

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 212

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5205,
 2 IDAHO CODE, TO PROVIDE FOR NOTICE RELATING TO A PETITION FOR
 3 A NON-VIRTUAL PUBLIC CHARTER SCHOOL, TO PROVIDE FOR CERTAIN
 4 COMMENTS, TO PROVIDE FOR NOTICE TO THE PUBLIC CHARTER SCHOOL
 5 COMMISSION AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING
 6 SECTION 33-5209, IDAHO CODE, TO PROVIDE FOR A HEARING, TO PROVIDE
 7 FOR NOTICE TO THE BOARD OF THE LOCAL SCHOOL DISTRICT AND TO
 8 PROVIDE FOR CERTAIN COMMENTS.
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10 Be It Enacted by the Legislature of the State of Idaho:

11 SECTION 1. That Section 33-5205, Idaho Code, be, and the same is hereby amended to
 12 read as follows:

13 33-5205. PETITION TO ESTABLISH PUBLIC CHARTER SCHOOL. (1) Any group
 14 of persons may petition to establish a new public charter school, or to convert an existing
 15 traditional public school to a public charter school.

16 (a) A petition to establish a new public charter school, including a public virtual charter
 17 school, shall be signed by not fewer than thirty (30) qualified electors of the attendance
 18 area designated in the petition. Proof of elector qualifications shall be provided with the
 19 petition.

20 (b) A petition to establish a new public virtual school must be submitted directly to the
 21 public charter school commission. A petition to establish a new public charter school,
 22 other than a new public virtual school, shall first be submitted to the local board of
 23 trustees in which the public charter school will be located. A petition shall be considered
 24 to be received by an authorized chartering entity as of the next scheduled meeting of the
 25 authorized chartering entity after submission of the petition.

26 (c) The board of trustees may either: (i) consider the petition and approve the charter;
 27 or (ii) consider the petition and deny the charter; or (iii) refer the petition to the public
 28 charter school commission, but such referral shall not be made until the local board has
 29 documented its due diligence in considering the petition. Such documentation shall be
 30 submitted with the petition to the public charter school commission. If the petitioners
 31 and the local board of trustees have not reached mutual agreement on the provisions
 32 of the charter, after a reasonable and good faith effort, within sixty (60) days from the
 33 date the charter petition is received, the petitioners may withdraw their petition from
 34 the local board of trustees and may submit their charter petition to the public charter
 35 school commission, provided it is signed by thirty (30) qualified electors as required by
 36 subsection (1)(a) of this section. Documentation of the reasonable and good faith effort
 37 between the petitioners and the local board of trustees must be submitted with the petition
 38 to the public charter school commission.

1 (d) The public charter school commission may either: (i) consider the petition and
2 approve the charter; or (ii) consider the petition and deny the charter.

3 (e) A petition to convert an existing traditional public school shall be submitted to the
4 board of trustees of the district in which the school is located for review and approval.
5 The petition shall be signed by not fewer than sixty percent (60%) of the teachers
6 currently employed by the school district at the school to be converted, and by one
7 (1) or more parents or guardians of not fewer than sixty percent (60%) of the students
8 currently attending the school to be converted. Each petition submitted to convert an
9 existing school or to establish a new charter school shall contain a copy of the articles
10 of incorporation and the bylaws of the nonprofit corporation, which shall be deemed
11 incorporated into the petition.

12 (2) Not later than sixty (60) days after receiving a petition signed by thirty (30) qualified
13 electors as required by subsection (1)(a) of this section, the authorized chartering entity shall
14 hold a public hearing for the purpose of discussing the provisions of the charter, at which
15 time the authorized chartering entity shall consider the merits of the petition and the level
16 of employee and parental support for the petition. In the case of a petition submitted to
17 the public charter school commission, such public hearing must be not later than sixty (60)
18 days after receipt of the petition, which may be extended to ninety (90) days if both parties
19 agree to an extension, ~~and the~~. In the case of a petition for a non-virtual public charter
20 school submitted to the public charter school commission, the board of the district in which
21 the proposed public charter school will be physically located, shall be notified of the hearing
22 in writing, by the public charter school commission, no less than thirty (30) days prior to the
23 public hearing. Such public hearing shall also include any oral or written comments that an
24 authorized representative of the school district in which the proposed public charter school
25 would be physically located may provide regarding the merits of the petition and any potential
26 impacts on the school district. The hearing shall also include any oral or written comments
27 that petitioners may provide regarding any potential impacts on such school district. If the
28 school district chooses not to provide any oral or written comments as provided for in this
29 subsection (2), such school district shall notify the public charter school commission of such
30 decision. Following review of the petition and the public hearing, the authorized chartering
31 entity shall either approve or deny the charter within sixty (60) days after the date of the public
32 hearing, provided however, that the date may be extended by an additional sixty (60) days if the
33 petition fails to contain all of the information required in this section, or if both parties agree
34 to the extension. This public hearing shall be an opportunity for public participation and oral
35 presentation by the public. This hearing is not a contested case hearing as described in chapter
36 52, title 67, Idaho Code.

37 (3) An authorized chartering entity may approve a charter under the provisions of this
38 chapter only if it determines that the petition contains the requisite signatures, the information
39 required by subsections (4) and (5) of this section, and additional statements describing all of
40 the following:

41 (a) The proposed educational program of the public charter school, designed among other
42 things, to identify what it means to be an "educated person" in the twenty-first century,
43 and how learning best occurs. The goals identified in the program shall include how all
44 educational thoroughness standards as defined in section 33-1612, Idaho Code, shall be
45 fulfilled.

1 (b) The measurable student educational standards identified for use by the public charter
2 school. "Student educational standards" for the purpose of this chapter means the extent
3 to which all students of the public charter school demonstrate they have attained the skills
4 and knowledge specified as goals in the school's educational program.

5 (c) The method by which student progress in meeting those student educational standards
6 is to be measured.

7 (d) A provision by which students of the public charter school will be tested with the
8 same standardized tests as other Idaho public school students.

9 (e) A provision which ensures that the public charter school shall be state accredited as
10 provided by rule of the state board of education.

11 (f) The governance structure of the public charter school including, but not limited to, the
12 person or entity who shall be legally accountable for the operation of the public charter
13 school, and the process to be followed by the public charter school to ensure parental
14 involvement.

15 (g) The qualifications to be met by individuals employed by the public charter school.
16 Instructional staff shall be certified teachers as provided by rule of the state board of
17 education.

18 (h) The procedures that the public charter school will follow to ensure the health and
19 safety of students and staff.

20 (i) A plan for the requirements of section 33-205, Idaho Code, for the denial of school
21 attendance to any student who is an habitual truant, as defined in section 33-206, Idaho
22 Code, or who is incorrigible, or whose conduct, in the judgment of the board of directors
23 of the public charter school, is such as to be continuously disruptive of school discipline,
24 or of the instructional effectiveness of the school, or whose presence in a public charter
25 school is detrimental to the health and safety of other pupils, or who has been expelled
26 from another school district in this state or any other state.

27 (j) Admission procedures, including provision for overenrollment. Such admission
28 procedures shall provide that the initial admission procedures for a new public charter
29 school, including provision for overenrollment, will be determined by lottery or other
30 random method, except as otherwise provided herein. If initial capacity is insufficient
31 to enroll all pupils who submit a timely application, then the admission procedures
32 may provide that preference shall be given in the following order: first, to children of
33 founders, provided that this admission preference shall be limited to not more than ten
34 percent (10%) of the capacity of the public charter school; second, to siblings of pupils
35 already selected by the lottery or other random method; and third, an equitable selection
36 process such as by lottery or other random method. If capacity is insufficient to enroll all
37 pupils for subsequent school terms, who submit a timely application, then the admission
38 procedures may provide that preference shall be given in the following order: first, to
39 pupils returning to the public charter school in the second or any subsequent year of its
40 operation; second, to children of founders, provided that this admission preference shall
41 be limited to not more than ten percent (10%) of the capacity of the public charter school;
42 third, to siblings of pupils already enrolled in the public charter school; and fourth, an
43 equitable selection process such as by lottery or other random method. There shall be no
44 carryover from year to year of the list maintained to fill vacancies. A new lottery shall be
45 conducted each year to fill vacancies which become available.

1 (k) The manner in which an annual audit of the financial and programmatic operations of
2 the public charter school is to be conducted.

3 (l) The disciplinary procedures that the public charter school will utilize, including
4 the procedure by which students may be suspended, expelled and reenrolled, and the
5 procedures required by section 33-210, Idaho Code.

6 (m) A provision which ensures that all staff members of the public charter school will be
7 covered by the public employee retirement system, federal social security, unemployment
8 insurance, worker's compensation insurance, and health insurance.

9 (n) The public school attendance alternative for students residing within the school
10 district who choose not to attend the public charter school.

11 (o) A description of the transfer rights of any employee choosing to work in a public
12 charter school that is approved by the board of trustees of a school district, and the rights
13 of such employees to return to any noncharter school in the same school district after
14 employment at such charter school.

15 (p) A provision which ensures that the staff of the public charter school shall be
16 considered a separate unit for purposes of collective bargaining.

17 (q) The manner by which special education services will be provided to students with
18 disabilities who are eligible pursuant to the federal individuals with disabilities education
19 act, including disciplinary procedures for these students.

20 (r) A plan for working with parents who have students who are dually enrolled pursuant
21 to section 33-203, Idaho Code.

22 (s) The process by which the citizens in the area of attendance shall be made aware of
23 the enrollment opportunities of the public charter school.

24 (t) A proposal for transportation services as required by section 33-5208(4), Idaho Code.

25 (u) A plan for termination of the charter by the board of directors, to include:

26 (i) Identification of who is responsible for dissolution of the charter school;

27 (ii) A description of how payment to creditors will be handled;

28 (iii) A procedure for transferring all records of students with notice to parents of
29 how to request a transfer of student records to a specific school; and

30 (iv) A plan for the disposal of the public charter school's assets.

31 (4) The petitioner shall provide information regarding the proposed operation and
32 potential effects of the public charter school including, but not limited to, the facilities to be
33 utilized by the public charter school, the manner in which administrative services of the public
34 charter school are to be provided and the potential civil liability effects upon the public charter
35 school and upon the authorized chartering entity.

36 (5) At least one (1) person among a group of petitioners of a prospective public charter
37 school shall attend a public charter school workshop offered by the state department of
38 education. The state department of education shall provide notice of dates and locations when
39 workshops will be held, and shall provide proof of attendance to workshop attendees. Such
40 proof shall be submitted by the petitioners to an authorized chartering entity along with the
41 charter petition.

42 (~~5~~) The public charter school commission may approve a charter for a public virtual
43 school under the provisions of this chapter only if it determines that the petition contains the
44 requirements of subsections (3) and (4) of this section and the additional statements describing
45 the following:

46 (a) The learning management system by which courses will be delivered;

- 1 (b) The role of the online teacher, including the consistent availability of the teacher to
 2 provide guidance around course material, methods of individualized learning in the online
 3 course and the means by which student work will be assessed;
 4 (c) A plan for the provision of professional development specific to the public virtual
 5 school environment;
 6 (d) The means by which public virtual school students will receive appropriate
 7 teacher-to-student interaction, including timely, frequent feedback about student progress;
 8 (e) The means by which the public virtual school will verify student attendance and
 9 award course credit. Attendance at public virtual schools shall focus primarily on
 10 coursework and activities that are correlated to the Idaho state thoroughness standards;
 11 (f) A plan for the provision of technical support relevant to the delivery of online
 12 courses;
 13 (g) The means by which the public virtual school will provide opportunity for
 14 student-to-student interaction; and
 15 (h) A plan for ensuring equal access to all students, including the provision of
 16 necessary hardware, software and internet connectivity required for participation in online
 17 coursework.

18 SECTION 2. That Section 33-5209, Idaho Code, be, and the same is hereby amended to
 19 read as follows:

20 33-5209. ENFORCEMENT – REVOCATION – APPEAL. (1) An authorized chartering
 21 entity shall ensure that all public charter schools for which it approved petitions, or for which it
 22 has responsibility, operate in accordance with the approved charter. A public charter school
 23 or the authorized chartering entity may enter into negotiations to revise its charter at any
 24 time. A public charter school may petition to revise its charter at any time. The authorized
 25 chartering entity’s review of the revised petition shall be limited in scope solely to the proposed
 26 revisions. In those instances where a non-virtual public charter school submits a proposed
 27 charter revision to the public charter school commission and such revision includes a proposal
 28 to increase such public charter school’s approved student enrollment cap by ten percent (10%)
 29 or more, the commission shall hold a public hearing on such petition. The public charter
 30 school commission shall provide the board of the local school district in which the public
 31 charter school is physically located, notice in writing of such hearing, no later than thirty (30)
 32 days prior to the hearing. The public hearing shall include any oral or written comments
 33 that an authorized representative of the school district in which the public charter school is
 34 physically located may provide regarding the impact of the proposed charter revision upon the
 35 school district. Such public hearing shall also include any oral or written comments that any
 36 petitioner may provide regarding the impact of the proposed charter revision upon such school
 37 district.

38 (2) If the authorized chartering entity has reason to believe that the public charter school
 39 has done any of the following, it shall provide the public charter school written notice of the
 40 defect and provide a reasonable opportunity to cure the defect:

- 41 (a) Committed a material violation of any condition, standard or procedure set forth in
 42 the approved charter;
 43 (b) Failed to substantially meet any of the student educational standards identified in the
 44 approved charter;
 45 (c) Failed to meet generally accepted accounting standards of fiscal management;

1 (d) Failed to demonstrate fiscal soundness. In order to be fiscally sound, the public
2 charter school must be:

3 (i) Fiscally stable on a short-term basis, that is, able to service all upcoming
4 obligations; and

5 (ii) Fiscally sustainable as a going concern, that is, able to reasonably demonstrate
6 its ability to service any debt and meet its financial obligations for the next fiscal
7 year;

8 (e) Failed to submit required reports to the authorized chartering entity governing the
9 charter; or

10 (f) Violated any provision of law.

11 (3) A charter may be revoked by the authorized chartering entity if the public charter
12 school has failed to cure a defect after receiving reasonable notice and having had a reasonable
13 opportunity to cure the defect. Revocation may not occur until the public charter school
14 has been afforded a public hearing and a reasonable opportunity to cure the defect, unless
15 the authorized chartering entity reasonably determines that the continued operation of the
16 public charter school presents an imminent public safety issue, in which case the charter may
17 be revoked immediately. Public hearings shall be conducted by the governing authorized
18 chartering entity, or such other person or persons appointed by the authorized chartering entity
19 to conduct public hearings and receive evidence as a contested case in accordance with section
20 67-5242, Idaho Code. Reasonable notice and opportunity to reply shall include, at a minimum,
21 written notice setting out the basis for consideration of revocation, a period of not less than
22 thirty (30) days within which the public charter school can reply in writing, and a public
23 hearing within thirty (30) days of the receipt of the written reply.

24 (4) A decision to revoke a charter or to deny a revision of a charter may be appealed
25 directly to the state board of education. With respect to such appeal, the state board of
26 education shall substantially follow the procedure as provided in section 33-5207(5)(b), Idaho
27 Code. In the event the state board of education reverses a decision of revocation, the public
28 charter school subject to such action shall then be placed under the chartering authority of the
29 commission.