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Testimony before the
House Education Budget Committee
on
HB 2580 – Public Charter Schools
by

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Madam Chair, Members of the Committee,

Thank you for the opportunity to comment on **HB 2580**. This bill creates a charter school commission, appointed by the State Board of Education, which may authorize “public charter schools” anywhere in the state, and may grant authority to local school boards, postsecondary institutions, cities and counties and non-profit or charitable institutions to authorize public charter schools with independent governing boards.

The bill imposes a number of requirements on these public charter schools, but then exempts them from accountability requirements applicable to other public schools, and public charter schools shall not be subject to any state or local law, rule and regulation or policy and procedure pertaining to public schools, except for civil rights, health and safety requirements (that are not identified) applicable to other public schools; and to the Kansas open records act and the Kansas open meetings act.

In other words, this bill creates a completely separate system for certain public schools outside of the current governance and accountability of public school boards. KASB opposes this bill, first and foremost, because it violates the letter and spirit of the Kansas constitution.

Constitutions are adopted by the people to direct their government to do certain things, and to limit power of the government to do other things. In 1966, the people of Kansas adopted the current education article, which is attached. The clear, plain language of this article provides the people’s original intent, and a simple reading shows this bill violates that intent.

First, Article Six, Section One, directs the Legislature to “provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools, educational institutions and related activities which may be organized and changed in such manner as may be provided by law.” Public charter schools are defined in this bill as “public schools,” so they are clearly not other “educational institutions or related activities.” They have exactly the same mission as “public schools.”

Second, Section Two makes clear that only one entity shall have “general supervision” of public schools – the State Board of Education elected by the people. In fact, the State Board has supervision of *all* educational institutions and interests of the state, *except* those duties delegated to the Board of Regents

appointed by the Governor. No other entity, including a charter commission, or boards of postsecondary institutional, or cities or counties, or anything else, is constitutionally authorized to supervise or oversee public schools or any other educational interests.

Third, Section Five specifically provides that public schools under the general supervision of the State Board – which means *all* public schools since no exception is provided – shall be maintained, developed and operated by locally elected boards. The Kansas constitution does not allow for any other governing, authorizing or managing structure. The constitution does not allow for a public charter school commission appointed by the State Board to oversee schools – that would be an unconstitutional delegation of authority; especially since the State Board hasn't asked for it. The Kansas constitution simply does not allow cities, counties, colleges, charities or anyone other than local public school boards to authorize or operate public schools. Other state constitutions may do so. Ours does not. This is the plain language of the text.

The intent of the people is very clear. They wanted the schools *for* their community to be managed *by* elected officials *of* their community. That is the essence of republican democracy: of the people, by the people, for the people. Kansans did not want the state, or colleges, or other local governments, or some unknown organizations creating or operating schools with no accountability to the community. They certainly do not want a bureaucracy that runs from charter school governing boards through a charter schools authorizer through a charter school commission through the State Board. How could that system possibly be more accountable, accessible and responsive than the current system?

It seems remarkable this bill would continue to impose all of the current laws, rules, regulations, and accountability requirements on local school boards – elected by the same voters that choose the Legislature – and then not apply them schools that have no direct accountability to the people. How can we possibly evaluate the results of a system of charter schools that are measured differently than constitutional public schools?

There is nothing in purposes set forth at the beginning of this bill that cannot be accomplished in the current system. All anyone has to do is convince a local board to support their vision, or convince the community to change their board's mind. Moreover, this is no conclusive evidence that charter schools improve a state's education achievement. In fact, most of the highest ranking states have a lower percentage of students in charter schools than Kansas, or no charter schools at all.

KASB strongly supports expanded flexibility and innovation to improve public education. If the Legislature believes that the current testing, accountability and pages upon pages of laws and regulations are impediments to school improvement, by all means repeal them! Until then, support the system of strong local leadership under State Boards oversight that has been improving Kansas educational outcomes since the 1966 article was adopted, and given Kansas among the best results in the nation.

Thank you for your consideration.

Kansas Constitution: Article 6 -- Education

§ 1: Schools and related institutions and activities. The legislature shall provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools, educational institutions and related activities which may be organized and changed in such manner as may be provided by law.

§ 2: State board of education and state board of regents.

(a) The legislature shall provide for a state board of education which shall have general supervision of public schools, educational institutions and all the educational interests of the state, except educational functions delegated by law to the state board of regents. The state board of education shall perform such other duties as may be provided by law.

(b) The legislature shall provide for a state board of regents and for its control and supervision of public institutions of higher education. Public institutions of higher education shall include universities and colleges granting baccalaureate or post-baccalaureate degrees and such other institutions and educational interests as may be provided by law. The state board of regents shall perform such other duties as may be prescribed by law.

(c) Any municipal university shall be operated, supervised and controlled as provided by law.

§ 3: Members of state board of education and state board of regents.

(a) There shall be ten members of the state board of education with overlapping terms as the legislature may prescribe. The legislature shall make provision for ten member districts, each comprised of four contiguous senatorial districts. The electors of each member district shall elect one person residing in the district as a member of the board. The legislature shall prescribe the manner in which vacancies occurring on the board shall be filled.

(b) The state board of regents shall have nine members with overlapping terms as the legislature may prescribe. Members shall be appointed by the governor, subject to confirmation by the senate. One member shall be appointed from each congressional district with the remaining members appointed at large, however, no two members shall reside in the same county at the time of their appointment. Vacancies occurring on the board shall be filled by appointment by the governor as provided by law.

(c) Subsequent redistricting shall not disqualify any member of either board from service for the remainder of his term. Any member of either board may be removed from office for cause as may be provided by law.

§ 4: Commissioner of education. The state board of education shall appoint a commissioner of education who shall serve at the pleasure of the board as its executive officer.

§ 5: Local public schools. Local public schools under the general supervision of the state board of education shall be maintained, developed and operated by locally elected boards. When authorized by law, such boards may make and carry out agreements for cooperative operation and administration of educational programs under the general supervision of the state board of education, but such agreements shall be subject to limitation, change or termination by the legislature.

§ 6: Finance.

(a) The legislature may levy a permanent tax for the use and benefit of state institutions of higher education and apportion among and appropriate the same to the several institutions, which levy, apportionment and appropriation shall continue until changed by statute. Further appropriation and other provision for finance of institutions of higher education may be made by the legislature.

(b) The legislature shall make suitable provision for finance of the educational interests of the state. No tuition shall be charged for attendance at any public school to pupils required by law to attend such school, except such fees or supplemental charges as may be authorized by law. The legislature may authorize the state board of regents to establish tuition, fees and charges at institutions under its supervision.

(c) No religious sect or sects shall control any part of the public educational funds.

§ 7: Savings clause.

(a) All laws in force at the time of the adoption of this amendment and consistent therewith shall remain in full force and effect until amended or repealed by the legislature. All laws inconsistent with this amendment, unless sooner repealed or amended to conform with this amendment, shall remain in full force and effect until July 1, 1969.

(b) Notwithstanding any other provision of the constitution to the contrary, no state superintendent of public instruction or county superintendent of public instruction shall be elected after January 1, 1967.

(c) The state perpetual school fund or any part thereof may be managed and invested as provided by law or all or any part thereof may be appropriated, both as to principal and income, to the support of the public schools supervised by the state board of education.