

Intro

Good afternoon Mr. Chairman, members of the committee. My name is Emily McClure. I'm a lawyer and a lobbyist and I'm here today on behalf of the Idaho Charter School Network to ask for your support for S. 1248, to allow charter schools flexibility with employment contracting.

Bill

Idaho Code 33-5201 through 5217 governs charter schools.

- Section 5206 includes a requirement that contracts for teachers and administrators must be in a form approved by the state superintendent of public instruction.
- This bill would simply strike through existing language, so that charter schools would not be limited to just the State Department's forms.
- Let me be clear about what this bill would not do.
 - o It would not require charter schools that like their current contracts, to stop using them. If a school likes using the form approved by the state department, they should continue to use that form.
 - o Also, it would not strip teachers with existing renewable contracts, or other property rights, of those rights.
 - If the charter school entered into a contract with those teachers, who now hold those rights. It would be a breach of contract, or potentially a taking, for schools to take those rights away.
 - Those rights remain whether a school uses the State Department's form or not.
 - This bill would simply allow those charter schools that want it to have more flexibility moving forward, with new teachers or those that want something different.

Over the years, there has been growing concern about charter schools losing more and more autonomy and flexibility:

- In 1998, when the charter school statute was originally enacted, there was no requirement that charter schools must use the State Department's form contracts.

It is our argument that charter schools should have the flexibility to choose whether to issue renewable or tenure track contracts or not.

- Charter schools are meant to be different and innovative.
 - o Idaho Code 33-5202 states:

It is the intent of the legislature to provide opportunities for teachers, parents, students and community members to establish and maintain public charter schools which operate independently from the existing traditional school district structure but within the existing public school system as a method to accomplish any of the following:

- (1) Improve student learning;
- (2) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students;
- (3) Include the use of different and innovative teaching methods;
- (4) Utilize virtual distance learning and on-line learning;
- (5) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site;
- (6) Provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system;
- (7) Hold the schools established under this chapter accountable for meeting measurable student educational standards.

Some schools would like to try things, but feel constrained by the current State Department form contracts:

- o Some would like to use the Category 1 form contracts – which are the 1 year contracts without mention of renewable tracks – and then use a Category 3 or renewable contract to reward and retain great teachers.
- o Some would like to have a 1-year contract for all their teachers.
- o Some would like to try at-will contracts.
- o Some would like reassurance that they can continue to use the Category 2 contract approved by the previous administration, without risk that they’re breaking some sort of rule; that contract is no longer posted on the superintendent’s website.
- o Some would like to use at-will or one-year contracts for the first year or two, when cultural fit is a critical component that can really only be tested “on the job”
 - Particularly if they’re trying to implement something new a teacher hasn’t done before, like mastery based, IB, multi-language instruction, STEM, career technical education.
- o Finally, there are some schools with proven models in other states, that communities here would like to bring in, but those schools already use contracts that account for the specific needs in their programs, that haven’t been contemplated here.

With the 2004 addition of this language, Idaho became one of the most restrictive states in the country when it comes to charter school employment contracts, even when compared to heavily regulated states. For example:

- New York
 - Charters are free to use whatever contracts they desire.
- California
 - Charter Schools operated by independent non-profits are free to craft their own employment contracts, which are often at-will.
- Oregon
 - Charters are allowed to handle employment however they desire. Most are at-will. Teachers are allowed to unionize.
- Texas
 - Charter schools (unlike school districts) are not required to issue specific contracts to teachers.
- Utah
 - Charter schools are exempt for employment contract requirements, and most contracts are at-will.
- Pennsylvania
 - Charters draw up their own contracts.
- Minnesota
 - No standard teacher contracts. All teacher contracts are one-year, at-will.

Potential Concerns

- I've heard some concerns that, without the close watch of the State Department, perhaps charter schools could create crazy contracts that would expose the state to greater liability.
 - o However, unlike traditional school districts, charter schools are already carefully watched by their authorizers.
 - The authorizer reviews every element of their petition before agreeing to allow the school to operate.
 - The authorizer checks in regularly with the school to make sure they are viable and responsible.
 - The charter school also has to go through a renewal process every three years, at which point the authorizer again checks up on the school, and may take away their petition, if not satisfied that they are operating well.
- However, just to be certain,
 - o We have agreed to work with state board staff to put into rule the requirement that the authorizer – while they're checking up on all these other things – also reviews their employment contracts to be sure they aren't exposing the state to any additional liabilities.
 - o We think this provides a fair balance between protecting the state and allowing the school to operate with as much flexibility as possible, so that they can continue to grow and try new things.
- Finally, there is an element of market response, here. If a charter school offers contracts that teachers don't like, the school risks losing its teachers, which obviously isn't in anyone's best interest.
 - o This would treat teachers like the professionals and adults they are, by allowing them to have a say in reaching their own contract terms with their employers, like most other professionals.
- And, because it bears repeating, this would not force any charter school to stop using the contracts they're currently using. This would only provide flexibility to try something new, for those that do.