

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL 1034

By: Kirby, Denney and Billy of
the House

6 and

7 Loveless of the Senate

8
9 COMMITTEE SUBSTITUTE

10 An Act relating to schools; amending 70 O.S. 2011,
11 Section 3-132, as last amended by Section 1, Chapter
12 212, O.S.L. 2013 (70 O.S. Supp. 2014, Section 3-132),
13 which relates to the Oklahoma Charter Schools Act;
14 authorizing sponsorship of charter schools by
15 federally recognized Indian tribes on certain
16 property; providing a limit on the number of certain
17 charter schools; providing criteria for certain
18 sponsorship; amending 70 O.S. 2011, Section 3-134,
19 which relates to charter applications; adding certain
20 information required in application for certain
21 sponsor; amending 70 O.S. 2011, Section 3-135, which
22 relates to charter school contracts; providing
23 criteria for the establishment of performance
24 framework; prohibiting request for certain data;
allowing certain charter school contracts for
multiple schools; amending 70 O.S. 2011, Section 3-
137, which relates to contract terms; allowing
certain contract renewal with certain terms;
requiring issuance of certain performance report;
providing deadline for response; establishing renewal
application guidelines; providing for certain
consideration in making certain renewal decision;
allowing closure of certain charter school based on
certain identification; and providing an effective
date.

1 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

2 SECTION 1. AMENDATORY 70 O.S. 2011, Section 3-132, as
3 last amended by Section 1, Chapter 212, O.S.L. 2013 (70 O.S. Supp.
4 2014, Section 3-132), is amended to read as follows:

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

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

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

17 3. By a technology center school district if the charter school
18 is located in a school district served by the technology center
19 school district and the school district has an average daily
20 membership of five thousand (5,000) or more and which all or part of
21 the school district is located in a county having more than five
22 hundred thousand (500,000) population according to the latest
23 Federal Decennial Census;

24

1 4. By a technology center school district if the charter school
2 is located in a school district served by the technology center
3 school district and the school district has a school site that has
4 been identified as in need of improvement by the State Board of
5 Education pursuant to the Elementary and Secondary Education Act of
6 1965, as amended or reauthorized;

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

18 6. By a comprehensive or regional institution that is a member
19 of The Oklahoma State System of Higher Education if the charter
20 school is located in a school district that has a school site that
21 has been identified as in need of improvement by the State Board of
22 Education pursuant to the Elementary and Secondary Education Act of
23 1965, as amended or reauthorized. In addition, the institution
24 shall have a teacher education program accredited by the Oklahoma

1 Commission for Teacher Preparation and have a branch campus or
2 constituent agency physically located within the school district in
3 which the charter school is located;

4 7. By a federally recognized Indian tribe, operating a high
5 school under the authority of the Bureau of Indian Affairs as of
6 November 1, 2010, if the charter school is for the purpose of
7 demonstrating native language immersion instruction, and is located
8 within its former reservation or treaty area boundaries. For
9 purposes of this paragraph, native language immersion instruction
10 shall require that educational instruction and other activities
11 conducted at the school site are primarily conducted in the native
12 language; ~~or~~

13 8. By a federally recognized Indian tribe only when the charter
14 school is located within the former reservation or treaty area
15 boundaries of the tribe on property held in trust by the Bureau of
16 Indian Affairs of the United States Department of the Interior for
17 the benefit of the tribe. A federally recognized Indian tribe shall
18 not sponsor more than five charter schools per year; or

19 9. By the State Board of Education when the applicant of the
20 charter school is the Office of Juvenile Affairs or the applicant
21 has a contract with the Office of Juvenile Affairs to provide a
22 fixed rate level E, D, or D+ group home service and the charter
23 school is for the purpose of providing education services to youth
24 in the custody or supervision of the state. Not more than two

1 charter schools shall be sponsored by the Board as provided for in
2 this paragraph during the period of time beginning July 1, 2010,
3 through July 1, 2016.

4 B. 1. In order for a federally recognized Indian tribe to
5 sponsor a public charter school pursuant to paragraph 8 of
6 subsection A of this section, an applicant shall:

7 a. provide a thorough and high-quality public charter
8 school application based on the authorizing standards
9 in subsection B of Section 3-134 of this title, and

10 b. provide a clear demonstration of community support for
11 the public charter school.

12 2. In assessing the potential for quality replication of a
13 public charter school, a federally recognized Indian tribe sponsor
14 shall consider the following factors before approving a new site or
15 school:

16 a. evidence of a strong and reliable record of academic
17 success based primarily on student performance data,
18 as well as other viable indicators, including
19 financial and operational success,

20 b. a sound, detailed, and well-supported growth plan,

21 c. evidence of the ability to transfer successful
22 practices to a potentially different context that
23 includes reproducing critical cultural,
24 organizational, and instructional characteristics,

1 d. any management organization involved in a potential
2 replication is fully vetted, and the academic,
3 financial, and operational records of the schools it
4 operates are found to be satisfactory,

5 e. evidence the program seeking to be replicated has the
6 capacity to do so successfully without diminishing or
7 putting at risk its current operations, and

8 f. a financial structure that ensures that funds
9 attributable to each public charter school within a
10 network and required by law to be utilized by a school
11 remain with and are used to benefit that school.

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

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

23 SECTION 2. AMENDATORY 70 O.S. 2011, Section 3-134, is
24 amended to read as follows:

1 Section 3-134. A. For written applications filed after January
2 1, 2008, prior to submission of the application to a proposed
3 sponsor seeking to establish a charter school, the applicant shall
4 be required to complete training which shall not exceed ten (10)
5 hours provided by the State Department of Education on the process
6 and requirements for establishing a charter school. The Department
7 shall develop and implement the training by January 1, 2008. The
8 Department may provide the training in any format and manner that
9 the Department determines to be efficient and effective including,
10 but not limited to, web-based training.

11 B. Except as otherwise provided for in Section 3-137 of this
12 title, ~~an applicant~~ all applicants seeking to establish a charter
13 school shall submit a written application to the proposed sponsor as
14 prescribed in subsection E of this section. The application shall
15 include:

- 16 1. A mission statement for the charter school;
- 17 2. A description of the organizational structure and the
18 governing body of the charter school;
- 19 3. A financial plan for the first three (3) years of operation
20 of the charter school and a description of the treasurer or other
21 officers or persons who shall have primary responsibility for the
22 finances of the charter school. Such person shall have demonstrated
23 experience in school finance or the equivalent thereof;
- 24 4. A description of the hiring policy of the charter school;

1 5. The name of the applicant or applicants and requested
2 sponsor;

3 6. A description of the facility and location of the charter
4 school;

5 7. A description of the grades being served;

6 8. An outline of criteria designed to measure the effectiveness
7 of the charter school;

8 9. A demonstration of support for the charter school from
9 residents of the school district which may include but is not
10 limited to a survey of the school district residents or a petition
11 signed by residents of the school district; and

12 10. Documentation that the applicants completed charter school
13 training as set forth in subsection A of this section.

14 C. Additionally, an application for a charter school to be
15 sponsored by a federally recognized Indian tribe shall include:

16 1. A description of the minimum and maximum enrollment planned
17 per year for each term of the charter contract;

18 2. The proposed calendar for the public charter school and
19 sample daily schedule;

20 3. Unless otherwise authorized by law or regulation, a
21 description of the academic program aligned with state standards;

22 4. A description of the instructional design of the public
23 charter school, including the type of learning environment, class
24 size and structure, curriculum overview, and teaching methods;

1 5. The plan for using internal and external assessments to
2 measure and report student progress on the performance framework
3 developed by the applicant in accordance with subsection C of
4 Section 3-135 of this title;

5 6. The plans for identifying and successfully serving students
6 with disabilities, students who are English language learners, and
7 students who are academically behind;

8 7. A description of cocurricular or extracurricular programs
9 and how they will be funded and delivered;

10 8. Plans and timelines for student recruitment and enrollment,
11 including lottery procedures;

12 9. The student discipline policies for the public charter
13 school, including those for special education students;

14 10. An organizational chart that clearly presents the
15 organizational structure of the public charter school, including
16 lines of authority and reporting between the governing board, staff,
17 any related bodies such as advisory bodies or parent and teacher
18 councils, and any external organizations that will play a role in
19 managing the school;

20 11. A clear description of the roles and responsibilities for
21 the governing board, the leadership and management team for the
22 public charter school, and any other entities shown in the
23 organizational chart;

- 1 12. The leadership and teacher employment policies for the
2 public charter school;
- 3 13. Proposed governing bylaws;
- 4 14. Explanations of any partnerships or contractual
5 partnerships central to the operations or mission of the public
6 charter school;
- 7 15. The plans for providing transportation, food service, and
8 all other significant operational or ancillary services;
- 9 16. Opportunities and expectations for parental involvement;
- 10 17. A detailed school start-up plan that identifies tasks,
11 timelines, and responsible individuals;
- 12 18. A description of the financial plan and policies for the
13 public charter school, including financial controls and audit
14 requirements;
- 15 19. A description of the insurance coverage the public charter
16 school will obtain;
- 17 20. Start-up and five-year budgets with clearly stated
18 assumptions;
- 19 21. Start-up and first-year cash-flow projections with clearly
20 stated assumptions;
- 21 22. Evidence of anticipated fundraising contributions, if
22 claimed in the application;
- 23 23. A sound facilities plan, including backup or contingency
24 plans if appropriate; and

1 24. A requirement that the charter school follow the
2 requirements of the Oklahoma Open Meeting Act and Oklahoma Open
3 Records Act.

4 ~~C.~~ D. A board of education of a public school district, public
5 body, public or private college or university, private person, or
6 private organization may contract with a sponsor to establish a
7 charter school. A private school shall not be eligible to contract
8 for a charter school under the provisions of the Oklahoma Charter
9 Schools Act.

10 ~~D.~~ E. The sponsor of a charter school is the board of education
11 of a school district, the board of education of a technology center
12 school district, a higher education institution, the State Board of
13 Education, or a federally recognized Indian tribe which meets the
14 criteria established in Section 3-132 of this title. Any board of
15 education of a school district in the state may sponsor one or more
16 charter schools. The physical location of a charter school
17 sponsored by a board of education of a school district or a
18 technology center school district shall be within the boundaries of
19 the sponsoring school district. The physical location of a charter
20 school sponsored by the State Board of Education when the applicant
21 of the charter school is the Office of Juvenile Affairs shall be
22 where an Office of Juvenile Affairs facility for youth is located.

23 ~~E.~~ F. An applicant for a charter school may submit an
24 application to a proposed sponsor which shall either accept or

1 reject sponsorship of the charter school within ninety (90) days of
2 receipt of the application. If the proposed sponsor rejects the
3 application, it shall notify the applicant in writing of the reasons
4 for the rejection. The applicant may submit a revised application
5 for reconsideration to the proposed sponsor within thirty (30) days
6 after receiving notification of the rejection. The proposed sponsor
7 shall accept or reject the revised application within thirty (30)
8 days of its receipt.

9 ~~F.~~ G. A board of education of a school district, board of
10 education of a technology center school district, higher education
11 institution, or federally recognized Indian tribe sponsor of a
12 charter school shall notify the State Board of Education when it
13 accepts sponsorship of a charter school. The notification shall
14 include a copy of the charter of the charter school.

15 ~~G.~~ H. If a proposed sponsor rejects the revised application for
16 a charter school, the applicant may proceed to mediation or binding
17 arbitration or both mediation and binding arbitration as provided in
18 the Dispute Resolution Act and the rules promulgated pursuant
19 thereto. The applicant shall contact the early settlement program
20 for the county in which the charter school would be located. If the
21 parties proceed to binding arbitration, a panel of three arbitrators
22 shall be appointed by the director of the early settlement program
23 handling the dispute. The proposed sponsor shall pay the cost for
24 any mediation or arbitration requested pursuant to this section.

1 ~~H.~~ I. If a board of education of a technology center school
2 district, a higher education institution, the State Board of
3 Education, or a federally recognized Indian tribe accepts
4 sponsorship of a charter school, the administrative, fiscal and
5 oversight responsibilities of the technology center school district,
6 the higher education institution, or the federally recognized Indian
7 tribe shall be listed in the contract. No responsibilities shall be
8 delegated to a school district unless the local school district
9 agrees to assume the responsibilities.

10 SECTION 3. AMENDATORY 70 O.S. 2011, Section 3-135, is
11 amended to read as follows:

12 Section 3-135. A. The sponsor of a charter school shall enter
13 into a written contract with the governing body of the charter
14 school. The contract shall incorporate the provisions of the
15 charter of the charter school and contain, but shall not be limited
16 to, the following provisions:

17 1. A description of the program to be offered by the school
18 which complies with the purposes outlined in Section ~~11 of this act~~
19 3-136 of this title;

20 2. Admission policies and procedures;

21 3. Management and administration of the charter school;

22 4. Requirements and procedures for program and financial
23 audits;

24

1 5. A description of how the charter school will comply with the
2 charter requirements set forth in the Oklahoma Charter Schools Act;

3 6. Assumption of liability by the charter school; and

4 7. The term of the contract.

5 B. A charter school shall not enter into an employment contract
6 with any teacher or other personnel until the charter school has a
7 contract with a sponsoring school district. The employment contract
8 shall set forth the personnel policies of the charter school,
9 including, but not limited to, policies related to certification,
10 professional development evaluation, suspension, dismissal and
11 nonreemployment, sick leave, personal business leave, emergency
12 leave, and family and medical leave. The contract shall also
13 specifically set forth the salary, hours, fringe benefits, and work
14 conditions. The contract may provide for employer-employee
15 bargaining, but the charter school shall not be required to comply
16 with the provisions of Sections 509.1 through 509.10 of Title 70 of
17 the Oklahoma Statutes. The contract shall conform to all applicable
18 provisions set forth in Section ~~11 of this act~~ 3-136 of this title.

19 Upon contracting with any teacher or other personnel, the
20 governing body of the charter school shall, in writing, disclose
21 employment rights of the employees in the event the charter school
22 closes or the charter is not renewed.

23 C. The performance provisions within a charter contract for a
24 charter school sponsored by a federally recognized Indian tribe

1 pursuant to paragraph 8 of subsection A of Section 3-132 of this
2 title shall be based on a performance framework that clearly sets
3 forth the academic and operational performance indicators, measures,
4 and metrics that will guide the evaluations of the public charter
5 school by the sponsor. The federally recognized Indian tribe
6 sponsor shall require a charter school to submit the data required
7 in this section in the identical format that is required by the
8 State Department of Education of all public schools in order to
9 avoid duplicative administrative efforts or allow a charter school
10 to provide permission to the State Department of Education to share
11 all required data with the federally recognized Indian tribe
12 sponsor. The performance framework shall include indicators,
13 measures, and metrics for, at a minimum:

- 14 1. Student academic proficiency;
- 15 2. Student academic growth;
- 16 3. Achievement gaps in both proficiency and growth between
17 major student subgroups;
- 18 4. Student attendance;
- 19 5. Recurrent enrollment from year to year as determined by the
20 methodology used for public schools in Oklahoma;
- 21 6. In the case of high schools, graduation rates as determined
22 by the methodology used for public schools in Oklahoma;
- 23 7. In the case of high schools, postsecondary readiness;
- 24 8. Financial performance and sustainability; and

1 9. Governing board performance and stewardship, including
2 compliance with all applicable laws, regulations, and terms of the
3 charter contract.

4 D. The federally recognized Indian tribe sponsor shall not
5 request any metric or data from a charter school that it does not
6 produce or publish for all school sites under its sponsorship,
7 unless the metric or data is unique to a charter school.

8 E. A charter contract may provide for one or more schools by an
9 applicant, to the extent approved by the federally recognized Indian
10 tribe sponsor and consistent with applicable law. An applicant or
11 the governing board of an applicant may hold one or more charter
12 contracts. Each public charter school that is part of a charter
13 contract shall be separate and distinct from any other public
14 charter school under the same charter contract.

15 SECTION 4. AMENDATORY 70 O.S. 2011, Section 3-137, is
16 amended to read as follows:

17 Section 3-137. A. An approved contract for a charter school
18 shall be effective for not longer than five (5) years from the first
19 day of operation.

20 B. 1. A charter contract with a federally recognized Indian
21 tribe sponsor pursuant to paragraph 8 of subsection A of Section 3-
22 132 of this title may be renewed for successive five-year terms of
23 duration, although the federally recognized Indian tribe sponsor may
24 vary the term based on the performance, demonstrated capacities, and

1 particular circumstances of each public charter school. A federally
2 recognized Indian tribe sponsor may grant renewal with specific
3 conditions for necessary improvements to a public charter school.

4 2. Prior to the beginning of the fourth year of operation of a
5 public charter school, a federally recognized Indian tribe sponsor
6 shall issue a public charter school performance report and charter
7 renewal application guidance to the school and the charter school
8 board. The performance report shall summarize the performance
9 record to date of the public charter school, based on the data
10 required by this act and the charter contract and taking into
11 consideration the percentage of at-risk students enrolled in the
12 school, and shall provide notice of any weaknesses or concerns
13 perceived by the federally recognized Indian tribe sponsor
14 concerning the public charter school that may jeopardize its
15 position in seeking renewal if not timely rectified. The public
16 charter school shall have forty-five (45) days to respond to the
17 performance report and submit any corrections or clarifications for
18 the report.

19 C. Prior to the beginning of the fifth year of operation, the
20 charter school may apply for renewal of the contract with the
21 sponsor.

22 D. The renewal application guidance for a charter school
23 sponsored by a federally recognized Indian tribe sponsor shall, at a
24 minimum, provide an opportunity for the public charter school to:

1 1. Present additional evidence, beyond the data contained in
2 the performance report, supporting its case for charter renewal;

3 2. Describe improvements undertaken or planned for the school;
4 and

5 3. Detail the plan for the next charter term for the school.

6 The renewal application guidance shall include or refer
7 explicitly to the criteria that will guide the renewal decisions of
8 the federally recognized Indian tribe sponsor, which shall be based
9 on the performance framework set forth in the charter contract and
10 consistent with this act.

11 E. The sponsor may deny the request for renewal if it
12 determines the charter school has failed to complete the obligations
13 of the contract or comply with the provisions of the Oklahoma
14 Charter Schools Act. A sponsor shall give written notice of its
15 intent to deny the request for renewal at least eight (8) months
16 prior to expiration of the contract.

17 F. In making charter renewal decisions, a federally recognized
18 Indian tribe sponsor shall:

19 1. Ground decisions on evidence of the performance of the
20 school over the term of the charter contract in accordance with the
21 performance framework set forth in the charter contract and will
22 take into consideration the percentage of at-risk students enrolled
23 in the school;

1 2. Grant renewal to schools that have achieved the standards,
2 targets, and performance expectations as stated in the charter
3 contract; are organizationally and fiscally viable; and have been
4 faithful to the terms of the contract and applicable law;

5 3. Ensure that data used in making renewal decisions are
6 available to the school and the public; and

7 4. Provide a public report summarizing the evidence basis for
8 each decision.

9 ~~B.~~ G. If a sponsor denies a request for renewal, the governing
10 board may proceed to mediation or binding arbitration or both as
11 provided for in subsection ~~G~~ H of Section 3-134 of this title.

12 ~~C.~~ H. A sponsor may terminate a contract during the term of the
13 contract for failure to meet the requirements for student
14 performance contained in the contract, failure to meet the standards
15 of fiscal management, violations of the law, or other good cause.
16 The sponsor shall give at least ninety (90) days' written notice to
17 the governing board prior to terminating the contract. The
18 governing board may request, in writing, an informal hearing before
19 the sponsor within fourteen (14) days of receiving notice. The
20 sponsor shall conduct an informal hearing before taking action. If
21 a sponsor decides to terminate a contract, the governing board may
22 proceed to mediation or binding arbitration or both as provided for
23 in subsection ~~G~~ H of Section 3-134 of this title.

1 I. At the time of its charter renewal, based on an average of
2 the current year and the two (2) prior operating years, a federally
3 recognized Indian tribe sponsor may close a public charter school
4 site identified as being among the bottom five percent (5%) of
5 public schools in the state as determined pursuant to Section
6 1210.545 of this title. The average of the current year and two (2)
7 prior operating years shall be calculated by using the percentage
8 ranking for each year divided by three.

9 ~~D.~~ J. If a contract is not renewed, the governing board of the
10 charter school may submit an application to a proposed new sponsor
11 as provided for in Section 3-134 of this title.

12 ~~E.~~ K. If a contract is not renewed or is terminated according
13 to this section, a student who attended the charter school may
14 enroll in the resident school district of the student or may apply
15 for a transfer in accordance with Section 8-103 of this title.

16 SECTION 5. This act shall become effective November 1, 2015.

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