

ENROLLED SENATE  
BILL NO. 260

By: Ford and Stanislawski of  
the Senate

and

Denney of the House

An Act relating to charter schools; creating the John W. Bryant Charter School Sponsoring Commission Act; providing short title; amending 70 O.S. 2001, Section 3-132, as last amended by Section 34 of Enrolled Senate Bill No. 553 of the 1st Session of the 53rd Oklahoma Legislature, which relates to the formation and operation of charter schools; providing an additional entity that may sponsor a charter school; modifying definition of "charter school"; prohibiting certain charter schools from having a school site location; creating the Charter School Sponsoring Commission; providing for membership of the commission; providing for appointments to the commission; providing terms of appointments; providing for removal of members for cause; defining cause for removal; providing for the filling of vacancies; prohibiting certain persons from membership on commission; providing for meetings of the commission; providing quorum guidelines; requiring the commission to comply with certain provisions; providing for travel reimbursement; providing for promulgation of rules; providing staff for the commission; amending 70 O.S. 2001. Section 3-134, as last amended by Section 36 of Enrolled Senate Bill No. 553 of the 1st Session of the 53rd Oklahoma Legislature, which relates to charter school applications; requiring description of equipment and facilities used for certain online charter schools; providing an exception from certain requirements for certain schools sponsored by the Commission; adding the Commission as a sponsor of a charter school;

prohibiting a physical location for online charter school sponsored by the Commission; requiring applicant to have a presence in the state; updating certain language; amending 70 O.S. 2001, Section 3-136, as amended by Section 1, Chapter 436, O.S.L. 2008 (70 O.S. Supp. 2010, Section 3-136), which relates to the adoption of a charter by charter schools; allowing charter school to charge the same tuition or fees charged by a school district; providing that a charter school be considered a governmental unit for certain purposes; allowing charter schools to issue bonds; providing certain bonds a charter school may issue; limiting liability created by the issuance of certain bonds; modifying certain property that shall be retained by school districts; amending 70 O.S. 2001, Section 3-142, as last amended by Section 39 of Enrolled Senate Bill No. 553 of the 1st Session of the 53rd Oklahoma Legislature; which relates to funding of charter schools; adding charter schools sponsored by the Charter School Sponsoring Commission; amending 70 O.S. 2001, Section 18-108, as amended by Section 9, Chapter 432, O.S.L. 2005 (70 O.S. Supp. 2010, Section 18-108), which relates to free public kindergarten; clarifying certain language; extending by two years requirement to provide full-day kindergarten; providing for noncodification; and providing for codification.

SUBJECT:

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "John W. Bryant Charter School Sponsoring Commission Act".

SECTION 2. AMENDATORY 70 O.S. 2001, Section 3-132, as last amended by Section 34 of Enrolled Senate Bill No. 553 of the 1st Session of the 53rd Oklahoma Legislature, 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 the act. Charter schools shall be sponsored only as follows:

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

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

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

4. By a technology center school district if the charter school is located in a school district served by the technology center school district and the school district has a school site listed on the school improvement list as determined by the State Board of Education pursuant to the Elementary and Secondary Education Act of 1965, as amended or reauthorized;

5. By a comprehensive or regional institution that is a member of The Oklahoma State System of Higher Education if the charter school is located in a school district that has an average daily membership of five thousand (5,000) or more and which all or part of the school district is located in a county having more than five hundred thousand (500,000) population according to the latest Federal Decennial Census. In addition, the institution shall have a

teacher education program accredited by the Oklahoma Commission for Teacher Preparation and have a branch campus or constituent agency physically located within the school district in which the charter school is located;

6. By a comprehensive or regional institution that is a member of the Oklahoma State System of Higher Education if the charter school is located in a school district that has a school site listed on the school improvement list as determined by the State Board of Education pursuant to the Elementary and Secondary Education Act of 1965, as amended or reauthorized. In addition, the institution shall have a teacher education program accredited by the Oklahoma Commission for Teacher Preparation and have a branch campus or constituent agency physically located within the school district in which the charter school is located;

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

8. By the State Board of Education only when the applicant of the charter school is the Office of Juvenile Affairs and the charter school is for the purpose of providing education services to youth in the custody or supervision of the Office of Juvenile Affairs. Not more than one charter school shall be sponsored by the Board as provided for in this paragraph during the period of time beginning July 1, 2010, through July 1, 2016; or

9. By the Charter School Sponsoring Commission as created in Section 3 of this act only when the charter school is for the purpose of providing online courses to students statewide.

B. Any charter or enterprise school operating in the state pursuant to an agreement with the board of education of a school district on July 1, 1999, may continue to operate pursuant to that agreement or may contract with the board of education of the school

district pursuant to the Oklahoma Charter Schools Act. Nothing in the Oklahoma Charter Schools Act shall prohibit a school district from applying for exemptions from certain education-related statutory requirements as provided for in the Educational Deregulation Act.

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

D. A charter school may consist of a new school site, new school sites or all or any portion of an existing school site. An online charter school sponsored by the Charter School Sponsoring Commission may not have a school site location. An entire school district may not become a charter school site.

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

A. There is hereby created the Charter School Sponsoring Commission. The Commission shall have the authority to sponsor a charter school which offers online courses to any student residing in the state. The Commission shall be composed of seven (7) members as follows:

1. The State Superintendent of Public Instruction who shall serve as the chair;
2. Two members appointed by the Governor;
3. Two members appointed by the President Pro Tempore of the Senate; and
4. Two members appointed by the Speaker of the House of Representatives.

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

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

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

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

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

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

D. Vacancies shall be filled by the appointing authority.

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

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

A. The Charter School Sponsoring Commission shall meet at the call of the chair. The Commission shall meet no later than September 1, 2011.

B. A quorum of the Commission shall be required in order for any final action of the Commission. For purposes of this section a quorum shall be four members of the Commission.

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

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

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

2. All other Commission members shall be reimbursed by the appointing authority for travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

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

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

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

SECTION 6. AMENDATORY 70 O.S. 2001, Section 3-134, as last amended by Section 36 of Enrolled Senate Bill No. 553 of the 1st Session of the 53rd Oklahoma Legislature, is amended to read as follows:

Section 3-134. A. For written applications filed after January 1, 2008, prior to submission of the application to a proposed sponsor seeking to establish a charter school, the applicant shall be required to complete training which shall not exceed ten (10)

hours provided by the State Department of Education on the process and requirements for establishing a charter school. The Department shall develop and implement the training by January 1, 2008. The Department may provide the training in any format and manner that the Department determines to be efficient and effective including, but not limited to, web-based training.

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

1. A mission statement for the charter school;
2. A description of the organizational structure and the governing body of the charter school;
3. A financial plan for the first three (3) years of operation of the charter school and a description of the treasurer or other officers or persons who shall have primary responsibility for the finances of the charter school. Such person shall have demonstrated experience in school finance or the equivalent thereof;
4. A description of the hiring policy of the charter school;
5. The name of the applicant or applicants and requested sponsor;
6. A description of the facility and location of the charter school or in the case of an online charter school sponsored by the Charter School Sponsoring Commission a description of the equipment and facilities used to provide access to the online courses;
7. A description of the grades being served;
8. An outline of criteria designed to measure the effectiveness of the charter school;
9. A Except for an online charter school sponsored by the Charter School Sponsoring Commission, a demonstration of support for the charter school from residents of the school district which may include but is not limited to a survey of the school district

residents or a petition signed by residents of the school district;  
and

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

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

D. The sponsor of a charter school is the board of education of a school district, the board of education of a technology center school district, a higher education institution, the State Board of Education, ~~or a federally recognized Indian tribe,~~ or the Charter School Sponsoring Commission which meets the criteria established in Section 3-132 of this title. Any board of education of a school district in the state may sponsor one or more charter schools. The physical location of a charter school sponsored by a board of education of a school district or a technology center school district shall be within the boundaries of the sponsoring school district. The physical location of a charter school sponsored by the State Board of Education shall be located where an Office of Juvenile Affairs facility for youth is located. An online charter school sponsored by the Charter School Sponsoring Commission may not have a physical location in the state, but the applicant shall have a physical location or presence in the state.

E. An applicant for a charter school may submit an application to a proposed sponsor which shall either accept or reject sponsorship of the charter school within ninety (90) days of receipt of the application. If the proposed sponsor rejects the application, it shall notify the applicant in writing of the reasons for the rejection. The applicant may submit a revised application for reconsideration to the proposed sponsor within thirty (30) days after receiving notification of the rejection. The proposed sponsor shall accept or reject the revised application within thirty (30) days of its receipt.

F. A board of education of a school district, board of education of a technology center school district, higher education institution, ~~or~~ federally recognized Indian tribe, or the Charter School Sponsoring Commission sponsor of a charter school shall notify the State Board of Education when it accepts sponsorship of a charter school. The notification shall include a copy of the charter of the charter school.

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

H. If a board of education of a technology center school district, a higher education institution, the State Board of Education, ~~or~~ a federally recognized Indian tribe, or the Charter School Sponsoring Commission accepts sponsorship of a charter school, the administrative, fiscal and oversight responsibilities of the technology center school district, the higher education institution, ~~or~~ the federally recognized Indian tribe, or the Charter School Sponsoring Commission shall be listed in the contract. No responsibilities shall be delegated to a school district unless the local school district agrees to assume the responsibilities.

SECTION 7. AMENDATORY 70 O.S. 2001, Section 3-136, as amended by Section 1, Chapter 439, O.S.L. 2008 (70 O.S. Supp. 2010, Section 3-136), is amended to read as follows:

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

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

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

2. A charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations. A sponsor may not authorize a charter school or program that is affiliated with a nonpublic sectarian school or religious institution;

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

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

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

6. A charter school, to the extent possible, shall be subject to the same reporting requirements, financial audits, audit procedures, and audit requirements as a school district. The State Department of Education or State Auditor and Inspector may conduct financial, program, or compliance audits. A charter school shall

use the Oklahoma Cost Accounting System to report financial transactions to the sponsoring school district;

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

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

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

10. A charter school may not charge tuition or fees unless a school district is authorized to charge such tuition or fees;

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

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

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

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

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

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

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

18. A charter school shall be considered a governmental unit for purposes of tax-exempt financing.

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

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

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

E. The governing body of a charter school may not levy taxes ~~or issue bonds~~.

F. A charter school may issue Qualified Zone Academy Bonds (QZAB), Qualified School Construction Bonds (QSCB), or revenue bonds, or may participate in bonds issued on its behalf under the Internal Revenue Code of 1986, as amended. Bonds issued by or on behalf of a charter school shall not create a liability or obligation for the State of Oklahoma, the charter school sponsor, or the school district in which the charter school is located.

G. The charter of a charter school shall include a provision specifying the method or methods to be employed for disposing of real and personal property acquired by the charter school upon expiration or termination of the charter or failure of the charter school to continue operations. Except as otherwise provided, any real or personal property, which is not pledged in a bond issue, purchased with state or local funds shall be retained by the sponsoring school district. If a charter school that was previously sponsored by the board of education of a school district continues operation within the school district under a new charter sponsored by an entity authorized pursuant to Section 3-132 of this title, the charter school may retain any personal property purchased with state or local funds for use in the operation of the charter school until termination of the new charter or failure of the charter school to continue operations.

SECTION 8. AMENDATORY 70 O.S. 2001, Section 3-142, as last amended by Section 39 of Enrolled Senate Bill No. 553 of the 1st Session of the 53rd Oklahoma Legislature, is amended to read as follows:

Section 3-142. A. For purposes of funding, a charter school sponsored by a board of education of a school district shall be considered a site within the school district in which the charter school is located. The student membership of the charter school shall be considered separate from the student membership of the district in which the charter school is located for the purpose of calculating weighted average daily membership pursuant to Section 18-201.1 of this title and State Aid pursuant to Section 18-200.1 of this title. For charter schools sponsored by a board of education of a school district, the sum of the separate calculations for the charter school and the school district shall be used to determine the total State Aid allocation for the district in which the charter school is located. A charter school shall receive from the sponsoring school district, the State Aid allocation and any other state-appropriated revenue generated by its students for the applicable year, less up to five percent (5%) of the State Aid allocation, which may be retained by the school district as a fee for administrative services rendered. For charter schools sponsored by the board of education of a technology center school district, a higher education institution, the State Board of Education, ~~or~~ a federally recognized Indian tribe or the Charter School Sponsoring Commission, the State Aid allocation for the charter school shall be distributed by the State Board of Education and not more than five percent (5%) of the State Aid allocation may be charged by the sponsor as a fee for administrative services rendered. The State Board of Education shall determine the policy and procedure for making payments to a charter school. The fee for administrative services as authorized in this subsection shall only be assessed on the State Aid allocation amount and shall not be assessed on any other appropriated amounts.

B. The weighted average daily membership for the first year of operation of a charter school shall be determined initially by multiplying the actual enrollment of students as of August 1 by 1.333. The charter school shall receive revenue equal to that which would be generated by the estimated weighted average daily membership calculated pursuant to this subsection. At midyear, the

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

C. A charter school shall be eligible to receive any other aid, grants or revenues allowed to other schools. A charter school sponsored by the board of education of a technology center school district, a higher education institution, the State Board of Education, ~~or a federally recognized Indian tribe,~~ or the Charter School Sponsoring Commission shall be considered a local education agency for purposes of funding. A charter school sponsored by a board of education of a school district shall be considered a local education agency for purposes of federal funding.

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

SECTION 9. AMENDATORY 70 O.S. 2001, Section 18-108, as amended by Section 9, Chapter 432, O.S.L. 2005 (70 O.S. Supp. 2010, Section 18-108), is amended to read as follows:

Section 18-108. A. It is the intent of the Legislature to provide a free public kindergarten for every five-year-old child in this state.

B. Each day during which a child attends a kindergarten for two and one-half (2 1/2) hours or more shall be counted as one hundred percent (100%) of one (1) day of average daily attendance. Each day a kindergarten student is on the membership roll in a school district shall be counted as one hundred percent (100%) of one (1) day of average daily membership.

C. It shall be the duty of every school district in this state to provide and offer kindergarten free of tuition for every child residing in ~~such~~ the district who attains the age of five (5) years on or before the first day of September during the school year such kindergarten is offered, ~~provided that this.~~ The duty to provide and offer kindergarten may be satisfied by transferring kindergarten children to other school districts which accept them and provide kindergarten for such children, or by contracting for classroom

space with a licensed public or licensed private child care provider based upon selection criteria established by the district.

D. A kindergarten program may be offered jointly by school districts that have formed interlocal cooperative agreements pursuant to Section 5-117b of this title.

E. Beginning with the ~~2011-2012~~ 2013-2014 school year, it shall be the duty of every school district in this state to provide and offer a full six-hour day of kindergarten free of tuition for every child residing in the district who attains the age of five (5) years on or before the first day of September during the school year kindergarten is offered, ~~provided that this.~~ The duty to provide and offer kindergarten may be satisfied by intra-district transfer to a school offering full-day kindergarten, by transferring kindergarten children to other school districts which will accept them and can provide kindergarten for such children, or by contracting for classroom space with a licensed public or licensed private child care provider based upon selection criteria established by the district. A school district shall be exempt from the provisions of this subsection if the school district has voted indebtedness through the issuance of bonds or approval by voters of issuance of new bonds for more than eighty-five percent (85%) of the maximum allowable, pursuant to the provisions of Section 26 of Article X of the Oklahoma Constitution, at any time within the previous five (5) years.

F. The requirement to attend kindergarten provided in Section 10-105 of this title may be satisfied by attendance in either a half-day or full-day program. Membership in a kindergarten for either two and one-half (2 1/2) hours or six (6) hours per school day shall be counted as one (1) day for average daily membership purposes. For purposes of State Aid, the pupil grade level weight for a two-and-one-half-hour day of kindergarten shall be 1.3, and for a six-hour full day of kindergarten shall be 1.5.

Passed the Senate the     day of     , 2011.

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Presiding Officer of the Senate

Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
2011.

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Presiding Officer of the House  
of Representatives