

**Todd Ziebarth, Senior Vice President, State Advocacy and Support,  
National Alliance for Public Charter Schools  
Testimony before the Senate Education Committee  
Thursday, October 3, 2013**

**Introduction**

- Good morning Mr. Chairman and Members of the Committee. I'm Todd Ziebarth, the Senior Vice President of State Advocacy and Support at the National Alliance for Public Charter Schools.
- Thank you for giving me the opportunity to address the Committee today.
- Before I present my brief remarks, I'd like to say a quick word about the National Alliance.
- The National Alliance is a national nonprofit organization solely committed to advancing the public charter school movement.
- The National Alliance's ultimate goal is to increase the number of high-quality public charter schools available to all families, particularly those whose access to high-quality public education options is limited.
- As one way of doing so, the National Alliance advocates for strong state charter school laws, which is why I'm here today.

**Wisconsin Charter School Law Languishes at Bottom of Rankings, While Other States Make Improvements to Their Laws**

- Each year, the National Alliance releases a report that ranks state charter school laws by how well they align with a model charter school law that we created based upon what's worked and what hasn't worked in charter school law.
- In the most recent rankings report released in January 2013, Wisconsin's charter school law was ranked #37 (out of 43), down from #36 (out of 42) the previous year.
- Not surprisingly given such a low ranking, we conclude that much improvement is needed in Wisconsin's charter school law.
- At the same time that Wisconsin's charter school law languishes at the bottom of the National Alliance's annual rankings report, 36 other states have made policy improvements since 2010 that resulted in increases in their scores in the report, significantly so in many cases.

- However, Wisconsin is one of only six states that have failed to make significant enough improvements to their charter school laws to increase its score in the National Alliance's report.
- As Wisconsin's current federal grant to support the start-up activities of charter schools comes to a close, this point is particularly relevant.
- The competition among states for these dollars has become fierce.
- The first major new competition for these dollars in several years will be held in Fiscal Year 2015. Most of the 42 states and the District of Columbia will be participating in it.
- Given all of the major changes that other states have made since 2010 while Wisconsin has pretty much stayed pat, it is safe to assume that Wisconsin will not be competitive for these dollars.

### **Impact of SB 76 on Wisconsin's Ranking Is Minimal**

- In regards to SB 76, the National Alliance supports the changes proposed in it.
- If Wisconsin were to enact all of the changes from SB 76, however, the state's ranking in the National Alliance's annual report would only increase from #37 to #36.
- The bottom line is that there is a lot more that the state can do to improve its law to lead to the development of more high-quality public charter school options for students, particularly those most in need of such alternatives.

### **Recommendations for Additional Changes to Wisconsin's Charter School Law**

- In fact, we recommend improvements in three areas.
- The first area is ensuring that all types of charters have the flexibility to innovate that's at the heart of the charter bargain.
- Specifically, state law should ensure that all types of charters:
  - Are fiscally and legally autonomous schools with independent public charter school boards;
  - Receive automatic exemptions from many state and districts laws and regulations; and,
  - Have access to the state benefits systems available to other public schools.
- The second area is ensuring that all types of authorizers hold up the other end of the charter bargain: accountability for results.
- Specifically, state law should ensure that all types of authorizers use transparent and rigorous charter application processes, performance-based charter contracts, monitoring procedures, and renewal and closure processes.
- State law should also require authorizers to submit an annual report that summarizes their authorizing activities, their authorizing expenditures, and their school portfolio performance.

- The third area relates to funding.
- Specifically, state law should ensure:
  - Equitable operational, categorical, transportation, and facilities funding for public charter school students;
  - Public charter schools have a right of first refusal to purchase or lease at or below fair market value a closed, unused, or underused public school facility or property; and,
  - Adequate and guaranteed authorizer funding.
- If Wisconsin were to enact all of the changes from SB 76 and our recommendations for further strengthening Wisconsin's charter school law, the state would move from #37 to having the nation's strongest charter school law.

### **Conclusion**

- In conclusion, let me reiterate that the National Alliance supports the changes proposed in SB 76.
- However, we believe that Wisconsin's charter school law needs a major overhaul to create the conditions that allow high-quality public charter schools to better help the state close achievement gaps.
- As the bill makes its way through the legislative process, we urge you to make these recommended changes to ensure that Wisconsin has the best charter school law in the country.
- Thank you again for the opportunity to present to you today. I'm happy to answer any questions you may have at the appropriate time.



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## WISCONSIN LEGISLATIVE COUNCIL

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*Terry C. Anderson, Director  
Laura D. Rose, Deputy Director*

TO: SENATOR ALBERTA DARLING

FROM: Anne Sappenfield, Senior Staff Attorney

RE: Senate Substitute Amendment 1 to 2013 Senate Bill 76, Relating to Authorizing Independent Charter Schools, Replicating Charter Schools, and Utilizing an Alternative Process for Educator Effectiveness

DATE: October 2, 2013

This memorandum describes Senate Substitute Amendment 1 to 2013 Senate Bill 76, relating to authorizing independent charter schools, replicating charter schools, and utilizing an alternative process for educator effectiveness. The substitute amendment was offered by you and Senator Olsen on October 1, 2013.

### CONDITIONS FOR CONVERTING ALL PUBLIC SCHOOLS INTO CHARTER SCHOOLS

#### Current Law

Under current law, a written petition requesting the school board to establish a charter school may be filed with the school district. The petition must be signed by at least 10% of the teachers employed by the school district or by at least 50% of the teachers employed at one school of the school district. A school board may also, on its own initiative, enter into a contract with a person to operate a school as a charter school.

Within 30 days of receiving a petition to establish a charter school, the school board must hold a hearing on the petition. At the hearing, the school board must consider the level of employee and parental support for the establishment of the charter school and the fiscal impact of the establishment of the charter school on the school district. After the hearing, the school board may grant the petition. For a school board initiative, the school board must hold such a hearing at least 30 days before entering into a contract that would convert a private school to a charter school or that would establish a charter school that is not an instrumentality of the school district.

A school board may not grant a petition that would result in the conversion of all public schools in the school district to charter schools unless all of the following apply:

- At least 50% of the teachers employed by the school district sign the petition.
- The school board provides alternative public school attendance arrangements for pupils who do not wish to attend or are not admitted to a charter school.

A school board may not enter into a contract that would result in the conversion of all of the public schools in the district to charter schools unless the school board provides alternative public school attendance arrangements for pupils who do not wish to attend or are not admitted to a charter school.

### The Substitute Amendment

Under the substitute amendment, the requirements to consider the level of employee support for the establishment of a charter school and the fiscal impact of the establishment of a charter school on the school district at a hearing on the establishment of a charter school through petition or school board initiative are repealed. In addition, the substitute amendment eliminates the provision prohibiting a school board from approving a petition to establish a charter school that would convert all public schools in a school district to charter schools unless at least 50% of the teachers employed by the school district sign the petition to establish a charter school.

### ENTITIES AUTHORIZED TO ESTABLISH A CHARTER SCHOOL

#### Current Law

As noted above, under current law, a school board, on its own initiative or upon the petition of a specific percentage of the school district's teachers, may contract with a person to operate as a charter school.

Current law also permits all of the following entities to establish and operate a charter school or, on behalf of their respective entities, to initiate a contract with an individual or group to operate a school as a charter school:

- The Common Council of the City of Milwaukee.
- The chancellor of the University of Wisconsin (UW)-Milwaukee.
- On a pilot basis, the chancellor of the UW-Parkside.
- The Milwaukee Area Technical College district board.

These schools are referred to as independent charter schools.

### The Substitute Amendment

Under the substitute amendment, the following entities are authorized to establish an independent charter school:

- The Common Council of the City of Milwaukee.
- The chancellor of an institution offering four-year degrees within the UW System.
- The dean of a college campus offering two-year degrees within the UW System.
- The board of control of a Cooperative Educational Service Agency (CESA).
- A technical college district board.

### WHO MAY ATTEND AN INDEPENDENT CHARTER SCHOOL

#### Current Law

Under current law, in general, only pupils who reside in the school district in which an independent charter school is located may attend the charter school.

#### The Substitute Amendment

The substitute amendment repeals this provision and provides that a pupil may attend any independent charter school.

### WHERE AN INDEPENDENT CHARTER SCHOOL MAY BE LOCATED

#### Current Law

Under current law, the Common Council of the City of Milwaukee and the Milwaukee Area Technical College district board may establish or enter into a contract to establish a charter school in the Milwaukee Public School (MPS) district only. UW-Milwaukee may establish or contract for the establishment of a charter school in Milwaukee County or in an adjacent county. UW-Parkside may establish or contract for the establishment of a charter school located a unified school district located in the county in which UW-Parkside is located or an adjacent county.

#### The Substitute Amendment

The substitute amendment authorizes the following entities to establish or contract for the establishment of a charter school in the following locations:

- The Common Council of the City of Milwaukee in the MPS district.
- The chancellor of an institution within the UW System in the county in which the institution is located or in an adjacent county.

- The dean of a college campus within the UW System in the county in which the college campus is located or in an adjacent county.
- The board of control of a CESA within the boundaries of the CESA.
- A technical college district board in the technical college district or in a county adjacent to the district.

**ADDITIONAL SCHOOLS IF AN AUTHORIZER HAS A PROVEN TRACK RECORD OF SUCCESS**

The substitute amendment creates a new provision permitting the establishment of additional charter schools by an authorizer who has a proven track record of success.

Under the substitute amendment, a person has a proven track record of success if, during the two immediately preceding school years, a person operated a charter school in which the percentage of pupils attending the charter school who received a score of advanced or proficient in statewide standardized assessments for math and reading in all tested grades is at least 10 percentage points greater than the percentage of pupils attending public schools in the school district where the charter school is located who received the same scores on the same assessments in the same grades.

The substitute amendment provides that a school board or other authorizing entity that has contracted with a person to operate a charter school must, upon receiving a letter of intent from the person, amend the existing contract or enter into a new contract with the person to authorize the person to operate one or more additional charter schools if the person has a proven track record of success operating a charter school under a contract with the school board or entity.

The letter of intent must include all of the following:

- The date on which instruction will begin at each additional charter school.
- The general location of each additional charter school.
- A description of any potential facility that may be used by each additional charter school, including the approximate number of pupils that each facility may safely accommodate.
- Evidence demonstrating that the person has a proven track record of success.

The substitute amendment provides that a school board or other entity must authorize a person to operate no more than two additional charter schools per school year under this provision, unless the parties agree to more than two.

The substitute amendment specifies that an additional charter school authorized under this provision is not a satellite or subsidiary campus of the charter school for which the

operator demonstrated a proven track record of success and is considered an individual school for funding purposes.

## **EDUCATOR EFFECTIVENESS EVALUATIONS**

### **Current Law**

Under current law, the Department of Public Instruction must develop an educator effectiveness evaluation system (state system) and develop, by rule, an equivalency process aligned with the state system (equivalency process) to assist school districts in the evaluation of the performance of teachers and principals in the district.

Each school district and independent charter school must begin evaluating teachers and principals using either the state system or the equivalency process in the 2014-15 school year. Current law provides that teachers and principals evaluated under both the state system and the equivalency process must be placed in one of multiple performance categories.

### **The Substitute Amendment**

The substitute amendment specifies that a charter school that is under contract with a school board and that is not an instrumentality of the school district may use an equivalency process to evaluate educators.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

AS:ksm

**Senate Committee on Education**  
**October 3, 2013**

**Department of Public Instruction**  
**Testimony on 2013 Senate Bill 76**

I want to thank Chairperson Olsen and members of the committee for the opportunity to testify before you today on behalf of the State Superintendent in opposition to Senate Substitute Amendment 1 to 2013 Senate Bill 76.

While the department has multiple concerns related to this bill, of particular concern are the impacts this bill would have on the authority of locally elected school boards and funding for schools and school districts.

The bill takes away the rights of local school boards, as well as other proposed newly authorized entities including UW campuses, technical college boards and CESAs, to determine whether or not they wish to authorize additional charter schools. Under section 28 of the substitute amendment, the bill specifically states that a school board or other authorized entity shall either amend their existing contract or enter into a new contract if the person operating an existing charter school with the board has a “proven record of success” under newly proposed criteria elsewhere in this bill.

Placing such a mandate upon locally-elected school board officials is an affront to local control. Nowhere in state history has the legislature required a school board to create another school, charter or traditional, under its authority and stripped locally-elected officials of their ability to make such a decision on their own.

Last year, Wisconsin had 238 charter schools in operation, one of the largest numbers in the country, as each of our 424 school districts has had the ability to authorize charter schools since their inception here in 1993. Notably, over 90% of our charter schools last year were authorized by locally-elected school boards, whose sole mission is to educate PK-12 students.

In addition, this bill would permit over 40 new UW campuses, Wisconsin Technical College boards, and CESA boards to also authorize charter schools. This is extremely troubling in light of the fact that the bill would continue the state’s current manner of paying for students not enrolled in school board authorized charter schools by taking state general school aids away from each school district in the state, which directly results in higher property taxes.

For nearly 15 years, the state’s method of paying for students enrolled in non-school board authorized charter schools has been to not only fund such charter schools by reducing every school district’s state general aid entitlement but to also not allow school districts (currently the Milwaukee and Racine school districts in which these students reside) to count these students for state general aid or revenue limit purposes. This has had two effects. First, revenue limits, or

how much districts can spend, are based on enrollment. Secondly, fewer students enrolled makes a district look wealthier under the school aid formula as there is more property value behind every student. For individual districts this pushes a district's general equalization aid per student to a lower amount, resulting in an increase in property taxes to make up the difference.

Using data from our department's July 1<sup>st</sup> state general school aids estimate this year (we will actually certify 2013-14 state general school aids in less than two weeks), which is based on the 2013-15 biennial budget bill (Act 20), we reduced nearly all school districts' state general aid by nearly 1.5 percent of their entitlement, which totaled over \$64 million to pay for the estimated 8,100 students attending non-school district authorized charter schools in Milwaukee and Racine this year.

While this 1.5 percent is taken from each district's general school aids, it affects school districts differently by amplifying the inequities in our current school funding system. Our general school aids, which we often refer to as equalization aids, steers money to poorer school districts using property value as the measure of wealth. Thus, the property poor school districts in the state, who generally receive more aid, will be the ones who will be disproportionately paying for independent charter schools, regardless of where they are located.

As I stated a minute ago, school districts do not receive this state general aid under current law and are allowed to replace it with property taxes under their revenue limit. Ultimately, nearly all school boards choose to raise additional property taxes, instead of cutting existing school programs. Notably, this year the \$75 revenue limit per pupil adjustment represents only a 0.8% increase in revenue limit authority for the average district.

Thus, in most cases, if a school board chooses to not raise its property taxes to replace this mandatory state general aid reduction, it will likely give up much, if not all, of the additional per pupil revenue limit authority provided under state law this year. This situation will be exacerbated next year as well, regardless of this bill, as the per pupil state aid payment to non-school board authorized charter schools will once again be double that provided to school districts under revenue limits (\$150 per pupil increase versus a \$75 per pupil increase).

This \$64 million reduction in state general school aids this year and estimated increase in property tax levies is estimated to represent nearly 1.4% of all gross school property taxes statewide this fall according to the Legislative Fiscal Bureau's estimate of statewide property taxes under the state biennial budget from this summer. These figures will only increase, and perhaps significantly so, if non-elected charter school authorizers are expanded statewide.

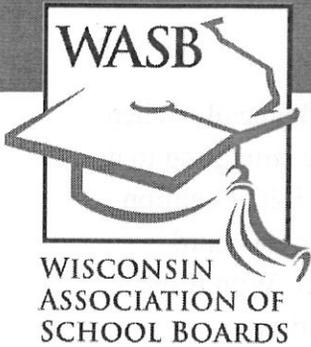
There are a number of questions that remain unanswered in the substitute amendment that I would like to bring to your attention.

- If a charter school operator is running multiple schools and only one meets the standard for replication is it intended that they should be able to have an automatic replication?
- If a charter school is authorized by a CESA, for instance, which district do we use to compare their performance, the one they are located in or do they get to pick which district they are comparing themselves to?
- Is the intent of the bill to compare the combined test scores in each grade in reading and

- math or the test scores in reading and math in each grade?
- Does the school have to beat the 10 percent reading and math thresholds in both the preceding years or an average of the preceding years?
  - Is each charter school compared to the entire district, including other district charters?
  - Are only students who are enrolled for the full academic year in school included for both the charter and the district?
  - Are both the WKCE and WAA tests included in the calculation?
  - What about cell sizes? Is there a point at which the group is too small to compare and thus automatic replication doesn't apply?
  - How are we to treat replicated charters for purposes of accountability?

Finally, I should note that this bill will affect private schools' receipt of federal dollars. All charter schools serving low-income children are entitled to federal Title I funds, but they are not subject to the Title I requirement that public school districts are to provide equitable services to private school children. In essence, fewer Title I dollars for public school districts will mean fewer Title I dollars for private schools.

Thank you for the opportunity to testify on this bill today.



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John H. Ashley, Executive Director

TO: Members, Senate Committee on Education  
FROM: Dan Rossmiller, Government Relations Director  
DATE: October 3, 2013  
RE: Opposition to Senate Bill 76, relating to: authorizing independent charter schools and replicating charter schools

Twenty years ago, Wisconsin was among the first states to adopt a framework for creating charter schools and the Wisconsin Association of School Boards (WASB) was instrumental in developing that framework and in encouraging the formation of charter schools in our state. A charter school is, as the name implies, a separate school. It is not merely a program within a school. It is a separate school.

The WASB continues to encourage the formation of high quality charter schools in Wisconsin with school boards as the chartering agency. That is why the treatment of school boards, through the replication mandate in Senate Substitute Amendment 1 to Senate Bill 76, is so disappointing.

The WASB supports charter schools as a means to provide experimental and innovative instructional programs for Wisconsin school children. However, we do not support the heavy-handed, top-down, “one-size fits all” approach taken by the legislation before you today. While we do not doubt that Senate Bill 76, as amended by Senate Substitute Amendment 1 is well intended, it is badly flawed as it relates to school boards as charter school authorizers.

Wisconsin school boards play a vital role in creating and operating charter schools. During the 2012-13 school year, 97 school districts—nearly a quarter of Wisconsin’s 424 school districts—authorized and operated charter schools. In two districts, Highland and Montello, all of the district schools are operated as charter schools. Please keep in mind that the average Wisconsin school district has an enrollment of 1,000 or fewer students. The competitive dynamics this bill envisions to be present in large urban areas and not present in the more rural areas of our state.

Overall, public school districts operated 215 charter schools in our state in the past (2012-13) school year, enrolling over 35,000 students. In the 2012-13 school year alone, Wisconsin school boards authorized and opened 21 new charter schools. In the current 2013-14 school year, Wisconsin school boards authorized 22 new charter schools. Clearly, new charter schools are coming on line in many Wisconsin districts.

Many of the biggest constraints on the creation of charter schools by school boards are financial. When a school district is struggling just to maintain its current program--and many districts are struggling to do just that-- it is difficult to create an entirely new school. Interestingly, with respect to an initial petition to create a charter school, the substitute amendment eliminates a requirement that the school board consider the fiscal impact of the establishment of the charter school on the school district. With respect to "replication" of an existing charter school under the procedure created under the substitute amendment, this bill, as amended, simply places an edict on school boards to replicate the existing charter with no thought given as to whether a community needs or wants another charter school.

The WASB strongly supports maintaining a school board's final authority to approve charter school applications. While the "replication" edict is relatively narrow in scope, the disregard for local control and management of school districts by locally elected school boards under the substitute amendment appears unprecedented. If adopted, the "replication" language would not only mandate local school boards to authorize/create new schools but it would also mandate with whom school districts must contract for the operation of those new schools. To my knowledge, never in the history of our state has the Legislature acted in this way toward locally elected school boards. And mindful of the fact that narrowly-drafted provisions are easily broadened by subsequent legislatures, I ask you to give serious thought to the road this bill and this substitute amendment would take you down.

Here's an analogy: Imagine that the Legislature told a municipality: If you have contracted with an engineering firm or a road contractor to build a bridge for you, then that contractor can come back to you and say, the bridge we built is one of the top performing bridges; therefore, you must contract with us to build another bridge, whether you need or want another bridge or not.

I highly doubt that you would ever do such a thing. Yet that is precisely the model you would create to govern the relationship between school boards and charter schools they authorize.

As we read the substitute amendment before you, this bill would force a school district that has already authorized a "successful" charter school, with a "proven track record" as defined in the bill, to create an additional charter school along the lines of the charter school it has already authorized, regardless of whether that is in the best interests of the district and the children it serves or not.

Under revenue limits, as noted, many school districts may be unable to afford to open another new (i.e., charter) school or would do so only with great difficulty. Many small school districts struggle to maintain the schools they currently operate, let alone add new schools to the district's budget. Among the districts that have created charter schools are Butternut (with 196 students in a K-12 district). We are told the purpose of the bill to replicate successful charter school models. Yet, it is highly unrealistic that the Butternut school district will be able "to replicate" its existing charter. And to what purpose?

Earlier today, you heard testimony about efforts underway in the Kettle Moraine and Oconomowoc school districts to create a charter school with a medical focus. Consider, also, the Nekoosa school district, which has just opened a charter school with a STEM-based curriculum. What sense would it

make to force Nekoosa to establish another STEM-based charter school? It is doubtful there would be sufficient demand in that community for such a school, yet this bill would appear to force the Nekoosa school board to create another such school if the charter school operator requests. What place does local control hold given such a mandate?

We are troubled that under the substitute amendment there is no need to prove that demand for another charter exists, and no need for the charter school operator to demonstrate that it has the fiscal and operational capacity to operate another charter in the district. If the existence of waiting lists for some charter schools is the problem this legislation seeks to address, why not make the existence of a waiting list a criterion for replication--a far less intrusive approach?

We believe the measure set forth in the substitute amendment to determine whether a charter school is "high performing" is also badly flawed. It relies solely on a measure of student achievement but pays no regard to student learning growth. Why is this important? It is important precisely because students in a charter school may not represent the general population of a school district. Those students and their parents self-select the charter school option.

Generally, students enroll in charter schools through an application process. Parents apply to have the children admitted to a charter schools. This is not a random allocation process. In school districts with charter schools, the community, school boards, and parents have identified their public education needs and have established charters that meet them, often with help from charter school operators. Charter schools offer a choice to parents and students in the area of curriculum, teaching methodology, and classroom structure. Other charters work to keep populations of at-risk students from falling through the cracks, offering counseling, personal attention, and support. For these additional reasons, a charter school's student population may not be reflective of the student population of the district which houses the charter school.

The substitute amendment also greatly expands the list of entities that are authorized to establish or contract for the establishment of independent charter schools—charter schools that are not authorized by local school boards—to include (as we read the bill) the chancellors of all four-year UW campuses, the deans of all the two-year UW feeder campus, the boards of all technical colleges in the state, and the boards of control of all the cooperative educational services agencies, or CESAs, in the state. Further (as we read it), the substitute amendment also opens up enrollment in independent charters established by these entities to any student in the state.

Public school boards find this aspect of the bill troubling because of the way independent (also known as "2r") charter schools are funded. Currently, the per pupil payments for these independent charter schools—which are scheduled to be \$7,925 in 2013-14 and \$8,075 in 2014-15—are funded by drawing money away from the general aid allotments of every public school district in the state. Independent charter schools funded from a first draw on the general aid appropriation. In other words, they are funded through a statewide cut to general school aids that would otherwise be payable to every school district in the state.

Because local school boards are allowed to raise property taxes to make up for the lost aid, most do so in order to preserve existing educational programs within their districts. The result is higher property taxes.

In the 2012-13 school year, the reduction in general aid attributable to independent charters was 1.4 percent statewide, costing the average district \$140,000 in state aid. In the current 2013-14 school year, \$64 million in state general aid is projected to be drawn away from school districts. This cut, according to critics, hurts the property poorest districts hardest, many of which are small rural school districts with declining enrollment. Those same critics argue this cut hits property wealthy suburban districts hardly at all. (Perhaps rural legislators ought to be upset about this.)

We believe legislators ought to adopt a separate appropriation for funding independent charter schools, as you did for the statewide voucher expansion, so that the cost of independent charter schools relative to the benefits of those schools can be evaluated separately on its merits. The current system obscures the costs of those schools by burying them within the general aid appropriation.

The proposal before you today starts down the road of disregarding local control, imposing a mandate on locally elected school boards that will likely be unfunded and raising property taxes. For those reasons, and others presented above, the WASB opposes the substitute amendment and Senate Bill 76 itself.