

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 2755

By: Baker

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8 COMMITTEE SUBSTITUTE

9 An Act relating to schools; amending 70 O.S. 2011,
10 Section 15-101, which relates to school bonds;
11 requiring school districts to give charter schools
12 the opportunity to submit capital projects for bond
13 proposals; directing charter schools and school
14 districts to collaborate for certain purpose;
15 declaring certain capital project properties shall be
16 owned by the school district; providing the charter
17 school shall maintain possession and control of the
18 property under certain circumstances; directing
19 school districts to assume property under certain
20 circumstances; defining terms; amending 70 O.S. 2011,
21 Sections 3-136, as amended by Section 1, Chapter 277,
22 O.S.L. 2014 and 3-142, as last amended by Section 1,
23 Chapter 122, O.S.L. 2020 (70 O.S. Supp. 2020,
24 Sections 3-136 and 3-142), which relate to the
Oklahoma Charter Schools Act; modifying charter
school authority to issue bonds; and providing an
effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 70 O.S. 2011, Section 15-101, is
amended to read as follows:

1 Section 15-101. A. Whenever it shall become necessary for the
2 board of education of any school district to raise sufficient funds
3 for the purchase of a school site or sites, or to erect or purchase
4 and equip a suitable school building or buildings, either or both,
5 or for the purpose of making repairs to an existing school building
6 or buildings, or for the purchase of school furniture and fixtures,
7 or for making improvements to any school site or sites, either or
8 both, it shall be lawful for such board of education to borrow money
9 for which it is hereby authorized and empowered to issue bonds
10 bearing a rate of interest not exceeding seven percent (7%) per
11 annum, payable semiannually, at such place as may be shown on the
12 face of such bonds, which bonds shall be payable serially as
13 otherwise provided by law in not more than twenty-five (25) years
14 from date; and the board of education is hereby authorized and
15 empowered to sell such bonds at not less than their par value;
16 provided, before any bonds shall be issued, the board of education
17 shall cause an election to be held in such district as herein
18 provided; provided, further, bonds may be voted in one issue and at
19 the same election for any or all of the purposes hereinbefore
20 enumerated.

21 B. Prior to causing an election on a bond proposal to be held,
22 any school district that sponsors a charter school pursuant to
23 paragraph 1 of subsection A of Section 3-132 of this title shall
24 give its sponsored charter schools the opportunity to submit capital

1 projects beneficial to the charter school for inclusion in the bond
2 proposal. If a sponsored charter school submits capital projects
3 for inclusion in the bond proposal, the board of education of the
4 school district and the charter school shall collaborate to ensure
5 that the value of the charter school's capital projects in the bond
6 proposal is at least proportional, as a percentage of the value of
7 the entire bond proposal, to the percentage of total students that
8 are enrolled in the charter school.

9 C. Any property purchased as the result of a capital project
10 submitted by a sponsored charter school shall be owned by the school
11 district that issued the bonds. Except as otherwise provided in
12 this subsection, the charter school submitting the capital project
13 shall maintain possession and control of such property until
14 termination of or failure to renew the charter school contract as
15 provided in Section 3-137 of this title or the charter school fails
16 to continue operations. Provided that, if a charter continues
17 operation within the physical boundaries of the original school
18 district sponsor under a new charter sponsored by an entity
19 authorized pursuant to Section 3-132 of this title, the charter
20 school may maintain possession and control of the property for use
21 in the operation of the charter school until termination of or
22 failure to renew the subsequent charter school contract or the
23 charter school fails to continue operations. Upon termination of or
24 failure to renew the subsequent charter school contract or failure

1 to continue operations, possession and control of all property
2 purchased with bond proceeds shall be assumed by the school district
3 that owns the property.

4 D. For purposes of this section:

5 1. "Capital project" shall mean purchasing a school site or
6 sites, erecting or purchasing and equipping a suitable school
7 building or buildings, making repairs to an existing school building
8 or buildings, purchasing school furniture and fixtures, making
9 improvements to any school site or sites, or purchasing school
10 equipment including such equipment as enumerated in Sections 15-106
11 and 15-106.1 of this title; and

12 2. "Total students" shall mean the sum of the number of
13 students enrolled in traditional schools within the school district
14 plus the number of students enrolled in charter schools sponsored by
15 the school district.

16 SECTION 2. AMENDATORY 70 O.S. 2011, Section 3-136, as
17 amended by Section 1, Chapter 277, O.S.L. 2014 (70 O.S. Supp. 2020,
18 Section 3-136), is amended to read as follows:

19 Section 3-136. A. A charter school shall adopt a charter which
20 will ensure compliance with the following:

21 1. A charter school shall comply with all federal regulations
22 and state and local rules and statutes relating to health, safety,
23 civil rights and insurance. By January 1, 2000, the State
24 Department of Education shall prepare a list of relevant rules and

1 statutes which a charter school must comply with as required by this
2 paragraph and shall annually provide an update to the list;

3 2. A charter school shall be nonsectarian in its programs,
4 admission policies, employment practices, and all other operations.

5 A sponsor may not authorize a charter school or program that is
6 affiliated with a nonpublic sectarian school or religious
7 institution;

8 3. The charter school may provide a comprehensive program of
9 instruction for a prekindergarten program, a kindergarten program or
10 any grade between grades one and twelve. Instruction may be
11 provided to all persons between the ages of four (4) and twenty-one
12 (21) years. A charter school may offer a curriculum which
13 emphasizes a specific learning philosophy or style or certain
14 subject areas such as mathematics, science, fine arts, performance
15 arts, or foreign language. The charter of a charter school which
16 offers grades nine through twelve shall specifically address whether
17 the charter school will comply with the graduation requirements
18 established in Section 11-103.6 of this title. No charter school
19 shall be chartered for the purpose of offering a curriculum for deaf
20 or blind students that is the same or similar to the curriculum
21 being provided by or for educating deaf or blind students that are
22 being served by the Oklahoma School for the Blind or the Oklahoma
23 School for the Deaf;

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1 4. A charter school shall participate in the testing as
2 required by the Oklahoma School Testing Program Act and the
3 reporting of test results as is required of a school district. A
4 charter school shall also provide any necessary data to the Office
5 of Accountability;

6 5. Except as provided for in the Oklahoma Charter Schools Act
7 and its charter, a charter school shall be exempt from all statutes
8 and rules relating to schools, boards of education, and school
9 districts;

10 6. A charter school, to the extent possible, shall be subject
11 to the same reporting requirements, financial audits, audit
12 procedures, and audit requirements as a school district. The State
13 Department of Education or State Auditor and Inspector may conduct
14 financial, program, or compliance audits. A charter school shall
15 use the Oklahoma Cost Accounting System to report financial
16 transactions to the sponsoring school district;

17 7. A charter school shall comply with all federal and state
18 laws relating to the education of children with disabilities in the
19 same manner as a school district;

20 8. A charter school shall provide for a governing body for the
21 school which shall be responsible for the policies and operational
22 decisions of the charter school;

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1 9. A charter school shall not be used as a method of generating
2 revenue for students who are being home schooled and are not being
3 educated at an organized charter school site;

4 10. A charter school may not charge tuition or fees;

5 11. A charter school shall provide instruction each year for at
6 least the number of days required in Section 1-109 of this title;

7 12. A charter school shall comply with the student suspension
8 requirements provided for in Section 24-101.3 of this title;

9 13. A charter school shall be considered a school district for
10 purposes of tort liability under The Governmental Tort Claims Act;

11 14. Employees of a charter school may participate as members of
12 the Teachers' Retirement System of Oklahoma in accordance with
13 applicable statutes and rules if otherwise allowed pursuant to law;

14 15. A charter school may participate in all health and related
15 insurance programs available to the employees of the sponsor of the
16 charter school;

17 16. A charter school shall comply with the Oklahoma Open
18 Meeting Act and the Oklahoma Open Records Act;

19 17. The governing body of a charter school shall be subject to
20 the same conflict of interest requirements as a member of a local
21 school board; and

22 18. No later than September 1 each year, the governing board of
23 each charter school formed pursuant to the Oklahoma Charter Schools
24 Act shall prepare a statement of actual income and expenditures for

1 the charter school for the fiscal year that ended on the preceding
2 June 30, in a manner compliant with Section 5-135 of this title.
3 The statement of expenditures shall include functional categories as
4 defined in rules adopted by the State Board of Education to
5 implement the Oklahoma Cost Accounting System pursuant to Section 5-
6 145 of this title. Charter schools shall not be permitted to submit
7 estimates of expenditures or prorated amounts to fulfill the
8 requirements of this paragraph.

9 B. The charter of a charter school shall include a description
10 of the personnel policies, personnel qualifications, and method of
11 school governance, and the specific role and duties of the sponsor
12 of the charter school.

13 C. The charter of a charter school may be amended at the
14 request of the governing body of the charter school and upon the
15 approval of the sponsor.

16 D. A charter school may enter into contracts and sue and be
17 sued.

18 E. The governing body of a charter school may not levy taxes or
19 issue bonds; provided, however, a charter school sponsored by the
20 board of education of a school district may submit capital projects
21 for inclusion in the school district's bond proposal as provided in
22 Section 15-101 of this title.

23 F. The charter of a charter school shall include a provision
24 specifying the method or methods to be employed for disposing of

1 real and personal property acquired by the charter school upon
2 expiration or termination of the charter or failure of the charter
3 school to continue operations. Except as otherwise provided, any
4 real or personal property purchased with state or local funds shall
5 be retained by the sponsoring school district. If a charter school
6 that was previously sponsored by the board of education of a school
7 district continues operation within the school district under a new
8 charter sponsored by an entity authorized pursuant to Section 3-132
9 of this title, the charter school may retain any personal property
10 purchased with state or local funds for use in the operation of the
11 charter school until termination of the new charter or failure of
12 the charter school to continue operations.

13 SECTION 3. AMENDATORY 70 O.S. 2011, Section 3-142, as
14 last amended by Section 1, Chapter 122, O.S.L. 2020 (70 O.S. Supp.
15 2020, Section 3-142), is amended to read as follows:

16 Section 3-142. A. For purposes of funding, a charter school
17 sponsored by a board of education of a school district shall be
18 considered a site within the school district in which the charter
19 school is located. The student membership of the charter school
20 shall be considered separate from the student membership of the
21 district in which the charter school is located for the purpose of
22 calculating weighted average daily membership pursuant to Section
23 18-201.1 of this title and State Aid pursuant to Section 18-200.1 of
24 this title. For charter schools sponsored by a board of education

1 of a school district, the sum of the separate calculations for the
2 charter school and the school district shall be used to determine
3 the total State Aid allocation for the district in which the charter
4 school is located. A charter school shall receive from the
5 sponsoring school district, the State Aid allocation and any other
6 state-appropriated revenue generated by its students for the
7 applicable year, less up to three percent (3%) of the State Aid
8 allocation, which may be retained by the school district as a fee
9 for administrative services rendered. For charter schools sponsored
10 by the board of education of a technology center school district, a
11 higher education institution, the State Board of Education, or a
12 federally recognized Indian tribe and for statewide virtual charter
13 schools sponsored by the Statewide Virtual Charter School Board, the
14 State Aid allocation for the charter school shall be distributed by
15 the State Board of Education and not more than three percent (3%) of
16 the State Aid allocation may be charged by the sponsor as a fee for
17 administrative services rendered. The State Board of Education
18 shall determine the policy and procedure for making payments to a
19 charter school. The fee for administrative services as authorized
20 in this subsection shall only be assessed on the State Aid
21 allocation amount and shall not be assessed on any other
22 appropriated amounts. A sponsor of a charter school shall not
23 retain any additional State Aid allocation or charge the charter
24 school any additional fee above the amounts allowed by this

1 subsection unless the additional fees are for additional services
2 rendered. The charter school sponsor shall provide to the State
3 Department of Education financial records documenting any state
4 funds retained by the sponsor for administrative services rendered
5 for the previous year.

6 B. 1. The weighted average daily membership for the first year
7 of operation of a charter school shall be determined initially by
8 multiplying the actual enrollment of students as of August 1 by
9 1.333. The charter school shall receive revenue equal to that which
10 would be generated by the estimated weighted average daily
11 membership calculated pursuant to this paragraph. At midyear, the
12 allocation for the charter school shall be adjusted using the first
13 quarter weighted average daily membership for the charter school
14 calculated pursuant to subsection A of this section.

15 2. For the purpose of calculating weighted average daily
16 membership pursuant to Section 18-201.1 of this title and State Aid
17 pursuant to Section 18-200.1 of this title, the weighted average
18 daily membership for the first year of operation and each year
19 thereafter of a full-time virtual charter school shall be determined
20 by multiplying the actual enrollment of students as of August 1 by
21 1.333. The full-time virtual charter school shall receive revenue
22 equal to that which would be generated by the estimated weighted
23 average daily membership calculated pursuant to this paragraph. At
24 midyear, the allocation for the full-time virtual charter school

1 shall be adjusted using the first quarter weighted average daily
2 membership for the virtual charter school calculated pursuant to
3 subsection A of this section.

4 C. A charter school shall be eligible to receive any other aid,
5 grants or revenues allowed to other schools. A charter school
6 sponsored by the board of education of a technology center school
7 district, a higher education institution, the State Board of
8 Education, or a federally recognized Indian tribe shall be
9 considered a local education agency for purposes of funding. A
10 charter school sponsored by a board of education of a school
11 district shall be considered a local education agency for purposes
12 of federal funding.

13 D. A charter school, in addition to the money received from the
14 state, may receive money from any other source. Any unexpended
15 funds may be reserved and used for future purposes. The governing
16 body of a charter school shall not levy taxes or issue bonds;
17 provided, however, a charter school sponsored by the board of
18 education of a school district may submit capital projects for
19 inclusion in the school district's bond proposal as provided in
20 Section 15-101 of this title. If otherwise allowed by law, the
21 governing body of a charter school may enter into private contracts
22 for the purposes of borrowing money from lenders. If the governing
23 body of the charter school borrows money, the charter school shall
24 be solely responsible for repaying the debt, and the state or the

1 sponsor shall not in any way be responsible or obligated to repay
2 the debt.

3 E. Any charter school which chooses to lease property shall be
4 eligible to receive current government lease rates.

5 F. Except as otherwise provided in this subsection, each
6 charter school shall pay to the Charter School Closure Reimbursement
7 Revolving Fund created in subsection G of this section an amount
8 equal to Five Dollars (\$5.00) per student based on average daily
9 membership, as defined by paragraph 2 of Section 18-107 of this
10 title, during the first nine (9) weeks of the school year. Each
11 charter school shall complete the payment every school year within
12 thirty (30) days after the first nine (9) weeks of the school year.
13 If the Charter School Closure Reimbursement Revolving Fund has a
14 balance of One Million Dollars (\$1,000,000.00) or more on July 1, no
15 payment shall be required the following school year.

16 G. There is hereby created in the State Treasury a revolving
17 fund for the State Department of Education to be designated the
18 "Charter School Closure Reimbursement Revolving Fund". The fund
19 shall be a continuing fund, not subject to fiscal year limitations,
20 and shall consist of all monies received by the State Department of
21 Education from charter schools as provided in subsection F of this
22 section. All monies accruing to the credit of said fund are hereby
23 appropriated and may be budgeted and expended by the State
24 Department of Education for the purpose of reimbursing charter

1 school sponsors for costs incurred due to the closure of a charter
2 school. Expenditures from said fund shall be made upon warrants
3 issued by the State Treasurer against claims filed as prescribed by
4 law with the Director of the Office of Management and Enterprise
5 Services for approval and payment. The State Department of
6 Education may promulgate rules regarding sponsor eligibility for
7 reimbursement.

8 SECTION 4. This act shall become effective November 1, 2021.

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