HOUSE BILL No. 1265

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-5.5.

Synopsis: Charter schools. Allows the governing body of a school corporation to issue a charter to an organizer to establish a charter school within the school corporation. Provides an appeal to the superintendent of public instruction when a charter school proposal is not accepted but at least one-third of the members of the governing body favor the proposal. Sets forth the organization, powers, method of establishment, charter contents, policies, oversight, and restrictions for charter schools. Requires the charter to establish whether collective bargaining applies to a charter school and to identify the bargaining unit for the charter school. Requires all charter school teachers to have a college degree and at least 75% of the teachers to hold a license to teach in a public school.

Effective: Upon passage.

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January 13, 1998, read first time and referred to Committee on Education.

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Introduced

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

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HOUSE BILL No. 1265

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 20-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

ARTICLE 5.5. CHARTER SCHOOLS

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Board" refers to the Indiana state board of education established by IC 20-1-1-1.

Sec. 3. "Charter" means a contract between an organizer and the governing body of a school corporation for the establishment of a charter school.

Sec. 4. "Charter school" means a public elementary school or secondary school established under this article that:

(1) is nonsectarian and nonreligious; and

(2) operates:

(A) under a charter; and

(B) as a part of a school corporation.

Sec. 5. "Department" refers to the department of education established by IC 20-1-1.1-2.

Sec. 6. "Elementary school" has the meaning set forth in IC 20-10.1-1-15.

Sec. 7. "Governing body" has the meaning set forth in IC 20-5-1-3(b).

Sec. 8. "Home based instruction" means instruction that:

(1) a parent establishes, organizes, and directs for education of the parent's child; and

(2) excuses a child from compulsory school attendance under IC 20-8.1-3-34.

Sec. 9. "Organizer" refers to a person or an entity that enters into a contract under this article to operate a charter school.

Sec. 10. "Parent" has the meaning set forth in IC 20-1-1.8-8.

Sec. 11. "Proposal" refers to a proposal from an organizer to establish a charter school.

Sec. 12. "Public school" has the meaning set forth in IC 20-10.1-1-2.

Sec. 13. "School corporation" has the meaning set forth in IC 20-5-1-3(a).

Sec. 14. "Secondary school" refers to a high school (as defined in IC 20-10.1-1-16).

Sec. 15. "Teacher" has the meaning set forth in IC 20-6.1-1-8.

Chapter 2. Description

Sec. 1. A charter school may be established under this article to provide innovative and autonomous programs to do the following:

(1) Serve the different learning styles and needs of public school students.

(2) Offer public school students appropriate and innovative choices.

(3) Afford varied opportunities for professional educators.

(4) Allow public schools freedom and flexibility in exchange for exceptional levels of accountability.

(5) Provide parents, students, community members, and local entities with an expanded opportunity for involvement in the public school system.

Sec. 2. A charter school is subject to all federal and state laws and constitutional provisions that prohibit discrimination on the basis of the following:

(1) Disability.

(2) Race.

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(3) Color.
(4) Gender.
(5) National origin.
(6) Religion.
(7) Ancestry.

Chapter 3. Powers and Exemptions

Sec. 1. A charter school may do the following:
(1) Sue and be sued in its own name.
(2) For educational purposes, acquire real and personal property or an interest in real and personal property by purchase, gift, grant, devise, or bequest.
(3) Convey property.
(4) Enter into contracts in its own name.

Sec. 2. A charter school may not do the following:
(1) Operate at a site or for grades other than as specified in the charter.
(2) Charge tuition to any student residing within the school corporation's geographic boundaries. However, a charter school may charge tuition for preschool or latch key programs, if the charter school provides those programs.
(3) Except for a foreign exchange student who is not a United States citizen, enroll a pupil who is not a resident of Indiana.
(4) Operate outside the geographic boundaries of the school corporation that grants the charter to the charter school.
(5) Be located in a private residence.
(6) Provide home based instruction.

Sec. 3. For each charter school established under this article, the charter school and the organizer are accountable to the governing body for ensuring compliance with:
(1) applicable federal and state laws;
(2) the charter; and
(3) the Constitution of the State of Indiana.

Sec. 4. (a) A governing body shall set geographic boundaries for a charter school.

(b) Unless otherwise specified in a charter school contract, a governing body shall make enrollment at a charter school available to all students who reside within the geographic boundaries for the charter school.

(c) A governing body may make enrollment at a charter school available to students who:
(1) reside within the school corporation boundaries; and
(2) do not reside within the geographic boundaries for the

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charter school.

Sec. 5. A charter school may do the following:

(1) Include any grade or any configuration of grades specified in the charter, including the following:

(A) Early childhood education.

(B) Kindergarten.

(C) Grades 1 through 12.

(2) Limit admission to pupils who are within a particular age range or grade level.

Sec. 6. Except as specifically provided in this article and the statutes listed in section 7 of this chapter, the following do not apply to a charter school:

(1) Any Indiana statute or a rule or guideline adopted by the Indiana state board of education or the Indiana professional standards board (established by IC 20-1-1.4-2) relating to:

(A) education, including curriculum and textbooks;

(B) teachers; or

(C) schools.

(2) A local regulation or policy adopted by a school corporation unless specifically incorporated in the charter.

Sec. 7. The following statutes, and rules and guidelines adopted under the following statutes, apply to a charter school:

(1) IC 20-1-1.5 (unified accounting system).

(2) IC 20-5-2-3 (subject to laws requiring regulation by state agencies).

(3) IC 20-6.1-4-15 (void teacher contract when two (2) contracts are signed).

(4) IC 20-6.1-6-11 (nondiscrimination for teacher marital status).

(5) IC 20-6.1-6-13 (teacher freedom of association).

(6) IC 20-6.1-6-15 (school counselor immunity).

(7) IC 20-8.1-7 and IC 20-8.1-8 (health and safety measures).

(8) IC 20-8.1-9-3 (exemption from school fees for eligible families and fee reimbursement).

(9) IC 20-8.1-9-5 (notice to parents concerning financial assistance).

(10) IC 20-8.1-12 (reporting of student violations of law).

(11) IC 20-10.1-2-1 and IC 20-10.1-2-2 (minimum school day, instructional days, and year).

(12) IC 20-10.1-2-4 and IC 20-10.1-2-6 (patriotic commemorative observances).

(13) IC 20-10.1-16, IC 20-10.1-17, or any other statute, rule,

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or guideline related to standardized testing (assessment programs, including remediation under the assessment programs).

(14) IC 20-10.1-22.4 (parental access to education records).

(15) IC 5-11-1-9 (requiring audit by state board of accounts).

Chapter 4. The Charter

Sec. 1. A charter must do the following:

(1) Be a written instrument.

(2) Be executed by a governing body and an organizer.

(3) Confer certain rights, franchises, privileges, and obligations on a charter school.

(4) Confirm the status of a charter school as a public school.

(5) Be granted for:

(A) not less than three (3) years; and

(B) a fixed number of years agreed to by the governing body and the organizer.

(6) Provide for renewal, if the governing body and the organizer agree to renew the charter.

(7) Specify the grounds for the governing body to:

(A) revoke the charter before the end of the term for which the charter is granted; or

(B) not renew a charter.

(8) Set forth the methods by which the charter school is held accountable for achieving the educational mission and goals of the charter school, including the following:

(A) Evidence of improvement in assessment measures, attendance rates, and graduation rates (if appropriate), and increased numbers of academic honors diplomas.

(B) Evidence of progress toward reaching the educational goals set by the governing body.

(9) Describe the method to be used to monitor the charter school's:

(A) compliance with applicable law; and

(B) performance in meeting targeted educational performance.

(10) Specify that the governing body and the organizer may amend the charter during the term of the charter by mutual consent and describe the process for amending the charter.

(11) Describe specific operating requirements, including at least all of the matters set forth in the application for the charter.

(12) Specify the compensation that the governing body shall

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pay to the charter school and its fiscal agent.

(13) Specify the school corporation policies, if any, that will apply to the charter school.

(14) Specify a date when the charter school will:

(A) begin school operations; and

(B) have students in attendance at the charter school.

(15) Specify:

(A) whether IC 20-7.5 applies to the charter school; and

(B) if IC 20-7.5 applies to the charter school, whether the charter school is:

(i) a separate bargaining unit; or

(ii) included in a bargaining unit of the school corporation.

Chapter 5. Establishment

Sec. 1. A governing body may grant a charter to an organizer to operate a charter school under this article. The governing body has final authority to grant a charter:

(1) subject to the approval required by section 6 of this chapter, if applicable; and

(2) except as provided in section 8 of this chapter.

Sec. 2. The governing body may not grant a charter for a charter school to operate outside the geographic boundaries of the school corporation.

Sec. 3. An organizer may submit to the governing body a proposal to establish a charter school. A proposal must contain, at a minimum, the following information:

(1) Identification of the organizer.

(2) A description of the organizer's organizational structure and governance plan.

(3) The following information for the proposed charter school:

(A) Name.

(B) Purposes.

(C) Governance structure.

(D) Management structure.

(E) Educational mission goals.

(F) Curriculum and instructional methods.

(G) Methods of pupil assessment.

(H) Admission policy and criteria, subject to IC 20-5.5-2-2, IC 20-5.5-3-4, and IC 20-5.5-3-5.

(I) School calendar.

(J) School daily schedule.

(K) Age or grade range of pupils to be enrolled.

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(L) A description of staff responsibilities.
(M) A description and the address of the physical plant.
(N) Budget and financial plans.
(O) Personnel plan, including methods for selection, retention, and compensation of employees.
(P) Transportation plan.
(Q) Discipline program.
(R) Plan for compliance with any applicable desegregation order.
(S) The extent to which the charter school will be governed by school corporation policies.
(T) The date when the charter school is expected to:
(i) begin school operations; and
(ii) have students in attendance at the charter school.

(4) A statement that the charter school will comply with:
(A) this article; and
(B) federal and state laws applicable to public bodies or school corporations.

(5) Identification of the school corporation where the charter school will be located.

(6) The compensation that the school corporation shall pay to the organizer.

(7) The manner in which an annual audit of the financial and programmatic operations of the charter school is to be conducted by the governing body.

Sec. 4. (a) Except as provided in subsection (b), if the governing body grants a charter to establish a charter school, the governing body must provide a noncharter school that students of the same age or grade levels may attend.

(b) The department may waive the requirement that a governing body provide a noncharter school under subsection (a) upon the request of the governing body.

Sec. 5. The governing body may revoke the charter of a charter school that does not by the date specified in the charter:
(1) begin school operations; and
(2) have students in attendance at the charter school.

Sec. 6. Before granting a charter under which more than fifty percent (50%) of the students in the school corporation will attend a charter school, the governing body must receive the approval of the department.

Sec. 7. (a) The governing body must notify the department of the following:

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(1) The receipt of a proposal.

(2) The acceptance of a proposal.

(3) The rejection of a proposal, including the number of members of the governing body favoring the proposal and the number of members of the governing body not favoring the proposal.

(b) The department shall annually do the following:

(1) Compile the information received under subsection (a) into a report.

(2) Submit the report to the general assembly.

Sec. 8. (a) This section applies if:

(1) a governing body rejects a proposal; and

(2) at least one-third (1/3) of the members of the governing body favor the proposal.

(b) The organizer may appeal the decision of the governing body to the superintendent of public instruction.

(c) The superintendent of public instruction may approve or reverse the decision of the governing body. The superintendent must act within sixty (60) days after receipt of an appeal.

(d) If the superintendent of public instruction reverses the decision of the governing body, the governing body must grant a charter to the organizer to operate a charter school under this article as specified in the organizer's proposal.

Chapter 6. Employment

Sec. 1. Individuals who work at a charter school are employees of the charter school.

Sec. 2. The following apply to teachers in a charter school:

(1) A teacher must have a four (4) year college degree from an accredited institution.

(2) At least seventy-five percent (75%) of the teachers in a charter school must hold a license to teach in a public school.

(3) A charter school must have as a goal that each charter school teacher hold a license to teach in a public school. However, because of circumstances and staffing needs, twenty-five percent (25%) of the teachers in a charter school are not required to hold a license to teach in a public school.

Sec. 3. (a) A charter school shall participate in the following:

(1) The Indiana state teachers' retirement fund in accordance with IC 21-6.1.

(2) The public employees' retirement fund in accordance with IC 5-10.3.

(b) A person who:

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(1) teaches in a charter school; and

(2) holds a license to teach in a public school;

is a member of the Indiana state teachers' retirement fund. Service in a charter school is creditable service for purposes of IC 21-6.1.

(c) A person who:

(1) is a local school employee of a charter school; and

(2) is not eligible to participate in the Indiana state teachers' retirement fund;

is a member of the public employees' retirement fund.

(d) The boards of the Indiana state teachers' retirement fund and the public employees' retirement fund shall implement this section through the school corporation of which the charter school is a part, subject to and conditioned upon receiving any approvals either board considers appropriate from the Internal Revenue Service and the United States Department of Labor.

Sec. 4. (a) This section applies if a school corporation cancels the indefinite contract of:

(1) a permanent teacher (as described in IC 20-6.1-4-9); or

(2) a semi-permanent teacher (as described in IC 20-6.1-4-9.5);

in connection with or as a result of the establishment of a charter school.

(b) The cancellation of an indefinite contract is:

(1) a cancellation for good and just cause in accordance with:

(A) IC 20-6.1-4-10(a)(7); and

(B) IC 20-6.1-4-10.5(a)(6); and

(2) an action in the best interest of the school corporation in accordance with IC 20-6.1-4-10.5(a)(7).

Cancellation of an indefinite contract is not subject to IC 20-6.1-4-10.5(c) or IC 20-6.1-4-11.

(c) If a school corporation enters into a charter:

(1) IC 20-6.1-4-14 does not apply to the school corporation with respect to any nonpermanent teacher whose position with the school corporation is eliminated as a result of a school corporation entering into a charter;

(2) IC 20-6.1-4-12 does not apply to the cancellation of a teacher's contract that is made under this section as a result of a school corporation entering into a charter; and

(3) IC 20-6.1-4-17.1, IC 20-6.1-4-17.2, IC 20-6.1-4-18, IC 20-6.1-4-20, IC 20-6.1-4-23, IC 20-6.1-4-24, and IC 20-6.1-4-25 do not apply to the cancellation or nonrenewal of a contract with a principal, an assistant principal, a

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superintendent, or a local director of special education as a result of a school corporation entering into a charter.

Sec. 5. The governing body must grant a transfer for not more than five (5) years to a teacher of a noncharter school in the school corporation who wishes to teach and has been accepted to teach at a charter school within the school corporation. During the term of the transfer:

(1) the teacher's seniority status under law continues as if the teacher were an employee of a noncharter school in the school corporation; and

(2) the teacher's years as a charter school employee shall not be considered for purposes of permanent or semi-permanent status with the school corporation under IC 20-6.1-4.

Sec. 6. IC 20-7.5 does not apply to the establishment of a charter school.

Chapter 7. Fiscal Matters

Sec. 1. (a) The organizer is the fiscal agent for the charter school.

(b) The organizer has exclusive control of:

(1) funds received by the charter school; and

(2) financial matters of the charter school.

(c) The organizer shall maintain separate accountings of all funds received and disbursed by the charter school.

Sec. 2. For purposes of computing:

(1) state tuition support;

(2) state funding for any purpose; or

(3) average attendance statistics;

charter school students of a school corporation are counted in the same manner as students of the school corporation who do not attend a charter school.

Sec. 3. The department shall distribute:

(1) tuition support; and

(2) state funding for any purpose;

for students in a charter school to the school corporation where the charter school is located.

Sec. 4. (a) The governing body of the school corporation shall pay to the fiscal agent of a charter school the amount provided in the charter for operation of the charter school.

(b) Subject to subsection (c), a charter school or its fiscal agent may not receive public funds on a per student basis for an amount that exceeds the school corporation's average annual per pupil expenditures for noncharter schools during the two (2) years before

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the execution of a charter.

(c) For purposes of computing a school corporation's average annual per pupil expenditures in a school corporation's noncharter schools under subsection (b):

(1) only expenditures from the school corporation's general fund (established under IC 21-2-11) and school transportation fund (established under IC 21-2-11.5) may be considered; and

(2) expenditures from other school funds may not be used.

Sec. 5. Notwithstanding section 4 of this chapter, a proportionate share of state and federal funds received by a school corporation for:

(1) students with disabilities; or

(2) staff services for students with disabilities;

may be directed to a charter school that enrolls students with disabilities.

Sec. 6. Notwithstanding section 4 of this chapter, a proportionate share of funds generated by or received by a school corporation under federal or state categorical aid programs may be directed to a charter school serving students who are eligible for that federal or state aid.

Sec. 7. Services that a school corporation provides to a charter school, including transportation, must be provided at cost.

Sec. 8. An operator may apply for and accept for a charter school:

(1) independent financial grants; or

(2) funds from public or private sources other than the school corporation of which the charter school is a part.

Chapter 8. Oversight and Revocation

Sec. 1. An organizer that has established a charter school shall submit an annual report to the department for informational and research purposes.

Sec. 2. An annual report under this chapter must contain the following information for a charter school:

(1) Results of all standardized testing.

(2) A description of the educational methods and teaching methods employed.

(3) Daily attendance records.

(4) Graduation statistics.

(5) Student enrollment data, including the following:

(A) The number of students enrolled.

(B) The number of students expelled.

(C) The number of students who discontinued attendance

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at the charter school and the reasons for the discontinuation.

Sec. 3. The governing body shall oversee a charter school's compliance with:

(1) the charter; and

(2) all applicable law.

Sec. 4. Notwithstanding the provisions of the charter, a governing body that grants a charter may revoke the charter at any time before the expiration of the term of the charter if the governing body determines that at least one (1) of the following occurs:

(1) The organizer fails to comply with the conditions established in the charter.

(2) The charter school established by the organizer fails to meet the educational goals set forth in the charter.

(3) The organizer fails to comply with all applicable laws.

(4) The organizer fails to meet generally accepted government accounting principles.

(5) One (1) or more grounds for revocation exist as specified in the charter.

Sec. 5. A charter school shall report the following to the governing body:

(1) Attendance records.

(2) Student performance data.

(3) Financial information.

(4) Any information necessary for the local school corporation to comply with state and federal government requirements.

Chapter 9. Student Transfers from Charter Schools

Sec. 1. A public noncharter school that receives a transfer student from a charter school may not discriminate against the student in any way, including placing the student:

(1) in an inappropriate age group according to the student's ability;

(2) below the student's abilities; or

(3) in a class where the student has already mastered the subject matter.

Sec. 2. Public noncharter schools shall develop equitable policies and procedures for the:

(1) appropriate placement; and

(2) activity involvement;

of students transferring from atypical educational settings, including charter schools.

SECTION 2. **An emergency is declared for this act.**

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