LEGISLATURE OF THE STATE OF IDAHO
Sixty-third Legislature First Regular Session - 2015

IN THE SENATE

SENATE BILL NO. 1087

BY EDUCATION COMMITTEE

AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5205, IDAHO CODE, TO PROVIDE AN ADDITIONAL PREFERENCE IN ADMISSION TO PUBLIC CHARTER SCHOOLS.

Be It Enacted by the Legislature of the State of Idaho:

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

33-5205. PETITION TO ESTABLISH PUBLIC CHARTER SCHOOL. (1) Any group of persons may petition to establish a new public charter school, or to convert an existing traditional public school to a public charter school. The purpose of the charter petition is to present the proposed public charter school's academic and operational vision and plans, demonstrate the petitioner's capacities to execute the proposed vision and plans and provide the authorized chartering entity a clear basis for assessing the applicant's plans and capacities. An approved charter petition shall not serve as the school's performance certificate.

(a) A petition to establish a new public charter school, including a public virtual charter school, shall be signed by not fewer than thirty (30) qualified electors of the attendance area designated in the petition, unless it is a petition for approval by an authorized chartering entity permitted pursuant to subsection (1)(c) or (1)(d) of section 33-5202A, Idaho Code. Proof of elector qualifications shall be provided with the petition. A petition to establish a new public charter school may be submitted directly to an authorized chartering entity permitted pursuant to subsection (1)(c) or (1)(d) of section 33-5202A, Idaho Code; provided however, that no such individual authorized chartering entity shall approve more than one (1) new public charter school each year within the boundaries of a single school district. Except as provided in this paragraph, authorized chartering entities permitted pursuant to the provisions of subsection (1)(c) or (1)(d) of section 33-5202A, Idaho Code, shall be governed by the same laws and rules in approving new public charter schools as the public charter school commission.

(b) A petition to establish a new public virtual school shall not be submitted directly to a local school district board of trustees. Except as provided in paragraph (a) of this subsection, a petition to establish a new public charter school, other than a new public virtual school, shall first be submitted to the local board of trustees in which the public charter school will be located. A petition shall be considered to be received by an authorized chartering entity as of the next regularly scheduled meeting of the authorized chartering entity after submission of the petition.
(c) The board of trustees may either: (i) consider the petition and approve the charter; or (ii) consider the petition and deny the charter; or (iii) refer the petition to the public charter school commission, but such referral shall not be made until the local board has documented its due diligence in considering the petition. Such documentation shall be submitted with the petition to the public charter school commission. If the petitioners and the local board of trustees have not reached mutual agreement on the provisions of the charter, after a reasonable and good faith effort, within seventy-five (75) days from the date the charter petition is received, the petitioners may withdraw their petition from the local board of trustees and may submit their charter petition to the public charter school commission. Documentation of the reasonable and good faith effort between the petitioners and the local board of trustees must be submitted with the petition to the public charter school commission.

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

(2) Not later than seventy-five (75) days after receiving a petition, the authorized chartering entity shall hold a public hearing for the purpose of discussing the provisions of the charter, at which time the authorized chartering entity shall consider the merits of the petition and the level of employee and parental support for the petition. In the case of a petition submitted to the public charter school commission, such public hearing must be not later than seventy-five (75) days after receipt of the petition, which may be extended for an additional specified period of time if both parties agree to an extension. Such agreement shall be established in writing and signed by representatives of both parties.

In the case of a petition for a public virtual charter school, if the primary attendance area described in the petition of a proposed public virtual charter school extends within the boundaries of five (5) or fewer local school districts, the prospective authorizer shall provide notice in writing of the public hearing no less than thirty (30) days prior to such public hearing to those local school districts. Such public hearing shall include any oral or written comments that an authorized representative of the local school districts may provide regarding the merits of the petition and any potential impacts on the school districts.

In the case of a petition for a non-virtual public charter school submitted to the public charter school commission, the board of the district in which the proposed public charter school will be physically located, shall be notified of the hearing in writing, by the public charter school commission, no less than thirty (30) days prior to the public hearing. Such
public hearing shall include any oral or written comments that an authorized representative of the school district in which the proposed public charter school would be physically located may provide regarding the merits of the petition and any potential impacts on the school district. The hearing shall include any oral or written comments that petitioners may provide regarding any potential impacts on such school district. If the school district chooses not to provide any oral or written comments as provided for in this subsection, such school district shall notify the public charter school commission of such decision. This public hearing shall be an opportunity for public participation and oral presentation by the public. This hearing is not a contested case hearing as described in chapter 52, title 67, Idaho Code. Following review of any petition and any public hearing provided for in this section, the authorized chartering entity shall within seventy-five (75) days either:

(a) Approve the charter;
(b) Deny the charter; or
(c) Provide a written response identifying the specific deficiencies in the petition.

If the authorized chartering entity exercises the option provided for in paragraph (c) of this subsection, then the petitioners may revise the petition and resubmit such within thirty (30) days. Within forty-five (45) days of receiving a revised petition, the authorized chartering entity shall review the revised petition and either approve or deny the petition based upon whether the petitioners have adequately addressed the specific deficiencies identified in the authorized chartering entity's written response, or based upon any other changes made to the petition, and upon no other criteria.

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

(a) The proposed educational program of the public charter school, designed among other things, to identify what it means to be an "educated person" in the twenty-first century, and how learning best occurs. The goals identified in the program shall include how all educational thoroughness standards as defined in section 33-1612, Idaho Code, shall be fulfilled.
(b) The measurable student educational standards identified for use by the public charter school. "Student educational standards" for the purpose of this chapter means the extent to which all students of the public charter school demonstrate they have attained the skills and knowledge specified as goals in the school's educational program.
(c) The method by which student progress in meeting those student educational standards is to be measured.
(d) A provision by which students of the public charter school will be tested with the same standardized tests as other Idaho public school students.
(e) A provision which ensures that the public charter school shall be state accredited as provided by rule of the state board of education.
(f) The governance structure of the public charter school including, but not limited to, the person or entity who shall be legally accountable for the operation of the public charter school, and the process to be followed by the public charter school to ensure parental involvement.

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

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

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

(j) The primary attendance area of the charter school, which shall be composed of a compact and contiguous area. For the purposes of this section, if services are available to students throughout the state, the state of Idaho is considered a compact and contiguous area.

(k) Admission procedures, including provision for overenrollment. Such admission procedures shall provide that the initial admission procedures for a new public charter school, including provision for overenrollment, will be determined by lottery or other random method, except as otherwise provided herein. If initial capacity is insufficient to enroll all pupils who submit a timely application, then the admission procedures may provide that preference shall be given in the following order: first, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school; second, to siblings of pupils already selected by the lottery or other random method; third, to pupils seeking to transfer from another Idaho public charter school at which they have been enrolled for at least one (1) year, provided that this admission preference shall be subject to an existing written agreement for such preference between the subject charter schools; fourth, to students residing within the primary attendance area of the public charter school; and fifth, by an equitable selection process such as a lottery or other random method. If so stated in its petition, a new public charter school may include the children of full-time employees of the public charter school within the first priority group subject to the limitations therein. Otherwise, such children shall be included in the highest priority group for which they would otherwise be eligible. If capacity is insufficient to enroll all pupils who submit a timely application for subsequent school terms, then the admission procedures may provide that preference shall be given in the following order: first, to pupils returning to the public charter school in the second or any subsequent year of its operation; second, to children of
founders, provided that this admission preference shall be limited to
not more than ten percent (10%) of the capacity of the public charter
school; third, to siblings of pupils already enrolled in the public
charter school; fourth, to pupils seeking to transfer from another
Idaho public charter school at which they have been enrolled for at
least one (1) year, provided that this admission preference shall be
subject to an existing written agreement for such preference between
the subject charter schools; fifth, to students residing within the
primary attendance area of the public charter school; and fifth, sixth,
by an equitable selection process such as a lottery or other random
method. There shall be no carryover from year to year of the list main-
tained to fill vacancies. A new lottery shall be conducted each year to
fill vacancies which become available. If so stated in its petition,
a public charter school may include the following children within the
second priority group subject to the limitations therein:
(i) The children of full-time employees of the public charter
school;
(ii) Children who previously attended the public charter school
within the previous three (3) school years, but who withdrew as a
result of the relocation of a parent or guardian due to an academic
sabbatical, employer or military transfer or reassignment.
Otherwise, such children shall be included in the highest priority
group for which they would otherwise be eligible.
(l) The manner in which annual audits of the financial operations of the
public charter school are to be conducted.
(m) The disciplinary procedures that the public charter school will
utilize, including the procedure by which students may be suspended,
expeled and reenrolled, and the procedures required by section 33-210,
Idaho Code.
(n) A provision which ensures that all staff members of the public char-
ter school will be covered by the public employee retirement system,
federal social security, unemployment insurance, worker's compensa-
tion insurance, and health insurance.
(o) If the public charter school is a conversion of an existing tradi-
tional public school, the public school attendance alternative for stu-
dents residing within the school district who choose not to attend the
public charter school.
(p) A description of the transfer rights of any employee choosing to
work in a public charter school that is approved by the board of trustees
of a school district, and the rights of such employees to return to any
noncharter school in the same school district after employment at such
charter school.
(q) A provision which ensures that the staff of the public charter
school shall be considered a separate unit for purposes of collective
bargaining.
(r) The manner by which special education services will be provided to
students with disabilities who are eligible pursuant to the federal in-
dividuals with disabilities education act, including disciplinary pro-
cedures for these students.
(s) A plan for working with parents who have students who are dually enrolled pursuant to section 33-203, Idaho Code.

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

(u) A proposal for transportation services including estimated first year costs.

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

   (i) Identification of who is responsible for dissolution of the charter school;
   (ii) A description of how payment to creditors will be handled;
   (iii) A procedure for transferring all records of students with notice to parents of how to request a transfer of student records to a specific school; and
   (iv) A plan for the disposal of the public charter school's assets.

(4) An authorized chartering entity, except for a school district board of trustees, may approve a charter for a public virtual school under the provisions of this chapter if it determines that the petition contains the requirements of subsections (3) and (5) of this section and the additional statements describing the following:

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

(5) The petitioner shall provide information regarding the proposed operation and potential effects of the public charter school including, but not limited to, the facilities to be utilized by the public charter school, the manner in which administrative services of the public charter school are to be provided and the potential civil liability effects upon the public charter school and upon the authorized chartering entity.
(6) An initial charter, if approved, shall be granted for a term of three (3) operating years. This term shall commence on the public charter school's first day of operation.