

ARKANSAS SENATE
88th General Assembly - Regular Session, 2011
Amendment Form

Subtitle of Senate Bill No. 436

TO REQUIRE A PUBLIC CHARTER SCHOOL TO SUBMIT PERIODIC REPORTS.

Amendment No. 1 to Senate Bill No. 436

Amend Senate Bill No. 436 as originally introduced:

Add Senator G. Baker as a cosponsor of the bill

AND

Page 1, line 9, delete "REPORTS;" and substitute "REPORTS; TO AMEND VARIOUS PROVISIONS OF ARKANSAS LAW CONCERNING PUBLIC CHARTER SCHOOLS; TO PROTECT PUBLIC CHARTER SCHOOLS FROM CERTAIN LIABILITIES; TO DECLARE AN EMERGENCY;"

AND

Delete the subtitle in its entirety and substitute:

"TO AMEND VARIOUS PROVISIONS OF ARKANSAS LAW CONCERNING PUBLIC CHARTER SCHOOLS; TO PROTECT PUBLIC CHARTER SCHOOLS FROM CERTAIN LIABILITIES; AND TO DECLARE AN EMERGENCY."

AND

Page 1, delete line 19 and substitute the following:

"SECTION 1. Arkansas Code § 6-17-1113(a), concerning the School Worker Defense Program, is amended to read as follows:

(a)(1) The Department of Education ~~is authorized and directed to~~ shall establish a School Worker Defense Program for the protection under subdivision (a)(2) of this section of:

- ~~(1)~~(A) Education service cooperatives;
- ~~(2)~~(B) Education service cooperative board members;
- ~~(3)~~(C) School districts;
- (D) Public charter schools;
- ~~(4)~~(E) School board members;
- ~~(5)~~(F) School treasurers and bookkeepers;
- ~~(6)~~(G) School nurses;



- ~~(7)~~(H) School secretaries;
- ~~(8)~~(I) Substitute teachers;
- ~~(9)~~(J) Authorized volunteers;
- ~~(10)~~(K) Volunteers in a registered volunteers program;
- ~~(11)~~(L) School custodians;
- ~~(12)~~(M) Food service workers employed by public schools;
- ~~(13)~~(N) Bus drivers and mechanics employed by public

schools;

- ~~(14)~~(O) Maintenance personnel employed by public schools;
- ~~(15)~~(P) Each employee of the following who is required to

hold a teaching certificate issued by the department:

- ~~(A)~~(i) A public school district;
- (ii) A public charter school;
- ~~(B)~~(iii) The Arkansas School for Mathematics,

Sciences, and the Arts;

- ~~(C)~~(iv) The Arkansas School for the Deaf; and
- ~~(D)~~(v) The Arkansas School for the Blind;

~~who is required to hold a teaching certificate issued by the department;~~

- ~~(16)~~(Q) Each teacher's aide and each student teacher:

- ~~(A)~~(i) In a public school district;
- (ii) In a public charter school;
- ~~(B)~~(iii) In the Arkansas School for Mathematics,

Sciences, and the Arts;

- ~~(C)~~(iv) In the Arkansas School for the Deaf; ~~or~~ and
- ~~(D)~~(v) In the Arkansas School for the Blind; and

- ~~(17)~~(R) Each member of the dormitory staff of:

- ~~(A)~~(i) The Arkansas School for Mathematics,

Sciences, and the Arts;

- ~~(B)~~(ii) The Arkansas School for the Deaf; ~~or~~ and
- ~~(C)~~(iii) The Arkansas School for the Blind;.

(2) This section provides protection against civil liability, attorney's fees, and costs of defense for acts or omissions of each employee or volunteer in the performance of his or her duties as a volunteer or his or her official duties as a school employee, including civil liability for administering corporal punishment to students, in the amount of two hundred fifty thousand dollars (\$250,000) for incidents which occurred prior to July 1, 1999, and one hundred fifty thousand dollars (\$150,000) for each incident which occurs after June 30, 1999.

SECTION 2. Arkansas Code § 6-20-2305(b)(4)(B)(i)(a), concerning national school lunch state categorical funding, is amended to read as follows:

(B)(i)(a)(1) Except as provided under subdivision (b)(4)(B)(i)(c) of this section, ~~National~~ national school lunch state categorical funding under this subdivision (b)(4) shall be based on the number of national school lunch students for the immediately preceding school year determined under § 6-20-2303(12)(A).

(b) If the school district is participating under 42 U.S.C. § 1759a, funding under this subdivision (b)(4) is based on the percentage determined in § 6-20-2303(12)(B) multiplied by the number of enrolled students for the immediately preceding school year.

(c) The per-student national school lunch state categorical funding for an open-enrollment public charter school shall be based upon the current school year enrollment:

(1) In the initial year of operation for an open-enrollment public charter school; or

(2) In a year in which an open-enrollment public charter school adds a grade.

SECTION 3. Arkansas Code Title 6, Chapter 23, Subchapter 1 is amended"

AND

Page 2, delete line 23 and substitute the following:

"SECTION 4. Arkansas Code § 6-23-301(c), concerning the requirement for a petition indicating parental support for an open-enrollment public charter school is repealed:

~~(c) As part of the application procedure, the state board may require a petition supporting a charter for an open enrollment public charter school signed by a specified number of parents or guardians of school age children residing in the area in which an open enrollment public charter school is proposed, or it may hold a public hearing to determine parental support for the school.~~

SECTION 5. Arkansas Code § 6-23-302 is amended to read as follows:

6-23-302. Application for an open-enrollment public charter school.

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

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

(c) The application shall:

(1)(A) Describe the results of a public hearing called by the applicant for the purpose of assessing support for an application for an open-enrollment public charter school.

(B)(i) Notice of the public hearing shall be published one (1) time a week for three (3) consecutive weeks in a newspaper having general circulation in ~~each~~ the public school district ~~from~~ in which the open-enrollment public charter school is likely to ~~draw students for the purpose of enrollment~~ be located.

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

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

~~(iv) The notice shall be published in no less than ten point type and shall be no less than two by four inches (2'' x 4'') or four by two inches (4'' x 2'').~~

(C)(i) Within seven (7) calendar days following the first publication of notice required under subdivision (c)(1)(B) of this section, letters announcing the public hearing shall be sent to the superintendent of each of the public school districts from which the open-enrollment public

charter school is likely to draw students for the purpose of enrollment and the superintendent of any public school district that is contiguous to the public school district in which the open-enrollment public charter school will be located.

(ii) An affected school district may submit written comments concerning the application to the state board to be considered at the time of the state board's review of the application;

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

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

(4) List the specific provisions of this title and the specific rules and regulations promulgated by the state board from which the open-enrollment public charter school seeks to be exempted;

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

(B) If the facility to be used for an open-enrollment public charter school is a public school district facility, the open-enrollment public charter school must operate in the facility in accordance with the terms established by the local school board of the public school district in an agreement governing the relationship between the open-enrollment public charter school and the public school district.

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

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

(d)(1)(A) The application ~~shall be first~~ may be reviewed and approved by the local school board of the public school district in which the proposed open-enrollment public charter school will operate.

(B) The applicant may submit to the state board for expedited review an application approved by the local school board under subdivision (d)(1)(A) of this section.

(2)(A) However, if the local school board disapproves the application, the applicant shall have an immediate right to proceed with a written notice of appeal to the state board.

(B) The state board shall hold a hearing within forty-five (45) calendar days after receipt of the notice of appeal or a request for review.

(C) All interested parties may appear at the hearing and present relevant information regarding the application.

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

SECTION 6. Arkansas Code § 6-23-304(d), concerning the requirements for approval of an open-enrollment public charter school, is amended to read as follows:

~~(d)(1) The General Assembly recognizes by established relevant demonstrated educational accountability measures that the Knowledge Is Power Program (KIPP) Delta College Preparatory Open-Enrollment Charter School has:~~

~~(A) Improved student learning through innovative ideas and techniques;~~

~~(B) Increased learning opportunities for all students; and~~

~~(C) Created special emphasis on expanded learning experiences for students who were previously identified as low achieving.~~

~~(2) As a result, the Knowledge Is Power Program is recognized as an effective method for:~~

~~(A) Meeting the statutory intent of this chapter;~~

~~(B) Closing the achievement gap in public schools for economically disadvantaged, racial, and ethnic subgroups, which is addressed by the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-401 et seq., and § 6-15-1601 et seq.; and~~

~~(C) Otherwise providing an alternative education that has been proven adequate and equitable to Arkansas students.~~

~~(3)(d) Therefore, a A charter applicant that receives an approved open-enrollment public charter may petition the state board for additional licenses to establish an open-enrollment public charter school in any of the various congressional districts in Arkansas if the applicant meets the following conditions, subject to the normal application, review, and approval process of the state board:~~

~~(A)(1) The approved open-enrollment public charter applicant has demonstrated success in student achievement gains, as defined by the state board;~~

~~(B)(2) The approved open-enrollment public charter applicant has not:~~

~~(i)(A) Been subject to any disciplinary action by the state board;~~

~~(ii)(B) Been classified as in school improvement or academic or fiscal distress; and~~

~~(iii)(C) Had its open-enrollment public charter placed on charter school probation or suspended or revoked under § 6-23-105; and~~

~~(C)(3) The state board determines in writing by majority of a quorum of the state board present that the open-enrollment public charter applicant has generally established the educational program results and criteria set forth in this ~~subdivision (d)(3)~~ subsection.~~

SECTION 7. Arkansas Code § 6-23-306(14), concerning admissions requirements in an application for an open-enrollment public charter school, is amended to read as follows:

(14)(A) Specify methods for applying for admission, enrollment criteria, and student recruitment and selection processes.

(B)(i)(a) Except as provided in subdivision (14)(C) of this section, if more eligible students apply for a first-time admission than the open-enrollment public charter school is able to accept by the annual deadline that the open-enrollment public charter school has established for

the receipt of applications for the next school year, the open-enrollment public charter must require the open-enrollment public charter school to use a random, anonymous student selection method that shall be described in the charter application.

(b)(1) If there are still more applications for admissions than the open-enrollment public charter school is able to accept after the completion of the random, anonymous student selection method, then the open-enrollment public charter school shall place the applicants on a waiting list for admission.

(2) The waiting list is valid until the next time the open-enrollment public charter school is required to conduct a random, anonymous student selection.

(ii) However, an open-enrollment public charter school may allow a preference for:

(a)(1) Children of the founding members of the eligible entity.

(2) The number of enrollment preferences granted to children of founding members shall not exceed ten percent (10%) of the total number of students enrolled in the open-enrollment public charter school; and

(b) Siblings of students currently enrolled in the open-enrollment public charter school.

(C) The open-enrollment public charter may ~~allow~~ use of a weighted lottery in the student selection process only when necessary to comply with a:

(i) Federal court order; or

(ii) Federal administrative order issued by an appropriate federal agency having proper authority to enforce remedial measures necessary to comply with Title VI of the federal Civil Rights Act of 1964, Title IX of the federal Education Amendments of 1972, the equal protection clause of the Fourteenth Amendment to the United States Constitution, a court order, or a federal or state law requiring desegregation, as permitted by the Charter Schools Program, Title V, Part B, Non-Regulatory Guidance of the United States Department of Education, July, 2004; and

SECTION 8. Arkansas Code § 6-23-307 is amended to read as follows:
6-23-307. Renewal of charter.

After the initial five-year period of an open-enrollment public charter, the State Board of Education ~~is authorized to~~ may renew the open-enrollment public charter on a one-year or multiyear basis, not to exceed ~~five (5)~~ twenty (20) years.

SECTION 9. Arkansas Code § 6-23-402(b)(2), concerning enrollment numbers and deadlines for open-enrollment public charter schools, is amended to read as follows:

(2) However, if a student enrolled by July 30 should no longer choose to attend the open-enrollment public charter school or if the open-enrollment public charter school has not yet met its enrollment cap, the open-enrollment public charter school may enroll a number of replacement ~~student~~ or additional students not to exceed the enrollment cap of the open-enrollment public charter school.

SECTION 10. Arkansas Code § 6-23-404(b), concerning the annual"

AND

Page 3, delete line 3 and substitute the following:

"SECTION 11. Arkansas Code Title 6, Chapter 23, Subchapter 4, is amended to add additional sections to read as follows:

6-23-405. Monthly reports.

An open-enrollment public charter school in its initial school year of operation shall provide monthly reports on its enrollment status and compliance with its approved budget for the current school year to the Department of Education.

6-23-406. Department of Education review.

The Department of Education shall:

(1) Conduct an end-of-semester review of each open-enrollment public charter school that is in its initial school year of operation at the end of the first semester and at the end of the school year; and

(2) Report to the State Board of Education on the open-enrollment public charter school's:

(A) Overall financial condition; and

(B) Overall condition of student enrollment.

SECTION 12. Arkansas Code § 6-23-501(a)(2)(A)(i), concerning funding for open-enrollment public charter schools, is amended to read as follows:

(i) The initial funding estimate shall be based on enrollment as of ~~July 30 preceding the school year in which the students are to attend classes~~ July 1 of the current school year;

SECTION 13. Arkansas Code § 6-23-501(a)(3)(A), concerning funding for open-enrollment public charter schools, is amended to read as follows:

(3) National school lunch state categorical funding under § 6-20-2305(b)(4) shall be provided to an open-enrollment public charter school as follows:

(A) For the first year of operation and in any year when a grade is added, free or reduced-price meal eligibility data as reported by October 1 of the current school year will be used to calculate the national school lunch state categorical funding under the state board rules governing special needs funding; and

SECTION 14. Arkansas Code § 6-23-501(a)(4), concerning professional development funding for open-enrollment public charter schools, is amended to read as follows:

(4) Professional development funding under § 6-20-2305(b)(5) shall be provided to an open-enrollment public charter school for the first year of operation and in any year in which a grade is added as follows:

(A)(i) In the first year of operation the open-enrollment public charter school shall receive professional development funding based upon the initial projected enrollment student count as of ~~July 30 preceding the school year in which the students are to attend,~~ July 1 of the current

school year multiplied by the per-student professional development funding amount under § 6-20-2305(b)(5) for that school year.

(ii) For the second year and each school year thereafter, professional development funding will be based upon the previous year's average daily membership multiplied by the per-student professional development funding amount for that school year.

SECTION 15. Arkansas Code § 6-23-601(e)(1), concerning the annual"

AND

Page 3, delete line 12 and substitute the following:

"6-23-107.

SECTION 16. Arkansas Code § 10-4-413(b)(1), concerning the audits of schools, is amended to read as follows:

(b)(1)(A) A school may retain the services of a licensed certified public accountant or a licensed accountant in public practice in good standing with the Arkansas State Board of Public Accountancy to conduct an annual financial audit in accordance with auditing standards generally accepted in the United States and Government Auditing Standards issued by the Comptroller General of the United States.

(B) If the school is an open-enrollment public charter school in its first year of operation, the Legislative Auditor shall prepare the required annual financial audit for the school unless:

(i) The open-enrollment public charter school chooses to retain the services of a licensed certified public accountant or licensed accountant in public practice under subdivision (b)(1)(A) of this section; and

(ii) The State Board of Education approves the open-enrollment public charter school's use of an entity other than the Legislative Auditor to prepare the annual financial audit.

~~(B)~~(C) The report shall include a report on internal control over financial reporting and on compliance and other matters based on an audit of financial statements performed in accordance with the Government Auditing Standards.

SECTION 17. Arkansas Code § 21-9-301(a), concerning tort liability and immunity for political subdivisions in the state, is amended to read as follows:

(a) It is declared to be the public policy of the State of Arkansas that all counties, municipal corporations, school districts, public charter schools, special improvement districts, and all other political subdivisions of the state and any of their boards, commissions, agencies, authorities, or other governing bodies shall be immune from liability and from suit for damages except to the extent that they may be covered by liability insurance.

SECTION 18. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is

provided to the affected public charter schools; and that this act is immediately necessary so that the affected public charter schools will receive the amount of funding provided under this act for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator J. Jeffress
CLR/CLR - 03/21/11 03:00
CLR288

Secretary