

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1856

6 By: Shumate

7 COMMITTEE SUBSTITUTE

8 An Act relating to schools; amending 70 O.S. 2001,  
9 Sections 3-132, as last amended by Section 1, Chapter  
10 290, O.S.L. 2010, 3-134, as last amended by Section  
11 2, Chapter 288, O.S.L. 2010 and 3-142, as last  
12 amended by Section 4, Chapter 288, O.S.L. 2010 (70  
13 O.S. Supp. 2010, Sections 3-132, 3-134 and 3-142),  
14 which relate to the Oklahoma Charter Schools Act;  
15 updating statutory language; adding the Charter  
16 School Sponsoring Commission as a charter school  
17 sponsor; modifying definition; creating the Charter  
18 School Sponsoring Commission; providing for  
19 appointment of members; providing term of membership;  
20 providing for removal of members; prohibiting certain  
21 persons from being appointed to the Commission;  
22 empowering the chair to call meetings; providing for  
23 a quorum; requiring Commission to comply with certain  
24 laws; providing reimbursement for travel; granting  
power to promulgate rules; providing for staff;  
providing for codification; providing an effective  
date; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 70 O.S. 2001, Section 3-132, as  
2 last amended by Section 1, Chapter 290, O.S.L. 2010 (70 O.S. Supp.  
3 2010, Section 3-132), is amended to read as follows:

4 Section 3-132. A. The Oklahoma Charter Schools Act shall apply  
5 only to charter schools formed and operated under the provisions of  
6 the act. Charter schools shall be sponsored only as follows:

7 1. By a school district with an average daily membership of  
8 five thousand (5,000) or more and which all or part of the school  
9 district is located in a county having more than five hundred  
10 thousand (500,000) population according to the latest Federal  
11 Decennial Census;

12 2. By a school district which has a school site listed on the  
13 school improvement list as determined by the State Board of  
14 Education pursuant to the Elementary and Secondary Education Act of  
15 1965, as amended or reauthorized;

16 3. By a technology center school district if the charter school  
17 is located in a school district served by the technology center  
18 school district and the school district has an average daily  
19 membership of five thousand (5,000) or more and which all or part of  
20 the school district is located in a county having more than five  
21 hundred thousand (500,000) population according to the latest  
22 Federal Decennial Census;

23 4. By a technology center school district if the charter school  
24 is located in a school district served by the technology center

1 school district and the school district has a school site listed on  
2 the school improvement list as determined by the State Board of  
3 Education pursuant to the Elementary and Secondary Education Act of  
4 1965, as amended or reauthorized;

5 5. By a comprehensive or regional institution that is a member  
6 of The Oklahoma State System of Higher Education if the charter  
7 school is located in a school district that has an average daily  
8 membership of five thousand (5,000) or more and which all or part of  
9 the school district is located in a county having more than five  
10 hundred thousand (500,000) population according to the latest  
11 Federal Decennial Census. In addition, the institution shall have a  
12 teacher education program accredited by the Oklahoma Commission for  
13 Teacher Preparation and have a branch campus or constituent agency  
14 physically located within the school district in which the charter  
15 school is located;

16 6. By a comprehensive or regional institution that is a member  
17 of The Oklahoma State System of Higher Education if the charter  
18 school is located in a school district that has a school site listed  
19 on the school improvement list as determined by the State Board of  
20 Education pursuant to the Elementary and Secondary Education Act of  
21 1965, as amended or reauthorized. In addition, the institution  
22 shall have a teacher education program accredited by the Oklahoma  
23 Commission for Teacher Preparation and have a branch campus or  
24

1 constituent agency physically located within the school district in  
2 which the charter school is located; ~~or~~

3 7. By a federally recognized Indian tribe, operating a high  
4 school under the authority of the Bureau of Indian Affairs as of ~~the~~  
5 ~~effective date of this act~~ November 1, 2010, if the charter school  
6 is for the purpose of demonstrating native language immersion  
7 instruction, and is located within its former reservation or treaty  
8 area boundaries. For purposes of this paragraph, native language  
9 immersion instruction shall require that educational instruction and  
10 other activities conducted at the school site are primarily  
11 conducted in the native language; or

12 8. By the Charter School Sponsoring Commission as created in  
13 Section 2 of this act.

14 B. Any charter or enterprise school operating in the state  
15 pursuant to an agreement with the board of education of a school  
16 district on July 1, 1999, may continue to operate pursuant to that  
17 agreement or may contract with the board of education of the school  
18 district pursuant to the Oklahoma Charter Schools Act. Nothing in  
19 the Oklahoma Charter Schools Act shall prohibit a school district  
20 from applying for exemptions from certain education-related  
21 statutory requirements as provided for in the Educational  
22 Deregulation Act.

23 C. For purposes of the Oklahoma Charter Schools Act, "charter  
24 school" means a public school established by contract with a board

1 of education of a school district, an area vocational-technical  
2 school district, a higher education institution, ~~or~~ a federally  
3 recognized Indian tribe, or the Charter School Sponsoring Commission  
4 pursuant to the Oklahoma Charter Schools Act to provide learning  
5 that will improve student achievement and as defined in the  
6 Elementary and Secondary Education Act of 1965, 20 U.S.C. 8065.

7 D. A charter school may consist of a new school site, new  
8 school sites or all or any portion of an existing school site. An  
9 entire school district may not become a charter school site.

10 SECTION 2. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 3-132.1 of Title 70, unless  
12 there is created a duplication in numbering, reads as follows:

13 A. There is hereby created the Charter School Sponsoring  
14 Commission. The Commission shall have the authority to sponsor a  
15 charter school in any school district described in paragraph 1 or 2  
16 of subsection A of Section 3-132 of Title 70 of the Oklahoma  
17 Statutes. The Commission shall be composed of seven (7) members as  
18 follows:

19 1. The State Superintendent of Public Instruction who shall  
20 serve as the chair;

21 2. Two members appointed by the Governor;

22 3. Two members appointed by the President Pro Tempore of the  
23 Senate; and

24

1       4. Two members appointed by the Speaker of the House of  
2 Representatives.

3       B. Appointments shall be made by August 1, 2011. The President  
4 Pro Tempore of the Senate and the Speaker of the House of  
5 Representatives shall each appoint one member for one (1) year and  
6 one member for three (3) years. The Governor shall appoint two  
7 members for two (2) years. Members shall serve until their  
8 successors are duly appointed for a term of three (3) years.  
9 Appointments shall be made by and take effect on November 1 of the  
10 year in which the appointment is made.

11       C. A member may be removed from the Commission by the  
12 appointing authority for cause which shall include, but not be  
13 limited to:

14       1. Being found guilty by a court of competent jurisdiction of a  
15 felony or any offense involving moral turpitude;

16       2. Being found guilty of malfeasance, misfeasance or  
17 nonfeasance in relation to Commission duties;

18       3. Being found mentally incompetent by a court of competent  
19 jurisdiction; or

20       4. Failing to attend three successive meetings of the member  
21 commission without just cause, as determined by the Commission.

22       D. Vacancies shall be filled by the appointing authority.  
23  
24

1 E. No member of the Senate or House of Representatives may be  
2 appointed to the Commission while serving as a member of the  
3 Legislature.

4 SECTION 3. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 3-132.2 of Title 70, unless  
6 there is created a duplication in numbering, reads as follows:

7 A. The Charter School Sponsoring Commission shall meet at the  
8 call of the chair. The first meeting of the Commission shall be  
9 held no later than September 1, 2011.

10 B. A quorum of the Commission shall be required for the  
11 Commission to take final action. For purposes of this section a  
12 quorum shall be four members of the Commission.

13 C. The Commission shall act in accordance with the provisions  
14 of the Oklahoma Open Meeting Act, the Oklahoma Open Records Act and  
15 the Administrative Procedures Act.

16 D. Members of the Commission shall receive no compensation for  
17 their service, but shall receive travel reimbursement as follows:

18 1. State employees who are members of the Commission shall be  
19 reimbursed for travel expenses incurred in the performance of their  
20 duties by their respective agencies in accordance with the State  
21 Travel Reimbursement Act; and

22 2. All other Commission members shall be reimbursed by the  
23 appointing authority for travel expenses incurred in the performance  
24

1 of their duties in accordance with the State Travel Reimbursement  
2 Act.

3 SECTION 4. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 3-132.3 of Title 70, unless  
5 there is created a duplication in numbering, reads as follows:

6 A. Pursuant to and in compliance with the Article I of the  
7 Administrative Procedures Act, the Charter School Sponsoring  
8 Commission shall have the power to promulgate rules as may be  
9 necessary to implement the provisions of this act.

10 B. The State Department of Education shall provide staff to  
11 support the Commission.

12 SECTION 5. AMENDATORY 70 O.S. 2001, Section 3-134, as  
13 last amended by Section 2, Chapter 288, O.S.L. 2010 (70 O.S. Supp.  
14 2010, Section 3-134), is amended to read as follows:

15 Section 3-134. A. For written applications filed after January  
16 1, 2008, prior to submission of the application to a proposed  
17 sponsor seeking to establish a charter school, the applicant shall  
18 be required to complete training which shall not exceed ten (10)  
19 hours provided by the State Department of Education on the process  
20 and requirements for establishing a charter school. The Department  
21 shall develop and implement the training by January 1, 2008. The  
22 Department may provide the training in any format and manner that  
23 the Department determines to be efficient and effective including,  
24 but not limited to, web-based training.

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

5 1. A mission statement for the charter school;

6 2. A description of the organizational structure and the  
7 governing body of the charter school;

8 3. A financial plan for the first three (3) years of operation  
9 of the charter school and a description of the treasurer or other  
10 officers or persons who shall have primary responsibility for the  
11 finances of the charter school. Such person shall have demonstrated  
12 experience in school finance or the equivalent thereof;

13 4. A description of the hiring policy of the charter school;

14 5. The name of the applicant or applicants and requested  
15 sponsor;

16 6. A description of the facility and location of the charter  
17 school;

18 7. A description of the grades being served;

19 8. An outline of criteria designed to measure the effectiveness  
20 of the charter school;

21 9. A demonstration of support for the charter school from  
22 residents of the school district which may include but is not  
23 limited to a survey of the school district residents or a petition  
24 signed by residents of the school district; and

1           10. Documentation that the applicants completed charter school  
2 training as set forth in subsection A of this section.

3           C. A board of education of a public school district, public  
4 body, public or private college or university, private person, or  
5 private organization may contract with a sponsor to establish a  
6 charter school. A private school shall not be eligible to contract  
7 for a charter school under the provisions of the Oklahoma Charter  
8 Schools Act.

9           D. The sponsor of a charter school is the board of education of  
10 a school district, the board of education of a technology center  
11 school district, a higher education institution ~~or~~, the State Board  
12 of Education or the Charter School Sponsoring Commission which meets  
13 the criteria established in Section 3-132 of this title. Any board  
14 of education of a school district in the state may sponsor one or  
15 more charter schools. The physical location of a charter school  
16 sponsored by a board of education of a school district or a  
17 technology center school district shall be within the boundaries of  
18 the sponsoring school district. The physical location of a charter  
19 school sponsored by the State Board of Education shall be located  
20 where an Office of Juvenile Affairs facility for youth is located.

21           E. An applicant for a charter school may submit an application  
22 to a proposed sponsor which shall either accept or reject  
23 sponsorship of the charter school within ninety (90) days of receipt  
24 of the application. If the proposed sponsor rejects the

1 application, it shall notify the applicant in writing of the reasons  
2 for the rejection. The applicant may submit a revised application  
3 for reconsideration to the proposed sponsor within thirty (30) days  
4 after receiving notification of the rejection. The proposed sponsor  
5 shall accept or reject the revised application within thirty (30)  
6 days of its receipt.

7 F. A board of education of a school district, board of  
8 education of a technology center school district or higher education  
9 institution sponsor of a charter school shall notify the State Board  
10 of Education when it accepts sponsorship of a charter school. The  
11 notification shall include a copy of the charter of the charter  
12 school.

13 G. If a proposed sponsor rejects the revised application for a  
14 charter school, the applicant may proceed to mediation or binding  
15 arbitration or both mediation and binding arbitration as provided in  
16 the Dispute Resolution Act and the rules promulgated pursuant  
17 thereto. The applicant shall contact the early settlement program  
18 for the county in which the charter school would be located. If the  
19 parties proceed to binding arbitration, a panel of three arbitrators  
20 shall be appointed by the director of the early settlement program  
21 handling the dispute. The proposed sponsor shall pay the cost for  
22 any mediation or arbitration requested pursuant to this section.

23 H. If a board of education of a technology center school  
24 district, a higher education institution ~~or~~, the State Board of

1 Education or the Charter School Sponsoring Commission accepts  
2 sponsorship of a charter school, the administrative, fiscal and  
3 oversight responsibilities of the technology center school district  
4 ~~or~~, the higher education institution or the Charter School  
5 Sponsoring Commission shall be listed in the contract. No  
6 responsibilities shall be delegated to a school district unless the  
7 local school district agrees to assume the responsibilities.

8 SECTION 6. AMENDATORY 70 O.S. 2001, Section 3-142, as  
9 last amended by Section 4, Chapter 288, O.S.L. 2010 (70 O.S. Supp.  
10 2010, Section 3-142), is amended to read as follows:

11 Section 3-142. A. For purposes of funding, a charter school  
12 sponsored by a board of education of a school district shall be  
13 considered a site within the school district in which the charter  
14 school is located. The student membership of the charter school  
15 shall be considered separate from the student membership of the  
16 district in which the charter school is located for the purpose of  
17 calculating weighted average daily membership pursuant to Section  
18 18-201.1 of this title and State Aid pursuant to Section 18-200.1 of  
19 this title. For charter schools sponsored by a board of education  
20 of a school district, the sum of the separate calculations for the  
21 charter school and the school district shall be used to determine  
22 the total State Aid allocation for the district in which the charter  
23 school is located. A charter school shall receive from the  
24 sponsoring school district, the State Aid allocation and any other

1 state-appropriated revenue generated by its students for the  
2 applicable year, less up to five percent (5%) of the State Aid  
3 allocation, which may be retained by the school district as a fee  
4 for administrative services rendered. For charter schools sponsored  
5 by the board of education of a technology center school district, a  
6 higher education institution ~~or~~, the State Board of Education or the  
7 Charter School Sponsoring Commission, the State Aid allocation for  
8 the charter school shall be distributed by the State Board of  
9 Education and not more than five percent (5%) of the State Aid  
10 allocation may be charged by the sponsor as a fee for administrative  
11 services rendered. The State Board of Education shall determine the  
12 policy and procedure for making payments to a charter school. The  
13 fee for administrative services as authorized in this subsection  
14 shall only be assessed on the State Aid allocation amount and shall  
15 not be assessed on any other appropriated amounts.

16 B. The weighted average daily membership for the first year of  
17 operation of a charter school shall be determined initially by  
18 multiplying the actual enrollment of students as of August 1 by  
19 1.333. The charter school shall receive revenue equal to that which  
20 would be generated by the estimated weighted average daily  
21 membership calculated pursuant to this subsection. At midyear, the  
22 allocation for the charter school shall be adjusted using the first  
23 quarter weighted average daily membership for the charter school  
24 calculated pursuant to subsection A of this section.

1 C. A charter school shall be eligible to receive any other aid,  
2 grants or revenues allowed to other schools. A charter school  
3 sponsored by the board of education of a technology center school  
4 district, a higher education institution ~~or~~, the State Board of  
5 Education or the Charter School Sponsoring Commission shall be  
6 considered a local education agency for purposes of funding. A  
7 charter school sponsored by a board of education of a school  
8 district shall be considered a local education agency for purposes  
9 of federal funding.

10 D. A charter school, in addition to the money received from the  
11 state, may receive money from any other source. Any unexpended  
12 nonstate funds, excluding local revenue, may be reserved and used  
13 for future purposes.

14 SECTION 7. This act shall become effective July 1, 2011.

15 SECTION 8. It being immediately necessary for the preservation  
16 of the public peace, health and safety, an emergency is hereby  
17 declared to exist, by reason whereof this act shall take effect and  
18 be in full force from and after its passage and approval.

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