

COMMITTEE ON EDUCATION

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1039

(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

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

1 the governing board rejects the application, the governing board shall notify  
2 the applicant in writing of the reasons for the rejection. The applicant may  
3 request, and the governing board may provide, technical assistance to improve  
4 the application.

5 (b) In the first year that a school district is determined to be out  
6 of compliance with the uniform system of financial records, within fifteen  
7 days of the determination of noncompliance, the school district shall notify  
8 by certified mail each charter school sponsored by the school district that  
9 the school district is out of compliance with the uniform system of financial  
10 records. The notification shall include a statement that if the school  
11 district is determined to be out of compliance for a second consecutive year,  
12 the charter school will be required to transfer sponsorship to another entity  
13 pursuant to subdivision (c) of this paragraph.

14 (c) In the second consecutive year that a school district is  
15 determined to be out of compliance with the uniform system of financial  
16 records, within fifteen days of the determination of noncompliance, the  
17 school district shall notify by certified mail each charter school sponsored  
18 by the school district that the school district is out of compliance with the  
19 uniform system of financial records. A charter school that receives a  
20 notification of school district noncompliance pursuant to this subdivision  
21 shall file a written sponsorship transfer application within forty-five days  
22 with the state board of education, the state board for charter schools or the  
23 school district governing board if the charter school is located within the  
24 geographic boundaries of that school district. A charter school that  
25 receives a notification of school district noncompliance may request an  
26 extension of time to file a sponsorship transfer application, and the state  
27 board of education, the state board for charter schools or a school district  
28 governing board may grant an extension of not more than an additional thirty  
29 days if good cause exists for the extension. The state board of education  
30 and the state board for charter schools shall approve a sponsorship transfer  
31 application pursuant to this paragraph.

1 (d) A school district governing board shall not grant a charter to a  
2 charter school that is located outside the geographic boundaries of that  
3 school district.

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

7 2. The applicant may submit the application to the state board of  
8 education or the state board for charter schools. The state board of  
9 education or the state board for charter schools may approve the application  
10 if the application meets the requirements of this article and may approve the  
11 charter if the proposed sponsor determines, within its sole discretion, that  
12 the applicant is sufficiently qualified to operate a charter school. The  
13 state board of education or the state board for charter schools may approve  
14 any charter schools transferring charters. The state board of education and  
15 the state board for charter schools shall approve any charter schools  
16 transferring charters from a school district that is determined to be out of  
17 compliance with the uniform system of financial records pursuant to this  
18 section, but may require the charter school to sign a new charter that is  
19 equivalent to the charter awarded by the former sponsor. If the state board  
20 of education or the state board for charter schools rejects the preliminary  
21 application, the state board of education or the state board for charter  
22 schools shall notify the applicant in writing of the reasons for the  
23 rejection and of suggestions for improving the application. An applicant may  
24 submit a revised application for reconsideration by the state board of  
25 education or the state board for charter schools. The applicant may request,  
26 and the state board of education or the state board for charter schools may  
27 provide, technical assistance to improve the application.

28 3. Each applicant seeking to establish a charter school shall submit a  
29 full set of fingerprints to the approving agency for the purpose of obtaining  
30 a state and federal criminal records check pursuant to section 41-1750 and  
31 Public Law 92-544. If an applicant will have direct contact with students,  
32 the applicant shall possess a valid fingerprint clearance card that is issued

1       pursuant to title 41, chapter 12, article 3.1. The department of public  
2       safety may exchange this fingerprint data with the federal bureau of  
3       investigation. The criminal records check shall be completed before the  
4       issuance of a charter.

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

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

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

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

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

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

9 (f) Verifies the fingerprint status of the applicant with the  
10 department of public safety.

11 5. A charter school that complies with the fingerprinting requirements  
12 of this section shall be deemed to have complied with section 15-512 and is  
13 entitled to the same rights and protections provided to school districts by  
14 section 15-512.

15 6. If a charter school operator is not already subject to a public  
16 meeting or hearing by the municipality in which the charter school is  
17 located, the operator of a charter school shall conduct a public meeting at  
18 least thirty days before the charter school operator opens a site or sites  
19 for the charter school. The charter school operator shall post notices of  
20 the public meeting in at least three different locations that are within  
21 three hundred feet of the proposed charter school site.

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

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

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

2 (b) Notify the person's employer or potential employer of the  
3 conviction.

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

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

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

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

12 1. Compliance with federal, state and local rules, regulations and  
13 statutes relating to health, safety, civil rights and insurance. The  
14 department of education shall publish a list of relevant rules, regulations  
15 and statutes to notify charter schools of their responsibilities under this  
16 paragraph.

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

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

24 4. That it designs a method to measure pupil progress toward the pupil  
25 outcomes adopted by the state board of education pursuant to section  
26 15-741.01, including participation in the Arizona instrument to measure  
27 standards test and the nationally standardized norm-referenced achievement  
28 test as designated by the state board and the completion and distribution of  
29 an annual report card as prescribed in chapter 7, article 3 of this title.

30 5. That, except as provided in this article and in its charter, it is  
31 exempt from all statutes and rules relating to schools, governing boards and  
32 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 Notwithstanding section 1-216, if there is a vacancy or vacancies on the  
21 governing body, a majority of the remaining members of the governing body  
22 constitute a quorum for the transaction of business, unless that quorum is  
23 prohibited by the charter school's operating agreement.

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

29           F. The charter of a charter school shall include a description of the  
30 charter school's personnel policies, personnel qualifications and method of  
31 school governance and the specific role and duties of the sponsor of the  
32 charter school. A charter school shall keep on file the resumes of all

1 current and former employees who provide instruction to pupils at the charter  
2 school. Resumes shall include an individual's educational and teaching  
3 background and experience in a particular academic content subject area. A  
4 charter school shall inform parents and guardians of the availability of the  
5 resume information and shall make the resume information available for  
6 inspection on request of parents and guardians of pupils enrolled at the  
7 charter school. Nothing in this subsection shall be construed to require any  
8 charter school to release personally identifiable information in relation to  
9 any teacher or employee, including the teacher's or employee's address,  
10 salary, social security number or telephone number.

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

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

14 I. An approved plan to establish a charter school is effective for  
15 fifteen years from the first day of the fiscal year the charter school is in  
16 operation, subject to the following:

17 1. At least eighteen months before the expiration of the approved  
18 plan, the sponsor shall notify the charter school that the charter school may  
19 apply for renewal. A charter school that elects to apply for renewal shall  
20 file an application for renewal at least fifteen months before the expiration  
21 of the approved plan. In addition to any other requirements, the application  
22 for renewal shall include a detailed business plan for the charter school, a  
23 review of fiscal audits and academic performance data for the charter school  
24 that are annually collected by the sponsor and a review of the current  
25 contract between the sponsor and the charter school. The sponsor may deny  
26 the request for renewal if, in its judgment, the charter school has failed to  
27 complete the obligations of the contract or has failed to comply with this  
28 article. A sponsor shall give written notice of its intent not to renew the  
29 charter school's request for renewal to the charter school at least twelve  
30 months before the expiration of the approved plan to allow the charter school  
31 an opportunity to apply to another sponsor to transfer the operation of the  
32 charter school. If the operation of the charter school is transferred to

1 another sponsor, the fifteen year period of the current charter shall be  
2 maintained.

3 2. A charter operator may apply for early renewal. At least nine  
4 months before the charter school's intended renewal consideration, the  
5 operator of the charter school shall submit a letter of intent to the sponsor  
6 to apply for early renewal. The sponsor shall review fiscal audits and  
7 academic performance data for the charter school that are annually collected  
8 by the sponsor, review the current contract between the sponsor and the  
9 charter school and provide the qualifying charter school with a renewal  
10 application. On submission of a complete application, the sponsor shall give  
11 written notice of its consideration of the renewal application.

12 3. A sponsor shall review a charter at five year intervals and may  
13 revoke a charter at any time if the charter school breaches one or more  
14 provisions of its charter. At least ninety days before the effective date of  
15 the proposed revocation the sponsor shall give written notice to the operator  
16 of the charter school of its intent to revoke the charter. Notice of the  
17 sponsor's intent to revoke the charter shall be delivered personally to the  
18 operator of the charter school or sent by certified mail, return receipt  
19 requested, to the address of the charter school. The notice shall  
20 incorporate a statement of reasons for the proposed revocation of the  
21 charter. The sponsor shall allow the charter school at least ninety days to  
22 correct the problems associated with the reasons for the proposed revocation  
23 of the charter. The final determination of whether to revoke the charter  
24 shall be made at a public hearing called for such purpose.

25 J. The charter may be renewed for successive periods of twenty years  
26 if the sponsor deems that the school is in compliance with its own charter  
27 and this article.

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

31 L. A governing board or a school district employee who has control  
32 over personnel actions shall not take unlawful reprisal against another

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

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

13 (a) Disciplinary or corrective action.

14 (b) Detail, transfer or reassignment.

15 (c) Suspension, demotion or dismissal.

16 (d) An unfavorable performance evaluation.

17 (e) A reduction in pay, benefits or awards.

18 (f) Elimination of the employee's position without a reduction in  
19 force by reason of lack of monies or work.

20 (g) Other significant changes in duties or responsibilities that are  
21 inconsistent with the employee's salary or employment classification.

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

24 (a) Suspension or termination of the program.

25 (b) Transfer or reassignment of the program to a less favorable  
26 department.

27 (c) Relocation of the program to a less favorable site within the  
28 school or school district.

29 (d) Significant reduction or termination of funding for the program.

30 M. Charter schools shall secure insurance for liability and property  
31 loss. The governing body of a charter school that is sponsored by the state  
32 board of education or the state board for charter schools may enter into an

1 intergovernmental agreement or otherwise contract to participate in an  
2 insurance program offered by a risk retention pool established pursuant to  
3 section 11-952.01 or 41-621.01 or the charter school may secure its own  
4 insurance coverage. The pool may charge the requesting charter school  
5 reasonable fees for any services it performs in connection with the insurance  
6 program.

7 N. Charter schools do not have the authority to acquire property by  
8 eminent domain.

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

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

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

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

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

27 T. All property accumulated by a charter school shall remain the  
28 property of the charter school.

29 U. Charter schools may not locate a school on property that is less  
30 than one-fourth mile from agricultural land regulated pursuant to section  
31 3-365, except that the owner of the agricultural land may agree to comply  
32 with the buffer zone requirements of section 3-365. If the owner agrees in

1 writing to comply with the buffer zone requirements and records the agreement  
2 in the office of the county recorder as a restrictive covenant running with  
3 the title to the land, the charter school may locate a school within the  
4 affected buffer zone. The agreement may include any stipulations regarding  
5 the charter school, including conditions for future expansion of the school  
6 and changes in the operational status of the school that will result in a  
7 breach of the agreement.

8 V. A transfer of a charter to another sponsor, a transfer of a charter  
9 school site to another sponsor or a transfer of a charter school site to a  
10 different charter shall be completed before the beginning of the fiscal year  
11 that the transfer is scheduled to become effective. An entity that sponsors  
12 charter schools may accept a transferring school after the beginning of the  
13 fiscal year if the transfer is approved by the superintendent of public  
14 instruction. The superintendent of public instruction shall have the  
15 discretion to consider each transfer during the fiscal year on a case by case  
16 basis. If a charter school is sponsored by a school district that is  
17 determined to be out of compliance with this title, the uniform system of  
18 financial records or any other state or federal law, the charter school may  
19 transfer to another sponsoring entity at any time during the fiscal year.

20 W. NOTWITHSTANDING SUBSECTION X OF THIS SECTION, THE STATE BOARD FOR  
21 CHARTER SCHOOLS SHALL CHARGE A PROCESSING FEE TO ANY CHARTER SCHOOL THAT  
22 AMENDS THEIR CONTRACT TO PARTICIPATE IN THE ARIZONA ONLINE INSTRUCTION  
23 PROGRAM PURSUANT TO SECTION 15-808. THE CHARTER ARIZONA ONLINE INSTRUCTION  
24 PROCESSING FUND IS ESTABLISHED CONSISTING OF FEES COLLECTED AND ADMINISTERED  
25 BY THE STATE BOARD FOR CHARTER SCHOOLS. THE STATE BOARD FOR CHARTER SCHOOLS  
26 SHALL USE MONIES IN THE FUND ONLY FOR THE PROCESSING OF CONTRACT AMENDMENTS  
27 FOR CHARTER SCHOOLS PARTICIPATING IN ARIZONA ONLINE INSTRUCTION PROGRAMS.  
28 MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED.

29 ~~W.~~ X. The sponsoring entity may not charge any fees to a charter  
30 school that it sponsors unless the sponsor has provided services to the  
31 charter school and the fees represent the full value of those services  
32 provided by the sponsor. On request, the value of the services provided by

1 the sponsor to the charter school shall be demonstrated to the department of  
2 education.

3 ~~Y.~~ Y. Charter schools may enter into an intergovernmental agreement  
4 with a presiding judge of the juvenile court to implement a law related  
5 education program as defined in section 15-154. The presiding judge of the  
6 juvenile court may assign juvenile probation officers to participate in a law  
7 related education program in any charter school in the county. The cost of  
8 juvenile probation officers who participate in the program implemented  
9 pursuant to this paragraph shall be funded by the charter school."

10 Amend title to conform

and, as so amended, it do pass

RICH CRANDALL  
Chairman

1039-se-ed  
4/5/10  
H:jmb