

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

COMMITTEE SUBSTITUTE  
FOR

SENATE BILL 1402

By: Dahm

COMMITTEE SUBSTITUTE

An Act relating to charter schools; creating the Professional Teacher Charter Act; providing short title; providing purpose; defining terms; establishing eligibility to sponsor a professional teacher charter school; requiring filing of certain bond or letter of credit; allowing conversion of certain charter school; providing application process; allowing the State Board of Education to disapprove applications for certain reasons; requiring the Board to approve certain applications within certain time period; creating certain cause of action; allowing award of certain costs and fees; providing for governance of professional teacher charter school; providing for term of charter contract; providing eligibility to assume the terms of a charter contract; establishing powers and duties of a professional teacher charter school; prohibiting a professional teacher charter school from being subject to certain provisions; establishing boundaries of a professional teacher charter school; providing for student enrollment; creating the Professional Teacher Charter Student Revolving Fund; specifying source of fund; providing for expenditures; providing purpose of fund; providing for distribution of funds to certain schools; providing for retention or distribution of certain property; providing for calculation of weighted average daily membership and State Aid for a professional teacher charter school; prohibiting certain school from receiving certain funds; directing the State Board of Education to determine certain policy; requiring use of certain system to report transactions; providing for promulgation of

1 rules; amending 70 O.S. 2021, Section 3-138, which  
2 relates to unlawful reprisal against certain  
3 employees; adding reference to certain charter  
4 school; amending 70 O.S. 2021, Section 3-144, which  
5 relates to the Charter Schools Incentive Fund;  
6 allowing use of fund for certain purpose; providing  
7 for codification; providing an effective date; and  
8 declaring an emergency.

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

10 SECTION 1. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 3-146 of Title 70, unless there  
12 is created a duplication in numbering, reads as follows:

13 A. This act shall be known and may be cited as the  
14 "Professional Teacher Charter Act".

15 B. The purpose of the Professional Teacher Charter Act is to  
16 provide for the establishment of professional teacher charter  
17 schools to:

- 18 1. Improve student learning;
- 19 2. Increase learning opportunities for students;
- 20 3. Allow experienced public school teachers to establish  
21 themselves as independent education practitioners;
- 22 4. Encourage the use of different and innovative teaching  
23 methods;
- 24 5. Provide additional academic choices for parents and  
students;

1        6. Increase parental knowledge and control of student  
2 curriculum;

3        7. Reduce administrative interference in classroom teaching;  
4 and

5        8. Increase transparency of student performance outcomes.

6        C. For the purposes of this act:

7        1. "Certified teacher" means a teacher who has been issued a  
8 certificate by the State Board of Education in accordance with the  
9 Oklahoma Teacher Preparation Act and rules of the Board;

10       2. "Charter school" means a public school established by  
11 contract pursuant to this act to provide learning that will improve  
12 student achievement and as defined in the Elementary and Secondary  
13 Education Act of 1965, 20 U.S.C. 8065; and

14       3. "Parent" means the natural or adoptive parent or legal  
15 guardian of a minor child.

16       SECTION 2.       NEW LAW       A new section of law to be codified  
17 in the Oklahoma Statutes as Section 3-146.1 of Title 70

18       , unless there is created a duplication in numbering, reads as  
19 follows:

20       A. A certified teacher who has five (5) years of teaching  
21 experience or a consortium of certified teachers who each have five  
22 (5) years of teaching experience may sponsor a professional teacher  
23 charter school pursuant to the provisions of this act.

1       B. A certified teacher or consortium of certified teachers  
2 shall file with the State Board of Education a surety bond or letter  
3 of credit in an amount equal to Two Thousand Dollars (\$2,000.00) per  
4 student expected to enroll in the professional teacher charter  
5 school. The surety bond or letter of credit amount may be adjusted  
6 based on actual enrollment of students in the professional teacher  
7 charter school as of August 1. In no case shall the amount of  
8 surety bond or letter of credit be less than Twenty-five Thousand  
9 Dollars (\$25,000.00).

10       C. A charter school established pursuant to the Oklahoma  
11 Charter Schools Act may convert to a professional teacher charter  
12 school subject to the provisions of this act.

13       SECTION 3.       NEW LAW       A new section of law to be codified  
14 in the Oklahoma Statutes as Section 3-146.2 of Title 70, unless  
15 there is created a duplication in numbering, reads as follows:

16       A. A certified teacher or consortium of certified teachers  
17 seeking to establish a professional teacher charter school pursuant  
18 to this act shall submit a written application to the State Board of  
19 Education. The Board shall make the application available on its  
20 website, and applications may be submitted online. The Board shall  
21 not charge an application fee. The application shall include:

22       1. The name of the applicant(s) accompanied by copies of  
23 certificates to teach issued by the Board and proof that the  
24

1 applicant(s) has five (5) years of teaching experience in this  
2 state;

3 2. Proof of filing the surety bond or letter of credit required  
4 by Section 2 of this act; and

5 3. The designated point of contact between the professional  
6 teacher charter school and State Board of Education.

7 B. 1. The State Board of Education may disapprove an  
8 application that does not meet one or more of the requirements set  
9 forth in this section or Section 4 of this act.

10 2. The State Board of Education shall approve an application  
11 that meets the requirements of this section and Section 4 of this  
12 act within thirty (30) days of receipt of the application and grant  
13 the applicant a charter contract. If an application that meets the  
14 requirements of this section and Section 4 of this act is not  
15 approved within thirty (30) days of receipt, the applicant(s) shall  
16 have a cause of action in district court. The court may award costs  
17 and reasonable attorney fees to the prevailing party.

18 C. A professional teacher charter school established pursuant  
19 to the provisions of this act may be organized as a sole  
20 proprietorship or any other business entity authorized to do  
21 business in this state.

22 D. A professional teacher charter school shall be governed by  
23 the certified teacher or consortium of certified teachers who  
24 applied for the school pursuant to this section and shall have

1 exclusive control over curriculum selection, development, and  
2 delivery. Provided, however, a professional teacher charter school  
3 may have a non-teacher advisory board.

4 E. A professional teacher charter school contract shall be a  
5 continuing contract.

6 F. If a certified teacher or consortium of certified teachers  
7 granted a professional teacher charter school contract pursuant to  
8 the provisions of this section is no longer willing or able to  
9 operate the charter school, another certified teacher or consortium  
10 of teachers who meets the requirements of subsection A of Section 2  
11 of this act may apply to the State Board of Education to assume the  
12 terms of the charter contract. The State Board of Education shall  
13 approve the transfer of the charter contract if the application  
14 meets the requirements of this section and Section 4 of this act.

15 SECTION 4. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 3-146.3 of Title 70, unless  
17 there is created a duplication in numbering, reads as follows:

18 A. A professional teacher charter school established pursuant  
19 to this act:

20 1. May provide a comprehensive program of instruction for  
21 prekindergarten, kindergarten, or any grade between grades one and  
22 twelve;

23 2. Shall ensure that each enrolled student takes a nationally  
24 norm-referenced test approved by the State Board of Education once

1 each school year. Individual student test results shall be  
2 delivered to the student's parents along with aggregated charter  
3 school results. Aggregate test data shall be remitted to the State  
4 Department of Education and published on the professional teacher  
5 charter school's website;

6 3. Shall post on its website a statement describing the extent  
7 to which the charter school's curriculum complies with or departs  
8 from the subject matter standards adopted by the State Board of  
9 Education pursuant to Section 11-103.6 of Title 70 of the Oklahoma  
10 Statutes;

11 4. Shall post on its website information regarding curriculum  
12 and instructional materials to be used by charter school students  
13 and teachers;

14 5. Shall adopt bylaws that:

15 a. ensure compliance with all federal regulations and  
16 state and local rules and statutes relating to health,  
17 safety, civil rights, and insurance, and

18 b. require that the charter school be as equally free and  
19 open to all students as traditional public schools;

20 6. Shall have independent control over curriculum and personnel  
21 decisions;

22 7. May enter into contracts, sue, and be sued; and

23 8. Shall not levy taxes or issue bonds.  
24

1       B. A professional teacher charter school established pursuant  
2 to this act shall not be subject to any provision of the Oklahoma  
3 Charter Schools Act except as provided for in this act. A  
4 professional teacher charter school shall not:

5       1. Be required to participate in the testing required by the  
6 Oklahoma School Testing Program Act; however, the charter school may  
7 choose to participate;

8       2. Be required to participate in the accountability system  
9 established pursuant to Section 1210.545 of Title 70 of the Oklahoma  
10 Statutes; however, the charter school may choose to participate;

11       3. Be required to employ persons who have a valid certificate  
12 issued by and in accordance with the rules of the State Board of  
13 Education;

14       4. Be required to comply with the minimum salary and benefits  
15 set forth in Section 18-114.14 of Title 70 of the Oklahoma Statutes;

16       5. Be required to comply with employer-employee bargaining  
17 provisions set forth in Sections 509.1 through 509.10 of Title 70 of  
18 the Oklahoma Statutes; and

19       6. Be required to comply with provisions regarding the length  
20 of the school day as provided for in Section 1-111 of Title 70 of  
21 the Oklahoma Statutes or the length of the school year as provided  
22 for in Section 1-109 of Title 70 of the Oklahoma Statutes.

23       C. 1. A professional teacher charter school established  
24 pursuant to this act shall be a statewide charter school, and the

1 geographic boundaries of each professional teacher charter school  
2 shall be the borders of the state.

3 2. Any student between the ages of five (5) on or before  
4 September 1 and twenty-one (21) years on or before September 1 shall  
5 be eligible to submit an enrollment application to a professional  
6 teacher charter school.

7 3. A professional teacher charter school shall not limit  
8 enrollment or discriminate based on race, sex, or religion.

9 4. The State Board of Education shall not restrict the number  
10 of students a professional teacher charter school may enroll.

11 5. A professional teacher charter school may establish  
12 enrollment criteria based on objective academic standards and  
13 educational emphasis.

14 6. By July 1 each year, a professional teacher charter school  
15 shall determine and post on its website the capacity for each grade  
16 level offered by the school. If capacity is insufficient to enroll  
17 all eligible students, the school shall select students through a  
18 lottery selection process.

19 D. A professional teacher charter school may provide student  
20 transportation.

21 SECTION 5. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 3-146.4 of Title 70, unless  
23 there is created a duplication in numbering, reads as follows:  
24

1       A. There is hereby created in the State Treasury a revolving  
2 fund for the State Department of Education to be designated the  
3 "Professional Teacher Charter Student Revolving Fund". The fund  
4 shall be a continuing fund, not subject to fiscal year limitations,  
5 and shall consist of all monies received by the State Department of  
6 Education from the surety bond or irrevocable letter of credit  
7 required by subsection B of Section 2 of this act. All monies  
8 accruing to the credit of the fund are hereby appropriated and may  
9 be budgeted and expended by the State Department of Education for  
10 the purpose set forth in subsection B of this section. Expenditures  
11 from the fund shall be made upon warrants issued by the State  
12 Treasurer against claims filed as prescribed by law with the  
13 Director of the Office of Management and Enterprise Services for  
14 approval and payment.

15       B. 1. In the event that a professional teacher charter school  
16 established pursuant to the Professional Teacher Charter Act created  
17 in Section 1 of this act permanently ceases operations prior to the  
18 end of a school year, the surety bond or irrevocable letter of  
19 credit required by subsection B of Section 2 of this act shall be  
20 paid to the Professional Teacher Charter Student Revolving Fund  
21 created in subsection A of this section. The State Department of  
22 Education shall distribute the funds on a pro-rata basis to the  
23 school districts or public charter schools established pursuant to  
24

1 the Oklahoma Charter Schools Act in which students who had been  
2 attending a professional teacher charter school enroll.

3       2.    a.    If a professional teacher charter school is  
4               established as a non-profit sole proprietorship or  
5               other business entity pursuant to subsection C of  
6               Section 3 of this act and permanently ceases  
7               operations, any real or personal property purchased by  
8               the charter school with public funds shall be retained  
9               by the State Board of Education for distribution to  
10              the school districts or public charter schools  
11              established pursuant to the Oklahoma Charter Schools  
12              Act in which students who had been attending a  
13              professional teacher charter school enroll. Priority  
14              shall be given to public charter schools in which  
15              students who had been attending a professional teacher  
16              charter school enroll.

17       b.    If a professional teacher charter school is  
18               established as a for-profit sole proprietorship or  
19               other business entity pursuant to subsection C of  
20               Section 3 of this act and permanently ceases  
21               operations, any real or personal property purchased by  
22               the charter school with public funds shall be retained  
23               by the sole proprietorship or other business entity.

1       SECTION 6.       NEW LAW       A new section of law to be codified  
2 in the Oklahoma Statutes as Section 3-146.5 of Title 70, unless  
3 there is created a duplication in numbering, reads as follows:

4       A. For the purpose of calculating weighted average daily  
5 membership pursuant to Section 18-201.1 of Title 70 of the Oklahoma  
6 Statutes and State Aid pursuant to Section 18-200.1 of Title 70 of  
7 the Oklahoma Statutes, the weighted average daily membership for the  
8 first year of operation of a professional teacher charter school  
9 established pursuant to the provisions of this act shall be  
10 determined by multiplying the actual enrollment of students as of  
11 August 1 by 1.333. The professional teacher charter school shall  
12 receive revenue equal to that which would be generated by the  
13 estimated weighted average daily membership calculated pursuant to  
14 this paragraph. At midyear, the allocation for the professional  
15 teacher charter school shall be adjusted using the first quarter  
16 weighted average daily membership for the professional teacher  
17 charter school calculated pursuant to Section 18-201.1 of Title 70  
18 of the Oklahoma Statutes.

19       B. A professional teacher charter school shall not be eligible  
20 to receive state-dedicated, local, or county revenue; provided, a  
21 professional teacher charter school may be eligible to receive any  
22 other aid, grants, or revenues allowed to other schools. A  
23 professional teacher charter school shall be considered a local  
24 education agency for purposes of funding.

1 C. The State Board of Education shall determine the policy and  
2 procedure for making payments to a professional teacher charter  
3 school.

4 D. A professional teacher charter school shall use the Oklahoma  
5 Cost Accounting System to report financial transactions to the State  
6 Board of Education.

7 E. Any unexpended funds received by a professional teacher  
8 charter school may be reserved and used for future purposes.

9 SECTION 7. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 3-146.6 of Title 70, unless  
11 there is created a duplication in numbering, reads as follows:

12 The State Board of Education shall promulgate rules to implement  
13 the provisions of this act and to expedite the creation and  
14 maintenance of professional teacher charter schools.

15 SECTION 8. AMENDATORY 70 O.S. 2021, Section 3-138, is  
16 amended to read as follows:

17 Section 3-138. A board of education of a school district or an  
18 employee of the district who has control over personnel actions  
19 shall not take unlawful reprisal action against an employee of the  
20 school district for the reason that the employee is directly or  
21 indirectly involved in an application to establish a charter school  
22 pursuant to the Oklahoma Charter Schools Act or the Professional  
23 Teacher Charter Act created in Section 1 of this act. As used in  
24 this section, "unlawful reprisal" means an action that is taken by a

1 board of education or a school district employee as a direct result  
2 of a lawful application to establish a charter school pursuant to  
3 the Oklahoma Charter Schools Act or the Professional Teacher Charter  
4 Act created in Section 1 of this act and that is adverse to an  
5 employee or an education program.

6 SECTION 9. AMENDATORY 70 O.S. 2021, Section 3-144, is  
7 amended to read as follows:

8 Section 3-144. A. There is hereby created in the State  
9 Treasury a fund to be designated the "Charter Schools Incentive  
10 Fund". The fund shall be a continuing fund, not subject to fiscal  
11 year limitations, and shall consist of all monies appropriated by  
12 the Legislature, gifts, grants, devises, and donations from any  
13 public or private source. The State Department of Education shall  
14 administer the fund for the purpose of providing financial support  
15 to charter school applicants and charter schools established  
16 pursuant to the Oklahoma Charter Schools Act or the Professional  
17 Teacher Charter Act created pursuant to Section 1 of this act for  
18 start-up costs and costs associated with renovating or remodeling  
19 existing buildings and structures for use by a charter school. The  
20 State Department of Education is authorized to allocate funds on a  
21 per-pupil basis for purposes of providing matching funds for the  
22 federal State Charter School Facilities Incentive Grants Program  
23 created pursuant to the No Child Left Behind Act, 20 USCA, Section  
24 7221d.

1       B. The State Board of Education shall adopt rules to implement  
2 the provisions of this section, including application and  
3 notification requirements.

4       SECTION 10. This act shall become effective July 1, 2022.

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

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