

RULES COMMITTEE REPORT
ARIZONA HOUSE OF REPRESENTATIVES
Fifty-First Legislature – First Regular Session

April 22, 2013

Mr. Speaker:

Your Committee on Rules reports that it has had under consideration

SENATE BILL 1447

and respectfully recommends that the bill be amended as follows:

1 Page 1, strike lines 4 through 44

2 Strike pages 2 through 10

3 Page 11, strike lines 1 through 13, insert:

4 "15-183. Charter schools; application; requirements; immunity;
5 exemptions; renewal of application; reprisal; fee;
6 funds

7 A. An applicant seeking to establish a charter school shall submit a
8 written application to a proposed sponsor as prescribed in subsection C of
9 this section. The application, application process and application time frames
10 shall be posted on the sponsor's website and shall include the following, as
11 specified in the application adopted by the sponsor:

- 12 1. A detailed educational plan.
13 2. A detailed business plan.
14 3. A detailed operational plan.
15 4. Any other materials required by the sponsor.

16 B. The sponsor of a charter school may contract with a public body,
17 private person or private organization for the purpose of establishing a charter
18 school pursuant to this article.

19 C. The sponsor of a charter school may be either a school district
20 governing board, the state board of education, the state board for charter

1 schools, a university under the jurisdiction of the Arizona board of regents, a
2 community college district with enrollment of more than fifteen thousand
3 full-time equivalent students or a group of community college districts with a
4 combined enrollment of more than fifteen thousand full-time equivalent
5 students, subject to the following requirements:

6 1. For charter schools that submit an application for sponsorship to a
7 school district governing board:

8 (a) An applicant for a charter school may submit its application to a
9 school district governing board, which shall either accept or reject
10 sponsorship of the charter school within ninety days. An applicant may
11 submit a revised application for reconsideration by the governing board. If the
12 governing board rejects the application, the governing board shall notify the
13 applicant in writing of the reasons for the rejection. The applicant may
14 request, and the governing board may provide, technical assistance to
15 improve the application.

16 (b) In the first year that a school district is determined to be out of
17 compliance with the uniform system of financial records, within fifteen days of
18 the determination of noncompliance, the school district shall notify by
19 certified mail each charter school sponsored by the school district that the
20 school district is out of compliance with the uniform system of financial
21 records. The notification shall include a statement that if the school district is
22 determined to be out of compliance for a second consecutive year, the charter
23 school will be required to transfer sponsorship to another entity pursuant to
24 subdivision (c) of this paragraph.

25 (c) In the second consecutive year that a school district is determined
26 to be out of compliance with the uniform system of financial records, within
27 fifteen days of the determination of noncompliance, the school district shall
28 notify by certified mail each charter school sponsored by the school district
29 that the school district is out of compliance with the uniform system of
30 financial records. A charter school that receives a notification of school
31 district noncompliance pursuant to this subdivision shall file a written
32 sponsorship transfer application within forty-five days with the state board of

1 education, the state board for charter schools or the school district governing
2 board if the charter school is located within the geographic boundaries of that
3 school district. A charter school that receives a notification of school district
4 noncompliance may request an extension of time to file a sponsorship
5 transfer application, and the state board of education, the state board for
6 charter schools or a school district governing board may grant an extension
7 of not more than an additional thirty days if good cause exists for the
8 extension. The state board of education and the state board for charter
9 schools shall approve a sponsorship transfer application pursuant to this
10 paragraph.

11 (d) A school district governing board shall not grant a charter to a
12 charter school that is located outside the geographic boundaries of that
13 school district.

14 (e) A school district that has been determined to be out of compliance
15 with the uniform system of financial records during either of the previous two
16 fiscal years shall not sponsor a new or transferring charter school.

17 2. The applicant may submit the application to the state board of
18 education or the state board for charter schools. The state board of education
19 or the state board for charter schools may approve the application if the
20 application meets the requirements of this article and may approve the charter
21 if the proposed sponsor determines, within its sole discretion, that the
22 applicant is sufficiently qualified to operate a charter school and that the
23 applicant is applying to operate as a separate charter holder by considering
24 factors such as whether:

25 (a) The schools have separate governing bodies, governing body
26 membership, staff, facilities, and student population.

27 (b) Daily operations are carried out by different administrators.

28 (c) The applicant intends to have an affiliation agreement for the
29 purpose of providing enrollment preferences.

30 (d) The applicant's charter management organization has multiple
31 charter holders serving varied grade configurations on one physical site or
32 nearby sites serving one community.

1 (e) It is reconstituting an existing school site population at the same or
2 new site.

3 (f) It is reconstituting an existing grade configuration from a prior
4 charter holder with at least one grade remaining on the original site with the
5 other grade or grades moving to a new site.

6 The state board of education or the state board for charter schools may
7 approve any charter schools transferring charters. The state board of
8 education and the state board for charter schools shall approve any charter
9 schools transferring charters from a school district that is determined to be
10 out of compliance with the uniform system of financial records pursuant to
11 this section, but may require the charter school to sign a new charter that is
12 equivalent to the charter awarded by the former sponsor. If the state board of
13 education or the state board for charter schools rejects the preliminary
14 application, the state board of education or the state board for charter schools
15 shall notify the applicant in writing of the reasons for the rejection and of
16 suggestions for improving the application. An applicant may submit a revised
17 application for reconsideration by the state board of education or the state
18 board for charter schools. The applicant may request, and the state board of
19 education or the state board for charter schools may provide, technical
20 assistance to improve the application.

21 3. The applicant may submit the application to a university under the
22 jurisdiction of the Arizona board of regents, a community college district or a
23 group of community college districts. A university, a community college
24 district or a group of community college districts may approve the application
25 if it meets the requirements of this article and if the proposed sponsor
26 determines, in its sole discretion, that the applicant is sufficiently qualified to
27 operate a charter school.

28 4. Each applicant seeking to establish a charter school shall submit a
29 full set of fingerprints to the approving agency for the purpose of obtaining a
30 state and federal criminal records check pursuant to section 41-1750 and
31 Public Law 92-544. If an applicant will have direct contact with students, the
32 applicant shall possess a valid fingerprint clearance card that is issued

1 pursuant to title 41, chapter 12, article 3.1. The department of public safety
2 may exchange this fingerprint data with the federal bureau of
3 investigation. The criminal records check shall be completed before the
4 issuance of a charter.

5 5. All persons engaged in instructional work directly as a classroom,
6 laboratory or other teacher or indirectly as a supervisory teacher, speech
7 therapist or principal shall have a valid fingerprint clearance card that is
8 issued pursuant to title 41, chapter 12, article 3.1, unless the person is a
9 volunteer or guest speaker who is accompanied in the classroom by a person
10 with a valid fingerprint clearance card. A charter school shall not employ a
11 teacher whose certificate has been surrendered or revoked, unless the
12 teacher's certificate has been subsequently reinstated by the state board of
13 education. All other personnel shall be fingerprint checked pursuant to
14 section 15-512. Before employment, the charter school shall make
15 documented, good faith efforts to contact previous employers of a person to
16 obtain information and recommendations that may be relevant to a person's
17 fitness for employment as prescribed in section 15-512, subsection F. The
18 charter school shall notify the department of public safety if the charter school
19 or sponsor receives credible evidence that a person who possesses a valid
20 fingerprint clearance card is arrested for or is charged with an offense listed in
21 section 41-1758.03, subsection B. Charter schools may hire personnel that
22 have not yet received a fingerprint clearance card if proof is provided of the
23 submission of an application to the department of public safety for a
24 fingerprint clearance card and if the charter school that is seeking to hire the
25 applicant does all of the following:

26 (a) Documents in the applicant's file the necessity for hiring and
27 placement of the applicant before receiving a fingerprint clearance card.

28 (b) Ensures that the department of public safety completes a statewide
29 criminal records check on the applicant. A statewide criminal records check
30 shall be completed by the department of public safety every one hundred
31 twenty days until the date that the fingerprint check is completed.

1 (c) Obtains references from the applicant's current employer and the
2 two most recent previous employers except for applicants who have been
3 employed for at least five years by the applicant's most recent employer.

4 (d) Provides general supervision of the applicant until the date that the
5 fingerprint card is obtained.

6 (e) Completes a search of criminal records in all local jurisdictions
7 outside of this state in which the applicant has lived in the previous five years.

8 (f) Verifies the fingerprint status of the applicant with the department of
9 public safety.

10 6. A charter school that complies with the fingerprinting requirements
11 of this section shall be deemed to have complied with section 15-512 and is
12 entitled to the same rights and protections provided to school districts by
13 section 15-512.

14 7. If a charter school operator is not already subject to a public meeting
15 or hearing by the municipality in which the charter school is located, the
16 operator of a charter school shall conduct a public meeting at least thirty days
17 before the charter school operator opens a site or sites for the charter school.
18 The charter school operator shall post notices of the public meeting in at least
19 three different locations that are within three hundred feet of the proposed
20 charter school site.

21 8. A person who is employed by a charter school or who is an applicant
22 for employment with a charter school, who is arrested for or charged with a
23 nonappealable offense listed in section 41-1758.03, subsection B and who
24 does not immediately report the arrest or charge to the person's supervisor or
25 potential employer is guilty of unprofessional conduct and the person shall be
26 immediately dismissed from employment with the charter school or
27 immediately excluded from potential employment with the charter school.

28 9. A person who is employed by a charter school and who is convicted
29 of any nonappealable offense listed in section 41-1758.03, subsection B or is
30 convicted of any nonappealable offense that amounts to unprofessional
31 conduct under section 15-550 shall immediately do all of the following:

32 (a) Surrender any certificates issued by the department of education.

1 (b) Notify the person's employer or potential employer of the
2 conviction.

3 (c) Notify the department of public safety of the conviction.

4 (d) Surrender the person's fingerprint clearance card.

5 D. An entity that is authorized to sponsor charter schools pursuant to
6 this article has no legal authority over or responsibility for a charter school
7 sponsored by a different entity. This subsection does not apply to the state
8 board of education's duty to exercise general supervision over the public
9 school system pursuant to section 15-203, subsection A, paragraph 1.

10 E. The charter of a charter school shall do all of the following:

11 1. Ensure compliance with federal, state and local rules, regulations
12 and statutes relating to health, safety, civil rights and insurance. The
13 department of education shall publish a list of relevant rules, regulations and
14 statutes to notify charter schools of their responsibilities under this
15 paragraph.

16 2. Ensure that it is nonsectarian in its programs, admission policies and
17 employment practices and all other operations.

18 3. Ensure that it provides a comprehensive program of instruction for at
19 least a kindergarten program or any grade between grades one and twelve,
20 except that a school may offer this curriculum with an emphasis on a specific
21 learning philosophy or style or certain subject areas such as mathematics,
22 science, fine arts, performance arts or foreign language.

23 4. Ensure that it designs a method to measure pupil progress toward
24 the pupil outcomes adopted by the state board of education pursuant to
25 section 15-741.01, including participation in the Arizona instrument to
26 measure standards test and the nationally standardized norm-referenced
27 achievement test as designated by the state board and the completion and
28 distribution of an annual report card as prescribed in chapter 7, article 3 of
29 this title.

30 5. Ensure that, except as provided in this article and in its charter, it is
31 exempt from all statutes and rules relating to schools, governing boards and
32 school districts.

1 6. Ensure that, except as provided in this article, it is subject to the
2 same financial and electronic data submission requirements as a school
3 district, including the uniform system of financial records as prescribed in
4 chapter 2, article 4 of this title, procurement rules as prescribed in section
5 15-213 and audit requirements. The auditor general shall conduct a
6 comprehensive review and revision of the uniform system of financial records
7 to ensure that the provisions of the uniform system of financial records that
8 relate to charter schools are in accordance with commonly accepted
9 accounting principles used by private business. A school's charter may
10 include exceptions to the requirements of this paragraph that are necessary
11 as determined by the district governing board, the state board of education or
12 the state board for charter schools. The department of education or the office
13 of the auditor general may conduct financial, program or compliance audits.

14 7. Ensure compliance with all federal and state laws relating to the
15 education of children with disabilities in the same manner as a school district.

16 8. Ensure that it provides for a governing body for the charter school
17 that is responsible for the policy decisions of the charter school.
18 Notwithstanding section 1-216, if there is a vacancy or vacancies on the
19 governing body, a majority of the remaining members of the governing body
20 constitute a quorum for the transaction of business, unless that quorum is
21 prohibited by the charter school's operating agreement.

22 9. Ensure that it provides a minimum of one hundred ~~seventy-five~~
23 EIGHTY instructional days before June 30 of each fiscal year unless it is
24 operating on an alternative calendar approved by its sponsor. The
25 superintendent of public instruction shall adjust the apportionment schedule
26 accordingly to accommodate a charter school utilizing an alternative calendar.

27 F. A charter school shall keep on file the resumes of all current and
28 former employees who provide instruction to pupils at the charter school.
29 Resumes shall include an individual's educational and teaching background
30 and experience in a particular academic content subject area. A charter
31 school shall inform parents and guardians of the availability of the resume
32 information and shall make the resume information available for inspection on

1 request of parents and guardians of pupils enrolled at the charter school. This
2 subsection does not require any charter school to release personally
3 identifiable information in relation to any teacher or employee, including the
4 teacher's or employee's address, salary, social security number or telephone
5 number.

6 G. The charter of a charter school may be amended at the request of
7 the governing body of the charter school and on the approval of the sponsor.

8 H. Charter schools may contract, sue and be sued.

9 I. The charter is effective for fifteen years from the first day of the fiscal
10 year as specified in the charter, subject to the following:

11 1. At least eighteen months before the expiration of the charter, the
12 sponsor shall notify the charter school that the charter school may apply for
13 renewal and shall make the renewal application available to the charter
14 school. A charter school that elects to apply for renewal shall file a complete
15 renewal application at least fifteen months before the expiration of the charter.
16 A sponsor shall give written notice of its intent not to renew the charter
17 school's request for renewal to the charter school at least twelve months
18 before the expiration of the charter. The sponsor shall make data used in
19 making renewal decisions available to the school and the public and shall
20 provide a public report summarizing the evidence basis for each decision.
21 The sponsor may deny the request for renewal if, in its judgment, the charter
22 holder has failed to do any of the following:

23 (a) Meet or make sufficient progress toward the academic performance
24 expectations set forth in the performance framework.

25 (b) Meet the operational performance expectations set forth in the
26 performance framework or any improvement plans.

27 (c) Complete the obligations of the contract.

28 (d) Comply with this article or any provision of law from which the
29 charter school is not exempt.

30 2. A charter operator may apply for early renewal. At least nine months
31 before the charter school's intended renewal consideration, the operator of the
32 charter school shall submit a letter of intent to the sponsor to apply for early

1 renewal. The sponsor shall review fiscal audits and academic performance
2 data for the charter school that are annually collected by the sponsor, review
3 the current contract between the sponsor and the charter school and provide
4 the qualifying charter school with a renewal application. On submission of a
5 complete application, the sponsor shall give written notice of its consideration
6 of the renewal application. The sponsor may deny the request for early
7 renewal if, in the sponsor's judgment, the charter holder has failed to do any
8 of the following:

9 (a) Meet or make sufficient progress toward the academic performance
10 expectations set forth in the performance framework.

11 (b) Meet the operational performance expectations set forth in the
12 performance framework or any improvement plans.

13 (c) Complete the obligations of the contract.

14 (d) Comply with this article or any provision of law from which the
15 charter school is not exempt.

16 3. A sponsor shall review a charter at five-year intervals using a
17 performance framework adopted by the sponsor and may revoke a charter at
18 any time if the charter school breaches one or more provisions of its charter
19 or if the sponsor determines that the charter holder has failed to do any of the
20 following:

21 (a) Meet or make sufficient progress toward the academic performance
22 expectations set forth in the performance framework.

23 (b) Meet the operational performance expectations set forth in the
24 performance framework or any improvement plans.

25 (c) Comply with this article or any provision of law from which the
26 charter school is not exempt.

27 4. At least sixty days before the effective date of the proposed
28 revocation, the sponsor shall give written notice to the operator of the charter
29 school of its intent to revoke the charter. Notice of the sponsor's intent to
30 revoke the charter shall be delivered personally to the operator of the charter
31 school or sent by certified mail, return receipt requested, to the address of the
32 charter school. The notice shall incorporate a statement of reasons for the

1 proposed revocation of the charter. The sponsor shall allow the charter
2 school at least sixty days to correct the problems associated with the reasons
3 for the proposed revocation of the charter. The final determination of whether
4 to revoke the charter shall be made at a public hearing called for such
5 purpose.

6 J. The charter may be renewed for successive periods of twenty years.

7 K. A charter school that is sponsored by the state board of education,
8 the state board for charter schools, a university, a community college district
9 or a group of community college districts may not be located on the property
10 of a school district unless the district governing board grants this authority.

11 L. A governing board or a school district employee who has control
12 over personnel actions shall not take unlawful reprisal against another
13 employee of the school district because the employee is directly or indirectly
14 involved in an application to establish a charter school. A governing board or
15 a school district employee shall not take unlawful reprisal against an
16 educational program of the school or the school district because an
17 application to establish a charter school proposes the conversion of all or a
18 portion of the educational program to a charter school. For the purposes of
19 this subsection, "unlawful reprisal" means an action that is taken by a
20 governing board or a school district employee as a direct result of a lawful
21 application to establish a charter school and that is adverse to another
22 employee or an education program and:

23 1. With respect to a school district employee, results in one or more of
24 the following:

25 (a) Disciplinary or corrective action.

26 (b) Detail, transfer or reassignment.

27 (c) Suspension, demotion or dismissal.

28 (d) An unfavorable performance evaluation.

29 (e) A reduction in pay, benefits or awards.

30 (f) Elimination of the employee's position without a reduction in force
31 by reason of lack of monies or work.

1 (g) Other significant changes in duties or responsibilities that are
2 inconsistent with the employee's salary or employment classification.

3 2. With respect to an educational program, results in one or more of the
4 following:

5 (a) Suspension or termination of the program.

6 (b) Transfer or reassignment of the program to a less favorable
7 department.

8 (c) Relocation of the program to a less favorable site within the school
9 or school district.

10 (d) Significant reduction or termination of funding for the program.

11 M. Charter schools shall secure insurance for liability and property
12 loss. The governing body of a charter school that is sponsored by the state
13 board of education or the state board for charter schools may enter into an
14 intergovernmental agreement or otherwise contract to participate in an
15 insurance program offered by a risk retention pool established pursuant to
16 section 11-952.01 or 41-621.01 or the charter school may secure its own
17 insurance coverage. The pool may charge the requesting charter school
18 reasonable fees for any services it performs in connection with the insurance
19 program.

20 N. Charter schools do not have the authority to acquire property by
21 eminent domain.

22 O. A sponsor, including members, officers and employees of the
23 sponsor, is immune from personal liability for all acts done and actions taken
24 in good faith within the scope of its authority.

25 P. Charter school sponsors and this state are not liable for the debts or
26 financial obligations of a charter school or persons who operate charter
27 schools.

28 Q. The sponsor of a charter school shall establish procedures to
29 conduct administrative hearings on determination by the sponsor that
30 grounds exist to revoke a charter. Procedures for administrative hearings
31 shall be similar to procedures prescribed for adjudicative proceedings in title
32 41, chapter 6, article 10. Except as provided in section 41-1092.08, subsection

1 H, final decisions of the state board of education and the state board for
2 charter schools from hearings conducted pursuant to this subsection are
3 subject to judicial review pursuant to title 12, chapter 7, article 6.

4 R. The sponsoring entity of a charter school shall have oversight and
5 administrative responsibility for the charter schools that it sponsors. In
6 implementing its oversight and administrative responsibilities, the sponsor
7 shall ground its actions in evidence of the charter holder's performance in
8 accordance with the performance framework adopted by the sponsor. The
9 performance framework shall be publicly available, **SHALL BE** placed on the
10 sponsoring entity's website and shall include:

11 1. The academic performance expectations of the charter school and
12 the measurement of sufficient progress toward the academic performance
13 expectations.

14 2. The operational expectations of the charter school, including
15 adherence to all applicable laws and obligations of the charter contract.

16 3. Intervention and improvement policies.

17 S. Charter schools may pledge, assign or encumber their assets to be
18 used as collateral for loans or extensions of credit.

19 T. All property accumulated by a charter school shall remain the
20 property of the charter school.

21 U. Charter schools may not locate a school on property that is less than
22 one-fourth mile from agricultural land regulated pursuant to section 3-365,
23 except that the owner of the agricultural land may agree to comply with the
24 buffer zone requirements of section 3-365. If the owner agrees in writing to
25 comply with the buffer zone requirements and records the agreement in the
26 office of the county recorder as a restrictive covenant running with the title to
27 the land, the charter school may locate a school within the affected buffer
28 zone. The agreement may include any stipulations regarding the charter
29 school, including conditions for future expansion of the school and changes
30 in the operational status of the school that will result in a breach of the
31 agreement.

1 **V. A transfer of a charter to another sponsor, a transfer of a charter**
2 **school site to another sponsor or a transfer of a charter school site to a**
3 **different charter shall be completed before the beginning of the fiscal year that**
4 **the transfer is scheduled to become effective. An entity that sponsors charter**
5 **schools may accept a transferring school after the beginning of the fiscal year**
6 **if the transfer is approved by the superintendent of public instruction. The**
7 **superintendent of public instruction shall have the discretion to consider each**
8 **transfer during the fiscal year on a case by case basis. If a charter school is**
9 **sponsored by a school district that is determined to be out of compliance with**
10 **this title, the uniform system of financial records or any other state or federal**
11 **law, the charter school may transfer to another sponsoring entity at any time**
12 **during the fiscal year. A charter holder seeking to transfer sponsors shall**
13 **comply with the current charter terms regarding assignment of the charter. A**
14 **charter holder transferring sponsors shall notify the current sponsor that the**
15 **transfer has been approved by the new sponsor.**

16 **W. Notwithstanding subsection V of this section, a charter holder on an**
17 **improvement plan must notify parents or guardians of registered students of**
18 **the intent to transfer the charter and the timing of the proposed transfer. On**
19 **the approved transfer, the new sponsor shall enforce the improvement plan**
20 **but may modify the plan based on performance.**

21 **X. Notwithstanding subsection Y of this section, the state board for**
22 **charter schools shall charge a processing fee to any charter school that**
23 **amends its contract to participate in Arizona online instruction pursuant to**
24 **section 15-808. The charter Arizona online instruction processing fund is**
25 **established consisting of fees collected and administered by the state board**
26 **for charter schools. The state board for charter schools shall use monies in**
27 **the fund only for the processing of contract amendments for charter schools**
28 **participating in Arizona online instruction. Monies in the fund are**
29 **continuously appropriated.**

30 **Y. The sponsoring entity may not charge any fees to a charter school**
31 **that it sponsors unless the sponsor has provided services to the charter**
32 **school and the fees represent the full value of those services provided by the**

1 sponsor. On request, the value of the services provided by the sponsor to the
2 charter school shall be demonstrated to the department of education.

3 Z. Charter schools may enter into an intergovernmental agreement with
4 a presiding judge of the juvenile court to implement a law related education
5 program as defined in section 15-154. The presiding judge of the juvenile
6 court may assign juvenile probation officers to participate in a law related
7 education program in any charter school in the county. The cost of juvenile
8 probation officers who participate in the program implemented pursuant to
9 this subsection shall be funded by the charter school.

10 AA. The sponsor of a charter school shall modify previously approved
11 curriculum requirements for a charter school that wishes to participate in the
12 board examination system prescribed in chapter 7, article 6 of this title.

13 BB. If a charter school decides not to participate in the board
14 examination system prescribed in chapter 7, article 6 of this title, pupils
15 enrolled at that charter school may earn a Grand Canyon diploma by obtaining
16 a passing score on the same board examinations.

17 CC. Notwithstanding subsection Y of this section, a sponsor of charter
18 schools may charge a new charter application processing fee to any applicant.
19 The application fee shall fully cover the cost of application review and any
20 needed technical assistance. Authorizers may approve policies that allow a
21 portion of the fee to be returned to the applicant whose charter is approved."

22 Amend title to conform

and as so amended, in the opinion of this Committee the bill is constitutional and
in proper form.

BOB ROBSON, Chairman
RICK GRAY, Vice-Chairman
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