Senate Engrossed House Bill

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 6

HOUSE BILL 2041

AN ACT

AMENDING SECTION 15-185, ARIZONA REVISED STATUTES; RELATING TO CHARTER SCHOOLS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 15-185, Arizona Revised Statutes, is amended to read:

15-185. Charter schools; financing; definitions

A. Financial provisions for a charter school that is sponsored by a school district governing board are as follows:

1. The charter school shall be included in the district's budget and financial assistance calculations pursuant to paragraph 3 of this subsection and chapter 9 of this title, except for chapter 9, article 4 of this title. The charter of the charter school shall include a description of the methods of funding the charter school by the school district. The school district shall send a copy of the charter and application, including a description of how the school district plans to fund the school, to the state board of education before the start of the first fiscal year of operation of the charter school. The charter or application shall include an estimate of the student count for the charter school for its first fiscal year of operation. This estimate shall be computed pursuant to the requirements of paragraph 3 of this subsection.

2. A school district is not financially responsible for any charter school that is sponsored by the state board of education or the state board for charter schools.

3. A school district that sponsors a charter school may:

(a) Increase its student count as provided in subsection B, paragraph 2 of this section during the first year of the charter school's operation to include those charter school pupils who were not previously enrolled in the school district. A charter school sponsored by a school district governing board is eligible for the assistance prescribed in subsection B, paragraph 4 of this section. The soft capital allocation as provided in section 15-962 for the school district sponsoring the charter school shall be increased by the amount of the additional assistance. The school district shall include the full amount of the additional assistance in the funding provided to the charter school.

(b) Compute separate weighted student counts pursuant to section 15-943, paragraph 2, subdivision (a) for its noncharter school versus charter school pupils in order to maintain eligibility for small school district support level weights authorized in section 15-943, paragraph 1 for its noncharter school pupils only. The portion of a district's student count that is attributable to charter school pupils is not eligible for small school district support level weights.

4. If a school district uses the provisions of paragraph 3 of this subsection, the school district is not eligible to include those pupils in its student count for the purposes of computing an increase in its revenue control limit and district support level as provided in section 15-948.

5. A school district that sponsors a charter school is not eligible to include the charter school pupils in its student count for the purpose of

computing an increase in its capital outlay revenue limit as provided in section 15-961, subsection C, except that if the charter school was previously a school in the district, the district may include in its student count any charter school pupils who were enrolled in the school district in the prior year.

6. A school district that sponsors a charter school is not eligible to include the charter school pupils in its student count for the purpose of computing the revenue control limit which is used to determine the maximum budget increase as provided in chapter 4, article 4 of this title unless the charter school is located within the boundaries of the school district.

7. If a school district converts one or more of its district public schools to a charter school and receives assistance as prescribed in subsection B, paragraph 4 of this section, and subsequently converts the charter school back to a district public school, the school district shall repay the state the total additional assistance received for the charter school for all years that the charter school was in operation. The repayment shall be in one lump sum and shall be reduced from the school district's current year equalization assistance. The school district's general budget limit shall be reduced by the same lump sum amount in the current year.

B. Financial provisions for a charter school that is sponsored by the state board of education or the state board for charter schools are as follows:

1. The charter school shall calculate a base support level as prescribed in section 15-943, except that sections 15-941 and 15-942 do not apply to these charter schools.

2. Notwithstanding paragraph 1 of this subsection, the student count shall be determined initially using an estimated student count based on actual registration of pupils before the beginning of the school year. After the first one hundred days or two hundred days in session, as applicable, the charter school shall revise the student count to be equal to the actual average daily membership, as defined in section 15-901, or the adjusted average daily membership, as prescribed in section 15-902, of the charter school. Before the one hundredth day or two hundredth day in session, as applicable, the state board of education or the state board for charter schools may require a charter school to report periodically regarding pupil enrollment and attendance and the department of education may revise its computation of equalization assistance based on the report. A charter school shall revise its student count, base support level and additional assistance before May 15. A charter school that overestimated its student count shall revise its budget before May 15. A charter school that underestimated its student count may revise its budget before May 15.

3. A charter school may utilize section 15-855 for the purposes of this section. The charter school and the department of education shall prescribe procedures for determining average daily attendance and average daily membership.

4. Equalization assistance for the charter school shall be determined by adding the amount of the base support level and additional assistance. The amount of the additional assistance is one thousand three hundred eighty-seven dollars twenty-five cents per student count in kindergarten programs and grades one through eight and one thousand six hundred sixteen dollars eighty-one cents per student count in grades nine through twelve.

5. The state board of education shall apportion state aid from the appropriations made for such purposes to the state treasurer for disbursement to the charter schools in each county in an amount as determined by this paragraph. The apportionments shall be made in twelve equal installments of the total amount to be apportioned during the fiscal year on the fifteenth day of each month of the fiscal year.

6. Notwithstanding paragraph 5 of this subsection, if sufficient appropriated monies are available after the first forty days in session of the current year, a charter school may request additional state monies to fund the increased state aid due to anticipated student growth through the first one hundred days or two hundred days in session, as applicable, of the current year as provided in section 15-948. In no event shall a charter school have received more than three-fourths of its total apportionment before April 15 of the fiscal year. Early payments pursuant to this subsection must be approved by the state treasurer, the director of the department of administration and the superintendent of public instruction.

7. The charter school shall not charge tuition, levy taxes or issue bonds.

8. Not later than noon on the day preceding each apportionment date established by paragraph 5 of this subsection, the superintendent of public instruction shall furnish to the state treasurer an abstract of the apportionment and shall certify the apportionment to the department of administration, which shall draw its warrant in favor of the charter schools for the amount apportioned.

C. If a pupil is enrolled in both a charter school and a public school that is not a charter school, the sum of the daily membership, which includes enrollment as prescribed in section 15-901, subsection A, paragraph 2, subdivisions (a) and (b) and daily attendance as prescribed in section 15-901, subsection A, paragraph 6, for that pupil in the school district and the charter school shall not exceed 1.0, except that if the pupil is enrolled in both a charter school and a joint technological education district and resides within the boundaries of a school district participating in the joint technological education district, the sum of the average daily membership for that pupil in the charter school and the joint technological education district shall not exceed 1.25. If a pupil is enrolled in both a charter school and a public school that is not a charter school, the department of education shall direct the average daily membership to the school with the most recent enrollment date. Upon validation of actual enrollment in both a

charter school and a public school that is not a charter school and if the sum of the daily membership or daily attendance for that pupil is greater than 1.0, the sum shall be reduced to 1.0 and shall be apportioned between the public school and the charter school based on the percentage of total time that the pupil is enrolled or in attendance in the public school and the charter school, except that if the pupil is enrolled in both a charter school and a joint technological education district and resides within the boundaries of a school district participating in the joint technological education district, the sum of the average daily membership for that pupil in the charter school and the joint technological education district shall be reduced to 1.25 and shall be apportioned between the charter school and the joint technological education district based on the percentage of total time that the pupil is enrolled or in attendance in the charter school and the joint technological education district. The uniform system of financial records shall include guidelines for the apportionment of the pupil enrollment and attendance as provided in this section.

D. Charter schools are allowed to accept grants and gifts to supplement their state funding, but it is not the intent of the charter school law to require taxpayers to pay twice to educate the same pupils. The base support level for a charter school or for a school district sponsoring a charter school shall be reduced by an amount equal to the total amount of monies received by a charter school from a federal or state agency if the federal or state monies are intended for the basic maintenance and operations of the school. The superintendent of public instruction shall estimate the amount of the reduction for the budget year and shall revise the reduction to reflect the actual amount before May 15 of the current year. If the reduction results in a negative amount, the negative amount shall be used in computing all budget limits and equalization assistance, except that:

1. Equalization assistance shall not be less than zero.

2. For a charter school sponsored by the state board of education or the state board for charter schools, the total of the base support level, the capital outlay revenue limit, the soft capital allocation and the additional assistance shall not be less than zero.

3. For a charter school sponsored by a school district, the base support level for the school district shall not be reduced by more than the amount that the charter school increased the district's base support level, capital outlay revenue limit and soft capital allocation.

E. If a charter school was a district public school in the prior year and is now being operated for or by the same school district and sponsored by the state board of education, the state board for charter schools or a school district governing board, the reduction in subsection D of this section applies. The reduction to the base support level of the charter school or the sponsoring district of the charter school shall equal the sum of the base support level and the additional assistance received in the current year for

1 those pupils who were enrolled in the traditional public school in the prior
2 year and are now enrolled in the charter school in the current year.
3 F. Equalization assistance for charter schools shall be provided as a
4 single amount based on average daily membership without categorical
5 distinctions between maintenance and operations or capital.
6 G. At the request of a charter school, the county school
7 superintendent of the county where the charter school is located may provide
8 the same educational services to the charter school as prescribed in section
9 15-308, subsection A. The county school superintendent may charge a fee to
10 recover costs for providing educational services to charter schools.
11 H. If the sponsor of the charter school determines at a public meeting
12 that the charter school is not in compliance with federal law, with the laws
13 of this state or with its charter, the sponsor of a charter school may submit
14 a request to the department of education to withhold up to ten per cent of
15 the monthly apportionment of state aid that would otherwise be due the
16 charter school. The department of education shall adjust the charter
17 school's apportionment accordingly. The sponsor shall provide written notice
18 to the charter school at least seventy-two hours before the meeting and shall
19 allow the charter school to respond to the allegations of noncompliance at
20 the meeting before the sponsor makes a final determination to notify the
21 department of education of noncompliance. The charter school shall submit a
22 corrective action plan to the sponsor on a date specified by the sponsor at
23 the meeting. The corrective action plan shall be designed to correct
24 deficiencies at the charter school and to ensure that the charter school
25 promptly returns to compliance. When the sponsor determines that the charter
26 school is in compliance, the department of education shall restore the full
27 amount of state aid payments to the charter school.
28 I. IN ADDITION TO THE WITHHOLDING OF STATE AID PAYMENTS PURSUANT TO
29 SUBSECTION H OF THIS SECTION, THE SPONSOR OF A CHARTER SCHOOL MAY IMPOSE A
30 CIVIL PENALTY OF ONE THOUSAND DOLLARS PER OCCURRENCE IF A CHARTER SCHOOL
31 FAILS TO COMPLY WITH THE FINGERPRINTING REQUIREMENTS PRESCRIBED IN SECTION
32 15-183, SUBSECTION C OR SECTION 15-512. THE SPONSOR OF A CHARTER SCHOOL
33 SHALL NOT IMPOSE A CIVIL PENALTY IF IT IS THE FIRST TIME THAT A CHARTER
34 SCHOOL IS OUT OF COMPLIANCE WITH THE FINGERPRINTING REQUIREMENTS AND IF THE
35 CHARTER SCHOOL PROVIDES PROOF WITHIN FORTY-EIGHT HOURS OF WRITTEN
36 NOTIFICATION THAT AN APPLICATION FOR THE APPROPRIATE FINGERPRINT CHECK HAS
37 BEEN RECEIVED BY THE DEPARTMENT OF PUBLIC SAFETY. THE SPONSOR OF THE CHARTER
38 SCHOOL SHALL OBTAIN PROOF THAT THE CHARTER SCHOOL HAS BEEN NOTIFIED AND THE
39 NOTIFICATION SHALL IDENTIFY THE DATE OF THE DEADLINE AND SHALL BE SIGNED BY
40 BOTH PARTIES. THE SPONSOR OF A CHARTER SCHOOL SHALL AUTOMATICALLY IMPOSE A
41 CIVIL PENALTY OF ONE THOUSAND DOLLARS PER OCCURRENCE IF THE SPONSOR
42 DETERMINES THAT THE CHARTER SCHOOL SUBSEQUENTLY VIOLATES THE FINGERPRINTING
43 REQUIREMENTS. CIVIL PENALTIES PURSUANT TO THIS SECTION SHALL BE ASSESSED BY
44 REQUESTING THE DEPARTMENT OF EDUCATION TO REDUCE THE AMOUNT OF STATE AID THAT
45 THE CHARTER SCHOOL WOULD OTHERWISE RECEIVE BY AN AMOUNT EQUAL TO THE CIVIL

PENALTY. THE AMOUNT OF STATE AID WITHHELD SHALL REVERT TO THE STATE GENERAL FUND AT THE END OF THE FISCAL YEAR.

~~I.~~ J. A charter school may receive and spend monies distributed by the department of education pursuant to section 42-5029, subsection E and section 37-521, subsection B.

~~J.~~ K. For the purposes of this section:

1. "Monies intended for the basic maintenance and operations of the school" means monies intended to provide support for the educational program of the school, except that it does not include supplemental assistance for a specific purpose or P.L. 81-874 monies. The auditor general shall determine which federal or state monies meet the definition in this paragraph.

2. "Operated for or by the same school district" means the charter school is either governed by the same district governing board or operated by the district in the same manner as other traditional schools in the district or is operated by an independent party that has a contract with the school district. The auditor general and the department of education shall determine which charter schools meet the definition in this subsection.

APPROVED BY THE GOVERNOR APRIL 10, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2007.

Passed the House February 12, 2007

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

Speaker of the House

Norman L. Moore

Chief Clerk of the House

Passed the Senate April 2, 2007

by the following vote: 27 Ayes,

0 Nays, 3 Not Voting

Timothy S. Bee

President of the Senate

Shannon Billington

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

_____

Secretary to the Governor

Approved this _____day of

_____

at _____o'clock _____M.

_____

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

_____

Secretary of State

H.B. 2041

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 4, 2007,

by the following vote: 55 Ayes,

0 Nays, 5 Not Voting

Speaker of the House

Cheryl Laube
Assistant Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

14th day of April, 2007,

at 2:32 o'clock P. M.

Jennifer Ybarra
Secretary to the Governor

Approved this 10 day of

April, 2007,

at 4:55 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 11 day of April, 2007,

at 9:04 o'clock A. M.

Janice K. Brewer
Secretary of State

H.B. 2041