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PUBLIC CHARTER SCHOOL LAWS;
5 PROVIDING A DEFINITION FOR "PUBLIC CHARTER SCHOOL DISTRICT"; CLARIFYING THE AUTHORITY
6 OF A PUBLIC CHARTER SCHOOL DISTRICT; REQUIRING THE OFFICE OF PUBLIC INSTRUCTION TO
7 PROVIDE A FISCAL ANALYSIS AS PART OF THE PUBLIC CHARTER SCHOOL APPLICATION PROCESS;
8 REQUIRING THE BOARD OF PUBLIC EDUCATION TO LIMIT THE COST OF NEW PUBLIC CHARTER
9 SCHOOLS AND DISTRICTS AND TO PRIORITIZE THOSE PROPOSALS THAT EMPHASIZE
10 PERSONALIZED AND PROFICIENCY-BASED LEARNING; REMOVING THE AUTHORITY OF THE BOARD
11 OF PUBLIC EDUCATION TO WAIVE STATUTORY REQUIREMENTS IN CHARTER CONTRACTS;
12 AUTHORIZING A PUBLIC CHARTER SCHOOL DISTRICT TO RECEIVE OTHER FORMS OF PUBLIC
13 FUNDING AND DONATIONS UNDER THE INNOVATIVE EDUCATION TAX CREDIT PROGRAM;
14 ESTABLISHING FINANCIAL OBLIGATIONS OF A CHILD'S RESIDENT SCHOOL DISTRICT FOR A PUBLIC
15 CHARTER SCHOOL DISTRICT SERVING A CHILD WITH DISABILITIES; AMENDING SECTIONS 20-6-803,
16 20-6-805, 20-6-811, AND 20-6-812, MCA; AND PROVIDING AN EFFECTIVE DATE."

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18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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20 **Section 1.** Section 20-6-803, MCA, is amended to read:

21 **"20-6-803. Definitions.** As used in this part, unless the context clearly indicates otherwise, the
22 following definitions apply:

23 (1) "Applicant" means a group of residents of the located school district or county of the located
24 school district or the local school board of the located school district that submits a proposal for a public charter
25 school to the board of public education.

26 (2) "Board of public education" means the board created by Article X, section 9(3), of the Montana
27 constitution and 2-15-1507. For the purposes of public charter schools established under this part, the board of
28 public education is the sole entity authorized to enter into charter contracts with a governing board.

(3) "Charter contract" means a fixed-term, renewable contract between a governing board of a public charter school and the board of public education that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract.

(4) "Governing board" means the elected board of trustees of a public charter school district exercising supervision and control over a charter school or the local school board that is a party to the charter contract with the board of public education and that exercises supervision and control over a charter school pursuant to the charter contract.

(5) "Local school board" means a preexisting board of trustees exercising supervision and control of the schools and programs of a local school district pursuant to Article X, section 8, of the Montana constitution and the laws of the state of Montana.

(6) "Located school district" means the school district in which a proposed, preoperational, or operational public charter school is located and from which the separate boundaries of the charter school district are proposed to be formed. When a charter school district is formed, the boundaries of the charter school district are removed from the territory of the located school district.

(7) "Noncharter public school" means a public school that is under the supervision and control of a local school board or the state and is not operating under a charter contract pursuant to 20-6-806.

(8) "Parent" means a parent, guardian, or other person or entity having legal custody of a child.

(9) "Public charter school" means a public school that:

(a) has autonomy over decisions including but not limited to matters concerning finance, personnel, scheduling, curriculum, and instruction as defined in a charter contract;

(b) is governed by a local school board or, in the case of a governing board other than a local school board, by the governing board of the public charter school district of which the charter school is a part;

(c) is established and operated under the terms of a charter contract;

(d) allows parents choose to enroll their children;

(e) admits students on the basis of a lottery if more students apply for admission than can be accommodated;

(f) provides a program of education that may include any or all grades from kindergarten through grade 12 and vocational education programs;

(g) operates in pursuit of a specific set of educational objectives as defined in its charter contract;

(h) operates under the general supervision of the board of public education in accordance with its charter contract; and

(i) if the school is a high school, establishes graduation requirements and has authority to award degrees and issue diplomas.

(10) "Public charter school district" means a school district created pursuant to this part by the board of public education that is governed by a governing board that is not a local school board. A public charter school district:

(a) is a district for governing purposes only;

(b) is not a taxing jurisdiction;

(c) receives state funding as described in 20-6-812;

(d) is subject to Title 20, except as described in this part; and

(e) is not subject to the laws for district boundary changes or school opening under this chapter.

~~(10)~~(11)"Resident school district" means the public school district in which a student resides.

~~(11)~~(12)"Student" means a child who is eligible for attendance in a public school in the state."

Section 2. Section 20-6-805, MCA, is amended to read:

"20-6-805. Public charter school proposal process. (1) To solicit, encourage, and guide the development of public charter schools, the board of public education shall issue and broadly publicize a request for proposal ~~by October 1 in 2023 and by June 1 of each year thereafter~~ annually. The content and dissemination of the request for proposal must be consistent with the purposes and requirements of this part.

(2) The request for proposal must include:

(a) the criteria that will guide the board's decision to approve or deny a charter proposal;

(b) clear and detailed questions designed to gauge an applicant's capacity to establish and operate a successful public charter school, as well as guidelines concerning the format and content of an applicant's response to the request for proposal.

(3) A request for proposal must require applicants to describe thoroughly the following essential elements of their public charter school proposal:

- 1 (a) an executive summary;
- 2 (b) the mission and vision of the proposed public charter school, including identification of the
- 3 targeted student population and the community the school proposes to serve;
- 4 (c) the school district in which the public charter school is proposed to be located and operate;
- 5 (d) the grades to be served each year for the full term of the charter contract;
- 6 (e) the minimum, planned, and maximum enrollment per year for the term of the charter contract;
- 7 (f) specific evidence:
- 8 (i) of significant community support for the proposed public charter school; and
- 9 (ii) for an applicant that is not a local school board:
- 10 (A) that the applicant has sought from the local school board the creation of a school or program of
- 11 the located school district serving the mission and vision of the proposed public charter school;
- 12 (B) the local school board declined to create the school or program or submit to the board of public
- 13 education a proposal for the creation of a public charter school consistent with the mission and vision of the
- 14 proposed public charter school; and
- 15 (C) a legal description of the property of the existing school district from which the boundaries of
- 16 the charter school district are proposed to be formed;
- 17 (g) for an applicant that is not a local school board, background information on the initial governing
- 18 board members and, if identified, the proposed school leadership and management team;
- 19 (h) the proposed public charter school's proposed calendar and sample daily schedule;
- 20 (i) a description of the academic program, including:
- 21 (i) plans to formally assess student achievement on an annual basis; and
- 22 (ii) variances to existing standards that the proposed public charter school requires;
- 23 (j) a description of the proposed public charter school's instructional design, including the type of
- 24 learning environment, class size and structure, curriculum overview, and teaching methods;
- 25 (k) the proposed public charter school's plans for identifying and successfully serving students with
- 26 disabilities, students who are English language learners, students who are academically challenged, and gifted
- 27 students, including but not limited to compliance with applicable laws and regulations;
- 28 (l) a description of cocurricular or extracurricular programs, if any, and how the programs will be

1 funded and delivered;

2 (m) plans and timelines for student recruitment and enrollment, including lottery procedures;

3 (n) the proposed public charter school's student discipline policies, including those for special
4 education students;

5 (o) an organizational chart that clearly presents the proposed public charter school's organizational
6 structure, including lines of authority and reporting between the governing board, staff, related bodies such as
7 advisory bodies or parent and teacher councils, and external organizations that will play a role in managing the
8 school;

9 (p) a clear description of the roles and responsibilities for the governing board, the proposed public
10 charter school's leadership and management team, and other entities shown in the organizational chart;

11 (q) a staffing chart for the proposed public charter school's first year and a staffing plan for the
12 term of the charter;

13 (r) plans for recruiting and developing school leadership and staff;

14 (s) the proposed public charter school's leadership and teacher employment policies, including
15 performance evaluation plans;

16 (t) proposed governing bylaws;

17 (u) explanations of any partnerships or contractual relationships central to the proposed public
18 charter school's operations or mission;

19 (v) the proposed public charter school's plans for providing transportation, food service, and all
20 other significant operational or ancillary services, if any;

21 (w) opportunities and expectations for parent involvement;

22 (x) a detailed school startup plan, identifying tasks, timelines, and responsible individuals;

23 (y) a description of the proposed public charter school's financial plan and policies, including
24 financial controls and audit requirements;

25 (z) a description of the insurance coverage the proposed public charter school will obtain;

26 (aa) startup and 5-year budgets with clearly stated assumptions;

27 (bb) startup and first-year cash flow projections with clearly stated assumptions;

28 (cc) evidence of anticipated fundraising contributions, if claimed in the proposal; and

1 (dd) a sound facilities plan, including backup or contingency plans, if appropriate.

2 (4) If a public charter school proposal does not contain the elements required in subsection (3), the
3 board shall consider the proposal incomplete and return the proposal to the applicant without taking further
4 action.

5 (5) (a) In reviewing and evaluating charter proposals, the board shall employ procedures,
6 practices, and criteria consistent with nationally recognized best practices, principles, and standards for the
7 authorization of public charter schools. The proposal review process must include thorough evaluation of each
8 written charter proposal, an in-person interview with the applicant, and an opportunity in a public forum for local
9 residents to learn about and provide input on each proposal.

10 (b) Prior to the board's review, the office of public instruction shall provide the board with:

11 (i) an estimate of the additional state and local costs attributable to the basic entitlement portion of
12 the budget of each charter school proposal based on the planned enrollment in the third year of operations as
13 stated in the proposal pursuant to subsection (3); and

14 (ii) the additional state and local costs attributable to the basic entitlement portion of the budget of
15 existing public charter schools in the current year.

16 (6) In deciding whether to approve charter proposals, the board shall:

17 (a) grant charters only to applicants that have demonstrated competence in each element of the
18 board's published approval criteria and are likely to open and operate a successful public charter school;

19 (b) base decisions on documented evidence collected through the proposal review process;

20 (c) for an applicant that is not a local school board, request input from the qualified electors of the
21 located school district regarding concerns about the applicant's proposal being approved;

22 (d) follow charter-granting policies and practices that are transparent and are based on merit and
23 avoid conflicts of interest or any appearance of conflict; and

24 (e) weigh heavily the evidence of community support, the projected student enrollment, and the
25 input received under subsection (6)(c) and only approve charters whose promise of improved educational
26 outcomes outweighs potential increased costs to state and local taxpayers;

27 (f) limit the estimated annual additional state cost attributable to the basic entitlement portion of
28 the budget for all public charter schools based on the information provided by the office of public instruction in

1 subsection (5)(b) to the amount specified by the legislature in the appropriations act for the purposes of this
2 program; and

3 (g) prioritize those proposals that demonstrate a commitment to and robust understanding of
4 personalized and proficiency-based learning as described and defined in 20-7-1601.

5 (7) (a) The board shall approve or deny a charter proposal within 90 days after the filing of the
6 charter proposal. When approval is granted to a governing board other than a local school board, the approval
7 constitutes corresponding approval of the creation of a separate charter school district, the boundaries for
8 which consist of the legal description of the campus of the charter school. These boundaries must be removed
9 from the boundaries of the located school district for the purpose of establishing a distinct boundary for the
10 charter school district that is subject to exclusive supervision and control by the governing board of the charter
11 school district.

12 (b) The board shall adopt by resolution all charter approval or denial decisions in an open meeting.

13 (c) An approval decision may include, if appropriate, reasonable conditions that the applicant must
14 meet before a charter contract may be executed pursuant to 20-6-806.

15 (d) For any charter denial, the board shall clearly state for the public record the reasons for denial."
16

17 **Section 3.** Section 20-6-811, MCA, is amended to read:

18 **"20-6-811. Public charter school operation and autonomy.** (1) (a) A public charter school must be
19 a public education organization.

20 (b) A public charter school is subject to all federal laws and authorities as provided in this part or
21 arranged by charter contract with the board of public education consistent with applicable laws, rules, and
22 regulations.

23 (c) Except as provided in this part ~~and in the public charter school's charter contract~~, a public
24 charter school is subject to the provisions of Title 20 and any state or local rule, regulation, policy, or procedure
25 relating to noncharter public schools within the located school district.

26 (d) A single governing board may hold one or more charter contracts. A charter contract may
27 consist of one or more schools, to the extent approved by the board of public education and consistent with
28 applicable law. Each public charter school that is part of a charter school district must be under the supervision

1 and control of the governing board of the charter school district.

2 (2) A public charter school district or public charter school may not be created within the
3 geographical boundaries of a third-class elementary district, as defined in 20-6-201, or a third-class high school
4 district, as defined in 20-6-301, unless the applicant is the local school board.

5 (3) The governing board of a public charter school shall function as a local educational agency. A
6 public charter school is responsible for meeting the requirements of a local educational agency under
7 applicable federal, state, and local laws, including those relating to special education.

8 (4) The governing board of a public charter school is responsible for special education at the
9 school, including identification and service provisions, and is responsible for meeting the needs of enrolled
10 students with disabilities.

11 (5) The governing board of a public charter school district has all the powers necessary for
12 carrying out the terms of its charter contract, including the following powers:

13 (a) to receive and disburse funds for school purposes;

14 (b) to secure appropriate insurance and to enter into contracts and leases, free from prevailing
15 wage laws;

16 (c) to incur debt in reasonable anticipation of the receipt of public or private funds;

17 (d) to pledge, assign, or encumber its assets to be used as collateral for loans or extensions of
18 credit;

19 (e) to solicit and accept gifts or grants for school purposes subject to applicable laws and the terms
20 of its charter contract;

21 (f) to acquire real property, for use as its facility or facilities, from public or private sources; and

22 (g) to sue and be sued in its own name.

23 (6) (a) A public charter school may not engage in any sectarian practices in its educational
24 program, admissions policies, employment policies or practices, or operations.

25 (b) The powers, obligations, and responsibilities set forth in the charter contract may not be
26 delegated or assigned by either party except as otherwise specifically provided in this part.

27 (7) (a) A public charter school is subject to the same civil rights, health, and safety requirements
28 applicable to other public schools in the state except as otherwise specifically provided in this part.

(b) The governing board shall establish graduation requirements and may award degrees and issue diplomas.

(c) A governing board is subject to and shall comply with state open meeting and public records laws pursuant to Title 2, chapters 3 and 6.

(d) A public charter school shall establish purchasing procedures that include a competitive bidding process for purchases or contracts exceeding \$80,000.

(8) (a) Employees in public charter schools have the same rights and privileges as other public school employees except as otherwise provided in this part.

(b) Teachers and other school personnel, as well as governing board members, are subject to criminal history record checks and fingerprinting requirements.

(c) Public charter school employees may not be required to be members of any existing collective bargaining agreement between a school district and its employees. However, a public charter school may not interfere with laws and other applicable rules protecting the rights of employees to organize and to be free from discrimination."

Section 4. Section 20-6-812, MCA, is amended to read:

"20-6-812. Funding for public charter schools. (1) It is the intent of the legislature that a public charter school receive operational funding on a per-pupil basis that is equitable with the per-pupil funding of the located school district.

(2) (a) For budgeting and funding purposes, when a public charter school is operated by a local school board, a public charter school must be considered a separate budget unit of the located school district, must have its ANB calculated separately from other budget units of the district, and must receive a basic entitlement calculated separately from other budget units of the district when its ANB is greater than:

(i) 70 for an elementary school or program;

(ii) 20 for a middle school or program; or

(iii) 40 for a high school or program.

(b) When a public charter school district exists, funding of the public charter school district must be distributed as BASE aid, except as provided in subsection (2)(c), at 80% of the basic entitlement, 80% of the

1 total per-ANB entitlement, 100% of the total quality educator payment, 100% of the total at-risk student
2 payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement
3 gap payment, 100% of the total data-for-achievement payment, and 140% of the special education allowable
4 cost payment. The total amount of funding received by a public charter school district under this subsection
5 (2)(b) is both the minimum amount and the maximum amount of ~~public-state~~ funding for the public charter
6 school district unless otherwise appropriated by the legislature.

7 (c) A public charter school district is not eligible for a basic entitlement unless its ANB is greater
8 than:

9 (i) 70 for an elementary school or program;

10 (ii) 20 for a middle school or program; or

11 (iii) 40 for a high school or program.

12 (3) Students attending a public charter school governed by a local school board who are not
13 residents of the located school district generate funding in the same manner as other nonresident students
14 attending a school of the located district under an out-of-district attendance agreement pursuant to Title 20,
15 chapter 5, part 3;

16 (4) A(a) Except as provided in subsection (4)(b) of this section, a public charter school district is
17 prohibited from charging tuition and fees, and the provisions for out-of-district attendance under Title 20,
18 chapter 5, part 3, do not apply to a public charter school district.

19 (b) The provisions for out-of-district attendance for a child with a disability under Title 20, chapter
20 5, part 3, apply to a public charter school district, including the resident school district's obligation to support a
21 portion of the costs of the child's education.

22 (5) For a public charter school that is not governed by the local school board, the county treasurer
23 of the county in which a public charter school is located shall establish funds for the public charter school
24 separate from the funds of the located school district.

25 (6) The governing board of a public charter school shall report annually on the financial activities of
26 the public charter school in the manner prescribed in 20-9-213(6).

27 (7) A public charter school district may obligate the public charter school district to indebtedness
28 and is solely responsible for those debts. A public charter school district is not responsible for any debt service

1 obligations that exist in the located school district.

2 (8) (a) Nothing in this part may be construed to prohibit any person or organization from providing
3 funding or other assistance for the establishment or operation of a public charter school. The governing board
4 of a public charter school is authorized to accept gifts or donations of any kind made to the public charter
5 school and to expend or use the gifts or donations in accordance with the conditions prescribed by the donor. A
6 gift or donation may not be accepted if the gift or donation is subject to a condition that is contrary to any
7 provision of law or term of the charter contract.

8 (b) A public charter school district may receive donations for innovative educational programs as
9 provided for in 15-30-2334, 15-30-3110, and 15-31-158.

10 (9) Money received by a public charter school from any source and remaining in the public charter
11 school's accounts at the end of a budget year must remain in the public charter school's accounts for use by the
12 public charter school in subsequent years."

13

14 NEW SECTION. Section 5. Effective date. [This act] is effective July 1, 2025.

15 - END -