

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HOUSE BILL 2118

AN ACT

AMENDING SECTIONS 15-185 AND 41-1758.02, ARIZONA REVISED STATUTES; RELATING TO FINGERPRINTING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 15-185. Charter schools; financing; civil penalties;
5 definitions

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

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

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

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

24 (a) Increase its student count as provided in subsection B, paragraph
25 2 of this section during the first year of the charter school's operation to
26 include those charter school pupils who were not previously enrolled in the
27 school district. A charter school sponsored by a school district governing
28 board is eligible for the assistance prescribed in subsection B, paragraph 4
29 of this section. The soft capital allocation as provided in section 15-962
30 for the school district sponsoring the charter school shall be increased by
31 the amount of the additional assistance. The school district shall include
32 the full amount of the additional assistance in the funding provided to the
33 charter school.

34 (b) Compute separate weighted student counts pursuant to section
35 15-943, paragraph 2, subdivision (a) for its noncharter school versus charter
36 school pupils in order to maintain eligibility for small school district
37 support level weights authorized in section 15-943, paragraph 1 for its
38 noncharter school pupils only. The portion of a district's student count
39 that is attributable to charter school pupils is not eligible for small
40 school district support level weights.

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

1 5. A school district that sponsors a charter school is not eligible to
2 include the charter school pupils in its student count for the purpose of
3 computing an increase in its capital outlay revenue limit as provided in
4 section 15-961, subsection C, except that if the charter school was
5 previously a school in the district, the district may include in its student
6 count any charter school pupils who were enrolled in the school district in
7 the prior year.

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

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

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

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

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

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

5 4. Equalization assistance for the charter school shall be determined
6 by adding the amount of the base support level and additional assistance.
7 The amount of the additional assistance is one thousand three hundred thirty
8 dollars five cents per student count in kindergarten programs and grades one
9 through eight and one thousand five hundred fifty dollars fourteen cents per
10 student count in grades nine through twelve.

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

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

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

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

35 C. If a pupil is enrolled in both a charter school and a public school
36 that is not a charter school, the sum of the daily membership, which includes
37 enrollment as prescribed in section 15-901, subsection A, paragraph 2,
38 subdivisions (a) and (b) and daily attendance as prescribed in section
39 15-901, subsection A, paragraph 6, for that pupil in the school district and
40 the charter school shall not exceed 1.0. If a pupil is enrolled in both a
41 charter school and a public school that is not a charter school, the
42 department of education shall direct the average daily membership to the
43 school with the most recent enrollment date. Upon validation of actual
44 enrollment in both a charter school and a public school that is not a charter
45 school and if the sum of the daily membership or daily attendance for that

1 pupil is greater than 1.0, the sum shall be reduced to 1.0 and shall be
2 apportioned between the public school and the charter school based on the
3 percentage of total time that the pupil is enrolled or in attendance in the
4 public school and the charter school. The uniform system of financial
5 records shall include guidelines for the apportionment of the pupil
6 enrollment and attendance as provided in this section.

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

19 1. Equalization assistance shall not be less than zero.

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

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

28 E. If a charter school was a district public school in the prior year
29 and is now being operated for or by the same school district and sponsored by
30 the state board of education, the state board for charter schools or a school
31 district governing board, the reduction in subsection D of this section
32 applies. The reduction to the base support level of the charter school or
33 the sponsoring district of the charter school shall equal the sum of the base
34 support level and the additional assistance received in the current year for
35 those pupils who were enrolled in the traditional public school in the prior
36 year and are now enrolled in the charter school in the current year.

37 F. Equalization assistance for charter schools shall be provided as a
38 single amount based on average daily membership without categorical
39 distinctions between maintenance and operations or capital.

40 G. At the request of a charter school, the county school
41 superintendent of the county where the charter school is located may provide
42 the same educational services to the charter school as prescribed in section
43 15-308, subsection A. The county school superintendent may charge a fee to
44 recover costs for providing educational services to charter schools.

1 H. If the sponsor of the charter school determines at a public meeting
2 that the charter school is not in compliance with federal law, with the laws
3 of this state or with its charter, the sponsor of a charter school may submit
4 a request to the department of education to withhold up to ten per cent of
5 the monthly apportionment of state aid that would otherwise be due the
6 charter school. The department of education shall adjust the charter
7 school's apportionment accordingly. The sponsor shall provide written notice
8 to the charter school at least seventy-two hours before the meeting and shall
9 allow the charter school to respond to the allegations of noncompliance at
10 the meeting before the sponsor makes a final determination to notify the
11 department of education of noncompliance. The charter school shall submit a
12 corrective action plan to the sponsor on a date specified by the sponsor at
13 the meeting. The corrective action plan shall be designed to correct
14 deficiencies at the charter school and to ensure that the charter school
15 promptly returns to compliance. When the sponsor determines that the charter
16 school is in compliance, the department of education shall restore the full
17 amount of state aid payments to the charter school.

18 I. IN ADDITION TO THE WITHHOLDING OF STATE AID PAYMENTS PURSUANT TO
19 SUBSECTION H OF THIS SECTION, THE SPONSOR OF A CHARTER SCHOOL MAY IMPOSE A
20 CIVIL PENALTY OF ONE THOUSAND DOLLARS PER VIOLATION IF A CHARTER SCHOOL FAILS
21 TO COMPLY WITH THE FINGERPRINTING REQUIREMENTS PRESCRIBED IN SECTION 15-183,
22 SUBSECTION C OR SECTION 15-512. CIVIL PENALTIES PURSUANT TO THIS SECTION
23 SHALL BE ASSESSED BY REQUESTING THE DEPARTMENT OF EDUCATION TO REDUCE THE
24 AMOUNT OF STATE AID DUE TO THE CHARTER SCHOOL IN AN AMOUNT EQUIVALENT TO THE
25 CIVIL PENALTY. ALL PENALTIES COLLECTED PURSUANT TO THIS SECTION REVERT TO
26 THE STATE GENERAL FUND AT THE END OF THE FISCAL YEAR. A CIVIL PENALTY SHALL
27 NOT BE ASSESSED UNDER THE FOLLOWING CONDITIONS:

- 28 1. THE CHARTER SCHOOL HAS NOT PREVIOUSLY BEEN FOUND IN NONCOMPLIANCE.
29 2. THE CHARTER SCHOOL PROVIDES PROOF WITHIN TWO BUSINESS DAYS OF
30 RECEIVING WRITTEN NOTIFICATION FROM THE SPONSOR OF THE CHARTER SCHOOL THAT
31 THE DEPARTMENT OF PUBLIC SAFETY HAS RECEIVED AN APPLICATION FOR THE
32 APPROPRIATE FINGERPRINT CHECK FOR EACH NONCOMPLIANT INDIVIDUAL. THE SPONSOR
33 SHALL OBTAIN PROOF THAT THE CHARTER SCHOOL HAS BEEN NOTIFIED OF THE
34 VIOLATION. THE NOTIFICATION SHALL IDENTIFY THE DATE OF THE DEADLINE AND
35 SHALL BE SIGNED BY BOTH PARTIES.

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

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

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

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

7 Sec. 2. Section 41-1758.02, Arizona Revised Statutes, is amended to
8 read:

9 41-1758.02. Fingerprint checks; registration

10 A. The person, provider or agency shall submit a full set of
11 fingerprints to the division for the purpose of obtaining a state and federal
12 criminal history records check pursuant to section 41-1750 and Public Law
13 92-544. If the person can present a valid fingerprint clearance card or
14 credible documentation that the person's application for a fingerprint
15 clearance card is pending, the person, provider or agency is not required to
16 submit another application for a fingerprint clearance card. The division
17 may exchange this fingerprint data with the federal bureau of investigation.

18 B. The person shall submit a new set of fingerprints to the division
19 for a fingerprint background check every six years. The division shall
20 conduct a new state and federal criminal history records check on application
21 for a new card. All class one or class two fingerprint clearance cards that
22 were issued before October 1, 2003 pursuant to this article shall remain
23 valid until their normal expiration dates at which time the cardholder shall
24 apply for a new fingerprint clearance card.

25 C. **NOTWITHSTANDING SUBSECTION B OF THIS SECTION, A TEACHER EMPLOYED BY
26 A SCHOOL DISTRICT OR A CHARTER SCHOOL SHALL BE ISSUED A PERMANENT FINGERPRINT
27 CLEARANCE CARD ON THE TEACHER'S SECOND RENEWAL OF THE CARD IF, AT THE TIME OF
28 APPLICATION FOR THE SECOND RENEWAL, BOTH OF THE FOLLOWING APPLY:**

29 1. **THE TEACHER DOES NOT HAVE A CRIMINAL RECORD.**

30 2. **THE TEACHER HAS BEEN CONTINUOUSLY EMPLOYED AT THE SAME SCHOOL FOR
31 AT LEAST TWELVE CONSECUTIVE YEARS.**

32 ~~C~~ D. In order to obtain a fingerprint clearance card, a person shall
33 submit a completed application for a fingerprint clearance card provided by
34 the division.

35 ~~D~~ E. The person, provider or agency shall submit the application
36 required by subsection ~~C~~ D of this section along with the fingerprints to
37 the division for a criminal history records check.