

House Engrossed Senate Bill

**FILED**

**KEN BENNETT**

**SECRETARY OF STATE**

State of Arizona  
Senate  
Forty-ninth Legislature  
First Regular Session  
2009

CHAPTER 117

## **SENATE BILL 1386**

AN ACT

AMENDING SECTION 15-183, ARIZONA REVISED STATUTES; RELATING TO CHARTER SCHOOLS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-183, Arizona Revised Statutes, is amended to  
3 read:

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

6 A. An applicant seeking to establish a charter school shall submit a  
7 written application to a proposed sponsor as prescribed in subsection C of  
8 this section. The application shall include a detailed business plan for the  
9 charter school and may include a mission statement for the charter school, a  
10 description of the charter school's organizational structure and the  
11 governing body, a financial plan for the first three years of operation of  
12 the charter school, a description of the charter school's hiring policy, the  
13 name of the charter school's applicant or applicants and requested sponsor, a  
14 description of the charter school's facility and the location of the school,  
15 a description of the grades being served and an outline of criteria designed  
16 to measure the effectiveness of the school.

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

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

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

25 (a) An applicant for a charter school may submit its application to a  
26 school district governing board, which shall either accept or reject  
27 sponsorship of the charter school within ninety days. An applicant may  
28 submit a revised application for reconsideration by the governing board. If  
29 the governing board rejects the application, the governing board shall notify  
30 the applicant in writing of the reasons for the rejection. The applicant may  
31 request, and the governing board may provide, technical assistance to improve  
32 the application.

33 (b) In the first year that a school district is determined to be out  
34 of compliance with the uniform system of financial records, within fifteen  
35 days of the determination of noncompliance, the school district shall notify  
36 by certified mail each charter school sponsored by the school district that  
37 the school district is out of compliance with the uniform system of financial  
38 records. The notification shall include a statement that if the school  
39 district is determined to be out of compliance for a second consecutive year,  
40 the charter school will be required to transfer sponsorship to another entity  
41 pursuant to subdivision (c) of this paragraph.

42 (c) In the second consecutive year that a school district is  
43 determined to be out of compliance with the uniform system of financial  
44 records, within fifteen days of the determination of noncompliance, the  
45 school district shall notify by certified mail each charter school sponsored  
46 by the school district that the school district is out of compliance with the

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

14 (d) ~~Beginning July 1, 2000,~~ A school district governing board shall  
15 not grant a charter to a charter school that is located outside the  
16 geographic boundaries of that school district.

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

20 2. The applicant may submit the application to the state board of  
21 education or the state board for charter schools. The state board of  
22 education or the state board for charter schools may approve the application  
23 if the application meets the requirements of this article and may approve the  
24 charter if the proposed sponsor determines, within its sole discretion, that  
25 the applicant is sufficiently qualified to operate a charter school. The  
26 state board of education or the state board for charter schools may approve  
27 any charter schools transferring charters. The state board of education and  
28 the state board for charter schools shall approve any charter schools  
29 transferring charters from a school district that is determined to be out of  
30 compliance with the uniform system of financial records pursuant to this  
31 section, but may require the charter school to sign a new charter that is  
32 equivalent to the charter awarded by the former sponsor. If the state board  
33 of education or the state board for charter schools rejects the preliminary  
34 application, the state board of education or the state board for charter  
35 schools shall notify the applicant in writing of the reasons for the  
36 rejection and of suggestions for improving the application. An applicant may  
37 submit a revised application for reconsideration by the state board of  
38 education or the state board for charter schools. The applicant may request,  
39 and the state board of education or the state board for charter schools may  
40 provide, technical assistance to improve the application.

41 3. Each applicant seeking to establish a charter school shall submit a  
42 full set of fingerprints to the approving agency for the purpose of obtaining  
43 a state and federal criminal records check pursuant to section 41-1750 and  
44 Public Law 92-544. If an applicant will have direct contact with students,  
45 the applicant shall possess a valid fingerprint clearance card that is issued  
46 pursuant to title 41, chapter 12, article 3.1. The department of public

1 safety may exchange this fingerprint data with the federal bureau of  
2 investigation. The criminal records check shall be completed before the  
3 issuance of a charter.

4 4. All persons engaged in instructional work directly as a classroom,  
5 laboratory or other teacher or indirectly as a supervisory teacher, speech  
6 therapist or principal shall have a valid fingerprint clearance card that is  
7 issued pursuant to title 41, chapter 12, article 3.1, unless the person is a  
8 volunteer or guest speaker who is accompanied in the classroom by a person  
9 with a valid fingerprint clearance card. A charter school shall not employ a  
10 teacher whose certificate has been revoked for a violation of section 15-507  
11 or 15-550 or for any offense that placed a pupil in danger. All other  
12 personnel shall be fingerprint checked pursuant to section 15-512. Before  
13 employment, the charter school shall make documented, good faith efforts to  
14 contact previous employers of a person to obtain information and  
15 recommendations that may be relevant to a person's fitness for employment as  
16 prescribed in section 15-512, subsection F. The charter school shall notify  
17 the department of public safety if the charter school or sponsor receives  
18 credible evidence that a person who possesses a valid fingerprint clearance  
19 card is arrested for or is charged with an offense listed in section  
20 41-1758.03, subsection B. Charter schools may hire personnel that have not  
21 yet received a fingerprint clearance card if proof is provided of the  
22 submission of an application to the department of public safety for a  
23 fingerprint clearance card and if the charter school that is seeking to hire  
24 the applicant does all of the following:

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

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

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

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

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

39 (f) Verifies the fingerprint status of the applicant with the  
40 department of public safety.

41 5. If a charter school operator is not already subject to a public  
42 meeting or hearing by the municipality in which the charter school is  
43 located, the operator of a charter school shall conduct a public meeting at  
44 least thirty days before the charter school operator opens a site or sites  
45 for the charter school. The charter school operator shall post notices of

1 the public meeting in at least three different locations that are within  
2 three hundred feet of the proposed charter school site.

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

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

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

15 (b) Notify the person's employer or potential employer of the  
16 conviction.

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

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

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

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

25 1. Compliance with federal, state and local rules, regulations and  
26 statutes relating to health, safety, civil rights and insurance. The  
27 department of education shall publish a list of relevant rules, regulations  
28 and statutes to notify charter schools of their responsibilities under this  
29 paragraph.

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

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

37 4. That it designs a method to measure pupil progress toward the pupil  
38 outcomes adopted by the state board of education pursuant to section  
39 15-741.01, including participation in the Arizona instrument to measure  
40 standards test and the nationally standardized norm-referenced achievement  
41 test as designated by the state board and the completion and distribution of  
42 an annual report card as prescribed in chapter 7, article 3 of this title.

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

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

15           7. Compliance with all federal and state laws relating to the  
16 education of children with disabilities in the same manner as a school  
17 district.

18           8. That it provides for a governing body for the charter school that  
19 is responsible for the policy decisions of the charter school.

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

25           F. The charter of a charter school shall include a description of the  
26 charter school's personnel policies, personnel qualifications and method of  
27 school governance and the specific role and duties of the sponsor of the  
28 charter school. A charter school shall keep on file the resumes of all  
29 current and former employees who provide instruction to pupils at the charter  
30 school. Resumes shall include an individual's educational and teaching  
31 background and experience in a particular academic content subject area. A  
32 charter school shall inform parents and guardians of the availability of the  
33 resume information and shall make the resume information available for  
34 inspection on request of parents and guardians of pupils enrolled at the  
35 charter school. Nothing in this subsection shall be construed to require any  
36 charter school to release personally identifiable information in relation to  
37 any teacher or employee, including the teacher's or employee's address,  
38 salary, social security number or telephone number.

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

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

42           I. An approved plan to establish a charter school is effective for  
43 fifteen years from the first day of THE FISCAL YEAR THE CHARTER SCHOOL IS IN  
44 operation, SUBJECT TO THE FOLLOWING:

45           1. At least eighteen months before the expiration of the approved  
46 plan, the sponsor shall notify the charter school that the charter school may

1 apply for renewal. A charter school that elects to apply for renewal shall  
2 file an application for renewal at least fifteen months before the expiration  
3 of the approved plan. In addition to any other requirements, the application  
4 for renewal shall include a detailed business plan for the charter school, A  
5 REVIEW OF FISCAL AUDITS AND ACADEMIC PERFORMANCE DATA FOR THE CHARTER SCHOOL  
6 THAT ARE ANNUALLY COLLECTED BY THE SPONSOR AND A REVIEW OF THE CURRENT  
7 CONTRACT BETWEEN THE SPONSOR AND THE CHARTER SCHOOL. The sponsor may deny  
8 the request for renewal if, in its judgment, the charter school has failed to  
9 complete the obligations of the contract or has failed to comply with this  
10 article. A sponsor shall give written notice of its intent not to renew the  
11 charter school's request for renewal to the charter school at least twelve  
12 months before the expiration of the approved plan to allow the charter school  
13 an opportunity to apply to another sponsor to transfer the operation of the  
14 charter school. If the operation of the charter school is transferred to  
15 another sponsor, the fifteen year period of the current charter shall be  
16 maintained.

17 2. A CHARTER OPERATOR MAY APPLY FOR EARLY RENEWAL. AT LEAST NINE  
18 MONTHS BEFORE THE CHARTER SCHOOL'S INTENDED RENEWAL CONSIDERATION, THE  
19 OPERATOR OF THE CHARTER SCHOOL SHALL SUBMIT A LETTER OF INTENT TO THE SPONSOR  
20 TO APPLY FOR EARLY RENEWAL. THE SPONSOR SHALL REVIEW FISCAL AUDITS AND  
21 ACADEMIC PERFORMANCE DATA FOR THE CHARTER SCHOOL THAT ARE ANNUALLY COLLECTED  
22 BY THE SPONSOR, REVIEW THE CURRENT CONTRACT BETWEEN THE SPONSOR AND THE  
23 CHARTER SCHOOL AND PROVIDE THE QUALIFYING CHARTER SCHOOL WITH A RENEWAL  
24 APPLICATION. ON SUBMISSION OF A COMPLETE APPLICATION, THE SPONSOR SHALL GIVE  
25 WRITTEN NOTICE OF ITS CONSIDERATION OF THE RENEWAL APPLICATION.

26 3. A sponsor shall review a charter at five year intervals and may  
27 revoke a charter at any time if the charter school breaches one or more  
28 provisions of its charter. At least ninety days before the effective date of  
29 the proposed revocation the sponsor shall give written notice to the operator  
30 of the charter school of its intent to revoke the charter. Notice of the  
31 sponsor's intent to revoke the charter shall be delivered personally to the  
32 operator of the charter school or sent by certified mail, return receipt  
33 requested, to the address of the charter school. The notice shall  
34 incorporate a statement of reasons for the proposed revocation of the  
35 charter. The sponsor shall allow the charter school at least ninety days to  
36 correct the problems associated with the reasons for the proposed revocation  
37 of the charter. The final determination of whether to revoke the charter  
38 shall be made at a public hearing called for such purpose.

39 ~~J. After renewal of the charter at the end of the fifteen year period~~  
40 ~~described in subsection I of this section, The charter may be renewed for~~  
41 ~~successive periods of fifteen~~ TWENTY years if the ~~charter school and its~~  
42 ~~sponsor deem~~ DEEMS that the school is in compliance with its own charter and  
43 this article.

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

1 L. A governing board or a school district employee who has control  
2 over personnel actions shall not take unlawful reprisal against another  
3 employee of the school district because the employee is directly or  
4 indirectly involved in an application to establish a charter school. A  
5 governing board or a school district employee shall not take unlawful  
6 reprisal against an educational program of the school or the school district  
7 because an application to establish a charter school proposes the conversion  
8 of all or a portion of the educational program to a charter school. For the  
9 purposes of this subsection, "unlawful reprisal" means an action that is  
10 taken by a governing board or a school district employee as a direct result  
11 of a lawful application to establish a charter school and that is adverse to  
12 another employee or an education program and:

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

- 15 (a) Disciplinary or corrective action.
- 16 (b) Detail, transfer or reassignment.
- 17 (c) Suspension, demotion or dismissal.
- 18 (d) An unfavorable performance evaluation.
- 19 (e) A reduction in pay, benefits or awards.
- 20 (f) Elimination of the employee's position without a reduction in  
21 force by reason of lack of monies or work.
- 22 (g) Other significant changes in duties or responsibilities that are  
23 inconsistent with the employee's salary or employment classification.

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

- 26 (a) Suspension or termination of the program.
- 27 (b) Transfer or reassignment of the program to a less favorable  
28 department.
- 29 (c) Relocation of the program to a less favorable site within the  
30 school or school district.
- 31 (d) Significant reduction or termination of funding for the program.

32 M. Charter schools shall secure insurance for liability and property  
33 loss. The governing body of a charter school that is sponsored by the state  
34 board of education or the state board for charter schools may enter into an  
35 intergovernmental agreement or otherwise contract to participate in an  
36 insurance program offered by a risk retention pool established pursuant to  
37 section 11-952.01 or 41-621.01 or the charter school may secure its own  
38 insurance coverage. The pool may charge the requesting charter school  
39 reasonable fees for any services it performs in connection with the insurance  
40 program.

41 N. Charter schools do not have the authority to acquire property by  
42 eminent domain.

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

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

4 Q. The sponsor of a charter school shall establish procedures to  
5 conduct administrative hearings on determination by the sponsor that grounds  
6 exist to revoke a charter. Procedures for administrative hearings shall be  
7 similar to procedures prescribed for adjudicative proceedings in title 41,  
8 chapter 6, article 10. Except as provided in section 41-1092.08, subsection  
9 H, final decisions of the state board of education and the state board for  
10 charter schools from hearings conducted pursuant to this subsection are  
11 subject to judicial review pursuant to title 12, chapter 7, article 6.

12 R. The sponsoring entity of a charter school shall have oversight and  
13 administrative responsibility for the charter schools that it sponsors.

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

16 T. All property accumulated by a charter school shall remain the  
17 property of the charter school.

18 U. Charter schools may not locate a school on property that is less  
19 than one-fourth mile from agricultural land regulated pursuant to section  
20 3-365, except that the owner of the agricultural land may agree to comply  
21 with the buffer zone requirements of section 3-365. If the owner agrees in  
22 writing to comply with the buffer zone requirements and records the agreement  
23 in the office of the county recorder as a restrictive covenant running with  
24 the title to the land, the charter school may locate a school within the  
25 affected buffer zone. The agreement may include any stipulations regarding  
26 the charter school, including conditions for future expansion of the school  
27 and changes in the operational status of the school that will result in a  
28 breach of the agreement.

29 V. A transfer of a charter to another sponsor, a transfer of a charter  
30 school site to another sponsor or a transfer of a charter school site to a  
31 different charter shall be completed before the beginning of the fiscal year  
32 that the transfer is scheduled to become effective. An entity that sponsors  
33 charter schools may accept a transferring school after the beginning of the  
34 fiscal year if the transfer is approved by the superintendent of public  
35 instruction. The superintendent of public instruction shall have the  
36 discretion to consider each transfer during the fiscal year on a case by case  
37 basis. If a charter school is sponsored by a school district that is  
38 determined to be out of compliance with this title, the uniform system of  
39 financial records or any other state or federal law, the charter school may  
40 transfer to another sponsoring entity at any time during the fiscal year.

41 W. The sponsoring entity may not charge any fees to a charter school  
42 that it sponsors unless the sponsor has provided services to the charter  
43 school and the fees represent the full value of those services provided by  
44 the sponsor. On request, the value of the services provided by the sponsor  
45 to the charter school shall be demonstrated to the department of education.

APPROVED BY THE GOVERNOR JULY 10, 2009.

FILED IN THE OFFICE OF THE <sup>8</sup> SECRETARY OF STATE JULY 13, 2009.

Passed the House June 26, 20 09,

by the following vote: 51 Ayes,

0 Nays, 9 Not Voting

Alan R. Paulsen  
Speaker of the House  
Pro Tempore

Norman L. Joyce  
Chief Clerk of the House

Passed the Senate June 15, 20 09,

by the following vote: 21 Ayes,

1 Nays, 2 Not Voting

Robert L. Quinn  
President of the Senate

Charmine Bellington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of Arizona

S.B. 1386

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State

SENATE CONCURS IN HOUSE  
AMENDMENTS AND FINAL PASSAGE

Passed the Senate June 29, 20 09

by the following vote: 23 Ayes,

5 Nays, 2 Not Voting

Robert L. Bennett  
President of the Senate

Charmine Billegeton  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

1st day of July, 20 09

at 8:53 o'clock A. M.

Susan K. Myers  
Secretary to the Governor

Approved this 10th day of

July 2009

at 4:18 o'clock P. M.  
Janice K. Brewer  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 13 day of July, 20 09

at 9:15 o'clock A. M.

Kate Blumeth  
Secretary of State