

**SUBJECT**

Staff Update: Legislative Update

**APPLICABLE STATUTE, RULE, OR POLICY**

N/A

**BACKGROUND**

Idaho's 2014 legislative session is presently underway. Two bills that specifically impact public charter schools and/or the PCSC are under consideration.

**DISCUSSION**

PCSC staff will update the PCSC on the status of policy discussions relevant to public charter schools and authorizers.

H408 clarifies under what circumstances a small school district, or a public charter school located within a small school district, may employ the spouse of a district/charter school board member.

S1264 clarifies the separation of roles between the executive director of the state board of education and his designee, specifically with regard to staffing the PCSC. The bill further clarifies policymaking and rulemaking authority of the PCSC and SBOE.

**IMPACT**

Information item only. The PCSC may, but is not obliged to, move to adopt a formal position with regard to proposed legislation.

**STAFF COMMENTS AND RECOMMENDATIONS**

Staff has no comments or recommendations.

**COMMISSION ACTION**

Any action would be at the discretion of the PCSC.

**February 13, 2014**

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February 13, 2014

LEGISLATURE OF THE STATE OF IDAHO  
Sixty-second Legislature Second Regular Session - 2014

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 428

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO PUBLIC SCHOOLS; AMENDING SECTION 33-507, IDAHO CODE, TO REVISE  
2 AUTHORITY OF TRUSTEES OF SCHOOL DISTRICTS REGARDING THE EMPLOYMENT OF  
3 A SPOUSE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-514A,  
4 IDAHO CODE, TO PROVIDE AN ADDITIONAL GROUND WHEN A CATEGORY 1 LIMITED  
5 CONTRACT MAY BE ISSUED; AND AMENDING SECTION 33-5204, IDAHO CODE, TO RE-  
6 VISE AUTHORITY OF THE BOARD OF DIRECTORS OF A PUBLIC CHARTER SCHOOL RE-  
7 GARDING THE EMPLOYMENT OF A SPOUSE AND TO MAKE TECHNICAL CORRECTIONS.  
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Section 33-507, Idaho Code, be, and the same is hereby  
11 amended to read as follows:

12 33-507. LIMITATION UPON AUTHORITY OF TRUSTEES. (1) It shall be unlaw-  
13 ful for any trustee to have pecuniary interest directly or indirectly in any  
14 contract or other transaction pertaining to the maintenance or conduct of  
15 the school district, or to accept any reward or compensation for services  
16 rendered as a trustee except as may be otherwise provided in this section.  
17 The board of trustees of a school district may accept and award contracts in-  
18 volving the school district to businesses in which a trustee or a person re-  
19 lated to him by blood or marriage within the second degree has a direct or  
20 indirect interest provided that the procedures set forth in section 18-1361  
21 or 18-1361A, Idaho Code, are followed. The receiving, soliciting or accep-  
22 tance of moneys of a school district for deposit in any bank or trust company,  
23 or the lending of money by any bank or trust company to any school district,  
24 shall not be deemed to be a contract pertaining to the maintenance or conduct  
25 of a school district within the meaning of this section; nor shall the pay-  
26 ment by any school district board of trustees of compensation to any bank or  
27 trust company, for services rendered in the transaction of any banking busi-  
28 ness with such district board of trustees, be deemed the payment of any re-  
29 ward or compensation to any officer or director of any such bank or trust com-  
30 pany within the meaning of this section.

31 (2) It shall be unlawful for the board of trustees of any class of school  
32 district to enter into or execute any contract with the spouse of any member  
33 of such board, the terms of which said contract requires, or will require,  
34 the payment or delivery of any school district funds, money or property to  
35 such spouse, except as provided in section 18-1361 or 18-1361A, Idaho Code.

36 (3) No spouse of any trustee may be employed by a school district with  
37 a fall student enrollment population of greater than one thousand two hun-  
38 dred (1,200) in the prior school year. For school districts with a fall stu-  
39 dent enrollment population of one thousand two hundred (1,200) or less in the  
40 prior school year, such spouse may be employed in a nonadministrative posi-  
41 tion for a school year if each of the following conditions has been met:

1       (a) The position has been listed as open for application on the school  
2       district website for at least sixty (60) days, unless the opening oc-  
3       curring during the school year, in which case the position shall be so  
4       listed for at least fifteen (15) days;

5       (b) No applications were received that met the minimum certification,  
6       endorsement, education or experience requirements of the position,  
7       other than such spouse;

8       (c) The trustee abstained from voting in the employment of the spouse  
9       and was absent from the meeting while such employment was being consid-  
10       ered and determined.

11       The school district may employ such spouse for further school years, pro-  
12       vided that the conditions contained in this subsection are met for each  
13       school year in which such spouse is employed. The trustee shall abstain from  
14       voting in any decisions affecting the compensation, benefits, individual  
15       performance evaluation or disciplinary action related to the spouse and  
16       shall be absent from the meeting while such issues are being considered and  
17       determined. Any spouse of a trustee employed as a certificated employee  
18       pursuant to this subsection shall be employed under a category 1 contract  
19       pursuant to section 33-514A, Idaho Code.

20       (4) When any relative of any trustee or relative of the spouse of a  
21 trustee related by affinity or consanguinity within the second degree is  
22 considered for employment in a school district, such trustee shall abstain  
23 from voting in the election of such relative, and shall be absent from the  
24 meeting while such employment is being considered and determined.

25       SECTION 2. That Section 33-514A, Idaho Code, be, and the same is hereby  
26 amended to read as follows:

27       33-514A. ISSUANCE OF LIMITED CONTRACT -- CATEGORY 1 CONTRACT. After  
28 August 1, or pursuant to section 33-507(3), Idaho Code, the board of trustees  
29 may exercise the option of employing certified personnel on a one (1) year  
30 limited contract, which may also be referred to as a category 1 contract con-  
31 sistent with the provisions of section 33-514, Idaho Code. Such a contract  
32 is specifically offered for the limited duration of the ensuing school year,  
33 and no further notice is required by the district to terminate the contract  
34 at the conclusion of the contract year.

35       SECTION 3. That Section 33-5204, Idaho Code, be, and the same is hereby  
36 amended to read as follows:

37       33-5204. NONPROFIT CORPORATION -- LIABILITY -- INSURANCE. (1) A pub-  
38 lic charter school shall be organized and managed under the Idaho nonprofit  
39 corporation act. The board of directors of a public charter school shall  
40 be deemed public agents authorized by a public school district, the pub-  
41 lic charter school commission, or the state board of education to control  
42 the public charter school, but shall function independently of any school  
43 board of trustees in any school district in which the public charter school  
44 is located, or independently of the public charter school commission ex-  
45 cept as provided in the charter. For the purposes of section 59-1302(15),  
46 Idaho Code, a public charter school created pursuant to this chapter shall  
47 be deemed a governmental entity. Pursuant to the provisions of section

1 63-36220, Idaho Code, sales to or purchases by a public charter school are  
2 exempt from payment of the sales and use tax. A public charter school and the  
3 board of directors of a public charter school are subject to the provisions  
4 of:

- 5 (a) Sections 18-1351 through 18-1362, Idaho Code, on bribery and cor-  
6 rupt influence, except as provided by section 33-5204A(2), Idaho Code;
  - 7 (b) Chapter 2, title 59, Idaho Code, on prohibitions against contracts  
8 with officers;
  - 9 (c) Chapter 7, title 59, Idaho Code, on ethics in government;
  - 10 (d) Chapter 23, title 67, Idaho Code, on open public meetings; and
  - 11 (e) Chapter 3, title 9, Idaho Code, on disclosure of public records;
- 12 in the same manner that a traditional public school and the board of school  
13 trustees of a school district are subject to those provisions.

14 (2) A public charter school may sue or be sued, purchase, receive, hold  
15 and convey real and personal property for school purposes, and borrow money  
16 for such purposes, to the same extent and on the same conditions as a tra-  
17 ditional public school district, and its employees, directors and officers  
18 shall enjoy the same immunities as employees, directors and officers of tra-  
19 ditional public school districts and other public schools, including those  
20 provided by chapter 9, title 6, Idaho Code. The authorized chartering entity  
21 that approves a public school charter shall have no liability for the acts,  
22 omissions, debts or other obligations of a public charter school, except as  
23 may be provided in the charter. A local public school district shall have  
24 no liability for the acts, omissions, debts or other obligations of a public  
25 charter school located in its district that has been approved by an autho-  
26 rized chartering entity other than the board of trustees of the local school  
27 district.

28 (3) Nothing in this chapter shall prevent the board of directors of a  
29 public charter school, operating as a nonprofit corporation, from borrow-  
30 ing money to finance the purchase or lease of school building facilities,  
31 equipment and furnishings of those school building facilities. Subject to  
32 the terms of a contractual agreement between the board and a lender, noth-  
33 ing herein shall prevent the board from using the facility, its equipment and  
34 furnishings, as collateral for the loan.

35 (4) Public charter schools shall secure insurance for liability and  
36 property loss.

37 (5) It shall be unlawful for:

- 38 (a) Any director to have pecuniary interest directly or indirectly in  
39 any contract or other transaction pertaining to the maintenance or con-  
40 duct of the authorized chartering entity and charter, or to accept any  
41 reward or compensation for services rendered as a director except as may  
42 be otherwise provided in this subsection ~~(5)~~. The board of directors  
43 of a public charter school may accept and award contracts involving the  
44 public charter school to businesses in which the director or a person  
45 related to him by blood or marriage within the second degree has a direct  
46 or indirect interest, provided that the procedures set forth in section  
47 18-1361 or 18-1361A, Idaho Code, are followed. The receiving, solicit-  
48 ing or acceptance of moneys of a public charter school for deposit in any  
49 bank or trust company, or the lending of moneys by any bank or trust com-  
50 pany to any public charter school, shall not be deemed to be a contract

1 pertaining to the maintenance or conduct of a public charter school and  
2 authorized chartering entity within the meaning of this section; nor  
3 shall the payment by any public charter school board of directors of  
4 compensation to any bank or trust company for services rendered in the  
5 transaction of any banking business with such public charter school  
6 board of directors be deemed the payment of any reward or compensation  
7 to any officer or director of any such bank or trust company within the  
8 meaning of this section.

9 (b) The board of directors of any public charter school to enter into  
10 or execute any contract with the spouse of any member of such board, the  
11 terms of which said contract require, or will require, the payment or  
12 delivery of any public charter school funds, moneys or property to such  
13 spouse, except as provided in paragraph (c) of this subsection or in  
14 section 18-1361 or 18-1361A, Idaho Code.

15 (c) No spouse of any director may be employed by a public charter school  
16 physically located within the boundaries of a school district with a  
17 fall student enrollment population of greater than one thousand two  
18 hundred (1,200) in the prior school year. For public charter schools  
19 physically located within the boundaries of a school district with a  
20 fall student enrollment population of one thousand two hundred (1,200)  
21 or less in the prior school year, such spouse may be employed in a non-  
22 administrative position for a school year if each of the following  
23 conditions has been met:

24 (i) The position has been listed as open for application on the  
25 public charter school website for at least sixty (60) days, unless  
26 the opening occurred during the school year, in which case the po-  
27 sition shall be so listed for at least fifteen (15) days;

28 (ii) No applications were received that met the minimum certifi-  
29 cation, endorsement, education or experience requirements of the  
30 position, other than such spouse;

31 (iii) The director abstained from voting in the employment of the  
32 spouse and was absent from the meeting while such employment was  
33 being considered and determined.

34 The public charter school may employ such spouse for further school  
35 years, provided that the conditions contained in this paragraph are  
36 met for each school year in which such spouse is employed. The director  
37 shall abstain from voting in any decisions affecting the compensation,  
38 benefits, individual performance evaluation or disciplinary action  
39 related to the spouse and shall be absent from the meeting while such  
40 issues are being considered and determined. Any spouse of a director  
41 employed as a certificated employee pursuant to this paragraph shall be  
42 employed under a category 1 contract pursuant to section 33-514A, Idaho  
43 Code.

44 (6) When any relative of any director or relative of the spouse of a di-  
45 rector related by affinity or consanguinity within the second degree is to  
46 be considered for employment in a public charter school, such director shall  
47 abstain from voting in the election of such relative, and shall be absent  
48 from the meeting while such employment is being considered and determined.

February 13, 2014

LEGISLATURE OF THE STATE OF IDAHO  
Sixty-second Legislature Second Regular Session - 2014

IN THE SENATE

SENATE BILL NO. 1264

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO THE PUBLIC CHARTER SCHOOL COMMISSION; AMENDING SECTION 33-5213,  
2 IDAHO CODE, TO PROVIDE THAT IT SHALL BE THE RESPONSIBILITY AND DUTY OF  
3 THE DIRECTOR OF THE STATE BOARD OF EDUCATION, OR HIS DESIGNEE, TO AD-  
4 MINISTER AND ENFORCE CERTAIN PROVISIONS AND TO PROVIDE FOR POLICIES AND  
5 RECOMMENDATIONS.  
6

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 33-5213, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 33-5213. PUBLIC CHARTER SCHOOL COMMISSION. (1) There is hereby  
11 created an independent public charter school commission, referred to here-  
12 inafter as the commission, to be located in the office of the state board of  
13 education, pursuant to section 33-105, Idaho Code. It shall be the responsi-  
14 bility and duty of the executive director of the state board of education, or  
15 his designee, acting at the direction of the commission to administer and en-  
16 force the provisions of this chapter, and the director or his designee shall  
17 serve as secretary to the commission.

18 (2) The public charter school commission shall adopt ~~rules~~ policies,  
19 subject to law, regarding the governance and administration of the commis-  
20 sion and make recommendations to the state board of education regarding the  
21 oversight of public charter schools.

22 (3) The commission shall be composed of seven (7) members:

23 (a) Three (3) members shall be appointed by the governor, subject to the  
24 advice and consent of the senate;

25 (b) Two (2) members shall be appointed by the speaker of the house of  
26 representatives; and

27 (c) Two (2) members shall be appointed by the president pro tempore of  
28 the senate.

29 Commissioner appointments made pursuant to this section prior to July 1,  
30 2013, shall remain valid through the duration of the term to which each  
31 commissioner was appointed. To establish a transition to the appointing au-  
32 thority structure contained in this subsection, the first four (4) appoint-  
33 ments available on or after July 1, 2013, shall be made in an alternating  
34 sequence for each appointment by the speaker of the house of representatives  
35 and the president pro tempore of the senate, followed by three (3) appoint-  
36 ments by the governor. Subsequent appointments shall be made by the same  
37 appointing authority that originally appointed the commissioner whose term  
38 expired.

39 (4) The term of office for commission members shall be four (4) years.  
40 In making such appointments, the appointing authorities shall consider  
41 regional balance. Members appointed to the commission shall collectively  
42 possess strong experience and expertise in public and nonprofit governance,

1 management and finance, public school leadership, assessment, curriculum  
2 and instruction and public education law. All members of the commission  
3 shall have demonstrated understanding of and commitment to charter schools  
4 as a strategy for strengthening public education. No commissioner shall  
5 serve more than two (2) consecutive four (4) year terms. Members of the  
6 commission shall hold office until the expiration of the term to which the  
7 member was appointed and until a successor has been duly appointed, unless  
8 sooner removed for cause by the appointing authority. Whenever a vacancy  
9 occurs, the appointing authority shall appoint a qualified person to fill  
10 the vacancy for the unexpired portion of the term.

11 (45) All members of the commission shall be citizens of the United  
12 States and residents of the state of Idaho for not less than two (2) years.

13 (56) The members of the commission shall, at their first regular meet-  
14 ing following the effective date of this act, and every two (2) years there-  
15 after, elect, by a majority vote of the members of the commission, a chairman  
16 and a vice-chairman. The chairman shall preside at meetings of the commis-  
17 sion, and the vice-chairman shall preside at such meetings in the absence of  
18 the chairman. A majority of the members of the commission shall constitute a  
19 quorum. The commission shall meet at such times and places as determined to  
20 be necessary and convenient, or at the call of the chair.

21 (67) Each member of the commission not otherwise compensated by public  
22 moneys shall be compensated as provided in section 59-509(h), Idaho Code.