

State of Arizona  
House of Representatives  
Forty-second Legislature  
Second Regular Session  
1996

**FILED**

**Jane Dee Hull  
Secretary of State**

CHAPTER 356

**HOUSE BILL 2384**

AN ACT

AMENDING SECTIONS 15-182 AND 15-183, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 1, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 15-189.01 AND 15-189.02; AMENDING TITLE 15, CHAPTER 9, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-943.03; RELATING TO CHARTER SCHOOLS.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 15-182, Arizona Revised Statutes, is amended to read:

15-182. State board for charter schools; membership; terms; compensation; duties

A. The state board for charter schools is established consisting of the following members:

1. The superintendent of public instruction or the superintendent's designee.

~~2. Two members of the state board of education who are appointed by the governor pursuant to section 38-211.~~

~~3.~~ 2. Three members of the general public, each AT LEAST ONE of whom shall reside in a neighborhood where a significant number of children reside who meet the eligibility requirements established under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1785) for free lunches, who are appointed by the governor pursuant to section 38-211.

~~4.~~ 3. Two members of the business community who are appointed by the governor pursuant to section 38-211.

~~5.~~ 4. Three members of the legislature who shall serve as advisory members and who are appointed jointly by the president of the senate and the speaker of the house of representatives.

1 B. The superintendent of public instruction shall serve a term on the  
2 state board for charter schools that runs concurrently with the  
3 superintendent's term of office. The members appointed pursuant to  
4 subsection A, ~~paragraphs 2 and 5~~ PARAGRAPH 4 of this section shall serve  
5 staggered four year terms on the state board for charter schools that begin  
6 and end on the third Monday in January and that run concurrently with their  
7 respective terms of office. Members appointed pursuant to subsection A,  
8 paragraphs ~~3- 2~~ and ~~4- 3~~ of this section shall serve staggered four year  
9 terms that begin and end on the third Monday in January.

10 C. The state board for charter schools shall annually elect a  
11 president and such other officers as it deems necessary from among its  
12 membership.

13 D. Members of the state board for charter schools are not eligible to  
14 receive compensation but are eligible for reimbursement of expenses pursuant  
15 to title 38, chapter 4, article 2.

16 E. The state board for charter schools shall:

17 1. Exercise general supervision over charter schools sponsored by the  
18 board and recommend legislation pertaining to charter schools to the  
19 legislature.

20 2. Grant charter status to qualifying applicants for charter schools  
21 pursuant to section 15-183.

22 3. Adopt and use an official seal in the authentication of its acts.

23 4. Keep a record of its proceedings.

24 5. Adopt rules for its own government.

25 6. Determine the policy of the board and the work undertaken by it.

26 7. Delegate to the superintendent of public instruction the execution  
27 of board policies.

28 8. In conjunction with the state board of education, prepare a budget  
29 for expenditures necessary for the proper maintenance of the board and the  
30 accomplishment of its purpose.

31 F. The state board for charter schools may:

32 1. Contract.

33 2. Sue and be sued.

34 Sec. 2. Section 15-183, Arizona Revised Statutes, is amended to read:

35 15-183. Charter schools; application; requirements; immunity;  
36 exemptions; renewal of application; reprisal

37 A. An applicant seeking to establish a charter school shall submit a  
38 written application to a proposed sponsor as prescribed in subsection C of  
39 this section. The application may include a mission statement for the  
40 charter school, a description of the charter school's organizational  
41 structure and the governing body, a financial plan for the first three years  
42 of operation of the charter school, a description of the charter school's  
43 hiring policy, the name of the charter school's applicant or applicants and  
44 requested sponsor, a description of the charter school's facility and the

1 location of the school, a description of the grades being served and an  
2 outline of criteria designed to measure the effectiveness of the school.

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

6 C. The sponsor of a charter school may be either a school district  
7 governing board, the state board of education or the state board for charter  
8 schools, subject to the following requirements:

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

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  
19 education or the state board for charter schools may approve the application  
20 if the application meets the requirements of this article and may approve the  
21 charter if the proposed sponsor determines, within its sole discretion, that  
22 the applicant is sufficiently qualified to operate a charter school. The  
23 state board of education or the state board for charter schools may each  
24 approve up to twenty-five charter schools each fiscal year. If the state  
25 board of education or the state board for charter schools rejects the  
26 preliminary application, the state board of education or the state board for  
27 charter schools shall notify the applicant in writing of the reasons for the  
28 rejection and of suggestions for improving the application. An applicant may  
29 submit a revised application for reconsideration by the state board of  
30 education or the state board for charter schools. The applicant may request,  
31 and the state board of education or the state board for charter schools may  
32 provide, technical assistance to improve the application.

33 3. Fingerprint checks for applicants of a charter school shall be  
34 conducted pursuant to section 41-1750, subsection G, prior to the issuance  
35 of a charter.

36 4. All noncertificated personnel shall be fingerprint checked pursuant  
37 to section 15-512.

38 D. A district governing board has no legal authority over or  
39 responsibility for a charter school sponsored by the state board of education  
40 or the state board for charter schools.

41 E. The charter of a charter school shall ensure the following:

42 1. Compliance with federal, state and local rules, regulations and  
43 statutes relating to health, safety, civil rights and insurance. The  
44 department of education shall publish a list of relevant rules, regulations

1 and statutes to notify charter schools of their responsibilities under this  
2 paragraph.

3 2. That it is nonsectarian in its programs, admission policies and  
4 employment practices and all other operations.

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

10 4. That it designs a method to measure pupil progress toward the pupil  
11 outcomes adopted by the state board of education pursuant to section  
12 15-741.01 including participation in the essential skills tests and the  
13 nationally standardized norm-referenced achievement test as designated by the  
14 state board and the completion and distribution of an annual report card as  
15 prescribed in chapter 7, article 3 of this title.

16 5. That, except as provided in this article and in its charter, it is  
17 exempt from all statutes and rules relating to schools, governing boards and  
18 school districts.

19 6. That, EXCEPT AS PROVIDED IN THIS ARTICLE, it is subject to the same  
20 financial requirements as a school district including the uniform system of  
21 financial records as prescribed in chapter 2, article 4 of this title,  
22 procurement rules as prescribed in section 15-213 and audit requirements.  
23 THE AUDITOR GENERAL SHALL CONDUCT A COMPREHENSIVE REVIEW AND REVISION OF THE  
24 UNIFORM SYSTEM OF FINANCIAL RECORDS TO ENSURE THAT THE PROVISIONS OF THE  
25 UNIFORM SYSTEM OF FINANCIAL RECORDS THAT RELATE TO CHARTER SCHOOLS ARE IN  
26 ACCORDANCE WITH COMMONLY ACCEPTED ACCOUNTING PRINCIPLES USED BY PRIVATE  
27 BUSINESS. A school's charter may include exceptions to the requirements of  
28 this paragraph that are necessary as determined by the district governing  
29 board, the state board of education or the state board for charter schools.  
30 The department of education or the office of the auditor general may conduct  
31 financial, program or compliance audits.

32 7. Compliance with all federal and state laws relating to the  
33 education of children with disabilities in the same manner as a school  
34 district.

35 8. That it provides for a governing body for the charter school that  
36 is responsible for the policy and operational decisions of the charter  
37 school.

38 F. The charter of a charter school shall include a description of the  
39 charter school's personnel policies, personnel qualifications and method of  
40 school governance and the specific role and duties of the sponsor of the  
41 charter school.

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

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

2 I. An approved plan to establish a charter school is effective for  
3 ~~five~~ FIFTEEN years from the first day of operation. At the conclusion of the  
4 first ~~four~~ FOURTEEN years of operation, the charter school may apply for  
5 renewal. The sponsor may deny the request for renewal if, in its judgment,  
6 the charter school has failed to complete the obligations of the application  
7 or has failed to comply with this article. A sponsor shall give written  
8 notice of its intent not to renew the charter school's request for renewal  
9 to the charter school at least twelve months before the expiration of the  
10 approved plan to allow the charter school an opportunity to apply to another  
11 sponsor to transfer the operation of the charter school. If the operation  
12 of the charter school is transferred to another sponsor, the ~~five~~ FIFTEEN  
13 year period shall be repeated. A sponsor SHALL REVIEW A CHARTER AT FIVE YEAR  
14 INTERVALS AND may revoke a charter at any time if the charter school breaches  
15 one or more provisions of its charter. THE SPONSOR SHALL GIVE WRITTEN NOTICE  
16 TO THE OPERATOR OF THE CHARTER SCHOOL OF ITS INTENT TO REVOKE THE CHARTER AT  
17 LEAST NINETY DAYS BEFORE THE EFFECTIVE DATE OF THE PROPOSED REVOCATION.  
18 NOTICE OF THE SPONSOR'S INTENT TO REVOKE THE CHARTER SHALL BE DELIVERED  
19 PERSONALLY TO THE OPERATOR OF THE CHARTER SCHOOL OR BY SENDING IT BY  
20 REGISTERED OR CERTIFIED MAIL TO THE ADDRESS OF THE CHARTER SCHOOL. THE  
21 NOTICE SHALL INCORPORATE A STATEMENT OF REASONS FOR THE PROPOSED REVOCATION  
22 OF THE CHARTER. THE SPONSOR SHALL ALLOW THE CHARTER SCHOOL AT LEAST NINETY  
23 DAYS TO CORRECT THE PROBLEMS ASSOCIATED WITH THE REASONS FOR THE PROPOSED  
24 REVOCATION OF THE CHARTER. THE FINAL DETERMINATION OF WHETHER TO REVOKE THE  
25 CHARTER SHALL BE MADE AT A PUBLIC HEARING CALLED FOR SUCH PURPOSE.

26 J. After renewal of the charter at the end of the ~~five~~ FIFTEEN year  
27 period described in subsection I of this section, the charter may be renewed  
28 for successive periods of ~~seven~~ FIFTEEN years if the charter school and its  
29 sponsor deem that the school is in compliance with its own charter and the  
30 provisions of this article.

31 K. A charter school that is sponsored by the state board of education  
32 or the state board for charter schools may not be located on the property of  
33 a school district unless the district governing board grants this authority.

34 L. A governing board or a school district employee who has control  
35 over personnel actions shall not take unlawful reprisal against another  
36 employee of the school district because the employee is directly or  
37 indirectly involved in an application to establish a charter school. A  
38 governing board or a school district employee shall not take unlawful  
39 reprisal against an educational program of the school or the school district  
40 because an application to establish a charter school proposes the conversion  
41 of all or a portion of the educational program to a charter school. As used  
42 in this subsection, "unlawful reprisal" means an action that is taken by a  
43 governing board or a school district employee as a direct result of a lawful

1 application to establish a charter school and that is adverse to another  
2 employee or an education program and:

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

- 5 (a) Disciplinary or corrective action.
- 6 (b) Detail, transfer or reassignment.
- 7 (c) Suspension, demotion or dismissal.
- 8 (d) An unfavorable performance evaluation.
- 9 (e) A reduction in pay, benefits or awards.
- 10 (f) Elimination of the employee's position without a reduction in  
11 force by reason of lack of monies or work.
- 12 (g) Other significant changes in duties or responsibilities that are  
13 inconsistent with the employee's salary or employment classification.

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

- 16 (a) Suspension or termination of the program.
- 17 (b) Transfer or reassignment of the program to a less favorable  
18 department.
- 19 (c) Relocation of the program to a less favorable site within the  
20 school or school district.
- 21 (d) Significant reduction or termination of funding for the program.

22 M. Charter schools do not have the authority to acquire property by  
23 eminent domain.

24 N. A school district governing board and its agents and employees are  
25 not liable for any acts or omissions of a charter school that is sponsored  
26 by the school district, including acts or omissions relating to the  
27 application submitted by the charter school, the charter of the charter  
28 school, the operation of the charter school and the performance of the  
29 charter school.

30 O. A sponsor other than a school district governing board, including  
31 members, officers and employees of the sponsor, are immune from personal  
32 liability for all acts done and actions taken in good faith within the scope  
33 of their authority during duly constituted regular and special meetings.

34 P. The sponsor of a charter school shall establish procedures to  
35 conduct administrative hearings upon determination by the sponsor that  
36 grounds exist to revoke a charter. Procedures for administrative hearings  
37 shall be similar to procedures prescribed for adjudicative proceedings in  
38 title 41, chapter 6, article 6. Final decisions of the state board of  
39 education and the state board for charter schools from hearings conducted  
40 pursuant to this subsection are subject to judicial review pursuant to title  
41 12, chapter 7, article 6.

42 Q. THE SPONSORING ENTITY OF A CHARTER SCHOOL SHALL HAVE OVERSIGHT AND  
43 ADMINISTRATIVE RESPONSIBILITY FOR THE CHARTER SCHOOLS WHICH THEY SPONSOR.

1 R. CHARTER SCHOOLS MAY PLEDGE, ASSIGN OR ENCUMBER THEIR ASSETS TO BE  
2 USED AS COLLATERAL FOR LOANS OR EXTENSIONS OF CREDIT.

3 S. ANY AND ALL PROPERTY ACCUMULATED BY A CHARTER SCHOOL SHALL REMAIN  
4 THE PROPERTY OF THE CHARTER SCHOOL.

5 Sec. 3. Title 15, chapter 1, article 8, Arizona Revised Statutes, is  
6 amended by adding sections 15-189.01 and 15-189.02, to read:

7 15-189.01. Charter schools; zoning; development fees

8 A. CHARTER SCHOOLS SHALL BE CLASSIFIED AS PUBLIC SCHOOLS FOR THE  
9 PURPOSES OF THE ASSESSMENT OF ZONING FEES, SITE PLAN FEES AND DEVELOPMENT  
10 FEES. MUNICIPALITIES AND COUNTIES SHALL ADOPT PROCEDURES TO ENSURE THAT  
11 HEARINGS AND ADMINISTRATIVE REVIEWS INVOLVING CHARTER SCHOOLS ARE SCHEDULED  
12 AND CONDUCTED ON AN EXPEDITED BASIS AND THAT CHARTER SCHOOLS RECEIVE A FINAL  
13 DETERMINATION FROM THE MUNICIPALITY OR COUNTY WITHIN THIRTY DAYS OF THE  
14 BEGINNING OF PROCESSES REQUIRING ONLY AN ADMINISTRATIVE REVIEW AND WITHIN  
15 NINETY DAYS OF THE BEGINNING OF PROCESSES REQUIRING A PUBLIC HEARING AND  
16 ALLOWING AN APPEAL TO A BOARD OF ADJUSTMENT, CITY OR TOWN COUNCIL OR BOARD  
17 OF SUPERVISORS.

18 B. NO POLITICAL SUBDIVISION OF THIS STATE MAY ENACT OR INTERPRET ANY  
19 LAW, RULE OR ORDINANCE IN A MANNER THAT CONFLICTS WITH SUBSECTION A.

20 15-189.02. Charter schools; public bidding requirements

21 A. A CHARTER SCHOOL'S PROCUREMENT IS EXEMPT FROM PUBLIC BIDDING  
22 REQUIREMENTS IF THE AGGREGATE DOLLAR AMOUNT OF THE PROCUREMENT DOES NOT  
23 EXCEED THE MAXIMUM AMOUNT OF THE EXEMPTION AUTHORIZED BY TITLE 41, CHAPTER  
24 23 OR PURSUANT TO RULES ADOPTED BY THE DIRECTOR OF THE DEPARTMENT OF  
25 ADMINISTRATION.

26 B. NOTWITHSTANDING SUBSECTION A, THE STATE BOARD FOR CHARTER SCHOOLS  
27 MAY AUTHORIZE AN EXEMPTION FROM PUBLIC BIDDING REQUIREMENTS THAT EXCEEDS THE  
28 MAXIMUM EXEMPTION PRESCRIBED IN SUBSECTION A OF THIS SECTION FOR ANY CHARTER  
29 SCHOOL SPONSORED BY THE STATE BOARD FOR CHARTER SCHOOLS.

30 Sec. 4. Title 15, chapter 9, article 3, Arizona Revised Statutes, is  
31 amended by adding section 15-943.03, to read:

32 15-943.03. Budget balance exemption

33 CHARTER SCHOOLS ARE EXEMPT FROM THE BUDGET BALANCE CARRY FORWARD  
34 LIMITATION PRESCRIBED IN SECTION 15-943.01, SUBSECTION A.

35 Sec. 5. Duration of existing charters

36 Notwithstanding section 15-183, Arizona Revised Statutes, as amended  
37 by this act, the charter of a charter school that possesses a charter on the  
38 effective date of this act shall be extended for an additional fifteen years  
39 from the effective date of this act.

40 Sec. 6. Charter school transportation; fiscal year 1995-1996

41 A. Notwithstanding section 15-186, Arizona Revised Statutes, as  
42 amended by Laws 1995, chapter 1, section 1, and section 15-945, Arizona  
43 Revised Statutes, as amended by Laws 1995, chapter 191, section 14, for  
44 fiscal year 1995-1996, the transportation support level for a charter school

1 that is sponsored by the state board of education or the state board for  
2 charter schools shall be calculated as if "eligible students" had been  
3 defined as in subsection B of this section and by dividing third party  
4 passenger vehicle miles traveled after December 22, 1995 by seven.

5 B. In this section, "eligible students" means:

6 1. For students with disabilities whose individualized education plan  
7 specifies that transportation is necessary for fulfillment of the plan and  
8 students who meet the economic eligibility requirements established under the  
9 national school lunch and child nutrition acts (42 United States Code  
10 sections 1751 through 1785) for free or reduced price lunches, those whose  
11 place of actual residence is more than one mile from the school facility of  
12 attendance if attending common school or whose place of actual residence is  
13 more than one and one-half miles from the school facility of attendance if  
14 attending high school. Transportation for these students is limited to no  
15 more than twenty miles each way to and from the school of attendance.

16 2. For other students, those whose place of actual residence is more  
17 than one mile from the school facility of attendance if attending common  
18 school or whose place of actual residence is more than one and one-half miles  
19 from the school facility of attendance if attending high school.

20 Sec. 7. Retention of members

21 Notwithstanding section 15-182, Arizona Revised Statutes, as amended  
22 by this act, members of the state board of education who are members of the  
23 state board for charter schools on the effective date of this act shall  
24 continue to serve until the expiration of the term to which the member was  
25 appointed or their resignation, whichever occurs first.

**APPROVED BY THE GOVERNOR MAY 1, 1996**

**FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 2, 1996**