



Montana
Office of Public Instruction
Denise Juneau, State Superintendent

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STATE OF MONTANA

LEGISLATIVE NO. 2

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BILL NO. SB 386

SB 386, Revise school laws for school reform and improvement
Sponsor, Senator Sharon Stewart-Peregoy

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Assumptions:

1. Only a nonprofit organization or a public school district may apply to create a public charter school or public charter school district. A Tribal government is excluded from being an applicant.
2. The authorizer for an application is either the board of trustees for a public school district, a school of education at a unit of the Montana university system, or a Tribal government within Montana.
3. If the authorizer approves the application, the authorizer sends notice to the Board of Public Education (BPE). The authorizer is then the charter school's sponsor.
4. If the authorizer denies an application, the BPE may mediate, sponsor the applicant, or deny the application. If the BPE denies an application, the applicant may request judicial review in district court.
5. The sponsor and applicant create a written charter. The bill provides minimum contents for the charter of a school.
6. The term of the initial school charter must be 5 years. The first renewal must be 5 years. Subsequent renewals may be from 5 to 10 years.
7. The bill provides criteria for approval, renewal, and termination of charters.
8. Charter schools are not allowed to be affiliated with a private sectarian or religious institution.
9. The school district in which the public charter school is located must issue high school diplomas to students of a public charter school. A diploma for a charter school student is intended to be equivalent to other high school diplomas issued by public school districts.
10. The bill provides enrollment criteria which give preference to residents of the public school district where the charter school is located, provides a lottery process if space is limited, and allows preference for students who attended in the prior year or whose siblings attended the prior year. If space allows, the charter school may accept out-of-district students.
11. Neither the public charter school nor the school district within which the charter school is located may charge tuition.
12. The school district in which the charter school is located is responsible for transportation of charter school students.
13. The funding mechanism for a public charter school or charter school district is not clear in the bill.
14. The Board of Public Education is required to establish Administrative Rules within 240 days after adoption of this bill to facilitate establishment and operation of charter schools and charter school districts.
15. This bill allows an exception to a moratorium on creation of new school districts in Montana for creation of a new public charter school district. It is unclear in the bill how the issues of taxing jurisdictions, school boundaries, etc. would be re-established and unclear whether the intention is to allow taxing authority for a new charter school district.

Effect on County or Other Local Revenues or Expenditures:

1. If new public charter school districts are carved from existing school district boundaries and established as new taxing jurisdiction, existing school districts will lose the taxable property when boundaries are redrawn. Existing school districts may have more difficulty funding their operations and may experience tax increases due to the loss of tax base.
2. Assuming the bill provides a mechanism to create a taxing capability for new public charter school districts, they will have varying levels of ability to support operations using tax levies, depending on the valuation of property in the newly established boundaries. Taxpayers in those areas may experience increases or decreases of taxes compared to taxes under the previous school district boundaries.
3. There will be considerable work needed to project the impacts in order to educate taxpayers during the public hearing phase. The Board of Public Education is expected to provide that technical support but may not have resources to do that.
4. There will be considerable preparations needed at the county assessor, county superintendent, and local school district levels to implement a new charter school or district. It is not clear what those processes would entail.
5. The bill allows for establishment of elementary and high school charter districts. This will result in impacts on families, affecting where students attend. For example, it may result in a split of high school territory into which an elementary district currently "feeds". Parents who live in a public charter school district and wish to have their student attend in the non-charter district will possibly have to pay tuition because they are no longer residents of the original high school district.
6. Assuming the intent of the bill is to have charter schools administer their own funds, a school district having a public charter school may experience an increase in audit costs related to the increased audit requirements caused by having a separate accounting function.

Technical Notes:

1. The use of "charter school" and "charter school district" within sections and throughout the bill make it unclear how some provisions would relate to a charter school of a district versus a stand-alone charter school district. The inconsistencies must be addressed or implementation would seemingly be impossible.
2. Section 2 defines an applicant to be only a nonprofit organization or a public school district. This would exclude applications by Tribal governments who might want to establish a charter school.
3. Section 2, (2)(b) states the school of education at a university unit "assumes creation of" a public charter school or district. It's unclear what that means.
4. Section 2, (7)(d) says a sponsor includes "the board of trustees of an authorizer". An authorizer is already a school board of trustees in some cases, so the reference to a board of trustees in this context is not meaningful.
5. Section 3 (2) is not clear about the board of a charter school versus the school board of the school district in which the school is located.
6. Section 4 addresses formation of a public charter school but the bill does not address the formation of a public charter school district, which will be legally more complex.
7. Section 5 addresses the application requirements for a public charter school, but the bill does not address the application requirements for a public charter school district. The application for creating a charter school district would be more legally complex.
8. Section 5 allows the Board of Public Education may provide technical assistance to the applicant. The Board of Public Education may need additional resources to provide this technical assistance, including accountants and attorneys to handle more complex legal and finance issues.
9. Section 6 covers the approval of charter schools but the bill does not address approval of applications of charter school districts.

10. Section 6 (6) requires the school district to approve the application for a charter school if a school of the district will be converted to a charter school. . The school district will have considerable responsibility for any public charter school in the district, so the school district's approval should be required for creation of any new charter school within the district, including charter schools to be housed in converted existing schools and those that will use buildings not currently used for public schools.
11. Section 7 refers in several places to action taken during the application process by the "public charter school." The school is not approved and is not yet an entity of its own at this point in the processes, so it may be more accurate to refer to it as the "applicant".
12. Section 8 addresses the charter of a charter school, but the bill does not address a charter of a public charter school district or a charter school of a charter school district.
13. Section 5 (2) refers to reporting requirements "of federal and philanthropic grant foundations." The term is unclear as it indicates there are federal grant foundations with reporting requirements.
14. Section 5 requires an audit of accounts of the charter school. All public school districts are required to be audited under Title 2, chapter 7. The school district's control of a charter school within a district may cause it to fall under the audit of the school district.
15. Section 10 addresses termination of a charter, but the bill does not address the termination or closure of a public charter school district for failure to meet terms and requirements of law, etc.
16. Section 11 states a public charter school may be sued as a separate entity. It is unclear how the legal relationship of the school district where the charter school is located and the charter school are legally related, since the school board of the district is the school board of the school under this bill.
17. Section 11 (7)(a) and (7)(b) are redundant.
18. Section 13 establishes a public charter school development account and requires federal funding for charter schools to be deposited into it. This section is likely not enforceable, since a federal award determines the entity who is receiving the grant.
19. Section 14 is contradictory about the employment relationships for charter school staff. (2) states a public charter school district is the employer of any charter school employee, yet (3) refers to a leave of absence from the district to work at a charter school.
20. Section 15 is contradictory in the responsibility for transporting students. (1)(a) refers to the charter school negotiating for transportation, which is unnecessary because the school district is already responsible for transportation all eligible transportees of the district. (1)(b) allows the school district to transport students who are not eligible transportees of the district, which is already provided in pupil transportation laws so is redundant. (2) allows out-of-district students to use the school district's bus routes. While this is normally done anyway, the pupil transportation laws already allow the district discretion to accommodate out-of-district students. This sets an exception for out-of-district charter school students which may cause inequitable treatment for existing students. (3) is redundant to existing pupil transportation laws.
21. Section 16 requires an attendance agreement for a charter school student regardless of residence. Attendance agreements under 20-5-321 are only done for out-of-district students, so this section is confusing and should be deleted. Tuition laws already cover these situations.
22. Section 17 is not workable in funding a charter school of a district. (2) is redundant to ANB laws. (2)(A) states the charter school is to receive disbursements of payments in a manner equal to other schools, but this is not logical because Montana funds school districts, not schools. (2)(b) states the charter school submits a budget under 20-9-308, but that law provides a budget process for school districts, not schools. (4)(a) refers to the basic entitlement and ANB, which are not school-by-school concepts but are applied at the school district level.
23. Section 18 states the Board of Public Education has 240 days to establish administrative rules. Considering the complexity of these processes, it seems unlikely the rules could be developed and finalized within that timeframe.

24. Section 20 provides that a public charter school district cannot charge tuition. The reason is not apparent for disallowing a public school district from charging tuition for out-of-district students.
25. Section 22 refers to a public charter school district "established under provisions of [sections 1 through 17]". Without a clear process on how the new district would be established, it is not clear how the applicant and authorizer would address the numerous legal details.
26. The effective date of July 1, 2011 seems not to allow enough time to adequately address the complex planning needed to implement these changes.