

# An Act

ENROLLED SENATE  
BILL NO. 267

By: Stanislawski of the Senate

and

Quinn and Nelson of the  
House

An Act relating to schools; amending 70 O.S. 2011, Sections 3-132 and 3-140, as last amended by Sections 3 and 4 of Enrolled House Bill No. 1385 of the 1st Session of the 54th Oklahoma Legislature, and 3-142, which relate to the Oklahoma Charter School Act; deleting sponsorship of a statewide virtual charter school by the State Board of Education; deleting certain obsolete language; deleting certain construction of language; deleting certain limitation on enrollment; adding certain statewide virtual charter schools to process for allocating State Aid funding; providing for calculation of weighted average daily membership and State Aid funding for full-time virtual charter schools; amending Sections 3, 5, 6 and 7, Chapter 367, O.S.L. 2012 (70 O.S. Supp. 2012, Sections 3-145.1, 3-145.3, 3-145.4 and 3-145.5), which relate to the Statewide Virtual Charter School Board; modifying authorization for sponsoring statewide virtual school schools; clarifying language; directing the State Department of Education to provide staff and office space for operations of the Board; changing powers and duties of the Board; establishing the geographic boundaries of virtual charter schools sponsored by the Board; modifying type of virtual charter schools subject to certain funding eligibility, State Aid allocation calculations, and activities participation requirements; providing procedures for appealing certain decisions of the Board; changing entity authorized to promulgate rules; prohibiting school

districts from providing full-time virtual education to certain students after certain date; deleting certain reporting requirements; providing for the succession of certain contractual rights and responsibilities to the Board after certain date; providing for the transfer of certain property, assets and liabilities; requiring the execution of certain documents; providing for the assumption of the sponsorship of certain virtual charter schools by the Board; directing the Board to allow certain providers to apply to renew the virtual charter school contract; and providing an effective date.

SUBJECT: Virtual charter schools

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

SECTION 1. AMENDATORY 70 O.S. 2011, Section 3-132, as last amended by Section 3 of Enrolled House Bill No. 1385 of the 1st Session of the 54th Oklahoma Legislature, is amended to read as follows:

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

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

2. By a school district which has a school site that has been identified as in need of improvement by the State Board of Education pursuant to the Elementary and Secondary Education Act of 1965, as amended or reauthorized;

3. By a technology center school district if the charter school is located in a school district served by the technology center

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

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

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

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

7. By a federally recognized Indian tribe, operating a high school under the authority of the Bureau of Indian Affairs as of November 1, 2010, if the charter school is for the purpose of demonstrating native language immersion instruction, and is located within its former reservation or treaty area boundaries. For purposes of this paragraph, native language immersion instruction

shall require that educational instruction and other activities conducted at the school site are primarily conducted in the native language; or

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

~~9. By the State Board of Education when the applicant of the charter school is the Statewide Virtual Charter School Board created in Section 3-145.1 of this title and the charter school is for the purpose of establishing a full-time statewide virtual charter school.~~

~~B. Any charter or enterprise school operating in the state pursuant to an agreement with the board of education of a school district on July 1, 1999, may continue to operate pursuant to that agreement or may contract with the board of education of the school district pursuant to the Oklahoma Charter Schools Act. Nothing in the Oklahoma Charter Schools Act shall prohibit a school district from applying for exemptions from certain education-related statutory requirements as provided for in the Educational Deregulation Act.~~

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

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

SECTION 2. AMENDATORY 70 O.S. 2011, Section 3-140, as last amended by Section 4 of Enrolled House Bill No. 1385 of the 1st Session of the 54th Oklahoma Legislature, is amended to read as follows:

Section 3-140. A. Except for a charter school sponsored by the State Board of Education, a charter school shall enroll those students whose legal residence is within the boundaries of the school district in which the charter school is located and who submit a timely application, or those students who transfer to the district in which the charter school is located in accordance with Section 8-103 or 8-104 of this title, unless the number of applications exceeds the capacity of a program, class, grade level, or building. Students who reside in a school district where a charter school is located shall not be required to obtain a transfer in order to attend a charter school in the school district of residence. If capacity is insufficient to enroll all eligible students, the charter school shall select students through a lottery selection process. Except for a charter school sponsored by the State Board of Education, a charter school shall give enrollment preference to eligible students who reside within the boundaries of the school district in which the charter school is located. Except for a charter school sponsored by the State Board of Education, a charter school created after the effective date of this act shall give enrollment preference to eligible students who reside within the boundaries of the school district in which the charter school is located and who attend a school site that has been identified as in need of improvement by the State Board of Education pursuant to the Elementary and Secondary Education Act of 1965, as amended or reauthorized. A charter school may limit admission to students within a given age group or grade level. A charter school sponsored by the State Board of Education when the applicant of the charter school is the Office of Juvenile Affairs shall limit admission to youth that are in the custody or supervision of the Office of Juvenile Affairs. ~~A charter school sponsored by the State Board of Education when the applicant of the charter school is the Statewide Virtual Charter School Board shall enroll those students who are legal residents of this state and who have been approved for a transfer pursuant to Section 8-103 or 8-104 of this title.~~

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

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

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

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

Section 3-142. A. For purposes of funding, a charter school sponsored by a board of education of a school district shall be considered a site within the school district in which the charter school is located. The student membership of the charter school shall be considered separate from the student membership of the district in which the charter school is located for the purpose of calculating weighted average daily membership pursuant to Section 18-201.1 of this title and State Aid pursuant to Section 18-200.1 of this title. For charter schools sponsored by a board of education of a school district, the sum of the separate calculations for the charter school and the school district shall be used to determine the total State Aid allocation for the district in which the charter school is located. A charter school shall receive from the sponsoring school district, the State Aid allocation and any other state-appropriated revenue generated by its students for the applicable year, less up to five percent (5%) of the State Aid

allocation, which may be retained by the school district as a fee for administrative services rendered. For charter schools sponsored by the board of education of a technology center school district, a higher education institution, the State Board of Education, or a federally recognized Indian tribe and for statewide virtual charter schools sponsored by the Statewide Virtual Charter School Board, the State Aid allocation for the charter school shall be distributed by the State Board of Education and not more than five percent (5%) of the State Aid allocation may be charged by the sponsor as a fee for administrative services rendered. The State Board of Education shall determine the policy and procedure for making payments to a charter school. The fee for administrative services as authorized in this subsection shall only be assessed on the State Aid allocation amount and shall not be assessed on any other appropriated amounts.

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

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

C. A charter school shall be eligible to receive any other aid, grants or revenues allowed to other schools. A charter school

sponsored by the board of education of a technology center school district, a higher education institution, the State Board of Education, or a federally recognized Indian tribe shall be considered a local education agency for purposes of funding. A charter school sponsored by a board of education of a school district shall be considered a local education agency for purposes of federal funding.

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

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

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

Section 3-145.1 A. There is hereby created the Statewide Virtual Charter School Board. The Board shall have the sole authority to ~~be an applicant for a full time~~ authorize and sponsor statewide virtual charter ~~school sponsored by the State Board of Education pursuant to the Oklahoma Charter Schools Act~~ schools in this state. The Board shall be composed of five (5) voting members as follows:

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

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

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

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

B. Initial appointments shall be made by August 1, 2012. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each appoint one member for one (1) year and one member for three (3) years. The Governor shall appoint one member for two (2) years. Members shall serve until their successors are duly appointed for a term of three (3) years. Appointments shall be made by and take effect on November 1 of the year in which the appointment is made. Annually by December 30 the Board shall elect from its membership a chair and vice-chair.

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

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

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

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

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

D. Vacancies shall be filled by the appointing authority.

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

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

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

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

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

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

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

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

~~5. Submit annually, by November 1 of each year, to the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives a report on each provider which has entered into a contract with the Board and each provider which has entered into a contract with a local school district to provide full time virtual instruction to students who do not reside within the school district boundaries, that has detailed data on the performance of students enrolled with the provider through the statewide virtual charter school or school district offering full time virtual education to students who do not reside within the school district. The report shall be posted on the State Department of Education website.~~

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

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

C. Each ~~provider~~ statewide virtual charter school approved by the ~~statewide virtual charter school governed by the Statewide Virtual Charter School Board~~ shall be eligible to receive federal funds generated by students enrolled in the charter school for the applicable year. Each ~~provider~~ statewide virtual charter school shall be considered a separate ~~school site~~ local education agency for purposes of reporting and accountability.

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

E. Students enrolled full-time in ~~the~~ a statewide virtual charter school ~~governed~~ sponsored by the Statewide Virtual Charter School Board shall not be authorized to participate in any activities administered by the Oklahoma Secondary Schools Activities

Association. However, the students may participate in intramural activities sponsored by ~~the Virtual Charter School~~ a statewide virtual charter school, an online provider for the charter school or any other outside organization.

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

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

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

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

Section 3-145.5 ~~Each A. Notwithstanding any other provision of law, beginning July 1, 2014, no school district which offers shall offer full-time virtual education to students who are not residents of the school district shall submit annually, by October 1 of each year, to the Statewide Virtual Charter School Board, a report on each provider which has entered into a contract with the school district. The report shall contain detailed data on the performance of students enrolled with the district who are receiving full-time instruction through a provider and do not reside within the school district or enter into a virtual charter school contract with a provider to provide full-time virtual education to students who do not reside within the school district boundaries.~~

B. Effective July 1, 2014, the Statewide Virtual Charter School Board shall succeed to any contractual rights and responsibilities incurred by a school district in a virtual charter school contract executed prior to January 1, 2014, with a provider to provide full-time virtual education to students who do not reside within the school district boundaries. All property, equipment, supplies, records, assets, current and future liability, encumbrances, obligations and indebtedness associated with the contract shall be transferred to the Statewide Virtual Charter School Board. Appropriate conveyances and other documents shall be executed to effectuate the transfer of any property associated with the contract. Upon succession of the contract, the Board shall assume sponsorship of the virtual charter school for the remainder of the term of the contract. Prior to the end of the current term of the contract, the Board shall allow the provider of the virtual charter school to apply for renewal of the contract with the Board in accordance with the renewal procedures established pursuant to Section 3-145.3 of this title.

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

Passed the Senate the 1st day of May, 2013.

Eddie Fields  
Presiding Officer of the Senate

Passed the House of Representatives the 23rd day of April, 2013.

Mike Jacobs  
Presiding Officer of the House  
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 2<sup>nd</sup>

day of May, 20 13, at 10:10 o'clock A M.

By: Audrey Kestell

Approved by the Governor of the State of Oklahoma this 7<sup>th</sup>

day of May, 20 13, at 2:27 o'clock P M.

Mary Fallin  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 7<sup>th</sup>

day of May, 20 13, at 2:58 o'clock P M.

By: Chris Torres