

1 **SENATE FLOOR VERSION**

2 February 2, 2021

3 SENATE BILL NO. 239

By: Pemberton

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5
6 An Act relating to charter schools; amending 70 O.S.
7 2011, Section 3-132, as last amended by Section 29,
8 Chapter 42, O.S.L. 2017 (70 O.S. Supp. 2020, Section
9 3-132), which relates to charter school sponsorship;
10 clarifying criteria for the State Board of Education
11 to sponsor certain charter school; requiring the
12 State Department of Education to make certain
13 determination and recommendation prior to the State
14 Board of Education sponsoring a charter school;
15 directing the Board to provide certain opportunity to
16 be heard prior to sponsoring a charter school;
17 requiring demonstration of certain support to come
18 from within certain geographical boundaries;
19 requiring an applicant to adhere to certain
20 requirements; updating statutory reference; amending
21 70 O.S. 2011, Section 3-134, as amended by Section 2,
22 Chapter 170, O.S.L. 2015 (70 O.S. Supp. 2020, Section
23 3-134), which relates to charter school applications;
24 providing appeal process procedures and requirements
for certain charter school sponsorship appeals;
providing an effective date; and declaring an
emergency.

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

SECTION 1. AMENDATORY 70 O.S. 2011, Section 3-132, as
last amended by Section 29, Chapter 42, O.S.L. 2017 (70 O.S. Supp.
2020, Section 3-132), is amended to read as follows:

Section 3-132. A. The Oklahoma Charter Schools Act shall apply
only to charter schools formed and operated under the provisions of

1 the ~~act~~ Oklahoma Charter Schools Act. Charter schools shall be
2 sponsored only as follows:

3 1. By any school district located in ~~the State of Oklahoma~~ this
4 state, provided such charter school shall only be located within the
5 geographical boundaries of the sponsoring district and subject to
6 the restrictions of Section 3-145.6 of this title;

7 2. By a technology center school district if the charter school
8 is located in a school district served by the technology center
9 school district in which all or part of the school district is
10 located in a county having more than five hundred thousand (500,000)
11 population according to the latest Federal Decennial Census;

12 3. By a technology center school district if the charter school
13 is located in a school district served by the technology center
14 school district and the school district has a school site that has
15 been identified as in need of improvement by the State Board of
16 Education pursuant to the Elementary and Secondary Education Act of
17 1965, as amended or reauthorized;

18 4. By an accredited comprehensive or regional institution that
19 is a member of The Oklahoma State System of Higher Education or a
20 community college if the charter school is located in a school
21 district in which all or part of the school district is located in a
22 county having more than five hundred thousand (500,000) population
23 according to the latest Federal Decennial Census;

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1 5. By a comprehensive or regional institution that is a member
2 of The Oklahoma State System of Higher Education if the charter
3 school is located in a school district that has a school site that
4 has been identified as in need of improvement by the State Board of
5 Education pursuant to the Elementary and Secondary Education Act of
6 1965, as amended or reauthorized. In addition, the institution
7 shall have a teacher education program accredited by the Oklahoma
8 Commission for Teacher Preparation and have a branch campus or
9 constituent agency physically located within the school district in
10 which the charter school is located in the State of Oklahoma;

11 6. By a federally recognized Indian tribe, operating a high
12 school under the authority of the Bureau of Indian Affairs as of
13 November 1, 2010, if the charter school is for the purpose of
14 demonstrating native language immersion instruction, and is located
15 within its former reservation or treaty area boundaries. For
16 purposes of this paragraph, native language immersion instruction
17 shall require that educational instruction and other activities
18 conducted at the school site are primarily conducted in the native
19 language;

20 7. By the State Board of Education when the applicant of the
21 charter school is the Office of Juvenile Affairs or the applicant
22 has a contract with the Office of Juvenile Affairs to provide a
23 fixed rate level E, D, or D+ group home service and the charter
24 school is for the purpose of providing education services to youth

1 in the custody or supervision of the state. Not more than two
2 charter schools shall be sponsored by the Board as provided for in
3 this paragraph during the period of time beginning July 1, 2010,
4 through July 1, 2016;

5 8. By a federally recognized Indian tribe only when the charter
6 school is located within the former reservation or treaty area
7 boundaries of the tribe on property held in trust by the Bureau of
8 Indian Affairs of the United States Department of the Interior for
9 the benefit of the tribe; or

10 9. By the State Board of Education ~~when the~~ after an applicant
11 has first been denied a charter by the local school district in
12 which it seeks to operate and has appealed the decision pursuant to
13 subsection E of Section 3-134 of this title. In counties with fewer
14 than five hundred thousand (500,000) population, according to the
15 latest Federal Decennial Census, the State Board of Education shall
16 not sponsor more than five charter schools per year each year for
17 the first five (5) years after ~~the effective date of this act~~ August
18 21, 2015, with not more than one charter school sponsored in a
19 single school district per year. The Board shall not sponsor a
20 charter school unless the State Department of Education has made a
21 determination and recommendation that the Board has the capacity,
22 both in financial and personnel resources, to sponsor a charter
23 school and the capacity to adhere to the contractual requirements
24 and follow the sponsor contract guidelines outlined in Section 3-135

1 of this title. In order to authorize a charter school under this
2 section, the State Board of Education shall first provide an
3 opportunity to be heard to the applicant and the school district
4 board of education as provided for in subsection E of Section 3-134
5 of this title and find evidence of all of the following:

- 6 a. a thorough and high-quality charter school application
7 from the applicant based on the authorizing standards
8 in subsection B of Section 3-134 of this title,
- 9 b. a clear demonstration of community support ~~for~~ by
10 members of the community within the geographical
11 boundaries of the proposed charter school, and
- 12 c. the grounds and basis of objection by the school
13 district for denying the operation of the charter are
14 not supported by the greater weight of evidence and
15 the strength of the application, and
- 16 d. that the applicant did comply with every applicable
17 application requirement set forth in subsection B of
18 Section 3-134 of this title.

19 B. An eligible non-school-district sponsor shall give priority
20 to opening charter schools that serve at-risk student populations or
21 students from low-performing traditional public schools.

22 C. An eligible non-school-district sponsor shall give priority
23 to applicants that have demonstrated a record of operating at least
24 one school or similar program that demonstrates academic success and

1 organizational viability and serves student populations similar to
2 those the proposed charter school seeks to serve. In assessing the
3 potential for quality replication of a charter school, a sponsor
4 shall consider the following factors before approving a new site or
5 school:

6 1. Evidence of a strong and reliable record of academic success
7 based primarily on student performance data, as well as other viable
8 indicators, including financial and operational success;

9 2. A sound, detailed, and well-supported growth plan;

10 3. Evidence of the ability to transfer successful practices to
11 a potentially different context that includes reproducing critical
12 cultural, organizational and instructional characteristics;

13 4. Any management organization involved in a potential
14 replication is fully vetted, and the academic, financial and
15 operational records of the schools it operates are found to be
16 satisfactory;

17 5. Evidence the program seeking to be replicated has the
18 capacity to do so successfully without diminishing or putting at
19 risk its current operations; and

20 6. A financial structure that ensures that funds attributable
21 to each charter school within a network and required by law to be
22 utilized by a school remain with and are used to benefit that
23 school.

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1 D. For purposes of the Oklahoma Charter Schools Act, "charter
2 school" means a public school established by contract with a board
3 of education of a school district, an area vocational-technical
4 school district, a higher education institution, a federally
5 recognized Indian tribe, or the State Board of Education pursuant to
6 the Oklahoma Charter Schools Act to provide learning that will
7 improve student achievement and as defined in the Elementary and
8 Secondary Education Act of 1965, 20 U.S.C. 8065.

9 E. 1. For the purposes of the Oklahoma Charter Schools Act,
10 "conversion school" means a school created by converting all or any
11 part of a traditional public school in order to access any or all
12 flexibilities afforded to a charter school.

13 2. Prior to the board of education of a school district
14 converting all or any part of a traditional public school to a
15 conversion school, the board shall prepare a conversion plan. The
16 conversion plan shall include documentation that demonstrates and
17 complies with paragraphs 1, 2, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17,
18 19, 20, 21, 22, 23, 24, 34 and 35 of subsection B of Section 3-134
19 of this title. The conversion plan and all documents shall be in
20 writing and shall be available to the public pursuant to the
21 requirements of the Oklahoma Open Records Act. All votes by the
22 board of education of a school district to approve a conversion plan
23 shall be held in an open public session. If the board of education
24 of a school district votes to approve a conversion plan, the board

1 shall notify the State Board of Education within sixty (60) days
2 after the vote. The notification shall include a copy of the
3 minutes for the board meeting at which the conversion plan was
4 approved.

5 3. A conversion school shall comply with all the same
6 accountability measures as are required of a charter school as
7 defined in subsection D of this section. The provisions of Sections
8 3-140 and 3-142 of this title shall not apply to a conversion
9 school. Conversion schools shall comply with the same laws and
10 State Board of Education rules relating to student enrollment which
11 apply to traditional public schools. Conversion schools shall be
12 funded by the board of education of the school district as a school
13 site within the school district and funding shall not be affected by
14 the conversion of the school.

15 4. The board of education of a school district may vote to
16 revert a conversion school back to a traditional public school at
17 any time; provided, the change shall only occur during a break
18 between school years.

19 5. Unless otherwise provided for in this subsection, a
20 conversion school shall retain the characteristics of a traditional
21 public school.

22 F. A charter school may consist of a new school site, new
23 school sites or all or any portion of an existing school site. An
24 entire school district may not become a charter school site.

1 SECTION 2. AMENDATORY 70 O.S. 2011, Section 3-134, as
2 amended by Section 2, Chapter 170, O.S.L. 2015 (70 O.S. Supp. 2020,
3 Section 3-134), is amended to read as follows:

4 Section 3-134. A. For written applications filed after January
5 1, 2008, prior to submission of the application to a proposed
6 sponsor seeking to establish a charter school, the applicant shall
7 be required to complete training which shall not exceed ten (10)
8 hours provided by the State Department of Education on the process
9 and requirements for establishing a charter school. The Department
10 shall develop and implement the training by January 1, 2008. The
11 Department may provide the training in any format and manner that
12 the Department determines to be efficient and effective including,
13 but not limited to, web-based training.

14 B. Except as otherwise provided for in Section 3-137 of this
15 title, an applicant seeking to establish a charter school shall
16 submit a written application to the proposed sponsor as prescribed
17 in subsection E of this section. The application shall include:

- 18 1. A mission statement for the charter school;
- 19 2. A description including, but not limited to, background
20 information of the organizational structure and the governing body
21 of the charter school;
- 22 3. A financial plan for the first five (5) years of operation
23 of the charter school and a description of the treasurer or other
24 officers or persons who shall have primary responsibility for the

- 1 finances of the charter school. Such person shall have demonstrated
2 experience in school finance or the equivalent thereof;
- 3 4. A description of the hiring policy of the charter school;
- 4 5. The name of the applicant or applicants and requested
5 sponsor;
- 6 6. A description of the facility and location of the charter
7 school;
- 8 7. A description of the grades being served;
- 9 8. An outline of criteria designed to measure the effectiveness
10 of the charter school;
- 11 9. A demonstration of support for the charter school from
12 residents of the school district which may include but is not
13 limited to a survey of the school district residents or a petition
14 signed by residents of the school district;
- 15 10. Documentation that the applicants completed charter school
16 training as set forth in subsection A of this section;
- 17 11. A description of the minimum and maximum enrollment planned
18 per year for each term of the charter contract;
- 19 12. The proposed calendar for the charter school and sample
20 daily schedule;
- 21 13. Unless otherwise authorized by law or regulation, a
22 description of the academic program aligned with state standards;
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1 14. A description of the instructional design of the charter
2 school, including the type of learning environment, class size and
3 structure, curriculum overview and teaching methods;

4 15. The plan for using internal and external assessments to
5 measure and report student progress on the performance framework
6 developed by the applicant in accordance with subsection C of
7 Section 3-135 of this title;

8 16. The plans for identifying and successfully serving students
9 with disabilities, students who are English language learners and
10 students who are academically behind;

11 17. A description of cocurricular or extracurricular programs
12 and how they will be funded and delivered;

13 18. Plans and time lines for student recruitment and
14 enrollment, including lottery procedures;

15 19. The student discipline policies for the charter school,
16 including those for special education students;

17 20. An organizational chart that clearly presents the
18 organizational structure of the charter school, including lines of
19 authority and reporting between the governing board, staff, any
20 related bodies such as advisory bodies or parent and teacher
21 councils and any external organizations that will play a role in
22 managing the school;

23 21. A clear description of the roles and responsibilities for
24 the governing board, the leadership and management team for the

1 charter school and any other entities shown in the organizational
2 chart;

3 22. The leadership and teacher employment policies for the
4 charter school;

5 23. Proposed governing bylaws;

6 24. Explanations of any partnerships or contractual
7 partnerships central to the operations or mission of the charter
8 school;

9 25. The plans for providing transportation, food service and
10 all other significant operational or ancillary services;

11 26. Opportunities and expectations for parental involvement;

12 27. A detailed school start-up plan that identifies tasks, time
13 lines and responsible individuals;

14 28. A description of the financial plan and policies for the
15 charter school, including financial controls and audit requirements;

16 29. A description of the insurance coverage the charter school
17 will obtain;

18 30. Start-up and five-year budgets with clearly stated
19 assumptions;

20 31. Start-up and first-year cash-flow projections with clearly
21 stated assumptions;

22 32. Evidence of anticipated fundraising contributions, if
23 claimed in the application;

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1 33. A sound facilities plan, including backup or contingency
2 plans if appropriate;

3 34. A requirement that the charter school governing board meet
4 at a minimum quarterly in the state and that for those charter
5 schools outside of counties with a population of five hundred
6 thousand (500,000) or more, that a majority of members are residents
7 within the geographic boundary of the sponsoring entity; and

8 35. A requirement that the charter school follow the
9 requirements of the Oklahoma Open Meeting Act and Oklahoma Open
10 Records Act.

11 C. A board of education of a public school district, public
12 body, public or private college or university, private person, or
13 private organization may contract with a sponsor to establish a
14 charter school. A private school shall not be eligible to contract
15 for a charter school under the provisions of the Oklahoma Charter
16 Schools Act.

17 D. The sponsor of a charter school is the board of education of
18 a school district, the board of education of a technology center
19 school district, a higher education institution, the State Board of
20 Education, or a federally recognized Indian tribe which meets the
21 criteria established in Section 3-132 of this title. Any board of
22 education of a school district in the state may sponsor one or more
23 charter schools. The physical location of a charter school
24 sponsored by a board of education of a school district or a

1 technology center school district shall be within the boundaries of
2 the sponsoring school district. The physical location of a charter
3 school sponsored by the State Board of Education when the applicant
4 of the charter school is the Office of Juvenile Affairs shall be
5 where an Office of Juvenile Affairs facility for youth is located.
6 The physical location of a charter school otherwise sponsored by the
7 State Board of Education pursuant to paragraph 8 of subsection A of
8 Section 3-132 of this title shall be in the school district in which
9 the application originated.

10 E. An applicant for a charter school may submit an application
11 to a proposed sponsor which shall either accept or reject
12 sponsorship of the charter school within ninety (90) days of receipt
13 of the application. If the proposed sponsor rejects the
14 application, it shall notify the applicant in writing of the reasons
15 for the rejection. The applicant may submit a revised application
16 for reconsideration to the proposed sponsor within thirty (30) days
17 after receiving notification of the rejection. The proposed sponsor
18 shall accept or reject the revised application within thirty (30)
19 days of its receipt. Should the sponsor reject the application on
20 reconsideration, the applicant may appeal the decision to the State
21 Board of Education with the revised application for review pursuant
22 to paragraph & 9 of subsection A of Section 3-132 of this title.
23 The State Board of Education shall hear the appeal no later than
24 sixty (60) days from the date received by the Board. The State

1 Board of Education, the applicant and the proposed sponsor when the
2 sponsor is the board of education of a public school district shall
3 adhere to the following appeal process procedures and requirements:

4 1. The applicant and proposed sponsor shall be permitted to be
5 represented by an attorney at any hearing before the State Board of
6 Education;

7 2. The applicant has thirty (30) days after denial of a revised
8 application to file an appeal with the Board. The appeal shall be
9 submitted to the chair of the Board in writing and shall state the
10 basis for the appeal. The applicant shall provide the proposed
11 sponsor a certified copy of the appeal and all accompanying
12 documents submitted for the appeal within five (5) business days of
13 submission to the Board;

14 3. The hearing shall be scheduled and heard within sixty (60)
15 days of receipt of the appeal by the State Board of Education. All
16 parties shall be permitted to be represented by an attorney;

17 4. The Board may grant a continuance of the hearing upon
18 written notice of either party submitted at least five (5) days
19 prior to the date set for the hearing. The hearing also may be
20 reset upon written agreement of all parties; and

21 5. If the Board determines that the school district board of
22 education should have accepted the applicant's proposal, then the
23 Board may choose to sponsor the applicant, subject to the
24 requirements set forth in paragraph 9 of subsection A of Section 3-

1 132 of this title. The decision of the Board shall be final and
2 nonappealable.

3 F. A board of education of a school district, board of
4 education of a technology center school district, higher education
5 institution, or federally recognized Indian tribe sponsor of a
6 charter school shall notify the State Board of Education when it
7 accepts sponsorship of a charter school. The notification shall
8 include a copy of the charter of the charter school.

9 G. Applicants for charter schools proposed to be sponsored by
10 an entity other than a school district pursuant to paragraph 1 of
11 subsection A of Section 3-132 of this title may, upon rejection of
12 the revised application, proceed to binding arbitration under the
13 commercial rules of the American Arbitration Association with costs
14 of the arbitration to be borne by the proposed sponsor. Applicants
15 for charter schools proposed to be sponsored by school districts
16 pursuant to paragraph 1 of subsection A of Section 3-132 of this
17 title may not proceed to binding arbitration but may be sponsored by
18 the State Board of Education as provided in paragraph 8 of
19 subsection A of Section 3-132 of this title.

20 H. If a board of education of a technology center school
21 district, a higher education institution, the State Board of
22 Education, or a federally recognized Indian tribe accepts
23 sponsorship of a charter school, the administrative, fiscal and
24 oversight responsibilities of the technology center school district,

1 the higher education institution, or the federally recognized Indian
2 tribe shall be listed in the contract. No responsibilities shall be
3 delegated to a school district unless the local school district
4 agrees to assume the responsibilities.

5 I. A sponsor of a public charter school shall have the
6 following powers and duties:

7 1. Provide oversight of the operations of charter schools in
8 the state through annual performance reviews of charter schools and
9 reauthorization of charter schools for which it is a sponsor;

10 2. Solicit and evaluate charter applications;

11 3. Approve quality charter applications that meet identified
12 educational needs and promote a diversity of educational choices;

13 4. Decline to approve weak or inadequate charter applications;

14 5. Negotiate and execute sound charter contracts with each
15 approved public charter school;

16 6. Monitor, in accordance with charter contract terms, the
17 performance and legal compliance of charter schools; and

18 7. Determine whether each charter contract merits renewal,
19 nonrenewal or revocation.

20 J. Sponsors shall establish a procedure for accepting,
21 approving and disapproving charter school applications in accordance
22 with subsection E of this section.

23 K. Sponsors shall be required to develop and maintain
24 chartering policies and practices consistent with recognized

1 principles and standards for quality charter authorizing as
2 established by the State Department of Education in all major areas
3 of authorizing responsibility, including organizational capacity and
4 infrastructure, soliciting and evaluating charter applications,
5 performance contracting, ongoing charter school oversight and
6 evaluation and charter renewal decision-making.

7 L. Sponsors acting in their official capacity shall be immune
8 from civil and criminal liability with respect to all activities
9 related to a charter school with which they contract.

10 SECTION 3. This act shall become effective July 1, 2021.

11 SECTION 4. It being immediately necessary for the preservation
12 of the public peace, health or safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval.

15 COMMITTEE REPORT BY: COMMITTEE ON EDUCATION
16 February 2, 2021 - DO PASS

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