

PUBLIC SERVICES REDESIGN PROJECT

THE CHARTER IDEA: UPDATE AND PROSPECTS, WINTER '96

Four years on, "the charter movement" is beginning to show some real potential for scaling-up school improvement into a strategy for systemic change.

About 271* charter schools are in operation, as of December 1995. Arizona and Massachusetts opened their first schools this fall. Michigan added about 30 schools. More than 25 states considered bills for 'charter schools' in the '95 sessions. Eight states enacted some kind of law. Again, about half the laws are of the type we associate with things-happening: proposals appearing, approvals given, schools opening, students enrolling, districts reacting.

Measured by its success with legislation, by the 'clearances' the laws provide from system-constraints, by the number of schools created, by the innovations these schools contain and by the way its dynamics are now producing 'second-order effects' in the main-line system, the charter movement has some claim now to be considered one of the significant strategies for changing and improving K-12 public education.

There may be an important message here; considering that the 'charter movement' -- in contrast to other efforts at systemic change -- has no organizational structure, no prominent figures to lead it, no big foundation grants and little support so far from well-known education or business groups; and that it offers not a new theory of teaching and learning but simply a new opportunity to try out good ideas. Its central idea -- that the strategy should be for the state to leverage on the districts by withdrawing their 'exclusive' to offer public education -- breaks sharply with the conventional notion that policy should not and can not challenge the K-12 system but must work with the system-organizations to 'do improvement' from the inside.

Sometimes simple ideas do have great power. Perhaps people see that incentives are central to system-change. Sometimes our political system will do things that are necessary; not just what conventional opinion approves-of or thinks is achievable.

This memo is an effort to describe the status of the charter idea as of fall 1995. As always we would be interested to have your reactions, comments, ideas and suggestions.

Legislative and other developments in '95

From 1991 through 1993 the major groups simply opposed the charter idea when it appeared. The effect was that bills were worked out without their participation and to their surprise and displeasure several laws passed anyway.

In 1995 the interest groups came at this differently. They decided to approve of the charter idea, and said they would support a bill, which they would be glad to help draft so it would be done right. And they had clear ideas about what was 'right'. Set up a pilot program: Do a few schools; see how it works. The local board should be the only sponsor (approving authority). The school should be an instrumentality of the district. Teachers should be employees of the district; or, if employees of the school, should be under the district contract.

The 'rules' of public school should be preserved.

This dramatically changed the nature of the debate. Suddenly it meant nothing to say "I favor a charter law". The issue now was what you meant by that: weak law or strong law. Under a 'strong' law a fairly large number of schools may be created; new schools may be created as well as existing schools converted; an applicant may approach some approving authority other than the local board, directly or on appeal; the school must be or may be an entity separate from the district; teachers belong to the school; and there is a substantial up-front exemption from "the rules".

The new approach puts legislators to the test. Hold out for a strong law and you are in for a fight. Go along with a weak law and you are assured you can pass a bill. Yet the difference between the two is the difference between

things-happening and things-not-happening. Where a strong law does come through it is almost always the result of leadership by an elected official. Without a politician of conviction it cannot be done.

Where are the strong laws?

Pretty consistently about half the laws (now 19) look to be strong laws. Arizona, California, Colorado, Michigan, Minnesota, Massachusetts and (from 1995, prospectively) Delaware, New Hampshire and Texas now have laws of the sort we associate with things-happening. Georgia, Hawaii, Kansas, New Mexico, Wisconsin and (prospectively) Alaska, Arkansas, Louisiana, Rhode Island and Wyoming have laws of the sort we associate with relatively little happening. (In New York City, unique as always, a charter-like program continues to develop without a law.) Five schools will be operating in Alberta by September '96 under its 1994 law.

A .500 average is not bad. In addition, strong bills remain under consideration in three big states where the '95 sessions have yet to finish: New Jersey, Ohio and Pennsylvania. And Congress may yet include a strong charter program in its reform of the District of the Columbia public schools.

In 15 other states bills were discussed but did not pass: Washington, Oregon, Idaho, Nevada, Montana, Oklahoma, Missouri, Illinois, Indiana, Florida, South Carolina, North Carolina, Virginia, Connecticut and Vermont. Time ran out; or the charter bill got tangled up in other issues; or authors uninterested in passing an empty law wisely put the bill away until next year. Efforts will resume in '96.

Several states with charter programs tried to improve their law in '95. Minnesota (which works through an omnibus bill) succeeded. California, Massachusetts, Georgia and New Mexico did not (but did not lose ground, either). Wisconsin made small changes; short of what Gov. Thompson and Milwaukee Superintendent Howard Fuller wanted. They will try again in '96. In Colorado discussions are under way on a new approval process: The initial idea -- of the state board on appeal not becoming the sponsor but trying to make the local board do it -- has not worked well. Authors are persistent, and laws do seem to improve over time.

The legal front has been fairly quiet. A challenge to the Massachusetts law was dismissed. In Michigan the appeals court is to rule shortly on the

constitutionality of the 1993 law. (A number of the defects in that law were corrected by amendments in 1994, under which charter schools are in fact operating.)

The support-system continues to develop.

September 22 President Clinton went to a charter school in San Diego to announce the award of \$5.5 million to nine states (Arizona, California, Colorado, Georgia, Louisiana, Minnesota, Massachusetts, Michigan and Texas) and directly to two schools in New Mexico (where the state did not apply). The states will use their funds as grants to start up new charter schools. Oregon got in later, representing its 'waiver' law as a charter law.

September 26-27 the Center for Reinventing Public Education, a joint venture of the Rand Corporation and the University of Washington, pulled together practitioners from Massachusetts, California, Michigan and Minnesota for a sharing-of-experience that will produce a "How To Solve Problems" report for those interested in enacting laws or starting schools.

The Michigan Partnership for New Education became the principal advocacy/support group for that state's charter school program; taking in the Michigan Center for Charter Schools. It has worked out a two-year program that will make available up to \$500,000 per school for working capital and other start-up costs (other than the purchase of facilities). The average loan is expected to be about \$100,000, to be repaid from state payments later. The loans (from Comerica Bank) will be guaranteed by up to 30 business firms and individuals. About 30 new schools got their checks about the end of September. (For specifics call William Coats, president of the Partnership: 517/432-4660.)

The issue is whether a law creates dynamics

In every state the struggle to get a strong law turns mainly around the provision that lets the applicant approach some public body other than the local board to get its charter. If the law provides an 'alternate sponsor' there will be an incentive for the local board to be responsive . . . to introduce the changes and improvements itself. If no alternate sponsor is available no incentives are created; so no systemic effects appear.

Everywhere, the groups that represent the people who now own and run the schools try to stop the Legislature from making the 'alternate sponsor' available. They do not want the state making it possible for schools to appear, which students may attend, that the district does not own and run. They do not want the pressures this would bring on them -- to change and improve their own program or to see students leave. They deeply do not want to lose the district's exclusive. So they work for a law that would contain schools within the district framework, with the local board the only sponsor; for a "pseudo" charter law.

The state's interest, on the other hand, is precisely in creating these incentives for the districts to act . . . these pressures to be responsive, innovative and careful about their costs. Without the dynamics that make performance necessary the system will remain inert; unable to generate internally the will to do the hard things that excellence requires. For governors and legislators the alternate sponsor is critical.

What's happening? How's it working?

In the charter strategy incentives are central. (See page 11.) It seems important to be realistic about why organizations behave the way they do; to be skeptical that those in control of large and powerful organizations will do things they find personally difficult and organizationally unnecessary if told their success is assured whether they do these things or not.

But like any theory it requires proof. So, predictably, as the charter laws spread people increasingly want to know how the schools are working and what effects they are having on the main-line system. Legislatures, researchers and journalists are all now trying to describe and to 'evaluate' the charter laws and schools. The stream of visitors, calls and questionnaires is a problem for people trying to run a school. But the question about results is appropriate. The need now is to think clearly about what to evaluate, and how. To be sure the evaluation looks both at the schools and students and at the second-order effects on districts. And to decide how to interpret what we find.

How many schools are there?

Nobody regularly keeps a national count of schools. To get a total you pretty much have to call around to the states with laws. In each state department of education there is someone keeping track of charters and schools. But it is important to ask whether state 'approval' meant final approval, and whether after final approval the school actually opened.

Eric Premack at RPP International in Berkeley CA counted 265 charters approved as of September; of which he estimates 210 will be in operation this fall. Of these 199 will be in strong-law states: Arizona, Minnesota, California, Colorado, Michigan and Massachusetts. Eleven will be in the weak-law states; New Mexico and Georgia (where only existing public schools may convert) and Wisconsin. There may be some closings: Nobody should expect all schools to succeed. Again, we have no clear picture yet.

It would not be hard to keep a national list; with name, address, phone number, administrator and sponsor. It would be a logical activity for the U.S. Department of Education with funds reserved for 'national activities' in the 1994 act.

What are the schools like?

Beyond listing the schools and where they are it's important to know what the schools are and are doing: what students they enroll, what a school's instructional program is, what facilities it occupies, how it's financed, who its teachers are, how parents are involved. This is harder. It requires calls, letters or visits to the site.

Alex Medler at the Education Commission of the States and Joe Nathan, who heads the Center for School Change at the Humphrey Institute at the University of Minnesota, cooperated last spring on a survey. The initial response suggested the schools are small (about 300 students on the average) and most often for younger students. They are trying to be innovative, and (especially in California) to incorporate technology. Enrollment is skewed toward at-risk students; not toward the elite. Organizers value autonomy; and say they need help with start-up costs more than anything. For a copy call Medler 303/299-3600 or Nathan 612/625-3506.

Other efforts to describe what's happening are just getting organized. Legislatures will increasingly be asking for reports about schools in their states. A first survey of Minnesota charter schools was done for House

Research in mid-1995. (For a copy call Kathy Novak 612/296-9253.) PhD candidates are getting interested. Journalism is important because it's faster. Often when a bill appears an editor will send a reporter to other states, to look. Education Week had a special section on charter laws and schools November 29.

Is it working?

In the end, though, everybody wants to know what difference it all makes. Are students really learning? Do teachers really innovate when given this opportunity to start a school? Are the schools more accountable when they have to make an affirmative showing of performance? What effects do charter schools have on main-line schools? Is it a good idea, or not?

Pew Charitable Trusts has made a grant to the Hudson Institute for a study of schools in seven states. The principal investigators will be Chester Finn and Louann Bierlein. The program officer at Pew is Susan Urahn 215/575-4755.

The U.S. Department of Education has let a contract for evaluation to a consortium headed by RPP International, Berkeley CA . It is to focus on student performance but, happily, will look also at the 'second-order' responses by districts.

The more the base of experience builds up the more the question -- everywhere -- will be: How's it working?

Evaluating the evaluations

So what do we evaluate? And how do we interpret what we find? It will be important to think carefully about the design of these studies and about their conclusions when these appear. Hopefully both authors and readers will: Be realistic about complexity. The pressure from advocates (pro and con) can combine with the pressure of editors for simple answers to produce a black-and-white, good-or-bad world. (Neal Peirce, the columnist, likes to say there are only two stories: Gee Whiz and Gosh Awful.) That's unreal. Evaluators should expect to find, as legislators find, good and bad together; a world of shadings. "The truth is rarely pure and never simple".

Watch out for the theory/reality trick. The first chapter in the book of tactics for opposing change is titled: "Spread Fear and Doubt". Some people

are experts at turning the solution into the problem. "This is not a bad idea," they say. "But it could be implemented wrong. And that would be bad." They give you a lot of hypothetical concerns: "What if . . ." endlessly. Then to persuade you we should stay with what we have they tell you again how the system we have works -- in theory. Of course it works perfectly in theory: The problem is the way it works in practice. It's a simple trick, but a common one; and evaluators need to watch out for it. Which leads to another caution: Compare charter schools with regular schools. Opponents of any change always want to set a test of perfection. They argue that any finding of anything not-perfect is a clear reason why the change must not be made at all. It would be fairer to compare what's going on in charter schools with what's really going on in 'regular' schools. Which seem more innovative? In which are students, relatively, doing better? Nothing is perfect: In which arrangement do people move more quickly to correct failure? Which provides better accountability: requiring the charter school to demonstrate its success or requiring someone to prove failure in a 'regular' school?

At the same time, recognize the differences. Charter schools are schools of choice. Most regular schools aren't. Some things that would raise questions at a school to which students are assigned might be perfectly OK at a school where enrollment is voluntary.

Think about what "achievement" should really mean. We're in a period when people love to compare scores on what Mike Kirst calls "tests excessively oriented to low-level basic skills with single correct answers". Much of the policy (especially the legislative) discussion seems to assume that only academics are important. That may not be right . . . may not be what the public and parents want. Some schools may be chartered to develop higher-order thinking skills, and character. Perhaps they're entitled to be evaluated on their own terms.

Give it time. Nobody gets anything 100% right on the first try. And most people do learn. So while looking at the schools and what they're accomplishing at the moment, consider also: Are they improving? Are they evolving? It's unfair to expect the charter system to be perfect; it is fair to ask that it improve on the present system or show the potential to improve over time.

Look for the systemic effects. Too often those asking "What's happening?" look only at the schools created and students enrolled: the first-

order effects of a law. There are also second-order effects: changes/responses in the main-line system when laws are enacted and schools are created. An evaluation needs to look for these. The real purpose of the charter law is to cause the main-line system to change and improve. It would be strange not to evaluate the law in terms of its real purpose.

"Charter Schools" as systemic change

Despite what the words seem to imply, "charter schools" is not basically about the schools. For the teachers who found them and the students who enroll in them, true, it is the schools that are important. But for others, from the beginning, "charter schools" has been about system-reform . . . a way for the state to cause the district system to improve. The schools are instrumental. Certainly for the governors and legislators it is about system-change. They run real risks being involved with this idea. It would make no sense to run those risks if it were about creating a few schools for a few kids. Their involvement is explainable only in terms of their sense that the dynamics of the charter idea are essential for general system change.

Broadly, there are changes in behavior and changes in attitude; changes in the district and changes in the thinking in the leadership of the big education organizations. Look for all these. Talk to people: Not much has yet been written down.

Responses in the districts

An investigator might reasonably look for these kinds of district-responses:

Anticipation -- Before a charter school appears a district may try to head it off by responding positively to the pressure for change. A (strong) charter law clearly does create a new situation for a district: Now a decision to say "No" to parents or teachers wanting a new school has to be made in the knowledge that the school may appear anyway, sponsored by somebody else. Understanding this, the board or superintendent may prefer to say "Yes" and let the school appear as a district school.

Mary Anne Raywid reported several such cases in Jefferson County CO (Kappan, March 1995). Minnesotans saw this response in Forest Lake where parents were pressing for an elementary Montessori option. Something similar appears to have happened in Edmonton, Canada (Edmonton Journal,

April 27, page one). No charter school appears: The district simply has a program now that it had not had before and would not have had otherwise.

Acceptance -- Here the new charter school does appear. The district simply decides that once the law is a reality it would rather do the chartering itself than have the 'other public body' do it. At the October '94 meeting in Phoenix for those interested in using Arizona's new law -- which offers applicants several routes to go for sponsorship -- the president and the counsel for the state school boards association were saying, "Come charter with us. The state boards don't have facilities. We have facilities." Look at the remarks of David Snead, the Detroit superintendent, at the Wayne State University meeting in October 1994.

Emulation -- Where charter schools do appear, created by 'somebody else', a district facing a loss of students and revenues may then create a similar program of its own. The law passed in Massachusetts in the summer of '93. That fall Boston began talking about what by June '94 officials of the Boston Teachers Union were calling "our in-district charter schools". The first such ("Pilot") schools opened in September along with the first state-chartered schools.

In Minnesota, following the state's decision in 1985 to offer a charter-like option for 11th- and 12th-graders to finish high school in college, districts set up advanced programs in their high schools. "When we saw the kids going out the door and found we couldn't stop it," said an administrator in one Minneapolis-suburban district, "we decided we had to do that." Now, small schools are now being created by the chancellor in New York City; following the success of the small schools created by some of the 'community districts' set up by the 1969 law.

The California state superintendent of public instruction, Delaine Eastin, is offering waivers to districts that will create new schools under the "alternative schools" provision of the education code; a charter-like program not much used by districts up to this point. Nine districts are considering accepting her "challenge", she said.

Accountability -- Often district boards of education do become the sponsors of charter schools. This requires the superintendent and board to take action if the school does not perform or breaks the law. It is possible that a district that deals firmly with a charter school about performance will then

want to be firm also with "its own" schools. It would be worth looking at Los Angeles, where after pulling the charter of the EduTrain school the board may now move to suspend some principals in regular school. Look at other cities, too, for correlations between charter activity and a district moving more aggressively on problems in its own system. Possibly, Denver, where a board resisting charters has recently been aggressive about reassigning its principals.

There is an obvious question here about cause and effect.

People looking for systemic effects may suspect that the law or charter school really was the cause of the district's changed behavior or different attitude. But understandably they're skeptical that a superintendent is going to say, "Yes, I could have done these good things anyway: It simply took the charter law to make me do it." So how do they prove the connection?

The best answer comes from a senior scientist at Rand. "I don't try to prove causation," he said. "I report correlations".

Responses in the system leadership

The major system organizations were initially negative; trying first simply to stop charter laws and then to channel the idea into a form they found acceptable. More recently there are signs the big education organizations are beginning to think strategically about how the idea might work to their advantage.

Boards of education -- Anyone looking for systemic effects should watch, for example, the reaction of boards of education to the idea of their being able to choose the program of education they want to offer. As the executive director of the Colorado Association of School Boards, Randy Quinn, explained as long ago as August '93: The charter idea makes the board a purchaser rather than an owner-operator of schools. And this purchaser role, Quinn wrote, can increase significantly the board's ability to change and improve the public education it offers to its community. Quinn was talking about the board buying-in school; not about the state chartering some other public body to be the buyer. So it becomes an argument for a contract system, with or without a charter law. Essentially, for a board being able to choose the program of learning it offers; able to change that program a piece at a time rather than a person at a time. By far the most important case of a board actually moving to choose the program of learning it offers its

community is in Wilkinsburg PA. The reform board elected in 1993 concluded, in effect, that it cannot get improvement unless it can hold a school accountable and that it cannot hold a school accountable if the board owns and runs the school itself. After an intense struggle that board was able to open Turner elementary school this fall with a contractor providing teachers as well as management. From the beginning the teachers union has fought the board and disputed its right to do this. The state supreme court will settle the question this fall. If it decides that present law does not allow a board this choice then Gov. Ridge and the Legislature may solve the problem; perhaps with a charter law.

Few would expect the school board community to change quickly. Still, the potential in this for the board is now being thought-about. It was further discussed at the meeting of NSBA state federation directors at Whitefish MT this summer.

Teacher unions -- It would also be worth exploring possible systemic effects with the major teacher unions. The National Education Association this summer began a program to help member-teachers form charter schools in states where laws exist and where its state affiliate is agreeable. This will be run by its Center for Innovation and Center for the Preservation of Public Education. The NEA has been talking to teachers and thinking about what they say: Unions are democratic institutions.

The union is beginning to see that the charter idea offers a way to get beyond wages and working-conditions and to get the teachers control of 'professional issues'; the area of teaching and learning long protected by districts as 'a management right'. Perhaps with professional roles would come professional salaries.

No charter school has done more to suggest this potential than the New Country School at LeSueur MN. This 100-student secondary school (7-12) has no courses and no classes: Students work on projects; partly with the help of computers linked to the Internet and partly with adults doing work in the community. The teachers supervise, almost on theSizer model. The teachers who designed this program are not employees; either of the district or of the school. They have formed a professional partnership (legally a cooperative under Minnesota law). The partnership has a contract with the board of the school to run the instructional program. Within the partnership the teachers pick the methods and materials, make the work assignments,

and decide their own compensation. The teachers are in fact owners. The board of the school is responsible for policy, evaluation and property.

Enrollment increased by the planned one-third this fall. In September parents on the waiting list were calling daily, asking if any students had left. None had. There are discussions now about a second school, in Mankato, for fall '96. Changes bearing some resemblance to the features of the New Country School are appearing in LeSueur High School this year.

Superintendents -- Early on, in Minnesota, a person in a position to know was asked how the typical superintendent reacts to a proposal for a charter school. "It's an assertion that I'm not doing my job; that somebody else can run a better school than I can run; and resented", he answered. It's possible this is beginning to change. "I'm never going to be able to make the changes we need to make in this district," another superintendent told an official in the state department more recently, "until I have a charter school operating across the street from me." The charter idea challenges traditional notions about the role of the superintendent; and the traditional assumption that the district must hire everybody and own everything. Still, it is hard to lead when the organization knows it does not really have to follow. Managers are empowered when performance is necessary.

Will the state at last align reward with performance?

All efforts at systemic change seem small at the moment, in a system with 15,000 districts, 85,000 schools and over 2.5 million teachers. All are having slow going. They are working against a system built not to change. The major elements -- the 'givens' of the K-12 system -- are mandatory attendance, districting, the 'exclusive franchise' (within the boundaries one organization offering public education) and per-pupil financing. Together these assure the district its customers, its revenues, its jobs and its security; basically everything the district finds important to its material success. And this assurance from the state in no significant way depends on whether the students learn. It is a system in which the reward-structure pays off whether or not the district accomplishes the mission it has been given to perform. These are powerful (dis)incentives and it is not surprising that when exhorted to do the hard things that excellence requires the districts respond with only a show of compliance. They understand: They do not really have to change.

The strategy that calls itself 'systemic' believes it can get change and improvement while assuring the districts that the reward-structure will operate whether they do these things or not. This was always, perhaps, mainly a hope. After a decade of effort there is a visible disappointment with its results and with its potential. So there may be a growing willingness now to bring the reward-structure, too, at last into alignment with the rest of the reform agenda.

This happens when the state removes the exclusive. This ends the old arrangement in which the district is rewarded whether or not it accomplishes the mission it has been given to perform. A district that does not improve will find public schools appearing, run by someone else. And schools, now on a term, are required to show by their performance that they deserve to be renewed. Consequences are built in; so standards and measurement become necessary.

Compared with the other, better-known efforts that work without these dynamics, the charter idea looks promising. It is spreading nationally: New laws and schools continue to appear. It is evolving as it spreads. It has generated an impressive level of interest among parents and teachers and, in a strikingly bipartisan way, among elected officials. It has gotten unprecedented clearances from system-constraints, including statute law. Its dynamics seem to be causing districts to respond with improvements of their own. It appears to be generating (and spreading) new models of school. It is a kind of national experiment; far more innovative and complex than any conventional, centrally planned and managed, project would have designed or could have carried out. It works mostly with sweat-equity and with money already in the system. Compared to some of the other efforts it has cost practically nothing.

Compared with the other leading effort to generate pressure from the outside -- vouchers -- the charter idea is attractive, too. There are statewide charter laws producing (or likely to produce) schools and systemic effects now in Arizona, California, Colorado, Delaware, Massachusetts, Michigan, Minnesota, New Hampshire, Texas and perhaps other states. The first statewide voucher program has yet to be enacted.

The potential, clearly, is to develop a strategy for system-change that supports the effort to 'do improvement' from within by creating a pressure from the outside that gives the districts an incentive to make these

improvements; on their own initiative, in their own interest and from their own resources.

It would be unrealistic to expect those whose interests are vested in the existing arrangements to propose such a change in strategy. So it will be up to those who do not have their interests vested in the system. This means business leaders especially, who until now have gone along with the argument that they should work with the big system-organizations and should not endorse strategies -- like choice and charter schools -- that these organizations oppose.

This conventional strategy is safer: It avoids conflict -- and the need for business people to think about what their own experience teaches about why organizations change. But in fairness to the country, business, and foundation, leaders should now face the prospect that a strategy limited to exhortation, money and political support is not working; will not work; can not work.

The idea of a competitive public school system is radical; controversial; as yet untried. But the burden of proof today is no longer on the theories that have not yet been tried: The burden of proof today is on the theories that have been tried. It is wrong now not to be radical.

** This paper is distributed by the Center for Education Reform, at the request of Ted Kolderie. The figure 271 is based on the Center's April, 1996 National Charter School Directory. For more information, or a copy of the directory, call the Center at 1-800-521-2118.*