

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 54th Legislature (2013)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 267

By: Stanislawski of the Senate

and

Quinn of the House

8
9
10 COMMITTEE SUBSTITUTE

11 [charter schools - renaming the Statewide Virtual
12 Charter School Board - providing duties - effective
13 date]

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

17 SECTION 1. AMENDATORY 70 O.S. 2011, Section 3-132, as
18 amended by Section 1, Chapter 367, O.S.L. 2012 (70 O.S. Supp. 2012,
19 Section 3-132), is amended to read as follows:

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

23 1. By a school district with an average daily membership of
24 five thousand (5,000) or more and which all or part of the school

1 district is located in a county having more than five hundred
2 thousand (500,000) population according to the latest Federal
3 Decennial Census;

4 2. By a school district which has a school site listed on the
5 school improvement list as determined by the State Board of
6 Education pursuant to the Elementary and Secondary Education Act of
7 1965, as amended or reauthorized;

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

15 4. By a technology center school district if the charter school
16 is located in a school district served by the technology center
17 school district and the school district has a school site listed on
18 the school improvement list as determined by the State Board of
19 Education pursuant to the Elementary and Secondary Education Act of
20 1965, as amended or reauthorized;

21 5. By a comprehensive or regional institution that is a member
22 of The Oklahoma State System of Higher Education if the charter
23 school is located in a school district that has an average daily
24 membership of five thousand (5,000) or more and which all or part of

1 the school district is located in a county having more than five
2 hundred thousand (500,000) population according to the latest
3 Federal Decennial Census. In addition, the institution shall have a
4 teacher education program accredited by the Oklahoma Commission for
5 Teacher Preparation and have a branch campus or constituent agency
6 physically located within the school district in which the charter
7 school is located;

8 6. By a comprehensive or regional institution that is a member
9 of the Oklahoma State System of Higher Education if the charter
10 school is located in a school district that has a school site listed
11 on the school improvement list as determined by the State Board of
12 Education pursuant to the Elementary and Secondary Education Act of
13 1965, as amended or reauthorized. In addition, the institution
14 shall have a teacher education program accredited by the Oklahoma
15 Commission for Teacher Preparation and have a branch campus or
16 constituent agency physically located within the school district in
17 which the charter school is located;

18 7. By a federally recognized Indian tribe, operating a high
19 school under the authority of the Bureau of Indian Affairs as of
20 November 1, 2010, if the charter school is for the purpose of
21 demonstrating native language immersion instruction, and is located
22 within its former reservation or treaty area boundaries. For
23 purposes of this paragraph, native language immersion instruction
24 shall require that educational instruction and other activities

1 conducted at the school site are primarily conducted in the native
2 language; or

3 8. By the State Board of Education when the applicant of the
4 charter school is the Office of Juvenile Affairs or the applicant
5 has a contract with the Office of Juvenile Affairs to provide a
6 fixed rate level E, D, or D+ group home service and the charter
7 school is for the purpose of providing education services to youth
8 in the custody or supervision of the state. Not more than two
9 charter schools shall be sponsored by the Board as provided for in
10 this paragraph during the period of time beginning July 1, 2010,
11 through July 1, 2016; ~~or~~

12 ~~9. By the State Board of Education when the applicant of the~~
13 ~~charter school is the Statewide Virtual Charter School Board created~~
14 ~~in Section 3 of this act and the charter school is for the purpose~~
15 ~~of establishing a full-time statewide virtual charter school.~~

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~~
23 ~~statutory requirements as provided for in the Educational~~
24 ~~Deregulation Act.~~

1 ~~E.~~ 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 ~~D.~~ C. A charter school may consist of a new school site, new
10 school sites or all or any portion of an existing school site. An
11 entire school district may not become a charter school site.

12 SECTION 2. AMENDATORY 70 O.S. 2011, Section 3-140, as
13 amended by Section 2, Chapter 367, O.S.L. 2012 (70 O.S. Supp. 2012,
14 Section 3-140), is amended to read as follows:

15 Section 3-140. A. Except for a charter school sponsored by the
16 State Board of Education, a charter school shall enroll those
17 students whose legal residence is within the boundaries of the
18 school district in which the charter school is located and who
19 submit a timely application, or those students who transfer to the
20 district in which the charter school is located in accordance with
21 Section 8-103 or 8-104 of this title, unless the number of
22 applications exceeds the capacity of a program, class, grade level,
23 or building. Students who reside in a school district where a
24 charter school is located shall not be required to obtain a transfer

1 in order to attend a charter school in the school district of
2 residence. If capacity is insufficient to enroll all eligible
3 students, the charter school shall select students through a lottery
4 selection process. Except for a charter school sponsored by the
5 State Board of Education, a charter school shall give enrollment
6 preference to eligible students who reside within the boundaries of
7 the school district in which the charter school is located. Except
8 for a charter school sponsored by the State Board of Education, a
9 charter school created after the effective date of this act shall
10 give enrollment preference to eligible students who reside within
11 the boundaries of the school district in which the charter school is
12 located and who attend a school site listed on the school
13 improvement list as determined by the State Board of Education
14 pursuant to the Elementary and Secondary Education Act of 1965, as
15 amended or reauthorized. A charter school may limit admission to
16 students within a given age group or grade level. A charter school
17 sponsored by the State Board of Education when the applicant of the
18 charter school is the Office of Juvenile Affairs shall limit
19 admission to youth that are in the custody or supervision of the
20 Office of Juvenile Affairs. ~~A charter school sponsored by the State~~
21 ~~Board of Education when the applicant of the charter school is the~~
22 ~~Statewide Virtual Charter School Board shall enroll those students~~
23 ~~who are legal residents of this state and who have been approved for~~
24 ~~a transfer pursuant to Section 8-103 or 8-104 of this title.~~

1 B. Except for a charter school sponsored by the State Board of
2 Education, a charter school shall admit students who reside in the
3 attendance area of a school or in a school district that is under a
4 court order of desegregation or that is a party to an agreement with
5 the United States Department of Education Office for Civil Rights
6 directed towards mediating alleged or proven racial discrimination
7 unless notice is received from the resident school district that
8 admission of the student would violate the court order or agreement.

9 C. A charter school may designate a specific geographic area
10 within the school district in which the charter school is located as
11 an academic enterprise zone and may limit admissions to students who
12 reside within that area. An academic enterprise zone shall be a
13 geographic area in which sixty percent (60%) or more of the children
14 who reside in the area qualify for the free or reduced school lunch
15 program.

16 D. Except as provided in subsections B and C of this section, a
17 charter school shall not limit admission based on ethnicity,
18 national origin, gender, income level, disabling condition,
19 proficiency in the English language, measures of achievement,
20 aptitude, or athletic ability.

21 SECTION 3. AMENDATORY 70 O.S. 2011, Section 3-142, is
22 amended to read as follows:

23 Section 3-142. A. For purposes of funding, a charter school
24 sponsored by a board of education of a school district shall be

1 considered a site within the school district in which the charter
2 school is located. The student membership of the charter school
3 shall be considered separate from the student membership of the
4 district in which the charter school is located for the purpose of
5 calculating weighted average daily membership pursuant to Section
6 18-201.1 of this title and State Aid pursuant to Section 18-200.1 of
7 this title. For charter schools sponsored by a board of education
8 of a school district, the sum of the separate calculations for the
9 charter school and the school district shall be used to determine
10 the total State Aid allocation for the district in which the charter
11 school is located. A charter school shall receive from the
12 sponsoring school district, the State Aid allocation and any other
13 state-appropriated revenue generated by its students for the
14 applicable year, less up to five percent (5%) of the State Aid
15 allocation, which may be retained by the school district as a fee
16 for administrative services rendered. For charter schools sponsored
17 by the board of education of a technology center school district, a
18 higher education institution, the State Board of Education, or a
19 federally recognized Indian tribe and for statewide virtual charter
20 schools sponsored by the Statewide Virtual Charter School Board, the
21 State Aid allocation for the charter school shall be distributed by
22 the State Board of Education and not more than five percent (5%) of
23 the State Aid allocation may be charged by the sponsor as a fee for
24 administrative services rendered. The State Board of Education

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

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

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

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

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

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

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

19 SECTION 4. AMENDATORY Section 3, Chapter 367, O.S.L.
20 2012 (70 O.S. Supp. 2012, Section 3-145.1), is amended to read as
21 follows:

22 Section 3-145.1 A. There is hereby created the Statewide
23 Virtual Charter School Board. The Board shall have the sole
24 authority to ~~be an applicant for a full-time~~ authorize and sponsor

1 | ~~statewide virtual charter school sponsored by the State Board of~~
2 | ~~Education pursuant to the Oklahoma Charter Schools Act~~ schools in
3 | this state. The Board shall be composed of five (5) voting members
4 | as follows:

5 | 1. One member appointed by the Governor, who shall be a
6 | resident and elector of the Fifth Congressional District;

7 | 2. Two members appointed by the President Pro Tempore of the
8 | Senate, one of whom shall be a resident and elector of the First
9 | Congressional District and one of whom shall be a resident and
10 | elector of the Third Congressional District;

11 | 3. Two members appointed by the Speaker of the House of
12 | Representatives, one of whom shall be a resident and elector of the
13 | Second Congressional District and one of whom shall be a resident
14 | and elector of the Fourth Congressional District; and

15 | 4. The State Superintendent of Public Instruction and the
16 | Secretary of Education or their designees shall serve as ex officio
17 | nonvoting members, and shall not be counted toward a quorum.

18 | B. Initial appointments shall be made by August 1, 2012. The
19 | President Pro Tempore of the Senate and the Speaker of the House of
20 | Representatives shall each appoint one member for one (1) year and
21 | one member for three (3) years. The Governor shall appoint one
22 | member for two (2) years. Members shall serve until their
23 | successors are duly appointed for a term of three (3) years.
24 | Appointments shall be made by and take effect on November 1 of the

1 year in which the appointment is made. Annually by December 30 the
2 Board shall elect from its membership a chair and vice-chair.

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

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

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

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

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

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

14 E. No member of the Senate or House of Representatives may be
15 appointed to the Board while serving as a member of the Legislature,
16 or for two (2) full years following the expiration of the term of
17 office.

18 F. The State Department of Education shall provide staff
19 support to the Board until December 31, 2014, and thereafter the
20 Department shall provide office space for the operation of the
21 Board.

22 SECTION 5. AMENDATORY Section 5, Chapter 367, O.S.L.
23 2012 (70 O.S. Supp. 2012, Section 3-145.3), is amended to read as
24 follows:

1 Section 3-145.3 A. Subject to ~~limitations provided by the~~
2 ~~State Board of Education and subject to~~ the requirements of the
3 Oklahoma Charter Schools Act, the Statewide Virtual Charter School
4 Board shall:

5 1. ~~Be the governing body of the statewide virtual charter~~
6 ~~school;~~

7 2. Provide oversight of the operations of ~~the~~ statewide virtual
8 charter ~~school~~ schools in this state; and

9 3. ~~Negotiate and enter into contracts with providers of virtual~~
10 ~~education to provide academic content and with providers for the~~
11 ~~management and administration of the statewide virtual charter~~
12 ~~school;~~

13 4. ~~Establish policies and procedures for student admissions~~
14 ~~eligibility, student transfers, approval of online courses, and~~
15 ~~student enrollment;~~

16 5. ~~Submit annually, by November 1 of each year, to the~~
17 ~~Governor, President Pro Tempore of the Senate, and Speaker of the~~
18 ~~House of Representatives a report on each provider which has entered~~
19 ~~into a contract with the Board and each provider which has entered~~
20 ~~into a contract with a local school district to provide full-time~~
21 ~~virtual instruction to students who do not reside within the school~~
22 ~~district boundaries, that has detailed data on the performance of~~
23 ~~students enrolled with the provider through the statewide virtual~~
24 ~~charter school or school district offering full-time virtual~~

1 ~~education to students who do not reside within the school district.~~
2 ~~The report shall be posted on the State Department of Education~~
3 ~~website.~~

4 2. Establish a procedure for accepting, approving and
5 disapproving statewide virtual charter school applications and a
6 process for renewal or revocation of approved charter school
7 contracts which minimally meet the procedures set forth in the
8 Oklahoma Charter Schools Act.

9 B. ~~The Statewide Virtual Charter School Board shall have~~
10 ~~authority to issue a diploma to students enrolled in the statewide~~
11 ~~virtual charter school full-time who have completed the curriculum~~
12 ~~requirements for graduation as provided in Section 1210.523 of Title~~
13 ~~70 of the Oklahoma Statutes and as determined by the Board. Each~~
14 statewide virtual charter school which has been approved and
15 sponsored by the Board or any virtual charter school for which the
16 Board has assumed sponsorship of as provided for in Section 3-145.5
17 of this title shall be considered a statewide virtual charter school
18 and the geographic boundaries of each statewide virtual charter
19 school shall be the borders of the state.

20 C. Each ~~provider~~ statewide virtual charter school approved by
21 the ~~statewide virtual charter school governed by the Statewide~~
22 ~~Virtual Charter School Board shall be eligible to receive federal~~
23 ~~funds generated by students enrolled in the charter school for the~~
24 ~~applicable year. Each provider~~ statewide virtual charter school

1 shall be considered a separate ~~school site~~ local education agency
2 for purposes of reporting and accountability.

3 D. As calculated as provided for in Section 3-142 of ~~Title 70~~
4 ~~of the Oklahoma Statutes~~ this title, the ~~Statewide Virtual Charter~~
5 ~~School Board~~ a statewide virtual charter school shall receive the
6 State Aid allocation and any other state-appropriated revenue
7 generated by students enrolled in the ~~full-time statewide~~ virtual
8 charter school for the applicable year, less up to five percent (5%)
9 of the State Aid allocation, which may be retained by the ~~State~~
10 ~~Board of Education~~ Statewide Virtual Charter School Board for
11 administrative expenses, ~~all other funds shall be passed along to~~
12 ~~the providers~~ and to support the mission of the Board. The A
13 statewide virtual charter school shall be eligible for any other
14 funding any other charter school is eligible for as provided for in
15 Section 3-142 of ~~Title 70 of the Oklahoma Statutes~~ this title. Each
16 ~~provider~~ statewide virtual charter school shall be considered a
17 separate ~~school site~~ local education agency for purposes of
18 reporting and accountability.

19 E. Students enrolled full-time in ~~the~~ a statewide virtual
20 charter school ~~governed~~ sponsored by the Statewide Virtual Charter
21 School Board shall not be authorized to participate in any
22 activities administered by the Oklahoma Secondary Schools Activities
23 Association. However, the students may participate in intramural
24 activities sponsored by ~~the Virtual Charter School~~ a statewide

1 virtual charter school, an online provider for the charter school or
2 any other outside organization.

3 F. The decision of the Statewide Virtual Charter School Board
4 to deny, nonrenew or terminate the charter contract of a statewide
5 virtual charter school may be appealed to the State Board of
6 Education within thirty (30) days of the decision by the Statewide
7 Virtual Charter School Board. The State Board of Education shall
8 act on the appeal within sixty (60) days of receipt of the request
9 from the statewide virtual charter school applicant. The State
10 Board of Education may reverse the decision of the Statewide Virtual
11 Charter School Board or may remand the matter back to the Statewide
12 Virtual Charter School Board for further proceeding as directed.

13 SECTION 6. AMENDATORY Section 6, Chapter 367, O.S.L.
14 2012 (70 O.S. Supp. 2012, Section 3-145.4), is amended to read as
15 follows:

16 Section 3-145.4 Pursuant to and in compliance with Article I of
17 the Administrative Procedures Act, the ~~State Board of Education~~
18 Statewide Virtual Charter School Board shall promulgate rules as may
19 be necessary to implement the provisions of this act.

20 SECTION 7. AMENDATORY Section 7, Chapter 367, O.S.L.
21 2012 (70 O.S. Supp. 2012, Section 3-145.5), is amended to read as
22 follows:

23 Section 3-145.5 ~~Each~~ A. Notwithstanding any other provision of
24 law, beginning July 1, 2014, no school district which offers shall

1 offer full-time virtual education to students who are not residents
2 of the school district shall submit annually, by October 1 of each
3 year, to the Statewide Virtual Charter School Board, a report on
4 each provider which has entered into a contract with the school
5 district. The report shall contain detailed data on the performance
6 of students enrolled with the district who are receiving full-time
7 instruction through a provider and do not reside within the school
8 district or enter into a virtual charter school contract with a
9 provider to provide full-time virtual education to students who do
10 not reside within the school district boundaries.

11 B. Effective July 1, 2014, the Statewide Virtual Charter School
12 Board shall succeed to any contractual rights and responsibilities
13 incurred by a school district in a virtual charter school contract
14 executed prior to January 1, 2014, with a provider to provide full-
15 time virtual education to students who do not reside within the
16 school district boundaries. All property, equipment, supplies,
17 records, assets, current and future liability, encumbrances,
18 obligations and indebtedness associated with the contract shall be
19 transferred to the Statewide Virtual Charter School Board.
20 Appropriate conveyances and other documents shall be executed to
21 effectuate the transfer of any property associated with the
22 contract. Upon succession of the contract, the Board shall assume
23 sponsorship of the virtual charter school for the remainder of the
24 term of the contract. Prior to the end of the current term of the

1 contract, the Board shall allow the provider of the virtual charter
2 school to apply for renewal of the contract with the Board in
3 accordance with the renewal procedures established pursuant to
4 Section 3-145.3 of this title.

5 SECTION 8. This act shall become effective September 1, 2013.

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7 COMMITTEE REPORT BY: COMMITTEE ON COMMON EDUCATION, dated 04/09/2013
8 - DO PASS, As Amended.
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