

**Initiative Measure****1240**

Proposed by initiative petition:

**Initiative Measure No. 1240 concerns creation of a public charter school system.**

**This measure would authorize up to forty publicly-funded charter schools open to all students, operated through approved, nonreligious, nonprofit organizations, with government oversight; and modify certain laws applicable to them as public schools.**

**Should this measure be enacted into law?**

**Yes**

**No**

The Official Ballot Title was written by the Office of the Attorney General as required by law and revised by the court. The Explanatory Statement was written by the Office of the Attorney General as required by law. The Fiscal Impact Statement was written by the Office of Financial Management as required by law. The Secretary of State is not responsible for the content of arguments or statements (WAC 434-381-180). The complete text of Initiative Measure 1240 is located at the end of this pamphlet.

**Explanatory Statement**

Written by the Office of the Attorney General

**The Law as it Presently Exists**

The legislature has provided for the education of resident children through creation of a public school system. Public schools are operated by local school districts under the overall supervision of the state superintendent of public instruction. Children between the ages of eight and eighteen must attend public school, subject to certain exceptions including enrolling in private school or receiving homeschool instruction.

School districts are local government bodies responsible for operating the “common schools” (kindergarten through twelfth grade) in their boundaries. A board of directors elected by the people of the district governs each school district. Each board appoints a superintendent of schools and employs teachers, administrators, and other staff as needed. School district boards must comply with certain statewide standards, but each board is responsible for selecting the number, size, and location of school buildings, employing staff, and choosing curriculum and textbooks for that district.

Each school district must allow all children residing within its geographic boundaries to enroll in its schools. Each school district has discretion to determine where an enrolled student attends school. Most districts assign students to schools on a geographic basis but may also offer students some choice of schools within a district. Many districts offer special programs that are available to students on a non-geographical basis. If agreed to by both districts, a student may attend school in another district.

Currently, public schools are established by local school district boards and cannot be created or operated by any other entity. They are primarily funded by the state. The legislature appropriates funds to the superintendent of public instruction for distribution to school districts. District allotments consider a number of factors but are primarily based on the number of students enrolled in the district. In addition to their state funding, districts may levy voter-approved special property taxes and seek funding from the federal government and/or private sources for district educational programs.

State laws impose various requirements for education programs offered by school districts. Examples of state requirements include provisions relating to student/teacher ratios, alternative education programs, special education, student transportation, bilingual instruction, highly capable students, visual and auditory screening of students, immunization, early childhood programs, school attendance, compulsory course work, food services for students, and management of school district property.

The state board of education is a state agency made up of sixteen members, including the superintendent of public instruction, members appointed by the governor, and members elected by local school boards. The board of education develops educational policy and provides strategic oversight of the public school system.

The Education Employment Relations Act (Chapter 41.59 RCW) governs school district employment relations issues. This statute provides for collective bargaining as to wages, hours, and terms and conditions of employment, and sets requirements and limitations on the collective bargaining process. Collective bargaining matters are within the jurisdiction of the public employment relations commission, a state agency.

### **The Effect of the Proposed Measure, if Approved**

This measure would allow the authorization of a limited number of charter schools within the state's public school system. The measure uses the terms "charter school" and "public charter school" interchangeably, and defines the term as a public school governed by a charter school board and operated according to the terms of a charter contract, which is entered into pursuant to the terms of the measure. The measure would limit the number of charter schools to forty over a five year period, with no more than eight charter schools established per year.

A public charter school would include one or more of grades kindergarten through twelfth. Each charter school would be operated by a nonprofit corporation meeting the requirements of public benefit nonprofit corporations (a nonprofit corporation that has been designated as a tax-exempt charity under the federal internal revenue code). The nonprofit corporation could not be a sectarian or religious organization. Charter schools would be open to all students, and could only limit admission based on age group, grade level, or capacity of the school. Charter schools would be subject to supervision by the superintendent of public instruction and the state board of education.

Public charter schools would be created either as "new" charter schools (public schools that did not previously exist) or "conversion" charter schools (existing public schools converted into charter schools). Conversion charter schools must enroll all students already attending the school who wish to remain enrolled. If new charter schools have insufficient capacity to enroll all students who apply, admission would be determined by lottery, with preference given to siblings of already enrolled students.

The measure establishes two different ways that public charter schools could be authorized. First, the measure would create a new state agency, the Washington charter school commission.

The commission could authorize charter schools anywhere in the state and enter into charter contracts with such schools. The commission would administer the charter schools it authorizes by managing, supervising, and enforcing the schools' charter contracts. The commission would consist of nine members. The governor, the president of the state senate, and the speaker of the house of representatives would each appoint three members, and no more than five members could be of the same political party. The members would be required to have experience and expertise in public and nonprofit governance, public school education, and management and finance; and a demonstrated commitment to charter schools.

Second, the measure would allow local school district boards to authorize public charter schools within their school district boundaries. To authorize charter schools, a school district board would first have to apply to the state board of education to be approved as an authorizer of charter schools. The measure sets minimum requirements for the application. An approved school district board would be required to execute a six-year contract with the board of education, agreeing to certain responsibilities as an authorizer. Approved school district boards could then authorize and enter into charter contracts with charter schools, and would be responsible for managing, supervising, and enforcing those charter contracts. The state board of education would oversee approved school district boards and under certain circumstances could revoke its approval of the school district board as an authorizer of charter schools.

Under the measure, nonprofit corporations seeking to operate a public charter school would apply to the charter school commission or to an approved school district board. The measure sets minimum requirements for applications to operate charter schools. Applicants could apply to only one authorizer at a time, but could re-apply or apply to a different authorizer if rejected. The measure provides that preference would be given to approving applications for charter schools designed to enroll at-risk students.

A public charter school's basic structure and operations would be set forth in its charter contract. The charter contract would be a renewable, five-year contract between the authorizer (the state

charter school commission or an approved local school board) and the charter school board. The charter school board would be appointed or selected according to the approved terms of the charter school application submitted by the nonprofit corporation. Subject to the terms of the charter contract, the charter school board could hire and discharge employees and enter into contracts to carry out the school's functions, including purchase or rental of real property, equipment, goods, supplies, and services. Contracts for management of the charter school could only be with nonprofit corporations. The charter school board could also borrow money and issue debt, but could not use public funds allocated to the school as collateral. The state, the charter school commission, and the local school district would not be held responsible for the debt.

The measure would set minimum requirements for what must be addressed in public charter school contracts, including academic and operational performance expectations and measures by which the performance will be judged. Charter contracts may be revoked or not renewed under certain circumstances, including failing to meet performance expectations.

Public charter schools would receive allocation of state funding based on their student enrollments, including both basic education funding and other categories of state funding for public schools. A portion of this allocation would be used to fund administrative oversight by the authorizer of the charter school (the charter school commission or the local school district board). Charter schools authorized by local school boards and conversion charter schools would also be entitled to per-pupil allocations of local levy proceeds, but new charter schools authorized by the charter school commission could receive funds only from levies submitted to voters after the school's start-up date. A charter school would not be able to charge tuition, levy taxes, or issue tax-backed bonds. A charter school could accept and administer grants and donations from governmental and private entities, and would be eligible to apply for state grants on the same basis as a school district.

Public charter schools would be exempt from most state statutes and rules applicable to school districts, except statutes and rules made applicable through the school's charter. However, charter schools would be required to comply with certain laws such as local, state, and federal laws regarding health and safety, parents' rights, civil rights, and nondiscrimination. Charter schools would be

required to employ certificated instructional staff (with certain exceptions also applicable to other public schools), would be required to provide basic education as defined by statute, would be subject to performance audits, and would be subject to open public meetings and open public records laws. Charter schools would be prohibited from engaging in sectarian practices.

Public charter schools and their employees would participate in state retirement programs for teachers, school employees, and public employee retirement systems, unless including them would jeopardize the status of the retirement systems as governmental plans for purposes of the internal revenue code and related federal laws. Charter school employees would also be eligible to participate in state employee health benefit programs.

Public charter schools would generally be subject to the same collective bargaining requirements as other public schools, but the bargaining unit for collective bargaining would be limited to employees of the charter school rather than including employees from several schools or a school district.

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## Fiscal Impact Statement

Written by the Office of Financial Management

### Fiscal Impact through Fiscal Year 2017

Initiative 1240 is anticipated to shift revenues, expenditures and costs between local public school districts or from local public school districts to charter schools, primarily from movement in student enrollment. This will result in an indeterminate, but non-zero, fiscal impact to local public school districts. Impacts on state expenditures are also indeterminate, but non-zero, because it is unknown: 1) how charter schools will impact enrollment in the state's education system, or 2) the extent to which charter schools will receive state categorical funding or state grants. Known state agency implementation costs are estimated at \$3,090,700 over five fiscal years.

### General Assumptions:

- Estimates assume 40 charter schools will be authorized over five years. The proportion authorized by a local public school district ("school district") or by the Washington Charter School Commission ("Commission") is unknown.

- Charter schools would be tuition-free public schools within the state system of common schools under the supervision of the Office of Superintendent of Public Instruction and State Board of Education (“Board”).
- State funding for charter schools would be provided in the same manner as other public schools.
- It is unknown where charter schools will be located, their size or the composition of their staff or students (“characteristics”).
- Estimates assume charter schools could first be authorized for operation for the 2013–14 school year.
- The effective date of the initiative is Dec. 6, 2012.
- Estimates are described using the state’s fiscal year (FY) of July 1 through June 30.

### State and Local Government Revenue and Expenditure Estimate – Assumptions

State school funding for charter schools would be provided in the same manner as other public schools. Categorical funding would be allocated to charter schools based on the same funding criteria used for noncharter schools.

To the extent charter schools attract students from private or home schools, overall state student enrollment in the K-12 public school system could increase, increasing state expenditures. The cost of funding a student, using 2011–12 average school year costs, is \$5,814 for basic education funding and transportation costs. However, under current law, the state would be required to fund these students should they choose to enter the public school system. Therefore, the fiscal impact to the state and school districts from any new student enrollment is indeterminate, but non-zero.

Depending on the characteristics of a charter school, state funding such as basic education and categorical funding may shift (decreasing for one entity and increasing for another entity) between school districts or from school districts to charter schools. However, such shifts occur under current law. Current law allows parents to enroll their children in schools outside their resident school district, within certain limitations. Moreover, parents may enroll their children in any of more than 300 public alternative schools and programs in school districts throughout the state. Students may also enroll in courses or programs at a community college, technical college and certain four-year universities. Charter schools provide another

enrollment option, but they do not change current law that state funding follows the student. Therefore, the fiscal impact to school districts from providing state funding to charter schools is indeterminate, but non-zero.

Charter schools are eligible for state matching funds for common school construction. A charter school is eligible to apply for state grants on the same basis as a school district. State grants are allocated based on criteria set in law or rule, and may be competitively allocated, prioritized within available funds or subject to legislative appropriation. Because the characteristics of charter schools are unknown, the fiscal impact to the state and school districts from making charter schools eligible for grants and matching funds is indeterminate, but non-zero.

Charter schools authorized by a school district and conversion charter schools are eligible for local levy moneys approved by the voters before the start-up date of the charter school, and must be included in levy planning, budgets and funding distribution for local levies after the start-up date of the charter school. Charter schools authorized by the Commission are not eligible for local levy moneys approved by the voters before the start-up date of the charter school, but must be included in levy planning, budgets and funding distribution for local levies submitted to the voters after the start-up date of the charter school.

Under current law, school districts are authorized to impose a property tax levy within their boundaries to generate additional operating budget funds. These levies for maintenance and operations purposes can be imposed for up to four years and are limited to a set percentage of a state-defined school district levy base. The school district’s levy base is a composite of the prior year’s state and federal revenues, adjusted by inflation and other factors. To the extent the charter school changes a school district’s state and federal revenues, the school district’s levy base may increase or decrease, changing the amount of property tax that can be collected. Because the characteristics of charter schools are unknown, the revenue impact on school districts’ property tax levies is indeterminate, but non-zero.

State funding is also available to reduce property tax rates for school district maintenance and operations levies. To be eligible for state local effort assistance, the school district must be located in an area with above-average school district property tax rates. However, because it is unknown where charter schools will be located, the fiscal impact to the state



to provide local effort assistance to school districts is indeterminate, but non-zero.

Authorizers of charter schools may receive an oversight fee. The fee is to be set by the Board and must be calculated as a percentage of state operating funding allocated to the charter school, but may not exceed 4 percent of the charter school's annual funding. Because the fee calculation and the amount of state operating funds allocated to the charter school is unknown, there is an indeterminate, but non-zero, revenue impact to the state and school districts.

### State and Local Government Cost Estimate – Assumptions

The state will incur known costs to implement the initiative estimated to total \$3,090,700 over five fiscal years. See Table 2.1 for details on state estimated costs. Assumptions by agency are as follows:

- The initiative establishes a nine-member Commission as an independent state agency. The Commission's mission is to authorize charter schools. Estimates assume the need for operational and staff support to the Commission at the cost of \$970,300 over five fiscal years.
- The initiative requires the Board to develop an annual application, approval process and timelines for entities seeking approval to be charter school authorizers no later than 90 days after the effective date of the initiative. The Board is also responsible for oversight of the performance and effectiveness of authorizers it approves. Duties also include the setting of an authorizer oversight fee. The Board, in collaboration with the Commission, must issue an annual report on the state's charter schools for the preceding year. In the fifth year following the operation of charter schools for a full school year, the annual report must contain a recommendation on whether the Legislature should authorize the establishment of additional charter schools. Estimates assume these new duties will require additional operational and staff support to the Board at the cost of \$815,000 over five fiscal years.
- Estimates assume the Office of Superintendent of Public Instruction will require additional operational and staff support to allocate and reconcile funds paid to charter schools and to perform duties as the Board's fiscal agent. These

costs are estimated at \$764,400 over five fiscal years.

- Charter school employees' certificated and classified staff may participate in public employee collective bargaining. Any bargaining unit or units established by the charter school must be separate from other bargaining units in the school districts, educational service districts or institutions of higher education. Each charter school is a separate employer from the school district. It is not known to what extent charter school employees will seek representation and collectively bargain. If all charter school employees were to seek representation and bargain, the maximum estimated cost to the Washington State Public Employment Relations Commission is estimated at \$461,000 over five fiscal years.
- Charter school employees may also participate in the state's health benefit programs through the Public Employees Benefits Board in the same manner as other public school employees. Charter school employees must become members of state retirement systems if their membership does not jeopardize the federal tax status of these retirement systems. The one-time cost of seeking a federal tax status determination is estimated at \$80,000 in fiscal year 2013. No additional state costs are assumed for the provisions of retirement contributions and health care benefits as those are a component of the state's basic education funding to school districts.

School districts that choose to become authorizers of charter schools will incur costs to solicit and review applications, contract with charter school boards, monitor and oversee their authorized charter schools, and annually report to the Board. Because costs will depend on the characteristics of charter schools, there is an indeterminate, but non-zero, cost impact to school districts to become authorizers of charter schools.

Table 2.1 Known State Cost Impact

Known State Costs	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
State Charter Schools Commission	\$117,100	\$213,300	\$213,300	\$213,300	\$213,300
State Board of Education	\$171,000	\$161,000	\$161,000	\$161,000	\$161,000
Office of Superintendent of Public Instruction	\$239,200	\$131,300	\$131,300	\$131,300	\$131,300
Public Employment Relations Commission	\$0	\$120,500	\$116,500	\$112,000	\$112,000
Department of Retirement Systems	\$80,000	\$0	\$0	\$0	\$0
State Total	\$607,300	\$626,100	\$622,100	\$617,600	\$617,600

## Student Mock Election

October 29 - November 2, 2012

Students in grades K-12 can vote online for actual candidates and ballot measures. The Mock Election is free, fun and educational!

### It's as easy as...

1. Starting Monday, October 29 go to [www.sos.wa.gov/elections/mock](http://www.sos.wa.gov/elections/mock)
2. Read the student voters' guide
3. Vote online for real candidates and measures

Results will be posted after voting closes on Friday, November 2, at 1 p.m.



## Argument For Initiative Measure 1240

Charter schools are independently-managed public schools operated by approved nonprofit organizations. They are free, open to all students, and receive funding based on student enrollment just like traditional public schools.

Under I-1240 public charter schools must meet the same academic standards as traditional public schools, and their teachers must meet the same certification requirements as teachers in other public schools. However, charter schools have more flexibility in curriculum, budgets and staffing, and in offering more customized learning experiences for students.

### I-1240 finally allows Washington parents and students the option of public charter schools

Washington is one of the few states without public charter schools. I-1240 will allow up to 40 public charter schools to be authorized in Washington over five years, overseen by a state commission or local school board with strict accountability and oversight. I-1240 requires annual performance reviews and an evaluation after five years before additional charter schools could be allowed.

### Our current public school system isn't meeting the needs of all students

Although many students do well in traditional public schools, far too many are falling through the cracks and are at risk of dropping out. Allowing public charter schools provides another option to help these struggling students succeed.

### Forty-one other states have public charter schools

Charter schools in other states are helping struggling students stay in school and succeed. A *yes* vote on 1240 will finally give Washington families the option of public charter schools for our children, just like families in 41 other states have.

### Rebuttal of Argument Against

Charter schools *are* public schools, open to *all* students, accountable to a local school board or state commission, and do not take a penny from our public school system or students. They're funded based on student enrollment just like other public schools. I-1240 requires strict accountability and oversight, drawing on successful charter school laws in other states to finally allow this important *public school option* for Washington parents and schoolchildren. Please vote *yes* on 1240.

### Argument Prepared by

**Todd Hausman**, Public School Teacher, Bellingham Member, Washington Education Association; **Jana Carlisle**, Garfield High School Parent Volunteer; **Jerry Dyar**, Public School Counselor, Spokane; **Thelma A. Jackson**, Ph.D., Steering Committee Member, Black Education Strategy Roundtable; **Carol Frodge**, Teacher/Formal Principal, PTA 2011 Outstanding Advocate Award; **Lynne Tucker**, Parent and Special Education Advocate, Seattle

**Contact:** (877) 704-5577; info@YESon1240.com; www.YESon1240.com

## Argument Against Initiative Measure 1240

Please vote *no* on Initiative 1240, the charter school initiative. Along with thousands of other teachers, classified school employees, community members and parents, we urge you to vote *no* on I-1240, which creates an expensive new system of privately operated – but publicly funded – charter schools in Washington. There are many good reasons to oppose I-1240:

*Charter schools will drain millions of dollars from existing public schools.* At a time when school funding has already been cut dramatically, our children cannot afford this initiative. *Charter schools will prevent us* from doing what the state Supreme Court has ordered – provide adequate funding for basic public education so all students have the chance to succeed.

*Charter schools will serve only a tiny fraction of our student population.* We need to make sure that all kids get a quality public education. *Charter schools are an unproven, risky gamble.* Research conducted by Stanford University and others shows that, overall, charter schools do not perform better than public schools, and nearly 40 percent of them do *worse*.

*Charter schools undermine local control.* This initiative lets out-of-state charter school operators make the rules. That means less accountability to Washington taxpayers.

Washington voters have already rejected charter schools three times. I-1240 is a discredited idea, and it's time to move on. Our state's children can't afford I-1240. Please join teachers, classified school employees, community members and parents: Vote *no* on I-1240.

### Rebuttal of Argument For

There is no guarantee that kids who are struggling will have access to charter schools. I-1240 diverts taxpayer money into unaccountable, unproven charter schools that would serve a tiny fraction of our students. Attendance will be determined by a lottery. After years of budget cuts, I-1240 will drain millions of dollars from existing classrooms. I-1240 will undermine the recent Supreme Court order to increase school funding so all students can succeed. Vote *no* on I-1240.

### Argument Prepared by

**Freedom Johnson**, Renton School District Teacher and WEA member; **Megan Ives**, Parent of three students in Spokane Public Schools; **Colleen Bradley**, Marysville School District Paraprofessional and SEIU 925 member; **Linnea Hirst**, Co-President, League of Women Voters of Washington; **Estela Ortega**, Executive Director, El Centro de la Raza; **Oscar Eason Jr.**, President, Alaska/Oregon/Washington State Area Conference NAACP

**Contact:** (253) 765-7157; info@peopleforourpublicschools.org; www.peopleforourpublicschools.org

(2) This section does not apply to an assessment made by an agricultural commodity commission or board created by state statute or created under a marketing agreement or order under chapter 15.65 or 15.66 RCW, or to the forest products commission, if the assessment is approved by referendum in accordance with the provisions of the statutes creating the commission or board or chapter 15.65 or 15.66 RCW for approving such assessments.

#### STATUTORY REFERENCE CORRECTIONS

**Sec. 5.** RCW 43.135.031 and 2010 c 1 s 2 are each amended to read as follows:

(1) For any bill introduced in either the house of representatives or the senate that raises taxes as defined by (~~(RCW 43.135.035)~~) RCW 43.135.034 or increases fees, the office of financial management must expeditiously determine its cost to the taxpayers in its first ten years of imposition, must promptly and without delay report the results of its analysis by public press release via e-mail to each member of the house of representatives, each member of the senate, the news media, and the public, and must post and maintain these releases on its web site. Any ten-year cost projection must include a year-by-year breakdown. For any bill containing more than one revenue source, a ten-year cost projection for each revenue source will be included along with the bill's total ten-year cost projection. The press release shall include the names of the legislators, and their contact information, who are sponsors and cosponsors of the bill so they can provide information to, and answer questions from, the public.

(2) Any time any legislative committee schedules a public hearing on a bill that raises taxes as defined by (~~(RCW 43.135.035)~~) RCW 43.135.034 or increases fees, the office of financial management must promptly and without delay report the results of its most up-to-date analysis of the bill required by subsection (1) of this section and the date, time, and location of the hearing by public press release via e-mail to each member of the house of representatives, each member of the senate, the news media, and the public, and must post and maintain these releases on its web site. The press release required by this subsection must include all the information required by subsection (1) of this section and the names of the legislators, and their contact information, who are members of the legislative committee conducting the hearing so they can provide information to, and answer questions from, the public.

(3) Each time a bill that raises taxes as defined by (~~(RCW 43.135.035)~~) RCW 43.135.034 or increases fees is approved by any legislative committee or by at least a simple majority in either the house of representatives or the senate, the office of financial management must expeditiously reexamine and redetermine its ten-year cost projection due to amendment or other changes during the legislative process, must promptly and without delay report the results of its most up-to-date analysis by public press release via e-mail to each member of the house of representatives, each member of the senate, the news media, and the public, and must post and maintain these releases on its web site. Any ten-year cost projection must include a year-by-year breakdown. For any bill containing more than one revenue source, a ten-year cost projection for each revenue source will be included along with the bill's total ten-year cost projection. The press release shall include the names of the legislators, and their contact information, and how they voted on the bill so they can provide information to, and answer questions from, the public.

(4) For the purposes of this section, "names of legislators, and their contact information" includes each legislator's position (senator or representative), first name, last name, party affiliation (for example, Democrat or Republican), city or town they live in, office phone number, and office e-mail address.

(5) For the purposes of this section, "news media" means any member of the press or media organization, including

newspapers, radio, and television, that signs up with the office of financial management to receive the public press releases by e-mail.

(6) For the purposes of this section, "the public" means any person, group, or organization that signs up with the office of financial management to receive the public press releases by e-mail.

**Sec. 6.** RCW 43.135.041 and 2010 c 4 s 3 are each amended to read as follows:

(1)(a) After July 1, 2011, if legislative action raising taxes as defined by (~~(RCW 43.135.035)~~) RCW 43.135.034 is blocked from a public vote or is not referred to the people by a referendum petition found to be sufficient under RCW 29A.72.250, a measure for an advisory vote of the people is required and shall be placed on the next general election ballot under this chapter(~~(1, Laws of 2008)~~).

(b) If legislative action raising taxes enacted after July 1, 2011, involves more than one revenue source, each tax being increased shall be subject to a separate measure for an advisory vote of the people under the requirements of this chapter(~~(1, Laws of 2008)~~).

(2) No later than the first of August, the attorney general will send written notice to the secretary of state of any tax increase that is subject to an advisory vote of the people, under the provisions and exceptions provided by this chapter(~~(1, Laws of 2008)~~). Within five days of receiving such written notice from the attorney general, the secretary of state will assign a serial number for a measure for an advisory vote of the people and transmit one copy of the measure bearing its serial number to the attorney general as required by RCW 29A.72.040, for any tax increase identified by the attorney general as needing an advisory vote of the people for that year's general election ballot. Saturdays, Sundays, and legal holidays are not counted in calculating the time limits in this subsection.

(3) For the purposes of this section, "blocked from a public vote" includes adding an emergency clause to a bill increasing taxes, bonding or contractually obligating taxes, or otherwise preventing a referendum on a bill increasing taxes.

(4) If legislative action raising taxes is referred to the people by the legislature or is included in an initiative to the people found to be sufficient under RCW 29A.72.250, then the tax increase is exempt from an advisory vote of the people under this chapter(~~(1, Laws of 2008)~~).

#### CONSTRUCTION CLAUSE

**NEW SECTION. Sec. 7.** The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act.

#### SEVERABILITY CLAUSE

**NEW SECTION. Sec. 8.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

#### MISCELLANEOUS

**NEW SECTION. Sec. 9.** This act is known and may be cited as "Save The 2/3's Vote For Tax Increases (Again) Act."

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## Complete Text Initiative Measure 1240

AN ACT Relating to public charter schools; amending RCW 28A.150.010, 28A.315.005, and 41.05.011; adding a new section to chapter 41.32 RCW; adding a new section to chapter 41.35 RCW; adding a new section to chapter 41.40 RCW; adding a new



section to chapter 41.56 RCW; adding a new section to chapter 41.59 RCW; and adding a new chapter to Title 28A RCW.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

## PART I

### INTENT, PURPOSE, AND FINDINGS

**NEW SECTION. Sec. 101.** (1) The people of the state of Washington in enacting this initiative measure find:

(a) In accordance with Article IX, section 1 of the state Constitution, "it is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex";

(b) All students deserve excellent educational opportunities and the highest quality standards of public education available;

(c) Many of our public schools are failing to address inequities in educational opportunities for all students, including academic achievement, drop-out rates, and other measures of educational success for students across all economic, racial, ethnic, geographic, and other groups;

(d) It is a priority of the people of the state of Washington to improve the quality of our public schools and the education and academic achievement of all students throughout our state;

(e) Forty-one states have public charter schools with many ranked higher in student performance than Washington's schools;

(f) Allowing public charter schools in Washington will give parents more options to find the best learning environment for their children;

(g) Public charter schools free teachers and principals from burdensome regulations that limit other public schools, giving them the flexibility to innovate and make decisions about staffing, curriculum, and learning opportunities to improve student achievement and outcomes;

(h) Public charter schools are designed to find solutions to problems that affect chronically underperforming schools and to better serve at-risk students who most need help;

(i) Public charter schools have cost-effectively improved student performance and academic achievement for students throughout the country, especially for students from the lowest-performing public schools;

(j) Public charter schools serving low-income, urban students often outperform traditional public schools in improving student outcomes and are closing the achievement gap for at-risk students;

(k) The Washington supreme court recently concluded, in *McLeary v. State*, that "The State has failed to meet its duty under Article IX, section 1 [to amply provide for the education of all children within its borders] by consistently providing school districts with a level of resources that falls short of the actual costs of the basic education program";

(l) The opportunity to provide education through public charter schools will create efficiencies in the use of the resources the state provides to school districts;

(m) Public charter schools, as authorized in chapter... Laws of 2013 (this act), are "common schools" and part of the "general and uniform system of public schools" provided by the legislature as required by Article IX, section 2 of the state Constitution; and

(n) This initiative will:

(i) Allow a maximum of up to forty public charter schools to be established over a five-year period as independently managed public schools operated only by qualified nonprofit organizations approved by the state;

(ii) Require that teachers in public charter schools be held to the same certification requirements as teachers in other public schools;

(iii) Require that there will be annual performance reviews of public charter schools created under this measure, and that the performance of these schools be evaluated to determine whether additional public charter schools should be allowed;

(iv) Require that public charter schools be free and open to all students just like traditional public schools are, and that students be selected by lottery to ensure fairness if more students apply than a school can accommodate;

(v) Require that public charter schools be subject to the same academic standards as existing public schools;

(vi) Require public charter schools to be authorized and overseen by a state charter school commission, or by a local school board;

(vii) Require that public charter schools receive funding based on student enrollment just like existing public schools;

(viii) Allow public charter schools to be free from many regulations so that they have more flexibility to set curriculum and budgets, hire and fire teachers and staff, and offer more customized learning experiences for students; and

(ix) Give priority to opening public charter schools that serve at-risk student populations or students from low-performing public schools.

(2) Therefore, the people enact this initiative measure to authorize a limited number of public charter schools in the state of Washington, to be operated by qualified nonprofit organizations with strong accountability and oversight, and to evaluate the performance of these schools and potential benefits of new models for improving academic achievement for all students.

## PART II

### AUTHORIZING CHARTER SCHOOLS

**NEW SECTION. Sec. 201. DEFINITIONS--CHARTER SCHOOLS.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Applicant" means a nonprofit corporation that has submitted an application to an authorizer. The nonprofit corporation must be either a public benefit nonprofit corporation as defined in RCW 24.03.490, or a nonprofit corporation as defined in RCW 24.03.005 that has applied for tax exempt status under section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)). The nonprofit corporation may not be a sectarian or religious organization and must meet all of the requirements for a public benefit nonprofit corporation before receiving any funding under section 222 of this act.

(2) "At-risk student" means a student who has an academic or economic disadvantage that requires assistance or special services to succeed in educational programs. The term includes, but is not limited to, students who do not meet minimum standards of academic proficiency, students who are at risk of dropping out of high school, students in chronically low-performing schools, students with higher than average disciplinary sanctions, students with lower participation rates in advanced or gifted programs, students who are limited in English proficiency, students who are members of economically disadvantaged families, and students who are identified as having special educational needs.

(3) "Authorizer" means an entity approved under section 209 of this act to review, approve, or reject charter school applications; enter into, renew, or revoke charter contracts with applicants; and oversee the charter schools the entity has authorized.

(4) "Charter contract" means a fixed term, renewable contract between a charter school and an authorizer that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract.

(5) "Charter school" or "public charter school" means a public school governed by a charter school board and operated according to the terms of a charter contract executed under this chapter and includes a new charter school and a conversion charter school.

(6) "Charter school board" means the board of directors appointed or selected under the terms of a charter application to manage and operate the charter school.

(7) "Commission" means the Washington charter school commission established in section 208 of this act.

(8) "Conversion charter school" means a charter school created by converting an existing noncharter public school in its entirety to a charter school under this chapter.

(9) "New charter school" means any charter school established under this chapter that is not a conversion charter school.

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

(11) "Student" means any child eligible under RCW 28A.225.160 to attend a public school in the state.

**NEW SECTION. Sec. 202. LEGAL STATUS.** A charter school established under this chapter:

(1) Is a public, common school open to all children free of charge;

(2) Is a public, common school offering any program or course of study that a noncharter public school may offer, including one or more of grades kindergarten through twelve;

(3) Is governed by a charter school board according to the terms of a renewable, five-year charter contract executed under section 216 of this act;

(4) Is a public school to which parents choose to send their children;

(5) Functions as a local education agency under applicable federal laws and regulations and is responsible for meeting the requirements of local education agencies and public schools under those federal laws and regulations, including but not limited to compliance with the individuals with disabilities education improvement act (20 U.S.C. Sec. 1401 et seq.), the federal educational rights and privacy act (20 U.S.C. Sec. 1232g), and the elementary and secondary education act (20 U.S.C. Sec. 6301 et seq.).

**NEW SECTION. Sec. 203. CHARTER SCHOOL BOARDS-- POWERS.** (1) To carry out its duty to manage and operate the charter school and carry out the terms of its charter contract, a charter school board may:

(a) Hire, manage, and discharge any charter school employee in accordance with the terms of this chapter and that school's charter contract;

(b) Receive and disburse funds for the purposes of the charter school;

(c) Enter into contracts with any school district, educational service district, or other public or private entity for the provision of real property, equipment, goods, supplies, and services, including educational instructional services and including for the management and operation of the charter school to the same extent as other noncharter public schools, as long as the charter school board maintains oversight authority over the charter school. Contracts for management operation of the charter school may only be with nonprofit organizations;

(d) Rent, lease, purchase, or own real property. All charter contracts and contracts with other entities must include provisions regarding the disposition of the property if the

charter school fails to open as planned or closes, or if the charter contract is revoked or not renewed;

(e) Issue secured and unsecured debt, including pledging, assigning, or encumbering its assets to be used as collateral for loans or extensions of credit to manage cash flow, improve operations, or finance the acquisition of real property or equipment: PROVIDED, That the public charter school may not pledge, assign, or encumber any public funds received or to be received pursuant to section 222 of this act. The debt is not a general, special, or moral obligation of the state, the charter school authorizer, the school district in which the charter school is located, or any other political subdivision or agency of the state. Neither the full faith and credit nor the taxing power of the state or any political subdivision or agency of the state may be pledged for the payment of the debt;

(f) Solicit, accept, and administer for the benefit of the charter school and its students, gifts, grants, and donations from individuals or public or private entities, excluding from sectarian or religious organizations. Charter schools may not accept any gifts or donations the conditions of which violate this chapter or other state laws; and

(g) Issue diplomas to students who meet state high school graduation requirements established under RCW 28A.230.090. A charter school board may establish additional graduation requirements.

(2) A charter school board may not levy taxes or issue tax-backed bonds. A charter school board may not acquire property by eminent domain.

**NEW SECTION. Sec. 204. CHARTER SCHOOLS-- APPLICABILITY OF STATE LAWS.** (1) A charter school must operate according to the terms of its charter contract and the provisions of this chapter.

(2) All charter schools must:

(a) Comply with local, state, and federal health, safety, parents' rights, civil rights, and nondiscrimination laws applicable to school districts and to the same extent as school districts, including but not limited to chapter 28A.642 RCW (discrimination prohibition) and chapter 28A.640 RCW (sexual equality);

(b) Provide basic education, as provided in RCW 28A.150.210, including instruction in the essential academic learning requirements and participate in the statewide student assessment system as developed under RCW 28A.655.070;

(c) Employ certificated instructional staff as required in RCW 28A.410.025: PROVIDED, That charter schools may hire noncertificated instructional staff of unusual competence and in exceptional cases as specified in RCW 28A.150.203(7);

(d) Comply with the employee record check requirements in RCW 28A.400.303;

(e) Adhere to generally accepted accounting principles and be subject to financial examinations and audits as determined by the state auditor, including annual audits for legal and fiscal compliance;

(f) Comply with the annual performance report under RCW 28A.655.110;

(g) Be subject to the performance improvement goals adopted by the state board of education under RCW 28A.305.130;

(h) Comply with the open public meetings act in chapter 42.30 RCW and public records requirements in chapter 42.56 RCW; and

(i) Be subject to and comply with legislation enacted after the effective date of this section governing the operation and management of charter schools.

(3) Public charter schools must comply with all state statutes and rules made applicable to the charter school in the school's

charter contract and are subject to the specific state statutes and rules identified in subsection (2) of this section. Charter schools are not subject to and are exempt from all other state statutes and rules applicable to school districts and school district boards of directors, for the purpose of allowing flexibility to innovate in areas such as scheduling, personnel, funding, and educational programs in order to improve student outcomes and academic achievement. Charter schools are exempt from all school district policies except policies made applicable in the school's charter contract.

(4) No charter school may engage in any sectarian practices in its educational program, admissions or employment policies, or operations.

(5) Charter schools are subject to the supervision of the superintendent of public instruction and the state board of education, including accountability measures, to the same extent as other public schools, except as otherwise provided in chapter..., Laws of 2013 (this act).

**NEW SECTION. Sec. 205. ADMISSION AND ENROLLMENT OF STUDENTS.** (1) A charter school may not limit admission on any basis other than age group, grade level, or capacity and must enroll all students who apply within these bases. A charter school is open to any student regardless of his or her location of residence.

(2) A charter school may not charge tuition, but may charge fees for participation in optional extracurricular events and activities in the same manner and to the same extent as do other public schools.

(3) A conversion charter school must provide sufficient capacity to enroll all students who wish to remain enrolled in the school after its conversion to a charter school, and may not displace students enrolled before the chartering process.

(4) If capacity is insufficient to enroll all students who apply to a charter school, the charter school must select students through a lottery to ensure fairness. However, a charter school must give an enrollment preference to siblings of already enrolled students.

(5) The capacity of a charter school must be determined annually by the charter school board in consultation with the charter authorizer and with consideration of the charter school's ability to facilitate the academic success of its students, achieve the objectives specified in the charter contract, and assure that its student enrollment does not exceed the capacity of its facility. An authorizer may not restrict the number of students a charter school may enroll.

(6) Nothing in this section prevents formation of a charter school whose mission is to offer a specialized learning environment and services for particular groups of students, such as at-risk students, students with disabilities, or students who pose such severe disciplinary problems that they warrant a specific educational program. Nothing in this section prevents formation of a charter school organized around a special emphasis, theme, or concept as stated in the school's application and charter contract.

**NEW SECTION. Sec. 206. CHARTER SCHOOL STUDENTS.**

(1) School districts must provide information to parents and the general public about charter schools located within the district as an enrollment option for students.

(2) If a student who was previously enrolled in a charter school enrolls in another public school in the state, the student's new school must accept credits earned by the student in the charter school in the same manner and according to the same criteria that credits are accepted from other public schools.

(3) A charter school is eligible for state or district-sponsored interscholastic programs, awards, scholarships, or competitions to the same extent as other public schools.

**NEW SECTION. Sec. 207. AUTHORIZERS.** The following entities are eligible to be authorizers of charter schools:

(1) The Washington charter school commission established under section 208 of this act, for charter schools located anywhere in the state; and

(2) School district boards of directors that have been approved by the state board of education under section 209 of this act before authorizing a charter school, for charter schools located within the school district's own boundaries.

**NEW SECTION. Sec. 208. WASHINGTON CHARTER SCHOOL COMMISSION.** (1) The Washington charter school commission is established as an independent state agency whose mission is to authorize high quality public charter schools throughout the state, particularly schools designed to expand opportunities for at-risk students, and to ensure the highest standards of accountability and oversight for these schools. The commission shall, through its management, supervision, and enforcement of the charter contracts, administer the portion of the public common school system consisting of the charter schools it authorizes as provided in this chapter, in the same manner as a school district board of directors, through its management, supervision, and enforcement of the charter contracts, and pursuant to applicable law, administers the charter schools it authorizes.

(2) The commission shall consist of nine members, no more than five of whom shall be members of the same political party. Three members shall be appointed by the governor; three members shall be appointed by the president of the senate; and three members shall be appointed by the speaker of the house of representatives. The appointing authorities shall assure diversity among commission members, including representation from various geographic areas of the state and shall assure that at least one member is a parent of a Washington public school student.

(3) Members appointed to the commission shall collectively possess strong experience and expertise in public and nonprofit governance; management and finance; public school leadership, assessment, curriculum, and instruction; and public education law. All members shall have demonstrated an understanding of and commitment to charter schooling as a strategy for strengthening public education.

(4) Members shall be appointed to four-year, staggered terms, with initial appointments from each of the appointing authorities consisting of one member appointed to a one-year term, one member appointed to a two-year term, and one member appointed to a three-year term, all of whom thereafter may be reappointed for a four-year term. No member may serve more than two consecutive terms. Initial appointments must be made no later than ninety days after the effective date of this section.

(5) Whenever a vacancy on the commission exists, the original appointing authority must appoint a member for the remaining portion of the term within no more than thirty days.

(6) Commission members shall serve without compensation but may be reimbursed for travel expenses as authorized in RCW 43.03.050 and 43.03.060.

(7) Operational and staff support for the commission shall be provided by the office of the governor until the commission has sufficient resources to hire or contract for separate staff support, who shall reside within the office of the governor for administrative purposes only.

(8) Sections 209 and 212 of this act do not apply to the commission.

**NEW SECTION. Sec. 209. AUTHORIZERS--APPROVAL.** (1) The state board of education shall establish an annual application and approval process and timelines for entities seeking approval to be charter school authorizers. The initial process and timelines must be established no later than ninety days after the effective date of this section.



(2) At a minimum, each applicant must submit to the state board:

- (a) The applicant's strategic vision for chartering;
- (b) A plan to support the vision presented, including explanation and evidence of the applicant's budget and personnel capacity and commitment to execute the responsibilities of quality charter authorizing;
- (c) A draft or preliminary outline of the request for proposals that the applicant would, if approved as an authorizer, issue to solicit charter school applicants;
- (d) A draft of the performance framework that the applicant would, if approved as an authorizer, use to guide the establishment of a charter contract and for ongoing oversight and evaluation of charter schools;
- (e) A draft of the applicant's proposed renewal, revocation, and nonrenewal processes, consistent with sections 219 and 220 of this act;
- (f) A statement of assurance that the applicant seeks to serve as an authorizer in fulfillment of the expectations, spirit, and intent of this chapter, and that if approved as an authorizer, the applicant will fully participate in any authorizer training provided or required by the state; and
- (g) A statement of assurance that the applicant will provide public accountability and transparency in all matters concerning charter authorizing practices, decisions, and expenditures.

(3) The state board of education shall consider the merits of each application and make its decision within the timelines established by the board.

(4) Within thirty days of making a decision to approve an application under this section, the state board of education must execute a renewable authorizing contract with the entity. The initial term of an authorizing contract shall be six years. The authorizing contract must specify each approved entity's agreement to serve as an authorizer in accordance with the expectations of this chapter, and may specify additional performance terms based on the applicant's proposal and plan for chartering. No approved entity may commence charter authorizing without an authorizing contract in effect.

**NEW SECTION. Sec. 210. AUTHORIZERS--POWERS AND DUTIES.** (1) Authorizers are responsible for:

- (a) Soliciting and evaluating charter applications;
- (b) Approving quality charter applications that meet identified educational needs and promote a diversity of educational choices;
- (c) Denying weak or inadequate charter applications;
- (d) Negotiating and executing sound charter contracts with each authorized charter school;
- (e) Monitoring, in accordance with charter contract terms, the performance and legal compliance of charter schools including, without limitation, education and academic performance goals and student achievement; and
- (f) Determining whether each charter contract merits renewal, nonrenewal, or revocation.

(2) An authorizer may delegate its responsibilities under this section to employees or contractors.

(3) All authorizers must develop and follow chartering policies and practices that are consistent with the principles and standards for quality charter authorizing developed by the national association of charter school authorizers in at least the following areas:

- (a) Organizational capacity and infrastructure;
- (b) Soliciting and evaluating charter applications;
- (c) Performance contracting;
- (d) Ongoing charter school oversight and evaluation; and

(e) Charter renewal decision making.

(4) Each authorizer must submit an annual report to the state board of education, according to a timeline, content, and format specified by the board, which includes:

- (a) The authorizer's strategic vision for chartering and progress toward achieving that vision;
- (b) The academic and financial performance of all operating charter schools overseen by the authorizer, including the progress of the charter schools based on the authorizer's performance framework;

(c) The status of the authorizer's charter school portfolio, identifying all charter schools in each of the following categories: Approved but not yet open, operating, renewed, transferred, revoked, not renewed, voluntarily closed, or never opened;

(d) The authorizer's operating costs and expenses detailed in annual audited financial statements that conform with generally accepted accounting principles; and

(e) The services purchased from the authorizer by the charter schools under its jurisdiction under section 211 of this act, including an itemized accounting of the actual costs of these services.

(5) Neither an authorizer, individuals who comprise the membership of an authorizer in their official capacity, nor the employees of an authorizer are liable for acts or omissions of a charter school they authorize.

(6) No employee, trustee, agent, or representative of an authorizer may simultaneously serve as an employee, trustee, agent, representative, vendor, or contractor of a charter school under the jurisdiction of that authorizer.

**NEW SECTION. Sec. 211. AUTHORIZERS--FUNDING.** (1) The state board of education shall establish a statewide formula for an authorizer oversight fee, which shall be calculated as a percentage of the state operating funding allocated under section 222 of this act to each charter school under the jurisdiction of an authorizer, but may not exceed four percent of each charter school's annual funding. The office of the superintendent of public instruction shall deduct the oversight fee from each charter school's allocation under section 222 of this act and transmit the fee to the appropriate authorizer.

(2) The state board of education may establish a sliding scale for the authorizer oversight fee, with the funding percentage decreasing after the authorizer has achieved a certain threshold, such as after a certain number of years of authorizing or after a certain number of charter schools have been authorized.

(3) An authorizer must use its oversight fee exclusively for the purpose of fulfilling its duties under section 210 of this act.

(4) An authorizer may provide contracted, fee-based services to charter schools under its jurisdiction that are in addition to the oversight duties under section 210 of this act. An authorizer may not charge more than market rates for the contracted services provided. A charter school may not be required to purchase contracted services from an authorizer. Fees collected by the authorizer under this subsection must be separately accounted for and reported annually to the state board of education.

**NEW SECTION. Sec. 212. AUTHORIZERS--OVERSIGHT.** (1) The state board of education is responsible for overseeing the performance and effectiveness of all authorizers approved under section 209 of this act.

(2) Persistently unsatisfactory performance of an authorizer's portfolio of charter schools, a pattern of well-founded complaints about the authorizer or its charter schools, or other objective circumstances may trigger a special review by the state board of education.

(3) In reviewing or evaluating the performance of authorizers, the board must apply nationally recognized



principles and standards for quality charter authorizing. Evidence of material or persistent failure by an authorizer to carry out its duties in accordance with the principles and standards constitutes grounds for revocation of the authorizing contract by the state board, as provided under this section.

(4) If at any time the state board of education finds that an authorizer is not in compliance with a charter contract, its authorizing contract, or the authorizer duties under section 210 of this act, the board must notify the authorizer in writing of the identified problems, and the authorizer shall have reasonable opportunity to respond and remedy the problems.

(5) If an authorizer persists after due notice from the state board of education in violating a material provision of a charter contract or its authorizing contract, or fails to remedy other identified authorizing problems, the state board of education shall notify the authorizer, within a reasonable amount of time under the circumstances, that it intends to revoke the authorizer's chartering authority unless the authorizer demonstrates a timely and satisfactory remedy for the violation or deficiencies.

(6) In the event of revocation of any authorizer's chartering authority, the state board of education shall manage the timely and orderly transfer of each charter contract held by that authorizer to another authorizer in the state, with the mutual agreement of each affected charter school and proposed new authorizer. The new authorizer shall assume the existing charter contract for the remainder of the charter term.

(7) The state board of education must establish timelines and a process for taking actions under this section in response to performance deficiencies by an authorizer.

**NEW SECTION. Sec. 213. CHARTER APPLICATIONS--**  
CONTENT. (1)(a) Each authorizer must annually issue and broadly publicize a request for proposals for charter school applicants by the date established by the state board of education under section 214 of this act.

(b) Each authorizer's request for proposals must:

(i) Present the authorizer's strategic vision for chartering, including a clear statement of any preferences the authorizer wishes to grant to applications that employ proven methods for educating at-risk students or students with special needs;

(ii) Include or otherwise direct applicants to the performance framework that the authorizer has developed for charter school oversight and evaluation in accordance with section 217 of this act;

(iii) Provide the criteria that will guide the authorizer's decision to approve or deny a charter application; and

(iv) State clear, appropriately detailed questions as well as guidelines concerning the format and content essential for applicants to demonstrate the capacities necessary to establish and operate a successful charter school.

(2) A charter school application must provide or describe thoroughly all of the following elements of the proposed school plan:

(a) An executive summary;

(b) The mission and vision of the proposed charter school, including identification of the targeted student population and the community the school hopes to serve;

(c) The location or geographic area proposed for the school and the school district within which the school will be located;

(d) The grades to be served each year for the full term of the charter contract;

(e) Minimum, planned, and maximum enrollment per grade per year for the term of the charter contract;

(f) Evidence of need and parent and community support for the proposed charter school;

(g) Background information on the proposed founding governing board members and, if identified, the proposed school leadership and management team;

(h) The school's proposed calendar and sample daily schedule;

(i) A description of the academic program aligned with state standards;

(j) A description of the school's proposed instructional design, including the type of learning environment; class size and structure; curriculum overview; and teaching methods;

(k) Evidence that the educational program is based on proven methods;

(l) The school's plan for using internal and external assessments to measure and report student progress on the performance framework developed by the authorizer in accordance with section 217 of this act;

(m) The school's plans for identifying, successfully serving, and complying with applicable laws and regulations regarding students with disabilities, students who are limited English proficient, students who are struggling academically, and highly capable students;

(n) A description of cocurricular or extracurricular programs and how they will be funded and delivered;

(o) Plans and timelines for student recruitment and enrollment, including targeted plans for recruiting at-risk students and including lottery procedures;

(p) The school's student discipline policies, including for special education students;

(q) An organization chart that clearly presents the school's organizational structure, including lines of authority and reporting between the governing board, staff, any related bodies such as advisory bodies or parent and teacher councils, and any external organizations that will play a role in managing the school;

(r) A clear description of the roles and responsibilities for the governing board, the school's leadership and management team, and any other entities shown in the organization chart;

(s) A staffing plan for the school's first year and for the term of the charter;

(t) Plans for recruiting and developing school leadership and staff;

(u) The school's leadership and teacher employment policies, including performance evaluation plans;

(v) Proposed governing bylaws;

(w) An explanation of proposed partnership agreement, if any, between a charter school and its school district focused on facilities, budgets, taking best practices to scale, and other items;

(x) Explanations of any other partnerships or contractual relationships central to the school's operations or mission;

(y) Plans for providing transportation, food service, and all other significant operational or ancillary services;

(z) Opportunities and expectations for parent involvement;

(aa) A detailed school start-up plan, identifying tasks, timelines, and responsible individuals;

(bb) A description of the school's financial plan and policies, including financial controls and audit requirements;

(cc) A description of the insurance coverage the school will obtain;

(dd) Start-up and five-year cash flow projections and budgets with clearly stated assumptions;

(ee) Evidence of anticipated fundraising contributions, if claimed in the application; and

(ff) A sound facilities plan, including backup or contingency plans if appropriate.

(3) In the case of an application to establish a conversion charter school, the applicant must also demonstrate support for the proposed conversion by a petition signed by a majority of teachers assigned to the school or a petition signed by a majority of parents of students in the school.

(4) In the case of an application where the proposed charter school intends to contract with a nonprofit education service provider for substantial educational services, management services, or both, the applicant must:

(a) Provide evidence of the nonprofit education service provider's success in serving student populations similar to the targeted population, including demonstrated academic achievement as well as successful management of nonacademic school functions if applicable;

(b) Provide a term sheet setting forth the proposed duration of the service contract; roles and responsibilities of the governing board, the school staff, and the service provider; scope of services and resources to be provided by the service provider; performance evaluation measures and timelines; compensation structure, including clear identification of all fees to be paid to the service provider; methods of contract oversight and enforcement; investment disclosure; and conditions for renewal and termination of the contract; and

(c) Disclose and explain any existing or potential conflicts of interest between the charter school board and proposed service provider or any affiliated business entities.

(5) In the case of an application from an applicant that operates one or more schools in any state or nation, the applicant must provide evidence of past performance, including evidence of the applicant's success in serving at-risk students, and capacity for growth.

(6) Applicants may submit a proposal for a particular public charter school to no more than one authorizer at a time.

**NEW SECTION. Sec. 214. CHARTER APPLICATIONS--DECISION PROCESS.** (1) The state board of education must establish an annual statewide timeline for charter application submission and approval or denial, which must be followed by all authorizers.

(2) In reviewing and evaluating charter applications, authorizers shall employ procedures, practices, and criteria consistent with nationally recognized principles and standards for quality charter authorizing. Authorizers shall give preference to applications for charter schools that are designed to enroll and serve at-risk student populations: PROVIDED, That nothing in this chapter may be construed as intended to limit the establishment of charter schools to those that serve a substantial portion of at-risk students or to in any manner restrict, limit, or discourage the establishment of charter schools that enroll and serve other pupil populations under a nonexclusive, nondiscriminatory admissions policy. The application review process must include thorough evaluation of each application, an in-person interview with the applicant group, and an opportunity in a public forum including, without limitation, parents, community members, local residents, and school district board members and staff, to learn about and provide input on each application.

(3) In deciding whether to approve an application, authorizers must:

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

(b) Base decisions on documented evidence collected through the application review process;

(c) Follow charter-granting policies and practices that are transparent and based on merit; and

(d) Avoid any conflicts of interest whether real or apparent.

(4) An approval decision may include, if appropriate, reasonable conditions that the charter applicant must meet before a charter contract may be executed.

(5) For any denial of an application, the authorizer shall clearly state in writing its reasons for denial. A denied applicant may subsequently reapply to that authorizer or apply to another authorizer in the state.

**NEW SECTION. Sec. 215. NUMBER OF CHARTER SCHOOLS.**

(1) A maximum of forty public charter schools may be established under this chapter, over a five-year period. No more than eight charter schools may be established in any single year during the five-year period, except that if in any single year fewer than eight charter schools are established, then additional charter schools equal in number to the difference between the number established in that year and eight may be established in subsequent years during the five-year period.

(2) To ensure compliance with the limits for establishing new charter schools, certification from the state board of education must be obtained before final authorization of a charter school. Within ten days of taking action to approve or deny an application under section 214 of this act, an authorizer must submit a report of the action to the applicant and to the state board of education, which must include a copy of the authorizer's resolution setting forth the action taken, the reasons for the decision, and assurances of compliance with the procedural requirements and application elements under sections 213 and 214 of this act. The authorizer must also indicate whether the charter school is designed to enroll and serve at-risk student populations. The state board of education must establish, for each year in which charter schools may be authorized as part of the timeline to be established pursuant to section 214 of this act, the last date by which the authorizer must submit the report. The state board of education must send notice of the date to each authorizer no later than six months before the date.

(3) Upon the receipt of notice from an authorizer that a charter school has been approved, the state board of education shall certify whether the approval is in compliance with the limits on the maximum number of charters allowed under subsection (1) of this section. If the board receives simultaneous notification of approved charters that exceed the annual allowable limits in subsection (1) of this section, the board must select approved charters for implementation through a lottery process, and must assign implementation dates accordingly.

(4) The state board of education must notify authorizers when the maximum allowable number of charter schools has been reached.

**NEW SECTION. Sec. 216. CHARTER CONTRACTS.** (1) The purposes of the charter application submitted under section 213 of this act are to present the proposed charter school's academic and operational vision and plans and to demonstrate and provide the authorizer a clear basis for the applicant's capacities to execute the proposed vision and plans. An approved charter application does not serve as the school's charter contract.

(2) Within ninety days of approval of a charter application, the authorizer and the governing board of the approved charter school must execute a charter contract by which, fundamentally, the public charter school agrees to provide educational services that at a minimum meet basic education standards in return for an allocation of public funds to be used for such purpose all as set forth in this and other applicable statutes and in the charter contract. The charter contract must clearly set forth the academic and operational performance expectations and measures by which the charter school will be judged and the administrative relationship between the authorizer and charter school, including each party's rights and duties. The performance expectations and measures set forth in the charter

contract must include but need not be limited to applicable federal and state accountability requirements. The performance provisions may be refined or amended by mutual agreement after the charter school is operating and has collected baseline achievement data for its enrolled students.

(3) The charter contract must be signed by the president of the school district board of directors if the school district board of directors is the authorizer or the chair of the commission if the commission is the authorizer and by the president of the charter school board. Within ten days of executing a charter contract, the authorizer must submit to the state board of education written notification of the charter contract execution, including a copy of the executed charter contract and any attachments.

(4) A charter contract may govern one or more charter schools to the extent approved by the authorizer. A single charter school board may hold one or more charter contracts. However, each charter school that is part of a charter contract must be separate and distinct from any others and, for purposes of calculating the maximum number of charter schools that may be established under this chapter, each charter school must be considered a single charter school regardless of how many charter schools are governed under a particular charter contract.

(5) An initial charter contract must be granted for a term of five operating years. The contract term must commence on the charter school's first day of operation. An approved charter school may delay its opening for one school year in order to plan and prepare for the school's opening. If the school requires an opening delay of more than one school year, the school must request an extension from its authorizer. The authorizer may grant or deny the extension depending on the school's circumstances.

(6) Authorizers may establish reasonable preopening requirements or conditions to monitor the start-up progress of newly approved charter schools and ensure that they are prepared to open smoothly on the date agreed, and to ensure that each school meets all building, health, safety, insurance, and other legal requirements for school opening.

(7) No charter school may commence operations without a charter contract executed in accordance with this section.

**NEW SECTION. Sec. 217. CHARTER CONTRACTS--PERFORMANCE FRAMEWORK.** (1) The performance provisions within a charter contract must be based on a performance framework that clearly sets forth the academic and operational performance indicators, measures, and metrics that will guide an authorizer's evaluations of each charter school.

(2) At a minimum, the performance framework must include indicators, measures, and metrics for:

- (a) Student academic proficiency;
- (b) Student academic growth;
- (c) Achievement gaps in both proficiency and growth between major student subgroups;
- (d) Attendance;
- (e) Recurrent enrollment from year to year;
- (f) Graduation rates and postsecondary readiness, for high schools;
- (g) Financial performance and sustainability; and
- (h) Board performance and stewardship, including compliance with all applicable laws, rules, and terms of the charter contract.

(3) Annual performance targets must be set by each charter school in conjunction with its authorizer and must be designed to help each school meet applicable federal, state, and authorizer expectations.

(4) The authorizer and charter school may also include additional rigorous, valid, and reliable indicators in the performance framework to augment external evaluations of the charter school's performance.

(5) The performance framework must require the disaggregation of all student performance data by major student subgroups, including gender, race and ethnicity, poverty status, special education status, English language learner status, and highly capable status.

(6) Multiple schools operating under a single charter contract or overseen by a single charter school board must report their performance as separate schools, and each school shall be held independently accountable for its performance.

**NEW SECTION. Sec. 218. CHARTER CONTRACTS--OVERSIGHT.** (1) Each authorizer must continually monitor the performance and legal compliance of the charter schools it oversees, including collecting and analyzing data to support ongoing evaluation according to the performance framework in the charter contract.

(2) An authorizer may conduct or require oversight activities that enable the authorizer to fulfill its responsibilities under this chapter, including conducting appropriate inquiries and investigations, so long as those activities are consistent with the intent of this chapter, adhere to the terms of the charter contract, and do not unduly inhibit the autonomy granted to charter schools.

(3) In the event that a charter school's performance or legal compliance appears unsatisfactory, the authorizer must promptly notify the school of the perceived problem and provide reasonable opportunity for the school to remedy the problem, unless the problem warrants revocation in which case the revocation procedures under section 220 of this act apply.

(4) An authorizer may take appropriate corrective actions or exercise sanctions short of revocation in response to apparent deficiencies in charter school performance or legal compliance. Such actions or sanctions may include, if warranted, requiring a school to develop and execute a corrective action plan within a specified time frame.

**NEW SECTION. Sec. 219. CHARTER CONTRACTS--RENEWAL.** (1) A charter contract may be renewed by the authorizer, at the request of the charter school, for successive five-year terms, although the authorizer may vary the term based on the performance, demonstrated capacities, and particular circumstances of a charter school and may grant renewal with specific conditions for necessary improvements to a charter school.

(2) No later than six months before the expiration of a charter contract, the authorizer must issue a performance report and charter contract renewal application guidance to that charter school. The performance report must summarize the charter school's performance record to date based on the data required by the charter contract, and must provide notice of any weaknesses or concerns perceived by the authorizer concerning the charter school that may jeopardize its position in seeking renewal if not timely rectified. The charter school has thirty days to respond to the performance report and submit any corrections or clarifications for the report.

(3) The renewal application guidance must, at a minimum, provide an opportunity for the charter school to:

- (a) Present additional evidence, beyond the data contained in the performance report, supporting its case for charter contract renewal;
- (b) Describe improvements undertaken or planned for the school; and
- (c) Detail the school's plans for the next charter contract term.

(4) The renewal application guidance must include or refer explicitly to the criteria that will guide the authorizer's renewal decisions, which shall be based on the performance framework



set forth in the charter contract.

(5) In making charter renewal decisions, an authorizer must:

(a) Ground its decisions in evidence of the school's performance over the term of the charter contract in accordance with the performance framework set forth in the charter contract;

(b) Ensure that data used in making renewal decisions are available to the school and the public; and

(c) Provide a public report summarizing the evidence basis for its decision.

**NEW SECTION. Sec. 220. CHARTER CONTRACTS--NONRENEWAL OR REVOCATION.** (1) A charter contract may be revoked at any time or not renewed if the authorizer determines that the charter school did any of the following or otherwise failed to comply with the provisions of this chapter:

(a) Committed a material and substantial violation of any of the terms, conditions, standards, or procedures required under this chapter or the charter contract;

(b) Failed to meet or make sufficient progress toward the performance expectations set forth in the charter contract;

(c) Failed to meet generally accepted standards of fiscal management; or

(d) Substantially violated any material provision of law from which the charter school is not exempt.

(2) A charter contract may not be renewed if, at the time of the renewal application, the charter school's performance falls in the bottom quartile of schools on the accountability index developed by the state board of education under RCW 28A.657.110, unless the charter school demonstrates exceptional circumstances that the authorizer finds justifiable.

(3) Each authorizer must develop revocation and nonrenewal processes that:

(a) Provide the charter school board with a timely notification of the prospect of and reasons for revocation or nonrenewal;

(b) Allow the charter school board a reasonable amount of time in which to prepare a response;

(c) Provide the charter school board with an opportunity to submit documents and give testimony challenging the rationale for closure and in support of the continuation of the school at a recorded public proceeding held for that purpose;

(d) Allow the charter school board to be represented by counsel and to call witnesses on its behalf; and

(e) After a reasonable period for deliberation, require a final determination to be made and conveyed in writing to the charter school board.

(4) If an authorizer revokes or does not renew a charter, the authorizer must clearly state in a resolution the reasons for the revocation or nonrenewal.

(5) Within ten days of taking action to renew, not renew, or revoke a charter contract, an authorizer must submit a report of the action to the applicant and to the state board of education, which must include a copy of the authorizer's resolution setting forth the action taken, the reasons for the decision, and assurances of compliance with the procedural requirements established by the authorizer under this section.

**NEW SECTION. Sec. 221. CHARTER SCHOOL TERMINATION OR DISSOLUTION.** (1) Before making a decision to not renew or to revoke a charter contract, authorizers must develop a charter school termination protocol to ensure timely notification to parents, orderly transition of students and student records to new schools, as necessary, and proper disposition of public school funds, property, and assets. The protocol must specify tasks, timelines, and responsible parties, including delineating the respective duties of the charter school and the authorizer.

(2) In the event that the nonprofit corporation applicant of a charter school should dissolve for any reason including, without limitation, because of the termination of the charter contract, the public school funds of the charter school that have been provided pursuant to section 222 of this act must be returned to the state or local account from which the public funds originated. If the charter school has comingled the funds, the funds must be returned in proportion to the proportion of those funds received by the charter school from the public accounts in the last year preceding the dissolution. The dissolution of an applicant nonprofit corporation shall otherwise proceed as provided by law.

(3) A charter contract may not be transferred from one authorizer to another or from one charter school applicant to another before the expiration of the charter contract term except by petition to the state board of education by the charter school or its authorizer. The state board of education must review such petitions on a case-by-case basis and may grant transfer requests in response to special circumstances and evidence that such a transfer would serve the best interests of the charter school's students.

**NEW SECTION. Sec. 222. FUNDING.** (1) Charter schools must report student enrollment in the same manner and based on the same definitions of enrolled students and annual average full-time equivalent enrollment as other public schools. Charter schools must comply with applicable reporting requirements to receive state or federal funding that is allocated based on student characteristics.

(2) According to the schedule established under RCW 28A.510.250, the superintendent of public instruction shall allocate funding for a charter school including general apportionment, special education, categorical, and other nonbasic education moneys. Allocations must be based on the statewide average staff mix ratio of all noncharter public schools from the prior school year and the school's actual full-time equivalent enrollment. Categorical funding must be allocated to a charter school based on the same funding criteria used for noncharter public schools and the funds must be expended as provided in the charter contract. A charter school is eligible to apply for state grants on the same basis as a school district.

(3) Allocations for pupil transportation must be calculated on a per student basis based on the allocation for the previous school year to the school district in which the charter school is located. A charter school may enter into a contract with a school district or other public or private entity to provide transportation for the students of the school.

(4) Amounts payable to a charter school under this section in the school's first year of operation must be based on the projections of first-year student enrollment established in the charter contract. The office of the superintendent of public instruction must reconcile the amounts paid in the first year of operation to the amounts that would have been paid based on actual student enrollment and make adjustments to the charter school's allocations over the course of the second year of operation.

(5) For charter schools authorized by a school district board of directors, allocations to a charter school that are included in RCW 84.52.0531(3) (a) through (c) shall be included in the levy planning, budgets, and funding distribution in the same manner as other public schools in the district.

(6) Conversion charter schools are eligible for local levy moneys approved by the voters before the conversion start-up date of the school as determined by the authorizer, and the school district must allocate levy moneys to a conversion charter school.

(7) New charter schools are not eligible for local levy moneys approved by the voters before the start-up date of the school unless the local school district is the authorizer.



(8) For levies submitted to voters after the start-up date of a charter school authorized under this chapter, the charter school must be included in levy planning, budgets, and funding distribution in the same manner as other public schools in the district.

(9) Any moneys received by a charter school from any source and remaining in the school's accounts at the end of any budget year shall remain in the school's accounts for use by the school during subsequent budget years.

**NEW SECTION. Sec. 223. FACILITIES.** (1) Charter schools are eligible for state matching funds for common school construction.

(2) A charter school has a right of first refusal to purchase or lease at or below fair market value a closed public school facility or property or unused portions of a public school facility or property located in a school district from which it draws its students if the school district decides to sell or lease the public school facility or property pursuant to RCW 28A.335.040 or 28A.335.120.

(3) A charter school may negotiate and contract with a school district, the governing body of a public college or university, or any other public or private entity for the use of a facility for a school building at or below fair market rent.

(4) Public libraries, community service organizations, museums, performing arts venues, theaters, and public or private colleges and universities may provide space to charter schools within their facilities under their preexisting zoning and land use designations.

(5) A conversion charter school as part of the consideration for providing educational services under the charter contract may continue to use its existing facility without paying rent to the school district that owns the facility. The district remains responsible for major repairs and safety upgrades that may be required for the continued use of the facility as a public school. The charter school is responsible for routine maintenance of the facility including, but not limited to, cleaning, painting, gardening, and landscaping. The charter contract of a conversion charter school using existing facilities that are owned by its school district must include reasonable and customary terms regarding the use of the existing facility that are binding upon the school district.

**NEW SECTION. Sec. 224. YEARS OF SERVICE.** Years of service in a charter school by certificated instructional staff shall be included in the years of service calculation for purposes of the statewide salary allocation schedule under RCW 28A.150.410. This section does not require a charter school to pay a particular salary to its staff while the staff is employed by the charter school.

**NEW SECTION. Sec. 225. ANNUAL REPORTS.** (1) By December 1st of each year beginning in the first year after there have been charter schools operating for a full school year, the state board of education, in collaboration with the commission, must issue an annual report on the state's charter schools for the preceding school year to the governor, the legislature, and the public at-large.

(2) The annual report must be based on the reports submitted by each authorizer as well as any additional relevant data compiled by the board. The report must include a comparison of the performance of charter school students with the performance of academically, ethnically, and economically comparable groups of students in noncharter public schools. In addition, the annual report must include the state board of education's assessment of the successes, challenges, and areas for improvement in meeting the purposes of this chapter, including the board's assessment of the sufficiency of funding for charter schools, the efficacy of the formula for authorizer funding, and any suggested changes in state law or policy necessary to strengthen the state's charter schools.

(3) Together with the issuance of the annual report following the fifth year after there have been charter schools operating for a full school year, the state board of education, in collaboration with the commission, shall submit a recommendation regarding whether or not the legislature should authorize the establishment of additional public charter schools.

### PART III

#### GENERAL PROVISIONS

**Sec. 301.** RCW 28A.150.010 and 1969 ex.s. c 223 s 28A.01.055 are each amended to read as follows:

Public schools (~~shall~~) means the common schools as referred to in Article IX of the state Constitution, including charter schools established under chapter 28A.-- RCW (the new chapter created in section 401 of this act), and those schools and institutions of learning having a curriculum below the college or university level as now or may be established by law and maintained at public expense.

**Sec. 302.** RCW 28A.315.005 and 1999 c 315 s 1 are each amended to read as follows:

(1) Under the constitutional framework and the laws of the state of Washington, the governance structure for the state's public common school system is comprised of the following bodies: The legislature, the governor, the superintendent of public instruction, the state board of education, the Washington charter school commission, the educational service district boards of directors, and local school district boards of directors. The respective policy and administrative roles of each body are determined by the state Constitution and statutes.

(2) Local school districts are political subdivisions of the state and the organization of such districts, including the powers, duties, and boundaries thereof, may be altered or abolished by laws of the state of Washington.

**NEW SECTION. Sec. 303.** A new section is added to chapter 41.32 RCW to read as follows:

This section designates charter schools established under chapter 28A.-- RCW (the new chapter created in section 401 of this act) as employers and charter school employees as members, and applies only if the department of retirement systems receives determinations from the internal revenue service and the United States department of labor that participation does not jeopardize the status of these retirement systems as governmental plans under the federal employees' retirement income security act and the internal revenue code.

**NEW SECTION. Sec. 304.** A new section is added to chapter 41.35 RCW to read as follows:

This section designates charter schools established under chapter 28A.-- RCW (the new chapter created in section 401 of this act) as employers and charter school employees as members, and applies only if the department of retirement systems receives determinations from the internal revenue service and the United States department of labor that participation does not jeopardize the status of these retirement systems as governmental plans under the federal employees' retirement income security act and the internal revenue code.

**NEW SECTION. Sec. 305.** A new section is added to chapter 41.40 RCW to read as follows:

This section designates charter schools established under chapter 28A.-- RCW (the new chapter created in section 401 of this act) as employers and charter school employees as members, and applies only if the department of retirement systems receives determinations from the internal revenue service and the United States department of labor that participation does not jeopardize the status of these retirement systems as governmental plans under the federal employees' retirement income security act and the internal revenue code.

**Sec. 306.** RCW 41.05.011 and 2012 c 87 s 22 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authority" means the Washington state health care authority.

(2) "Board" means the public employees' benefits board established under RCW 41.05.055.

(3) "Dependent care assistance program" means a benefit plan whereby state and public employees may pay for certain employment related dependent care with pretax dollars as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 129 or other sections of the internal revenue code.

(4) "Director" means the director of the authority.

(5) "Emergency service personnel killed in the line of duty" means law enforcement officers and firefighters as defined in RCW 41.26.030, members of the Washington state patrol retirement fund as defined in RCW 43.43.120, and reserve officers and firefighters as defined in RCW 41.24.010 who die as a result of injuries sustained in the course of employment as determined consistent with Title 51 RCW by the department of labor and industries.

(6) "Employee" includes all employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature. Pursuant to contractual agreement with the authority, "employee" may also include: (a) Employees of a county, municipality, or other political subdivision of the state and members of the legislative authority of any county, city, or town who are elected to office after February 20, 1970, if the legislative authority of the county, municipality, or other political subdivision of the state seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.04.205 and 41.05.021(1)(g); (b) employees of employee organizations representing state civil service employees, at the option of each such employee organization, and, effective October 1, 1995, employees of employee organizations currently pooled with employees of school districts for the purpose of purchasing insurance benefits, at the option of each such employee organization; (c) employees of a school district if the authority agrees to provide any of the school districts' insurance programs by contract with the authority as provided in RCW 28A.400.350; (d) employees of a tribal government, if the governing body of the tribal government seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021(1) (f) and (g); ~~(and)~~ (e) employees of the Washington health benefit exchange if the governing board of the exchange established in RCW 43.71.020 seeks and receives approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021(1) (g) and (n); and (f) employees of a charter school established under chapter 28A.--- RCW (the new chapter created in section 401 of this act). "Employee" does not include: Adult family homeowners; unpaid volunteers; patients of state hospitals; inmates; employees of the Washington state convention and trade center as provided in RCW 41.05.110; students of institutions of higher education as determined by their institution; and any others not expressly defined as employees under this chapter or by the authority under this chapter.

(7) "Employer" means the state of Washington.

(8) "Employing agency" means a division, department, or separate agency of state government, including an institution of higher education; a county, municipality, school district, educational service district, or other political subdivision; charter school; and a tribal government covered by this chapter.

(9) "Faculty" means an academic employee of an institution of higher education whose workload is not defined by work hours but whose appointment, workload, and duties directly serve the institution's academic mission, as determined under the authority of its enabling statutes, its governing body, and any applicable collective bargaining agreement.

(10) "Flexible benefit plan" means a benefit plan that allows employees to choose the level of health care coverage provided and the amount of employee contributions from among a range of choices offered by the authority.

(11) "Insuring entity" means an insurer as defined in chapter 48.01 RCW, a health care service contractor as defined in chapter 48.44 RCW, or a health maintenance organization as defined in chapter 48.46 RCW.

(12) "Medical flexible spending arrangement" means a benefit plan whereby state and public employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(13) "Participant" means an individual who fulfills the eligibility and enrollment requirements under the salary reduction plan.

(14) "Plan year" means the time period established by the authority.

(15) "Premium payment plan" means a benefit plan whereby state and public employees may pay their share of group health plan premiums with pretax dollars as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(16) "Retired or disabled school employee" means:

(a) Persons who separated from employment with a school district or educational service district and are receiving a retirement allowance under chapter 41.32 or 41.40 RCW as of September 30, 1993;

(b) Persons who separate from employment with a school district ~~((or)),~~ educational service district, or charter school on or after October 1, 1993, and immediately upon separation receive a retirement allowance under chapter 41.32, 41.35, or 41.40 RCW;

(c) Persons who separate from employment with a school district ~~((or)),~~ educational service district, or charter school due to a total and permanent disability, and are eligible to receive a deferred retirement allowance under chapter 41.32, 41.35, or 41.40 RCW.

(17) "Salary" means a state employee's monthly salary or wages.

(18) "Salary reduction plan" means a benefit plan whereby state and public employees may agree to a reduction of salary on a pretax basis to participate in the dependent care assistance program, medical flexible spending arrangement, or premium payment plan offered pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(19) "Seasonal employee" means an employee hired to work during a recurring, annual season with a duration of three months or more, and anticipated to return each season to perform similar work.

(20) "Separated employees" means persons who separate from employment with an employer as defined in:

(a) RCW 41.32.010(17) on or after July 1, 1996; or

(b) RCW 41.35.010 on or after September 1, 2000; or

(c) RCW 41.40.010 on or after March 1, 2002;

and who are at least age fifty-five and have at least ten years of service under the teachers' retirement system plan 3 as defined in RCW 41.32.010(33), the Washington school employees'

retirement system plan 3 as defined in RCW 41.35.010, or the public employees' retirement system plan 3 as defined in RCW 41.40.010.

(21) "State purchased health care" or "health care" means medical and health care, pharmaceuticals, and medical equipment purchased with state and federal funds by the department of social and health services, the department of health, the basic health plan, the state health care authority, the department of labor and industries, the department of corrections, the department of veterans affairs, and local school districts.

(22) "Tribal government" means an Indian tribal government as defined in section 3(32) of the employee retirement income security act of 1974, as amended, or an agency or instrumentality of the tribal government, that has government offices principally located in this state.

**NEW SECTION. Sec. 307.** A new section is added to chapter 41.56 RCW to read as follows:

In addition to the entities listed in RCW 41.56.020, this chapter applies to any charter school established under chapter 28A.--- RCW (the new chapter created in section 401 of this act). Any bargaining unit or units established at the charter school must be limited to employees working in the charter school and must be separate from other bargaining units in school districts, educational service districts, or institutions of higher education. Any charter school established under chapter 28A.--- RCW (the new chapter created in section 401 of this act) is a separate employer from any school district, including the school district in which it is located.

**NEW SECTION. Sec. 308.** A new section is added to chapter 41.59 RCW to read as follows:

This chapter applies to any charter school established under chapter 28A.--- RCW (the new chapter created in section 401 of this act). Any bargaining unit or units established at the charter school must be limited to employees working in the charter school and must be separate from other bargaining units in school districts, educational service districts, or institutions of higher education. Any charter school established under chapter 28A.--- RCW (the new chapter created in section 401 of this act) is a separate employer from any school district, including the school district in which it is located.

#### PART IV MISCELLANEOUS PROVISIONS

**NEW SECTION. Sec. 401.** Sections 101 and 201 through 225 of this act constitute a new chapter in Title 28A RCW.

**NEW SECTION. Sec. 402.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

--- END ---

## Complete Text Referendum Measure 74

AN ACT Relating to providing equal protection for all families in Washington by creating equality in civil marriage and changing the domestic partnership laws, while protecting religious freedom; amending RCW 26.04.010, 26.04.020, 26.04.050, 26.04.060, 26.04.070, 26.60.010, 26.60.030, 26.60.090, and 1.12.080; adding new sections to chapter 26.04 RCW; adding a new section to chapter 26.60 RCW; adding a new section to chapter 26.33 RCW; adding a new section to chapter 74.13 RCW; adding a new section to chapter 74.15 RCW; creating new sections; and providing a contingent effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec. 1.** RCW 26.04.010 and 1998 c 1 s 3 are each amended to read as follows:

(1) Marriage is a civil contract between ~~((a male and a female))~~ two persons who have each attained the age of eighteen years, and who are otherwise capable.

(2) Every marriage entered into in which either ~~((the husband or the wife))~~ person has not attained the age of seventeen years is void except where this section has been waived by a superior court judge of the county in which one of the parties resides on a showing of necessity.

(3) Where necessary to implement the rights and responsibilities of spouses under the law, gender specific terms such as husband and wife used in any statute, rule, or other law must be construed to be gender neutral and applicable to spouses of the same sex.

(4) No regularly licensed or ordained minister or any priest, imam, rabbi, or similar official of any religious organization is required to solemnize or recognize any marriage. A regularly licensed or ordained minister or priest, imam, rabbi, or similar official of any religious organization shall be immune from any civil claim or cause of action based on a refusal to solemnize or recognize any marriage under this section. No state agency or local government may base a decision to penalize, withhold benefits from, or refuse to contract with any religious organization on the refusal of a person associated with such religious organization to solemnize or recognize a marriage under this section.

(5) No religious organization is required to provide accommodations, facilities, advantages, privileges, services, or goods related to the solemnization or celebration of a marriage.

(6) A religious organization shall be immune from any civil claim or cause of action, including a claim pursuant to chapter 49.60 RCW, based on its refusal to provide accommodations, facilities, advantages, privileges, services, or goods related to the solemnization or celebration of a marriage.

(7) For purposes of this section:

(a) "Recognize" means to provide religious-based services that:

(i) Are delivered by a religious organization, or by an individual who is managed, supervised, or directed by a religious organization; and

(ii) Are designed for married couples or couples engaged to marry and are directly related to solemnizing, celebrating, strengthening, or promoting a marriage, such as religious counseling programs, courses, retreats, and workshops; and

(b) "Religious organization" includes, but is not limited to, churches, mosques, synagogues, temples, nondenominational ministries, interdenominational and ecumenical organizations, mission organizations, faith-based social agencies, and other entities whose principal purpose is the study, practice, or advancement of religion.

**Sec. 2.** RCW 26.04.020 and 1998 c 1 s 4 are each amended to read as follows:

(1) Marriages in the following cases are prohibited:

(a) When either party thereto has a ~~((wife or husband))~~ spouse or registered domestic partner living at the time of such marriage, unless the registered domestic partner is the other party to the marriage; or

(b) When the ~~((husband and wife))~~ spouses are nearer of kin to each other than second cousins, whether of the whole or half blood computing by the rules of the civil law ~~((or~~

~~((or~~ (c) When the parties are persons other than a male and a female)).

(2) It is unlawful for any ~~((man to marry his father's sister, mother's sister, daughter, sister, son's daughter, daughter's~~