

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003  
4

*As Engrossed: H4/2/03 H4/4/03*

# A Bill

HOUSE BILL 2878

5 By: Representative Hardwick  
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7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE CHARTER SCHOOL LAW; AND FOR  
10 OTHER PURPOSES.

### Subtitle

11 AN ACT TO AMEND THE CHARTER SCHOOL LAW.  
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16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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18 *SECTION 1. Arkansas Code § 6-23-103 is amended to read as follows:*

19 *6-23-103. Definitions.*

20 *As used in this chapter:*

21 *(1) "Charter" means a performance-based contract for an initial ~~three-~~*  
22 *year five-year period that converts a public school to a charter school or*  
23 *authorizes the creation and conditional operation of an open-enrollment*  
24 *charter school, which exempts the charter school from state and local rules,*  
25 *regulations, policies, and procedures specified in the contract and from the*  
26 *provisions of § 6-1-101 et seq. specified in the contract;*

27 *(2) "Charter school" means a public school that is operating under the*  
28 *terms of a charter granted by the State Board of Education or an open*  
29 *enrollment charter school as defined in subdivision (5) of this section;*

30 *(3) "Eligible entity" means a public institution of higher education,*  
31 *a private nonsectarian institution of higher education, a governmental*  
32 *entity, or an organization that is nonsectarian in its program, admissions*  
33 *policies, employment practices, and operations and is exempt from taxation*  
34 *under § 501(c)(3) of the Internal Revenue Code of 1986;*

35 *(4) "Local board" means a board of directors exercising the control*  
36 *and management of a public school district;*



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1 (5) "Open-enrollment charter school" means a public school that is  
2 operating under the terms of a charter granted by the state board on the  
3 application of an eligible entity and may draw its students from across  
4 public school district boundaries;

5 (6) "Parent" means any parent, legal guardian, or other person having  
6 custody or charge of a school-age child;

7 (7) "Petition" means a proposal to enter into a performance-based  
8 contract between the state board and a public school or eligible entity  
9 whereby the proposed school obtains charter school status;

10 (8) "Public school" means a school that is part of a public school  
11 district under the control and management of a local board; and

12 (9) "State board" means the State Board of Education.  
13

14 SECTION 2. Arkansas Code § 6-23-204 is amended to read as follows:

15 6-23-204. Charter renewal.

16 The State Board of Education is authorized to renew charters on a one-  
17 year or multiyear basis, not to exceed ~~three (3)~~ five (5) years, for local  
18 schools after the initial ~~three-year~~ five-year period if the renewal is  
19 approved by the local school board.  
20

21 SECTION 3. Arkansas Code § 6-23-302 is amended to read as follows:

22 6-23-302. Petition for an open-enrollment charter school.

23 (a) Pursuant to the provisions of this chapter, an eligible entity may  
24 petition the State Board of Education to grant an application for an open-  
25 enrollment charter school to operate in a facility of a commercial or  
26 nonprofit entity or a public school district.

27 (b) The petition to the state board for an open-enrollment charter  
28 school shall be made in accordance with a schedule approved by the state  
29 board.

30 (c) The petition shall:

31 (1)(A) Describe the results of a public hearing called by the  
32 petitioner for the purpose of assessing support of an application to initiate  
33 a petition for charter school status.

34 (B)(i) Notice of the public hearing shall be published  
35 once a week for three (3) consecutive weeks in a newspaper having general  
36 circulation in each school district from which the charter school is likely

1 to draw students for the purpose of enrollment.

2 (ii) The last publication of notice shall be no less  
3 than seven (7) days prior to the public meeting.

4 (iii) The notice shall not be published in the  
5 classified or legal notice section of the newspaper.

6 (iv) The notice shall be published in no less than  
7 ten-point size and shall be no less than two by four inches (2" x 4") or four  
8 by two inches (4" x 2").

9 (C)~~(i)~~ Within seven (7) calendar days following the first  
10 publication of notice required under subdivision (c)(1)(B) of this section,  
11 letters announcing the public hearing shall be sent to the superintendents  
12 ~~and school board members~~ of each of the school districts from which the  
13 charter school is likely to draw students for the purpose of enrollment and  
14 the superintendents ~~and school board members~~ of any district that is  
15 contiguous to the district in which the open-enrollment charter school will  
16 be located;

17 ~~(ii) The letters to the school board members~~  
18 ~~required in subdivision (c)(1)(C)(i) shall only be required for each school~~  
19 ~~board member whose name and mailing address are provided by the~~  
20 ~~superintendent of an affected school district upon the request of the~~  
21 ~~petitioner;~~

22 (2) Describe a plan for academic achievement that addresses how  
23 the open-enrollment charter school will improve student learning and meet the  
24 state education goals;

25 (3) Outline the proposed performance criteria that will be used  
26 during the initial ~~three-year~~ five-year period of the open-enrollment charter  
27 school operation to measure its progress in improving student learning and  
28 meeting or exceeding the state education goals;

29 (4) List the specific provisions of ~~§ 6-1-101 et seq.~~ Title 6 of  
30 the Arkansas Code and the specific rules and regulations promulgated by the  
31 state board from which the open-enrollment charter school seeks to be  
32 exempted;

33 (5)(A) Describe the facility to be used for the open-enrollment  
34 charter school and state the facility's current use and the facility's use  
35 for the immediately preceding three (3) years.

36 (B) If the facility to be used for an open-enrollment

1 charter school is a public school district facility, the open-enrollment  
 2 charter school must operate in the facility in accordance with the terms  
 3 established by the board of directors of the public school district in an  
 4 agreement governing the relationship between the open-enrollment charter  
 5 school and the public school district.

6 (C) If the facility that will be used for the charter  
 7 school is owned by or leased from a sectarian organization, the terms of the  
 8 facility agreement must be disclosed to the state board; and

9 (6) Include a detailed budget and a governance plan for the  
 10 operation of the open-enrollment charter school.

11 (d)(1) The petition shall be first reviewed and approved by the local  
 12 board of the district where the proposed open enrollment will operate.

13 (2) ~~However, if the local board disapproves the petition, the~~  
 14 ~~petitioners shall have an immediate right to proceed with a written notice of~~  
 15 ~~appeal to the state board, which shall hold a hearing within forty five (45)~~  
 16 ~~calendar days after receipt of the notice of appeal and where all interested~~  
 17 ~~parties may appear and present relevant information regarding the proposed~~  
 18 ~~open-enrollment charter school petition. The local board of directors of the~~  
 19 ~~district where the proposed open-enrollment charter school will operate may~~  
 20 ~~submit written comments stating the local board's support or opposition of~~  
 21 ~~the proposed open-enrollment charter school to the State Board of Education.~~

22 (e) A certified teacher employed by a public school district in the  
 23 school year immediately preceding the effective date of a charter for an  
 24 open-enrollment charter school operated at a public school facility may not  
 25 be transferred to or be employed by the open-enrollment charter school over  
 26 the certified teacher's objections.

27  
 28 SECTION 4. Arkansas Code § 6-23-303 is amended to read as follows:

29 6-23-303. Authorization for an open-enrollment charter school.

30 As requested by the petitioning open-enrollment charter school  
 31 proponents, the State Board of Education shall review the petition for an  
 32 open-enrollment charter school and may approve any petition that:

33 (1) Provides a plan for academic achievement that addresses how the  
 34 open-enrollment charter school proposes to improve student learning and meet  
 35 the state education goals;

36 (2) Includes a set of performance criteria that will be used during

1 the initial ~~three-year~~ five-year period of the open-enrollment charter  
 2 school's operation to measure its progress in meeting its academic  
 3 performance goals;

4 (3) Includes a proposal to directly and substantially involve the  
 5 parents of students to be enrolled in the open-enrollment charter school, the  
 6 certified employees, and the broader community in carrying out the terms of  
 7 the open-enrollment charter;

8 (4) Includes an agreement to provide an annual report to parents, the  
 9 community, and the state board that demonstrates the progress made by the  
 10 open-enrollment charter school during the previous academic year in meeting  
 11 its academic performance objectives; and

12 (5) Includes a detailed budget, a business plan, and a governance plan  
 13 for the operation of the open-enrollment charter school.

14  
 15 SECTION 5. Arkansas Code § 6-23-304 is amended to read as follows:  
 16 6-23-304. Requirements - Preference for certain districts.

17 (a) The State Board of Education may approve or deny an application  
 18 based on criteria adopted by the state board, which shall include criteria  
 19 relating to improving student performance and encouraging innovative programs  
 20 and written findings or statements received by the board from any public  
 21 school district likely to be affected by the charter school.

22 (b) The state board shall give preference in approving an application  
 23 for a charter school to be located in any public school district:

24 (1) Where the percentage of students who qualify for free or  
 25 reduced price lunches is above the average for the state; or

26 (2) Where the percentage of students not reading at grade level  
 27 is above the average for the state.

28 ~~(c) The state board may grant no more than a total of twelve (12)~~  
 29 ~~charters for open-enrollment charter schools, and no more than three (3) of~~  
 30 ~~such charters may be granted in any single congressional district in the~~  
 31 ~~state.~~

32 ~~(d)(1)~~ (c)(1) No private or parochial elementary or secondary school  
 33 shall be eligible for open-enrollment charter school status.

34 ~~(2)(d)~~ No open-enrollment charter school shall be located in a school  
 35 district with an enrollment of fewer than five hundred (500) students at the  
 36 time that the state board initially approves the charter.

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SECTION 6. Arkansas Code § 6-23-307 is amended to read as follows:  
6-23-307. Renewal of charter.

After the initial ~~three-year~~ five-year period of an open-enrollment charter, the State Board of Education is authorized to renew these charters on a one-year or multiyear basis, not to exceed ~~three (3)~~ five (5) years per each charter renewal.

SECTION 7. Arkansas Code § 6-23-402 is amended to read as follows:  
6-23-402. Enrollment numbers and deadline.

(a) An open-enrollment charter school may enroll a number of students not to exceed the number of students specified in its charter or the initial funding projected enrollment as of April 15 preceding the school year in which the students are to attend.

~~(b)(1) Any student enrolling in an open-enrollment charter school shall enroll in that school by April 15 of the school year prior to the school year during which the student will be enrolled in the open-enrollment charter school.~~

~~(2) However, if a student enrolled by April 15 should no longer choose to attend the open-enrollment charter school, the open-enrollment charter school may enroll a replacement student.~~

~~(e)~~(b) Open-enrollment charter schools shall keep records of attendance in accordance with the law and submit quarterly attendance reports to the Department of Education.

SECTION 8. Arkansas Code § 6-23-501 is amended to read as follows:  
6-23-501. Funding for open-enrollment charter schools.

(a)(1) An open-enrollment charter school shall receive funds equal to the minimum state and local revenue per average daily membership as defined in § 6-20-303.

(2) Funding for an open-enrollment charter school shall be based upon the current year three-quarter average daily membership of the open-enrollment charter school as follows:

(A) The initial funding estimate for each school year shall be ~~based on enrollment as of April 15 preceding the school year in which the students are to attend~~ based on the projected enrollment as of

1 April 15 preceding the school year in which the students are to attend.

2 Under no circumstances may a projected enrollment be greater than the maximum  
 3 enrollment approved in any charter issued by the State Board of Education;

4 (B) In December, funding will be adjusted based on the  
 5 first quarter average daily membership; and

6 (C) A final adjustment will be made after the current year  
 7 three-quarter average daily membership is established.

8 (3) Funding for an open-enrollment charter school shall be paid  
 9 in twelve (12) ~~equal~~ installments each fiscal year.

10 (b) Except for state transportation aid funds, an open-enrollment  
 11 charter school may receive other state and federal aids, grants, and revenue  
 12 as may be provided by law.

13 (c) Open-enrollment charter schools may receive gifts and grants from  
 14 private sources in whatever manner is available to public school districts.

15  
 16 SECTION 9. Arkansas Code § 6-23-601 is amended to read as follows:

17 6-23-601. Petition for limited charter school status - Approval -  
 18 Teacher transfers - annual evaluation.

19 (a)(1) Any public school may petition the State Board of Education for  
 20 a limited charter status for alternative comprehensive staffing and  
 21 compensation programs designed to enhance student and teacher performance and  
 22 improve employee salaries, opportunities, and incentives, to be known as a  
 23 limited charter school.

24 (2) A limited charter shall be for the purpose of instituting  
 25 alternative staffing practices in accordance with a schedule approved by the  
 26 state board.

27 (3) A limited charter shall be initially established for a  
 28 period of no more than ~~three (3)~~ five (5) years and may be renewed on a one-  
 29 year or multiyear basis, not to exceed ~~three (3)~~ five (5) years per charter  
 30 renewal.

31 (b) The petition shall:

32 (1)(A) Contain the provisions of § 6-1-101 et seq. and the  
 33 specific rules and regulations promulgated by the state board from which the  
 34 public school will be exempt.

35 (B) The provisions from which the school district may be  
 36 exempt for the limited charter school only shall be limited to the following:

1 (i) The duty-free lunch period requirements set  
2 forth in § 6-17-111;

3 (ii) The daily planning period requirements set  
4 forth in § 6-17-114;

5 (iii) The committee on personnel policies  
6 requirements set forth in §§ 6-17-201 - 6-17-208; and

7 (iv) Standards for accreditation set forth in the  
8 Arkansas Code, set forth by the Department of Education, or set forth by the  
9 state board.

10 (C) No limited charter school may be allowed an exemption  
11 that would allow a full-time certified employee to be paid less than the  
12 salary provided in the school district's salary schedule for that employee;

13 (2) Describe a plan for school improvement that addresses how  
14 the school will improve student learning and meet the state education goals;

15 (3) Describe how the certified employees at the charter school  
16 will be involved in developing and implementing the school improvement plan  
17 set forth in subdivision (b)(2) of this section and in identifying  
18 performance criteria;

19 (4) Outline proposed performance criteria that will be used  
20 during the initial ~~three-year~~ five-year period of the charter to measure the  
21 progress of the charter school in improving student learning and meeting or  
22 exceeding the state education goals; and

23 (5) Be reviewed as a regular agenda item and approved after  
24 sufficient public comment by the local school board and the state board.

25 (c)(1) Any petition to obtain limited charter school status approved  
26 by a local board shall be forwarded by the local board to the state board.

27 (2) If a local board does not approve a public school's  
28 petition, the local board shall inform the petitioners and faculty of the  
29 public school of the local board's reasons for not approving the petition.

30 (d)(1) A certified teacher employed by a public school in the school  
31 year immediately preceding the effective date of a limited charter for a  
32 public school within that district may not be transferred to or be employed  
33 by the limited charter school over the certified teacher's objections, nor  
34 shall that objection be used as a basis to deny continuing employment within  
35 the district in another public school at a similar grade level.

36 (2) If the transfer of a teacher within a district is not



1 possible because only one (1) school exists for the teacher's certification  
2 level, then the local board shall call for a vote of the certified teachers  
3 in the proposed limited charter school site and proceed, at the local board's  
4 option, with the charter school petition if a majority of the certified  
5 teachers approve the proposal.

6 (3)(A) A certified teacher choosing to join the staff of a  
7 limited charter school shall be employed by the district by a written  
8 contract as set forth in § 6-13-620(4), with the contract being subject to  
9 the provisions of the Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq.

10 (B)(i) The certified teacher shall also enter into a  
11 separate supplemental contract specifically for the teacher's employment in  
12 the limited charter school, with the supplemental contract being exempt from  
13 the Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq., and from § 6-17-  
14 807.

15 (ii) Termination of the supplemental contract shall  
16 not be used as a basis to deny continued employment of the teacher within the  
17 district in another public school at a similar grade level.

18 (e)(1) Limited charter schools shall be evaluated annually by the  
19 department based on criteria approved by the state board, including, but not  
20 limited to, student performance data in order to determine progress in  
21 student achievement that has been achieved by the limited charter school.

22 (2) The department shall annually report its evaluation to the  
23 state board.

24 (3) Based upon that evaluation, the state board may revoke a  
25 limited charter.

26 (f) The state board shall promulgate rules and regulations necessary  
27 for the implementation of this subchapter.

28  
29 SECTION 10. Arkansas Code § 6-20-802 is amended to read as follows:

30 6-20-802. Purposes of loan.

31 Subject to the conditions and limitations contained in this subchapter,  
32 any school district or public charter school may borrow and the State Board  
33 of Education may lend moneys in the Revolving Loan Fund for any of the  
34 following purposes:

35 (1) The funding of its legally issued and outstanding postdated  
36 warrants;

1           (2) *The purchase of new or used school buses or the refurbishing of*  
2 *school buses;*

3           (3) *The payment of premiums on insurance policies covering its school*  
4 *buildings, facilities, and equipment in instances where the insurance*  
5 *coverage extends three (3) years or longer;*

6           (4) *The replacement of or payment of the district's pro rata part of*  
7 *the expense of employing professional appraisers as authorized by § 26-26-601*  
8 *et seq. or other laws providing for the appraisal or reappraisal and*  
9 *assessment of property for ad valorem tax purposes;*

10          (5) *The making of major repairs and the construction of additions to*  
11 *existing school buildings and facilities;*

12          (6) *The purchase of surplus buildings and equipment;*

13          (7) *The purchase of sites for and the cost of construction thereon of*  
14 *school buildings and facilities and the purchase of equipment for the*  
15 *buildings;*

16          (8) *The purchase of its legally issued and outstanding commercial*  
17 *bonds at a discount provided that a substantial savings in gross interest*  
18 *charges can be thus effected;*

19          (9) *The refunding of all or any part of its legally issued and*  
20 *outstanding debt, both funded and unfunded;*

21          (10) *The purchase of equipment;*

22          (11) *The payment on loans secured for settlement resulting from*  
23 *litigation against a school district;*

24          (12) *The purchase of energy conservation measures as defined in § 6-*  
25 *20-401; and*

26          (13)(A)(i) *The maintenance and operation of the school district in an*  
27 *amount equal to delinquent property taxes resulting from bankruptcies or*  
28 *receiverships of taxpayers; and*

29                   (ii) *Loans to school districts in an amount equal to*  
30 *insured facility loss or damage when the insurance claim is being litigated*  
31 *or arbitrated.*

32                   (B) *For purposes of this subdivision (13), the loans become*  
33 *payable and due when the final settlement is made, and the loan limits*  
34 *prescribed by § 6-20-803 shall not apply.*

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36           SECTION 11. *Arkansas Code § 6-21-108 is amended to read as follows:*

1           6-21-108. School districts authorized to own and convey real  
2 property - Donation of property for educational purposes only.

3           (a) In addition to the authority of school districts under § 6-13-620  
4 to have the care and custody of the schoolhouse, grounds, and other property  
5 belonging to the district, the board of directors for any Arkansas school  
6 district shall be authorized and empowered to acquire and hold real estate,  
7 tenements, hereditaments, and other real property as is necessary and proper  
8 for the purposes of the education of pupils of the district and the  
9 administration of the schools of the district.

10           (b)(1) If the board of directors for a school district determines that  
11 any real estate owned or controlled by the district is not required for the  
12 present or anticipated future needs of the school district and that the  
13 donation thereof would serve a beneficial educational service for the pupils  
14 of the district, then the school district is also empowered and authorized to  
15 donate property or any part thereof to a publicly supported charter school,  
16 institution of higher education or a vocational-technical or community  
17 college, or any entity thereof, for any of the following limited purposes:

18                       (A) Having the real property improved, upgraded,  
19 rehabilitated, or enlarged by the donee; or

20                       (B) Providing a publicly supported institution of higher  
21 education or a vocational-technical or community college with the donated  
22 property in which to hold classes for students who are from the district or  
23 to educate pupils from within the donating school district even if students  
24 from outside the district might also benefit.

25           (2) All donation instruments shall contain provisions by which  
26 the title to the property donated shall revert to the donating school  
27 district when the donated property is no longer used by the donee for the  
28 purposes for which it was donated.

29           (3) Furthermore, school districts may donate the fee simple  
30 title and absolute interest, without any reservations or restrictions, in and  
31 to all real property or any part of the property to the publicly supported  
32 institution or college if this property was previously conveyed or otherwise  
33 transferred by the institution or college to the school district without  
34 cost.

35           (c) The execution of all contracts and conveyances and lease contracts  
36 shall be performed by the president and confirmed by the secretary of the

1 *school board when authorized by a resolution in writing and approved by a*  
2 *majority vote of the school board.*

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*/s/ Hardwick*

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