

State of Arizona  
House of Representatives  
Fiftieth Legislature  
Second Regular Session  
2012

**CHAPTER 212**  
**HOUSE BILL 2501**

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; fee;  
6 fund

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

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

21 C. The sponsor of a charter school may be either a school district  
22 governing board, the state board of education, the state board for charter  
23 schools, a university under the jurisdiction of the Arizona board of regents,  
24 a community college district with enrollment of more than fifteen thousand  
25 full-time equivalent students or a group of community college districts with  
26 a combined enrollment of more than fifteen thousand full-time equivalent  
27 students, subject to the following requirements:

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

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

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

1 (c) In the second consecutive year that a school district is  
2 determined to be out of compliance with the uniform system of financial  
3 records, within fifteen days of the determination of noncompliance, the  
4 school district shall notify by certified mail each charter school sponsored  
5 by the school district that the school district is out of compliance with the  
6 uniform system of financial records. A charter school that receives a  
7 notification of school district noncompliance pursuant to this subdivision  
8 shall file a written sponsorship transfer application within forty-five days  
9 with the state board of education, the state board for charter schools or the  
10 school district governing board if the charter school is located within the  
11 geographic boundaries of that school district. A charter school that  
12 receives a notification of school district noncompliance may request an  
13 extension of time to file a sponsorship transfer application, and the state  
14 board of education, the state board for charter schools or a school district  
15 governing board may grant an extension of not more than an additional thirty  
16 days if good cause exists for the extension. The state board of education  
17 and the state board for charter schools shall approve a sponsorship transfer  
18 application pursuant to this paragraph.

19 (d) A school district governing board shall not grant a charter to a  
20 charter school that is located outside the geographic boundaries of that  
21 school district.

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

25 2. The applicant may submit the application to the state board of  
26 education or the state board for charter schools. The state board of  
27 education or the state board for charter schools may approve the application  
28 if the application meets the requirements of this article and may approve the  
29 charter if the proposed sponsor determines, within its sole discretion, that  
30 the applicant is sufficiently qualified to operate a charter school and that  
31 the applicant is applying to operate as a separate charter holder by  
32 considering factors such as whether:

33 (a) The schools have separate governing bodies, governing body  
34 membership, staff, facilities, and student population.

35 (b) Daily operations are carried out by different administrators.

36 (c) The applicant intends to have an affiliation agreement for the  
37 purpose of providing enrollment preferences.

38 (d) The applicant's charter management organization has multiple  
39 charter holders serving varied grade configurations on one physical site or  
40 nearby sites serving one community.

41 (e) It is reconstituting an existing school site population at the  
42 same or new site.

43 (f) It is reconstituting an existing grade configuration from a prior  
44 charter holder with at least one grade remaining on the original site with  
45 the other grade or grades moving to a new site.

1 The state board of education or the state board for charter schools may  
2 approve any charter schools transferring charters. The state board of  
3 education and the state board for charter schools shall approve any charter  
4 schools transferring charters from a school district that is determined to be  
5 out of compliance with the uniform system of financial records pursuant to  
6 this section, but may require the charter school to sign a new charter that  
7 is equivalent to the charter awarded by the former sponsor. If the state  
8 board of education or the state board for charter schools rejects the  
9 preliminary application, the state board of education or the state board for  
10 charter schools shall notify the applicant in writing of the reasons for the  
11 rejection and of suggestions for improving the application. An applicant may  
12 submit a revised application for reconsideration by the state board of  
13 education or the state board for charter schools. The applicant may request,  
14 and the state board of education or the state board for charter schools may  
15 provide, technical assistance to improve the application.

16 3. The applicant may submit the application to a university under the  
17 jurisdiction of the Arizona board of regents, a community college district or  
18 a group of community college districts. A university, a community college  
19 district or a group of community college districts may approve the  
20 application if it meets the requirements of this article and if the proposed  
21 sponsor determines, in its sole discretion, that the applicant is  
22 sufficiently qualified to operate a charter school.

23 4. Each applicant seeking to establish a charter school shall submit a  
24 full set of fingerprints to the approving agency for the purpose of obtaining  
25 a state and federal criminal records check pursuant to section 41-1750 and  
26 Public Law 92-544. If an applicant will have direct contact with students,  
27 the applicant shall possess a valid fingerprint clearance card that is issued  
28 pursuant to title 41, chapter 12, article 3.1. The department of public  
29 safety may exchange this fingerprint data with the federal bureau of  
30 investigation. The criminal records check shall be completed before the  
31 issuance of a charter.

32 5. All persons engaged in instructional work directly as a classroom,  
33 laboratory or other teacher or indirectly as a supervisory teacher, speech  
34 therapist or principal shall have a valid fingerprint clearance card that is  
35 issued pursuant to title 41, chapter 12, article 3.1, unless the person is a  
36 volunteer or guest speaker who is accompanied in the classroom by a person  
37 with a valid fingerprint clearance card. A charter school shall not employ a  
38 teacher whose certificate has been **SURRENDERED OR** revoked, ~~for a violation of~~  
39 ~~section 15-507 or 15-550 or for any offense that placed a pupil in danger~~  
40 **UNLESS THE TEACHER'S CERTIFICATE HAS BEEN SUBSEQUENTLY REINSTATED BY THE**  
41 **STATE BOARD OF EDUCATION.** All other personnel shall be fingerprint checked  
42 pursuant to section 15-512. Before employment, the charter school shall make  
43 documented, good faith efforts to contact previous employers of a person to  
44 obtain information and recommendations that may be relevant to a person's  
45 fitness for employment as prescribed in section 15-512, subsection F. The  
46 charter school shall notify the department of public safety if the charter

1 school or sponsor receives credible evidence that a person who possesses a  
2 valid fingerprint clearance card is arrested for or is charged with an  
3 offense listed in section 41-1758.03, subsection B. Charter schools may hire  
4 personnel that have not yet received a fingerprint clearance card if proof is  
5 provided of the submission of an application to the department of public  
6 safety for a fingerprint clearance card and if the charter school that is  
7 seeking to hire the applicant does all of the following:

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

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

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

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

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

22 (f) Verifies the fingerprint status of the applicant with the  
23 department of public safety.

24 6. A charter school that complies with the fingerprinting requirements  
25 of this section shall be deemed to have complied with section 15-512 and is  
26 entitled to the same rights and protections provided to school districts by  
27 section 15-512.

28 7. If a charter school operator is not already subject to a public  
29 meeting or hearing by the municipality in which the charter school is  
30 located, the operator of a charter school shall conduct a public meeting at  
31 least thirty days before the charter school operator opens a site or sites  
32 for the charter school. The charter school operator shall post notices of  
33 the public meeting in at least three different locations that are within  
34 three hundred feet of the proposed charter school site.

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

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

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

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

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

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

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

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

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

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

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

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

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

32 6. That, except as provided in this article, it is subject to the same  
33 financial and electronic data submission requirements as a school district,  
34 including the uniform system of financial records as prescribed in chapter 2,  
35 article 4 of this title, procurement rules as prescribed in section 15-213  
36 and audit requirements. The auditor general shall conduct a comprehensive  
37 review and revision of the uniform system of financial records to ensure that  
38 the provisions of the uniform system of financial records that relate to  
39 charter schools are in accordance with commonly accepted accounting  
40 principles used by private business. A school's charter may include  
41 exceptions to the requirements of this paragraph that are necessary as  
42 determined by the district governing board, the state board of education or  
43 the state board for charter schools. The department of education or the  
44 office of the auditor general may conduct financial, program or compliance  
45 audits.

1           7. Compliance with all federal and state laws relating to the  
2 education of children with disabilities in the same manner as a school  
3 district.

4           8. That it provides for a governing body for the charter school that  
5 is responsible for the policy decisions of the charter school.  
6 Notwithstanding section 1-216, if there is a vacancy or vacancies on the  
7 governing body, a majority of the remaining members of the governing body  
8 constitute a quorum for the transaction of business, unless that quorum is  
9 prohibited by the charter school's operating agreement.

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

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

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

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

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

35           1. At least eighteen months before the expiration of the approved  
36 plan, the sponsor shall notify the charter school that the charter school may  
37 apply for renewal. A charter school that elects to apply for renewal shall  
38 file an application for renewal at least fifteen months before the expiration  
39 of the approved plan. In addition to any other requirements, the application  
40 for renewal shall include a detailed business plan for the charter school, a  
41 review of fiscal audits and academic performance data for the charter school  
42 that are annually collected by the sponsor and a review of the current  
43 contract between the sponsor and the charter school. The sponsor may deny  
44 the request for renewal if, in its judgment, the charter school has failed to  
45 complete the obligations of the contract or has failed to comply with this  
46 article. A sponsor shall give written notice of its intent not to renew the

1 charter school's request for renewal to the charter school at least twelve  
2 months before the expiration of the approved plan to allow the charter school  
3 an opportunity to apply to another sponsor to transfer the operation of the  
4 charter school. If the operation of the charter school is transferred to  
5 another sponsor, the fifteen year period of the current charter shall be  
6 maintained.

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

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

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

32 K. A charter school that is sponsored by the state board of education,  
33 the state board for charter schools, a university, a community college  
34 district or a group of community college districts may not be located on the  
35 property of a school district unless the district governing board grants this  
36 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. Notwithstanding subsection X of this section, the state board for  
42 charter schools shall charge a processing fee to any charter school that  
43 amends its contract to participate in Arizona online instruction pursuant to  
44 section 15-808. The charter Arizona online instruction processing fund is  
45 established consisting of fees collected and administered by the state board  
46 for charter schools. The state board for charter schools shall use monies in

1 the fund only for the processing of contract amendments for charter schools  
2 participating in Arizona online instruction. Monies in the fund are  
3 continuously appropriated.

4 X. The sponsoring entity may not charge any fees to a charter school  
5 that it sponsors unless the sponsor has provided services to the charter  
6 school and the fees represent the full value of those services provided by  
7 the sponsor. On request, the value of the services provided by the sponsor  
8 to the charter school shall be demonstrated to the department of education.

9 Y. Charter schools may enter into an intergovernmental agreement with  
10 a presiding judge of the juvenile court to implement a law related education  
11 program as defined in section 15-154. The presiding judge of the juvenile  
12 court may assign juvenile probation officers to participate in a law related  
13 education program in any charter school in the county. The cost of juvenile  
14 probation officers who participate in the program implemented pursuant to  
15 this subsection shall be funded by the charter school.

16 Z. The sponsor of a charter school shall modify previously approved  
17 curriculum requirements for a charter school that wishes to participate in  
18 the board examination system prescribed in chapter 7, article 6 of this  
19 title.

20 AA. If a charter school decides not to participate in the board  
21 examination system prescribed in chapter 7, article 6 of this title, pupils  
22 enrolled at that charter school may earn a Grand Canyon diploma by obtaining  
23 a passing score on the same board examinations.

24 BB. A charter school shall contract with a different auditor at least  
25 once every six years to conduct the annual audits required by this section.

APPROVED BY THE GOVERNOR APRIL 5, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 5, 2012.