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TO: Members, Assembly Committee on Urban Education  
FROM: Dan Rossmiller, WASB Government Relations Director  
RE: OPPOSITION to Assembly Bill 549  
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Twenty years ago, Wisconsin was among the very first states to adopt a framework for creating charter schools. At that time, 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 established by a charter (e.g. a contract) with an authorizer. A charter school is not merely a program within a school. It is a separate school.

Wisconsin is unique in how charter schools can be authorized, with three categories of charter authorization: instrumentality, non-instrumentality, and independent. Across Wisconsin, a school board can authorize a charter school within its district and determine whether the charter school will be an instrumentality of the district or a non-instrumentality school.

The WASB continues to encourage the formation of high quality charter schools in Wisconsin with school boards as the chartering agency.

Assembly Bill 549 unnecessarily threatens this model and the WASB strongly opposes the bill.

Wisconsin school boards play a vital role in creating and operating charter schools in our state. 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 instrumentality charter schools. (Q: What would become of that district if this bill is passed as introduced? Would that create a situation in which we would have a public school district and a school board with no employees?)

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.

But all of that progress could come grinding to a halt if Assembly Bill 549 is adopted.

The Wisconsin Association of School Boards opposes Assembly Bill 549 because, among other things, the bill would effectively:

- Redefine the types of charter schools that school boards may authorize in such a way that it would effectively eliminate 78 percent of the existing charter schools in Wisconsin;
- Change governance of public schools in Wisconsin to eliminate ongoing school board oversight over the charter schools they have created and mute the community's voice in the operation of what are deemed "public" schools;
- Cut off school district access to federal charter school grants;
- Allow a statewide expansion of independent charter schools—charter schools not authorized by a school board and not governed by locally elected boards--and would remove current geographic limitations on enrollment in independent charter schools
- Maintain in place a flawed funding mechanism for independent charter schools that takes ever increasing amounts of state aid funding away from public school districts.

To understand this bill, it is important to understand the concept of an independent charter school and how the scope of independent charter authorization has been expanded already this session.

In Milwaukee, for example, multiple charter authorizers have historically been allowed beyond the Milwaukee Public School District. The charter schools authorized outside the school district are called "independent" or "2r" charters after the section of the statutes [s. 118.40 (2r)] which allows these schools to be created. In Milwaukee, these authorizers have included:

- The University of Wisconsin-Milwaukee
- The City of Milwaukee Common Council
- The Milwaukee Area Technical College (MATC), which has not created any charter schools

In Racine, an independent charter school was historically allowed to be authorized by the University of Wisconsin-Parkside.

However, the independent charter school model was dramatically expanded by 2013 Wisconsin Act 20, the 2013-15 state budget, to allow these authorizers to create and operate or contract for the operation of independent charter schools in a five-county region surrounding Milwaukee. As a result, independent charter schools may currently operate within a five-county region surrounding Milwaukee and may only enroll students residing within that five-county region. And now, before that expansion has even been implemented or evaluated, Assembly Bill 549 seeks to expand the model statewide.

Assembly Bill 549 would accomplish this statewide expansion by greatly expanding the list of entities authorized to establish or contract for the establishment of independent charter schools—charter schools that are not authorized by local school boards—to include the chancellors of all four-year UW campuses, the deans of all the two-year UW feeder campuses, 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. We note that, to our knowledge, this expanded authority to establish or contract for the establishment of independent charter schools in this bill is not something any of these entities has requested.

In addition, the bill would open up enrollment in any independent charters established by these entities to any student in the state. The bill would accomplish this by removing current geographic limitations on enrollment in independent charter schools. (Currently, as noted above, only students who reside within the five-county region in which independent charter schools may be located can attend an independent charter school located within that five-county region.)

Public school boards find this expansion of independent charters especially 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 (about 1.5 percent) will be drawn away from school districts. This aid cut hurts the property poorest districts in our state the hardest, and many of these are small rural school districts with declining enrollment. One of the best ways to help many of our state’s small and rural school districts is to stop skimming aid away from them to fund independent charters.

The per pupil payments to the potentially vast array of new independent charter schools that could be created if Assembly Bill 549 is enacted would also be funded from additional reductions in state general aid paid to every public school district in the state. As noted, per pupil payments to independent charter schools are currently responsible for about a 1.5 percent reduction statewide (\$64 million) in state general aid to school districts. The size of this aid reduction will only grow if this bill is enacted

because per pupil payments to independent charter schools will grow: a) in parallel with adjustments to school district revenue limit authority (under Act 20); and b) in proportion to enrollment increases as more independent charter schools open up.

We believe the legislature 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.

Importantly, it is unclear whether many of these new independent charter school authorizers have either an interest in or expertise overseeing K-12 schools or would even welcome this authority if it were given to them. Perhaps this is irrelevant given that the bill provides that independent charter authorizers would no longer be able to directly establish and operate any independent charter school they authorize. In effect, the authorizers would become simply the funders of these independent charters with little say over the schools beyond the provisions spelled out in the contract or charter that creates the school. Indeed, the bill specifies that every charter school must be operated by a governing board that has all powers necessary to carry out the terms of its contract to operate a charter school.

The proposed expansion of independent charter schools raises important governance questions. Independent charters may be operated by either for-profit or not-for-profit operators. Indeed, the whole notion that charter schools are “public” schools relies on three things: 1) they are created by public entities; 2) they are not supported in any way by private tuition but entirely by public (taxpayer) funds; and 3) are subject some of the same requirements as regular public schools, including that they must be non-sectarian, may not discriminate and are subject to state assessments and teacher licensing requirements.

However, independent charter schools are not governed by democratically elected boards, nor are they authorized (for the most part) by elected officials, and it is unclear just what say the public (including parents) has over them. In theory, at least, the governing board of an independent charter could, if it wanted, tell the local community “take a hike; we’re running this school, not you.” Because the charter governing board members do not stand for election, there would be no way for the community to remove its members, either at the next regular election or by recall.

The provisions granting charter school governing boards all powers necessary to carry out the terms of its contract to operate a charter school have implications for charter schools authorized by school boards as well. Coupled with provisions in the bill that would eliminate school board authorization of “instrumentality” charters—i.e., charters in which the employees of the charter school are employees of the school district—this would force school boards and districts to make a decision about continuing as authorizers and funders. Upon the modification or renewal of an existing charter contract, school boards would be prohibited from employing any personnel for the charter school.

While some charter school proponents argue that non-instrumentality charters are characterized by more freedom from the district, most often they have emphasized that non-instrumentality charters are not required to hire union teachers. To the extent that Act 10 has limited collective bargaining, this is arguably much less of an advantage than it may have been in the past.

However, it should be noted that there are advantages for school boards to operate charter schools as instrumentalities. One is that the school district's licensed special education could easily flow to the instrumentality charter school to address the needs of any students with special needs. Another is that it allows for local oversight by the school board and allows the human resources, payroll, and purchasing functions and other resources of the district to be used while freeing the governing councils of the charter to focus on the primary task at hand -- innovation. Adding the responsibilities required of a non-instrumentality charter school would seriously hamper the progress many public school districts with charters have made, and it would detract from the primary purposes of those charter initiatives.

Mandating that school districts may create only non-instrumentality charters would diminish the role of locally elected school boards in overseeing the charter schools they have created and would remove the public by an additional measure from any say. Charter school governing bodies are not elected, and it is not always clear to the public (and, importantly, to parents) how they can have input into their operation and to whom they should address their concerns. It should be noted that these concerns about transparency and lack of public oversight are only amplified with respect to independent charter schools where, with only one exception, the authorizers are not elected by, nor necessarily accountable to, the community. Assembly Bill 549 does not address this issue.

We have strong concerns that removing the ability of school districts to create instrumentality charters would likely cut off the federal charter school grant funding that school districts have been able to receive under current law. Without such grant funding, and under revenue limits, many school districts would not have the financial resources able to implement charter school initiatives. Under the bill, almost by definition, only non-instrumentality charters authorized by school districts would be eligible for federal charter school grants.

Finally, we note that the bill creates a definition of "magnet schools" and a petition process for their creation along the lines of the current petition process by which school boards currently can create charter schools. (At the same time the bill eliminates that existing petition process.) Assembly Bill 549 incorporates by reference to a federal statute, a definition of "magnet school" that defines a magnet school as "a public elementary school, public secondary school, public elementary education center, or public secondary education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds."

While we do not necessarily object to creating a statutory process for creating “magnet schools,” the need for such a provision is not clear. The option of a magnet school to increase racial diversity seems to have little or no applicability in most Wisconsin districts because of the populations of those districts. And it is unclear whether most Wisconsin school districts would be able to receive federal magnet school grants. Certainly, those grants, even if available, would be no substitute for federal charter school grants.

The federal Magnet Schools Assistance program provides grants to eligible local educational agencies to establish and operate magnet schools that are operated under a court-ordered or federally approved voluntary desegregation plan. These grants assist in the desegregation of public schools by supporting the elimination, reduction, and prevention of minority group isolation in elementary and secondary schools with substantial numbers of minority group students.

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 the schools they currently operate -- and many districts are struggling to do just that-- it is difficult to create an entirely new school and add it to the district’s budget. Under revenue limits, many school districts may be unable to afford to open another new (i.e., charter) school or would do so only with great difficulty. Charter school grants, which are received outside the revenue limit, often play a key role in enabling districts to create and maintain new charter schools. As noted, this bill would severely limit, if not eliminate school districts’ ability to obtain charter school grants.

The proposal before you today starts our state down a road that disregards local control, and further raises property taxes. For those reasons, and others presented above, the WASB opposes Assembly Bill 549.