



Legislation Text

File #: 980862, Version: 1

980862
SUBSTITUTE 1

THE CHAIR

Substitute resolution authorizing the City Attorney to file a lawsuit against the State of Wisconsin and the Wisconsin Department of Public Instruction ("DPI") seeking the release of funds to City of Milwaukee Charter Schools, in accordance with sec. 118.40(2r), Stats.
Analysis

This resolution authorizes the City Attorney to commence legal action against the State of Wisconsin and DPI, to seek a court order requiring the State to release funds to City of Milwaukee Charter Schools, as required by sec. 118.40(2r), Stats.

Whereas, On January 29, 1998, the Common Council of the City of Milwaukee notified the State Superintendent of Public Instruction, that the City of Milwaukee intended to establish charter schools under the newly adopted law, sec. 118.40(2r), Stats.; and

Whereas, On May 5, 1998, the Common Council of the City of Milwaukee passed File Number 971759, a substitute ordinance relating to designation of charter schools and establishing a Charter School Review Committee ("CSRC"); and

Whereas, File No. 971759, when approved by the Mayor of Milwaukee, resulted in the creation of Section 320-41 and Chapter 330 of the Code of Ordinances; and

Whereas, In June 1998, the CSRC held public hearings on the applications of the three Charter Schools ultimately approved for Charter School status; and

Whereas, On June 23, 1998, the CSRC, applying the criteria set forth in Chapter 330, determined that the applications of Khamit Institute, Inc., Marva Collins Preparatory School of Wisconsin, and Downtown Montessori Academy, Inc., complied with the requirements of Sections 330-5 and 330-7, that each of these Charter Schools will operate an educational program that has a reasonable prospect of providing Milwaukee children a good education, and that each Charter School has an appropriate governance structure, sound system of management, adequate budget and budget process, and a qualified body of administration, teachers, and staff; and

Whereas, On June 23, 1998, having made these findings, the CSRC recommended to the Common Council that the applications of the three Charter Schools be approved; and

Whereas, The Common Council by motion has approved the recommendation of the CSRC to grant the applications of the Charter Schools for charter school status; and

Whereas, The City has successfully negotiated and entered into three Charter School contracts which, in accordance with sec. 118.40(2r)(b), Stats., contain all of the provisions specified under sec. 118.40(1m)(b)1. to 14., Stats., as well as additional provisions; and

Whereas, Sec. 118.40(2r)(e), Stats., requires DPI to pay the operator of each charter school established under sec. 118.40(2r), Stats., an amount equal to the shared cost per member in the previous school year of the school district operating under ch. 119, Stats., multiplied by the number of pupils attending the charter school; and

Whereas, DPI was required by statute to pay each Charter school 25% of the total amount owing under sec. 118.40(2r)(e), Stats., by the end of September, 1998; and

Whereas, On September 21, 1998, DPI informed the three Charter Schools by letter that it would not make the September payment to the Charter Schools, "due to the dispute between the City of Milwaukee and the DPI about a charter school's responsibilities as a public school"; and

Whereas, DPI has taken the position that the City of Milwaukee must serve as the Local Educational Agency ("LEA") for the Charter Schools established under sec. 118.40(2r), Stats., and therefore must provide certain services under federal law to students with disabilities; and

Whereas, The City Attorney has advised, in legal opinions dated June 25, 1998 and September 14, 1998, that the City of Milwaukee does not fall within the state definition of LEA and that the local school district, Milwaukee Public Schools ("MPS") is the LEA for all students residing in the City of Milwaukee (copies of these communications are attached to the file); and

Whereas, The City Attorney has further advised that DPI is not justified in withholding state funding from the City Charter Schools; now therefore be it

Resolved, By the Common Council of the City of Milwaukee, that the Office of City Attorney be authorized to bring legal action against the State and DPI seeking the release of funds to the City Charter Schools.

City Attorney
SDB:bal
#14363
Date: 9/30/98