

MEMORANDUM

TO: Senator Bill Owens
FROM: Bill Porter *Bill*
DATE: April 13, 1993
RE: Charter Schools -- 2nd Reading strategy

At your suggestion, I've pulled together some ideas on the more "innocuous" ways we could tweak S.B. 183 during 2nd Reading. I am assuming we still are planning to take a more comprehensive look at the bill in House.

I apologize for the length of this memo, but I hope it is pretty comprehensive. I tried to incorporate some of the suggestions that Dave D'Evelyn and Barbara O'Brien made to you in separate memos.

Big Picture

We need to set the right stage for the debate. The power of charter schools is not just about passing a bill with the title "Charter Schools." Instead, what we are trying to do is create a viable, legitimate avenue for parents and teachers to take more stock in the education of their children and allow them to develop new, different approaches to educating children within the public school system.

The trade-off for this type of autonomy and experimentation is tough accountability requirements — specific student outcomes that everyone can look at and judge the charter school with. We don't have that kind of accountability for public school now. With charter schools, we let go of prescriptive rules and day-to-day oversight in return for concrete results in student achievement.

However, as S.B. 183 now looks, consider the following:

- o The bill requires up-front waivers of all district and state rules -- Applicants will need an extraordinary level of knowledge about intricate school regulations to make sure they identify all the potential barriers at the outset. This is an unfair burden, especially since we are holding these schools to specific outcomes.
- o The bill provides guidance on per-pupil funding amounts, but still allows these figures to be negotiated -- First, how can we ask charter schools to do the total task of educating students, but then only give them 80-90 percent of the total funding other schools spend? Do districts really think that 10-20 percent of their total budget is administrative expenses?

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- o The bill provides an application process that is loaded with vague words -- The new requirements in the application process are loaded with vague, subjective standards that a local board could easily use to deny an application.

With all these provisions in place, I don't think we've created an atmosphere that will be very successful at trying alternatives or challenging the status quo.

2nd Reading Amendments

1. Replace new application criteria with original criteria in S.B. 183 as introduced. As the bill heads over to the House, I think this is the most important improvement we can make. When we wrote up the original criteria for a charter school application to follow, our watchword was to make the process "rigorous" -- not insurmountable. We wanted applicants to give a lot of thought and attention to figuring out what their school would like look and how it would work on a day-to-day basis.

If we don't do the complete substitution, I would recommend that the following new provisions at least be modified:

- * "Need not being met by school district" (22-30.5-106 (b)) -- This provision immediately creates an adversarial relationship between the board and applicants. And, how do you prove this standard one way or another? Strike this requirement.
- * "Educationally sound curriculum" (22-30.5-106 (c)) -- How does one prove this standard is met? We certainly don't expect existing schools to meet this standard. I recommend we replace this language with the original language we had or look to the standards bill(see language in 22-53-404 (3) in HB 1313).
- * "Evidence that the plan is economically sound" (22-30.5-106 (e)) -- There is no question that charter schools will cost districts money if they draw students away. But K-12 money belongs to the community and to educating children -- not to the districts. If a district can deny an application by simply saying it can't afford to lose the students, then we haven't accomplished anything with this bill -- especially if we also let the district retain 10-20 percent of the per-pupil funding. Strike this requirement.
- * "Evidence that the terms and conditions of employment have been addressed with their recognized representative" (22-30.5-106 (g)) -- This language is

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vague, which worries me. Will it allow teacher associations to block any changes in compensation? CEA tells me they only want charter school applicants to discuss with the union (and then try to resolve concerns) their ideas for teacher compensation. But does "addressed" do that? I propose we try for "discussed" or some similar, nonbinding language.

2. Revise the cap of 8 charter schools per congressional districts to 48 total schools statewide. $8 \times 6 \text{ C.D.s} = 48$. Why limit Denver (1st C.D.) and the entire Western Slope (3rd C.D.) to the same number of schools? Choosing schools on a first-come/first-served basis makes no sense.
3. Clarify that a charter school is indeed responsible for its own operation, including contracting for services and personnel matters. Meiklejohn included some of this language in his amendment, but not all. I suggest we incorporate the following language (from 22-30.5-104 (2) in original bill) into 22-30.5-104 (6) of the new bill:

"A charter school shall be responsible for its own operation including, but not limited to, the preparation of a budget, the contracting for services, and personnel matters. The charter school may negotiate and contract with a school district or any third party for the use of a school building and grounds, the operation and maintenance thereof, and the provision of payroll or any other services as needed at cost."
4. Shore-up the criteria for renewing a charter school in new 22-30.5-110. As amended, the bill creates a flimsy, easily abused standard for rejecting a charter school renewal. Can we put in something more concrete? See our language in the original bill, in 22-30.5-111.
5. Better define the relationship between charter school employees and the district. The bill continues to be vague on how exactly teachers will leave the district to teach in a charter school and then return later. Some Democrats have raised concerns about how districts will cover for the missing teacher, who ends up returning and looking for a job three years later.
6. Create a severability clause that allows the charter school program to move forward even if the courts throw Denver out. Barbara suggested this change. It's a tough call for me -- with such a clause, are we simply asking for a lawsuit? And, if we do put it in, when is the best, least obvious time to do it?

cc. Dave D.
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