

# The Washington State Board of Education

Governance | Accountability | Achievement | Oversight | Career & College Readiness

<b>Title:</b>	<b>Public Hearing, Proposed WAC 180-19-060 -200, Charter Schools</b>	
<b>As Related To:</b>	<input type="checkbox"/> Goal One: Effective and accountable P-13 governance. <input type="checkbox"/> Goal Two: Comprehensive statewide K-12 accountability. <input type="checkbox"/> Goal Three: Closing achievement gap.	<input checked="" type="checkbox"/> Goal Four: Strategic oversight of the K-12 system. <input type="checkbox"/> Goal Five: Career and college readiness for all students. <input type="checkbox"/> Other
<b>Relevant To Board Roles:</b>	<input checked="" type="checkbox"/> Policy Leadership <input checked="" type="checkbox"/> System Oversight <input type="checkbox"/> Advocacy	<input type="checkbox"/> Communication <input type="checkbox"/> Convening and Facilitating
<b>Policy Considerations / Key Questions:</b>	<ol style="list-style-type: none"> <li>1. Are the provisions on the authorizer oversight fee appropriate to both school district authorizers and the Washington Charter School Commission? Does it provide for adjustments to the fee based on experience and data on authorizing costs?</li> <li>2. Is the proposed timeline for charter applications in 2013 manageable for authorizers, the SBE, and charter applicants in the first year of the law's implementation? Does the timeline for charter applications in 2013 and thereafter represent best practices for quality charter schools?</li> <li>3. Do the proposed lottery procedures for certification of approved charters follow the intent of the law?</li> </ol>	
<b>Possible Board Action:</b>	<input type="checkbox"/> Review <input type="checkbox"/> Adopt <input type="checkbox"/> Approve <input checked="" type="checkbox"/> Other Hear and consider public testimony on the proposed rules.	
<b>Materials Included in Packet:</b>	<input type="checkbox"/> Memo <input type="checkbox"/> Graphs / Graphics <input checked="" type="checkbox"/> Third-Party Materials <input type="checkbox"/> PowerPoint	
<b>Synopsis:</b>	<p>At its March 14 meeting the SBE approved for publication in the State Register and scheduling for public hearing proposed rules to three sections of Chapter 28A.710 (Charter Schools). The sections are RCW 28A.710.110 (Authorizer oversight fee), RCW 28A.710.140 (Charter applications – Submission – Approval or denial), and RCW 28A.710.150 (Maximum number of charter schools – Certification – Lottery). The proposed rules:</p> <ul style="list-style-type: none"> <li>• Establish a four percent authorizer oversight fee, the maximum allowed by law.</li> <li>• Reduce the oversight fee to three percent after an authorizer has authorized ten charter schools.</li> <li>• Provide for periodic review of the adequacy and efficiency of the authorizer oversight fee.</li> <li>• Establish two timelines for charter applications and approval of denial:             <ul style="list-style-type: none"> <li>○ A temporary timeline for charter applications received in 2013 only, for potential school openings in fall 2014.</li> <li>○ A second, ongoing timeline, starting earlier, for charter applications in 2014 and thereafter, for potential school openings in fall 2015 and succeeding falls.</li> </ul> </li> <li>• Set procedures for the use of a lottery to certify approved charters for implementation when the number of charter approvals exceeds the limits on the number of charter schools that may be established under the law.</li> </ul> <p>The SBE has solicited public comment on the proposed rule through its web site, a presentation to the Washington Charter School Commission, and communications to interested parties.</p>	

## Chapter 180-19 WAC

### CHARTER SCHOOLS

#### NEW SECTION

**WAC 180-19-060 Authorizer oversight fee.** (1) The statewide formula for the authorizer oversight fee transmitted to an authorizer by the superintendent of public instruction, as provided for in RCW 28A.710.110, shall be calculated at four percent of the state operating funding allocated under RCW 28A.710.220, with the fee decreasing to three percent of the state operating funding after an authorizer has authorized ten charter schools.

(2) The board shall periodically review the adequacy and efficiency of the authorizer oversight fee for the purpose of determining whether the formula should be adjusted in order to ensure fulfilling the purposes of chapter 28A.710 RCW. In conducting the review, the board shall utilize the information on authorizers' operating costs and expenses included in the annual report submitted to the board by each authorizer as set forth in RCW 28A.710.100(4).

#### NEW SECTION

**WAC 180-19-070 Charter school--Request for proposals.** Each authorizer shall annually issue requests for proposals for charter schools. For the year 2013, a request for proposal must be issued by no later than September 22, 2013. Requests for proposals in all subsequent years must be issued no later than April 15th.

#### NEW SECTION

**WAC 180-19-080 Charter school applications--Submission, approval, or denial.** (1) An applicant, as defined in RCW 28A.710.010, seeking approval must submit an application for a

proposed charter school to an authorizer by no later than July 15th of the year in which the applicant seeks approval. Provided, however, that an applicant seeking approval to operate a charter school in 2014 must submit an application to an authorizer by no later than November 22, 2013.

(2) An authorizer receiving an application for a proposed charter school must either approve or deny the proposal by no later than October 15th of the year in which the application is received; Provided, however, that for applications received in 2013, the authorizer must approve or deny the proposal by no later than January 22, 2014.

(3) The authorizer must provide the state board of education with a written report of the approval or denial of an applicant's proposal for a charter school within ten days of such action, but no later than October 25th, whichever is sooner. Provided, however, that for proposals for charter schools received in 2013, the report must be received within ten days of the action, but no later than February 1, 2014, whichever is sooner. The notice must comply with the requirements set forth in RCW 28A.710.150(2). The report shall be sent to the board via electronic mail to sbe@k-12.wa.us.

NEW SECTION

**WAC 180-19-090 Board certification of charter schools--  
Lottery.** (1) Upon receipt of notice from an authorizer that a charter school has been approved, the chair of the state board of education shall certify whether the approval is in compliance with the limits on the maximum number of charters in RCW 28A.710.150. Certification from the state board of education must be obtained before final authorization of a charter school. The certification of a charter school shall be posted on the board's web site.

(2) If the board receives notification of charter approvals under this section on the same day, and the total number of approvals exceeds the limits in RCW 28A.710.150(1), the board will select approved charters for certification through a lottery process as follows:

(a) The board shall notify the authorizer that the approved charter school has not been certified by the board for operation and must be selected for certification through a lottery.

(b) Within thirty days after determining that the limit for charter schools has been exceeded, the board shall conduct a lottery, as required by RCW 28A.710.150(3), at a publicly noticed meeting to select and certify approved charters for implementation. The board shall randomly draw the names of charter schools from the available pool of approved charter schools that have not been certified until the maximum allowable total number of charter schools has been selected.

(i) A charter school shall be certified by the board for operation commencing in the following school year so long as the total number of charter schools that may be established in any single year under RCW 28A.710.150 is not exceeded.

(ii) Once the total number of charter schools that may be established in any single year under RCW 28A.710.150 is exceeded, the board shall certify a charter school for operation in a subsequent year based upon the charter's selection in the lottery.

NEW SECTION

**WAC 180-19-200 Computation of time.** (1) "Days" means calendar day whenever used in this chapter, unless otherwise specified. The period of time for performing an act governed by this chapter is determined by excluding the first day and including the last day, unless the last day is an official state holiday, Saturday, or Sunday, in which event the period runs until the end of the next business day.

(2) If a specific due date is established under this chapter, and that date falls on a Saturday, Sunday, or official state holiday, such period is automatically extended to the end of the next business day.



# STATE BOARD OF EDUCATION RULE CHANGE SCHOOL DISTRICT FISCAL IMPACT STATEMENT

<b>WSR:</b>	<b>Title of Rule: Chapter 180-19 WAC – Charter Schools Phase II</b>	<b>Agency:</b> SDF - School District Fiscal Impact - SPI
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**Part I: Estimates**

**No Fiscal Impact – There is no additional impact due to this rule adoption. The following is OSPI’s analysis on the fiscal impact of the legislation being passed.**

**Estimated Cash Receipts to:**

No Estimated Cash Receipts

ACCOUNT	FY 2012	FY 2013	2011-13	2013-15	2015-17
<b>Total \$</b>					

**Estimated Expenditures From:**

No Estimated Expenditures

ACCOUNT	FY 2012	FY 2013	2011-13	2013-15	2015-17
001-01					
<b>Total \$</b>					

**Estimated Capital Impact:**

No Estimated Capital Impact

ACCOUNT	FY 2012	FY 2013	2011-13	2013-15	2015-17
<b>Total \$</b>					

*The cash receipts and expenditures estimate on this page represent the most likely fiscal impact.*

**Check applicable boxes and follow corresponding instructions:**

If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note from Parts I-IV.

If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

Capital budget impact, complete Part IV.

Agency Preparation: JoLynn Berge	Phone: 360-725-6292	Date: 03/29/13
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**Part II: Narrative Explanation**

## **II. A – Brief Description Of What the Measure Does That Has Fiscal Impact**

*Briefly describe by section, the significant provisions of the rule, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

## **II. B – Cash Receipts Impact**

*Briefly describe and quantify the cash receipts impact of the rule on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

## **II. C – Expenditures**

*Briefly describe the agency expenditures necessary to implement this rule (or savings resulting from this rule), identifying by section number the provisions of the rule that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

## **Part III: Expenditure Detail**

### **III. A – Expenditures by Object or Purpose**

## **Part IV: Capital Budget Impact**

None

## RCW 28A.710 Timelines for Rules

### Rules to RCW 28A.710.090. Charter school authorizers – Approval process Adopted February 26, 2013.

Action	2013 Approvals Only	2014 Approvals And Ongoing
District notice of intent to submit authorizer application	April 1, 2013	October 1, 2013
SBE posts district authorizer application	April 1, 2013	October 1, 2013
Closing date for authorizer applications to SBE	July 1, 2013 (90 days)	December 31, 2013 (90 days)
Closing date for SBE decisions on authorizer applications	September 12, 2013 (72 days)	April 1, 2014 (90 days)

### Rules to RCW 28A.710.140. Charter applications – Submission – Approval or denial Approved March 14, 2013 for public hearing on May 8, 2013.

Action	Applications in 2013 Only	Applications in 2014 and Ongoing
Last date for all authorizers to issue RFPs (28A.710.130)	September 22, 2013 (10 days)	April 15, 2014 (15 days)
Closing date for charter application submissions to all authorizers	November 22, 2013 (60 days)	July 15, 2014 (90 days)
Closing date for authorizer approval or denial of charter applications	January 22, 2014 (60 days)	October 15, 2014 (90 days)
Last date for authorizers to submit report of action to approve or deny charter application (28A.710.150)	February 1, 2014 (10 days, per law)	October 25, 2014 (10 days, per law)



# PROPOSED RULE MAKING

## CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

**Agency:** State Board of Education

<input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 12-24-053 ; or	<input checked="" type="checkbox"/> Original Notice
<input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or	<input type="checkbox"/> Supplemental Notice to WSR _____
<input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).	<input type="checkbox"/> Continuance of WSR _____

**Title of rule and other identifying information:** (Describe Subject)

CHARTER SCHOOLS. Authorizer oversight fee. Charter school applications – Timeline. Board certification of charter schools – Lottery. Computation of time.

**Hearing location(s):**

Federal Way School District  
33330 8<sup>th</sup> Ave. S.  
Federal Way, WA 98003

Date: May 8, 2013 Time: 3:00 P.M.

**Submit written comments to:**

Name: Jack Archer, Senior Policy Analyst  
Address: Washington State Board of Education  
Old Capitol Building, Room 253  
P.O. Box 47206  
Olympia, WA 98504  
e-mail jack.archer@k12.wa.us  
fax (360)586-2357 by (date) May 1, 2013

**Assistance for persons with disabilities:** Contact

Jack Archer by May 6, 2013

TTY (360) 725-6025 or (360) 725-6035

**Date of intended adoption:** May 9, 2013

(Note: This is NOT the effective date)

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose of the proposal is to receive public testimony on proposed rules to RCW 28A.710.110 (Authorizer oversight fee – Establishment – Use), RCW 28A.710.140 (Charter applications – Submission – Approval or denial), and RCW 28A.710.150 (Maximum number of charter schools – Process – Certification – Lottery – Notice.) The anticipated effects of the rules are as follows:

1. Establish a statewide formula for an authorizer oversight fee under RCW 28A.710.110 of four percent of each charter school’s annual state operating funding, and of three percent after an authorizer has authorized ten charter schools.
2. Establish an annual statewide timeline for charter application submission and approval or denial that must be followed by all authorizers under RCW 28A.710.140(1), which timeline includes the annual date by which an authorizer must issue and publicize a request for proposals for charter school applications under RCW 28A.710.130(1), the date by which an authorizer receiving an application for a charter school must either approve or deny the proposal, and the date by which an authorizer must submit a report to the SBE under RCW 28A.710.150 (2) on actions to approve or deny a charter application.
3. Establish a procedure for a lottery process under RCW 28A.710.150(3) to select approved charters for implementation, when the number of charter approvals reported to the SBE exceeds the number that may be certified within the limits on the maximum number of charter schools allowed under this statute.
4. Define “days” for the purpose of rules to RCW 28A.710.

**Statutory authority for adoption:** RCW 28A.710.110; RCW 28A.710.140; and RCW 28A.710.150

**Statute being implemented:** RCW 28A.710.110; RCW 28A.710.140; and RCW 28A.710.150

**Is rule necessary because of a:**

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: **April 03, 2013**

TIME: **10:44 AM**

WSR **13-08-085**

**DATE**  
April 3, 2013

**NAME** (type or print)  
Ben Rarick

**SIGNATURE**

**TITLE**  
Executive Director



Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None

Name of proponent: (person or organization) State Board of Education

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Jack Archer	Old Capitol Building, 600 Washington Street S.E. Olympia, WA	(360) 725-6035
Implementation.... Ben Rarick	Old Capitol Building, 600 Washington Street S.E. Olympia, WA	(360) 725-6025
Enforcement..... Ben Rarick	Old Capitol Building, 600 Washington Street S.E. Olympia, WA	(360) 725-6025

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name: JoLynn Berge

Address: Old Capitol Building, 600 Washington Street S.E. Olympia, WA

phone (360) 725-6292

fax ( ) \_\_\_\_\_

e-mail [jolynn.berge@k12.wa.us](mailto:jolynn.berge@k12.wa.us)

No. Explain why no statement was prepared.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

No: Please explain: None Required