

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 53rd Legislature (2011)

4   COMMITTEE SUBSTITUTE  
5   FOR  
6   HOUSE BILL NO. 1856

                                  By: Shumate and Nelson

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8                                   COMMITTEE SUBSTITUTE

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

23   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;

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1 4. By a technology center school district if the charter school  
2 is located in a school district served by the technology center  
3 school district and the school district has a school site listed on  
4 the school improvement list as determined by the State Board of  
5 Education pursuant to the Elementary and Secondary Education Act of  
6 1965, as amended or reauthorized;

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

18 6. By a comprehensive or regional institution that is a member  
19 of The Oklahoma State System of Higher Education if the charter  
20 school is located in a school district that has a school site listed  
21 on the school improvement list as determined by the State Board of  
22 Education pursuant to the Elementary and Secondary Education Act of  
23 1965, as amended or reauthorized. In addition, the institution

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

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

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

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

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1 statutory requirements as provided for in the Educational  
2 Deregulation Act.

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

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

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

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

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

3 2. Two members appointed by the Governor;

4 3. Two members appointed by the President Pro Tempore of the  
5 Senate; and

6 4. Two members appointed by the Speaker of the House of  
7 Representatives.

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

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

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

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

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

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

5 D. Vacancies shall be filled by the appointing authority.

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

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

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

15 B. A quorum of the Commission shall be required for the  
16 Commission to take final action. For purposes of this section a  
17 quorum shall be four members of the Commission.

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

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

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

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

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

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

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

18 SECTION 5. AMENDATORY 70 O.S. 2001, Section 3-134, as  
19 last amended by Section 2, Chapter 288, O.S.L. 2010 (70 O.S. Supp.  
20 2010, Section 3-134), is amended to read as follows:

21 Section 3-134. A. For written applications filed after January  
22 1, 2008, prior to submission of the application to a proposed  
23 sponsor seeking to establish a charter school, the applicant shall

1 be required to complete training which shall not exceed ten (10)  
2 hours provided by the State Department of Education on the process  
3 and requirements for establishing a charter school. The Department  
4 shall develop and implement the training by January 1, 2008. The  
5 Department may provide the training in any format and manner that  
6 the Department determines to be efficient and effective including,  
7 but not limited to, web-based training.

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

- 12 1. A mission statement for the charter school;
- 13 2. A description of the organizational structure and the  
14 governing body of the charter school;
- 15 3. A financial plan for the first three (3) years of operation  
16 of the charter school and a description of the treasurer or other  
17 officers or persons who shall have primary responsibility for the  
18 finances of the charter school. Such person shall have demonstrated  
19 experience in school finance or the equivalent thereof;
- 20 4. A description of the hiring policy of the charter school;
- 21 5. The name of the applicant or applicants and requested  
22 sponsor;

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1 6. A description of the facility and location of the charter  
2 school;

3 7. A description of the grades being served;

4 8. An outline of criteria designed to measure the effectiveness  
5 of the charter school;

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

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

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

18 D. The sponsor of a charter school is the board of education of  
19 a school district, the board of education of a technology center  
20 school district, a higher education institution ~~or~~, the State Board  
21 of Education or the Charter School Sponsoring Commission which meets  
22 the criteria established in Section 3-132 of this title. Any board  
23 of education of a school district in the state may sponsor one or

1 more charter schools. The physical location of a charter school  
2 sponsored by a board of education of a school district or a  
3 technology center school district shall be within the boundaries of  
4 the sponsoring school district. The physical location of a charter  
5 school sponsored by the State Board of Education shall be located  
6 where an Office of Juvenile Affairs facility for youth is located.

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

17 F. A board of education of a school district, board of  
18 education of a technology center school district or higher education  
19 institution sponsor of a charter school shall notify the State Board  
20 of Education when it accepts sponsorship of a charter school. The  
21 notification shall include a copy of the charter of the charter  
22 school.

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

11 H. If a board of education of a technology center school  
12 district, a higher education institution ~~or~~, the State Board of  
13 Education or the Charter School Sponsoring Commission accepts  
14 sponsorship of a charter school, the administrative, fiscal and  
15 oversight responsibilities of the technology center school district  
16 ~~or~~, the higher education institution or the Charter School  
17 Sponsoring Commission shall be listed in the contract. No  
18 responsibilities shall be delegated to a school district unless the  
19 local school district agrees to assume the responsibilities.

20 SECTION 6. AMENDATORY 70 O.S. 2001, Section 3-142, as  
21 last amended by Section 4, Chapter 288, O.S.L. 2010 (70 O.S. Supp.  
22 2010, Section 3-142), is amended to read as follows:  
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1 Section 3-142. A. For purposes of funding, a charter school  
2 sponsored by a board of education of a school district shall be  
3 considered a site within the school district in which the charter  
4 school is located. The student membership of the charter school  
5 shall be considered separate from the student membership of the  
6 district in which the charter school is located for the purpose of  
7 calculating weighted average daily membership pursuant to Section  
8 18-201.1 of this title and State Aid pursuant to Section 18-200.1 of  
9 this title. For charter schools sponsored by a board of education  
10 of a school district, the sum of the separate calculations for the  
11 charter school and the school district shall be used to determine  
12 the total State Aid allocation for the district in which the charter  
13 school is located. A charter school shall receive from the  
14 sponsoring school district, the State Aid allocation and any other  
15 state-appropriated revenue generated by its students for the  
16 applicable year, less up to five percent (5%) of the State Aid  
17 allocation, which may be retained by the school district as a fee  
18 for administrative services rendered. For charter schools sponsored  
19 by the board of education of a technology center school district, a  
20 higher education institution ~~or~~, the State Board of Education or the  
21 Charter School Sponsoring Commission, the State Aid allocation for  
22 the charter school shall be distributed by the State Board of  
23 Education and not more than five percent (5%) of the State Aid

1 allocation may be charged by the sponsor as a fee for administrative  
2 services rendered. The State Board of Education shall determine the  
3 policy and procedure for making payments to a charter school. The  
4 fee for administrative services as authorized in this subsection  
5 shall only be assessed on the State Aid allocation amount and shall  
6 not be assessed on any other appropriated amounts.

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

16 C. A charter school shall be eligible to receive any other aid,  
17 grants or revenues allowed to other schools. A charter school  
18 sponsored by the board of education of a technology center school  
19 district, a higher education institution ~~or~~, the State Board of  
20 Education or the Charter School Sponsoring Commission shall be  
21 considered a local education agency for purposes of funding. A  
22 charter school sponsored by a board of education of a school  
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1 district shall be considered a local education agency for purposes  
2 of federal funding.

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

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

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

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13 COMMITTEE REPORT BY: COMMITTEE ON COMMON EDUCATION, dated 02-23-2011  
14 - DO PASS, As Amended and Coauthored.

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