

Stricken language would be deleted from and underlined language would be added to present law.

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A Bill

HOUSE BILL 1040

By: Representatives Biviano, Alexander, D. Altes, Ballinger, Bell, Bragg, J. Burris, Clemmer, Collins, Cozart, Deffenbaugh, D. Douglas, C. Douglas, Gillam, Harris, Hickerson, Hobbs, House, Hutchison, Jean, Kerr, Lea, Lowery, D. Meeks, S. Meeks, Miller, Rice, Scott, Westerman
By: Senators Holland, Files, Rapert

For An Act To Be Entitled

AN ACT TO CREATE THE STATE PUBLIC CHARTER SCHOOL COMMISSION AS AN INDEPENDENT STATE COMMISSION WITH SOLE CHARTER JURISDICTION AND AUTHORITY; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE STATE PUBLIC CHARTER SCHOOL COMMISSION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code §§ 6-23-101--6-23-106 are amended to read as follows:

6-23-101. Title.

This chapter shall be known and cited as the Arkansas Quality Public Charter Schools Act of ~~1999~~ 2013.

6-23-102. Legislative intent -- Findings.

(a) It is the intent of the General Assembly, by this chapter, to provide opportunities for teachers, parents, pupils, and community members to establish and maintain public schools that operate independently from the existing structure of local school districts as a method to accomplish the following:

- (1) Improve student learning;



(2) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are identified as low-achieving;

(3) Encourage the use of different and innovative teaching methods;

(4) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site;

(5) Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system; ~~and~~

(6) Hold the schools established under this chapter accountable for meeting measurable student achievement standards;

(7) Expand quality educational opportunities and choice for all students;

(8) Provide opportunities for effective and innovative educational models;

(9) Establish public charter schools that can serve as models of effective practices that are shared with others;

(10) Establish model practices for public charter schools authorizers that are shared with other charter school authorizers; and

(11) Establish an independent charter school authorizer to provide greater focus on creating and maintaining quality charter schools and expanding greater quality public school choice options for students in Arkansas.

(b) The General Assembly finds that:

(1) Alternative designs of public school education are needed to address the challenges of ensuring that more students graduate with the necessary skills and knowledge to succeed in life; and

(2) Current educational shortcomings and the future global economy and information age require new models of delivering education at an individual student level, school level, and education system level.

6-23-103. Definitions.

As used in this chapter:

(1) "Application" means the proposal for obtaining conversion

public charter school status, open-enrollment public charter school status, or limited public charter school status;

(2) "Charter" means a performance-based contract for an initial five-year period between the ~~State Board of Education~~ State Public Charter School Commission and an approved applicant for public charter school status that exempts the public charter school from state and local rules, regulations, policies, and procedures specified in the contract and from the provisions of this title specified in the contract;

(3) "Conversion public charter school" means a public school that has converted to operating under the terms of a charter approved by the local school board and the ~~state board~~ commission;

(4) "Eligible entity" means:

(A) A public institution of higher education;

(B) A private nonsectarian institution of higher education;

(C) A governmental entity; or

(D) An organization that:

(i) Is nonsectarian in its program, admissions policies, employment practices, and operations; and

(ii) Has applied for tax exempt status under § 501(c)(3) of the Internal Revenue Code of 1986;

(5) "Founding member" means any individual who is either:

(A) A member or an employee of the eligible entity applying for the initial charter for an open-enrollment public charter school; or

(B) A member of the initial governing nonadvisory board of the open-enrollment public charter school;

(6) "Limited public charter school" means a public school that has converted to operating under the terms of a limited public charter approved by the local school board and the ~~state board~~ commission;

(7) "Local school board" means a board of directors exercising the control and management of a public school district;

(8)(A) "Open-enrollment public charter school" means a public school that:

(i) Is operating under the terms of a charter granted by the ~~state board~~ commission on the application of an eligible

entity;

(ii) May draw its students from any public school district in this state; and

(iii) Is a local educational agency under the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 7801, as it existed on April 10, 2009~~7~~.

(B) Open-enrollment public charter school also possesses the same meaning as given the term "charter school" in the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 7221i, as it existed on April 10, 2009;

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

(10) "Permanent school solution" means a status awarded to a performance public charter school, which allows the performance public charter school to convert to an open-enrollment public charter school and become the permanent school of record if all criteria for open-enrollment public charter schools are met and maintained;

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

~~(11)~~(12) "Public charter school" means a conversion public charter school, an open-enrollment public charter school, or a limited public charter school~~7~~; and

(13) "Turnaround" means as a strategy reversing the conditions that cause a school to be low performing as a strategy to increase academic achievement.

6-23-104. Charter form for public charter schools – Requirements – Revision.

(a) A charter for a public charter school shall:

(1) Be in the form of a written contract signed by the Chair of the ~~State Board of Education~~ State Public Charter School Commission and the chief operating officer of the public charter school;

(2) Satisfy the requirements of this chapter; and

(3) Ensure that the information required under § 6-23-404 is consistent with the information provided in the application and any modification that the ~~State Board of Education~~ commission may require.

(b) Any revision or amendment of the charter for a public charter school may be made only with the approval of the ~~state board~~ commission.

6-23-105. Basis and procedure for public charter school probation or charter modification, revocation, or denial of renewal.

(a) ~~The State Board of Education~~ State Public Charter School Commission may place a public charter school on probation or may modify, revoke, or deny renewal of its charter if the ~~state board~~ commission determines that the persons operating the public charter school:

(1) Committed a material violation of the charter, including failure to satisfy accountability provisions prescribed by the charter;

(2) Failed to satisfy generally accepted accounting standards of fiscal management;

(3) Failed to comply with this chapter or other applicable law or regulation; or

(4) Failed to meet academic or fiscal performance criteria deemed appropriate and relevant for the public charter school by the ~~state board~~ commission.

(b) Any action the ~~state board~~ commission may take under this section shall be based on the best interests of the public charter school's students, the severity of the violation, and any previous violation the public charter school may have committed.

(c) The ~~state board~~ commission shall adopt a procedure to be used for placing a public charter school on probation or modifying, revoking, or denying renewal of the school's charter.

(d)(1) The procedure adopted under this section shall provide an opportunity for a hearing to the persons operating the public charter school.

(2)(A) The hearing shall be held at the location of the regular or special meeting of the ~~state board~~ commission.

(B) The ~~state board~~ commission shall provide sufficient written notice of the time and location of the hearing.

(3) There is no further right of appeal beyond the determination of the ~~state board~~ commission.

(4) The Arkansas Administrative Procedure Act, § 25-15-201 et seq., shall not apply to any hearing concerning a public charter school.

6-23-106. Impact on school desegregation efforts.

(a) The applicants for a public charter school, local school board in which a proposed public charter school would be located, and the ~~State Board of Education~~ State Public Charter School Commission shall carefully review the potential impact of an application for a public charter school on the efforts of a public school district or public school districts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools.

(b) The ~~state board~~ commission shall attempt to measure the likely impact of a proposed public charter school on the efforts of public school districts to achieve and maintain a unitary system.

(c) The ~~state board~~ commission shall not approve any public charter school under this chapter or any other act or any combination of acts that hampers, delays, or in any manner negatively affects the desegregation efforts of a public school district or public school districts in this state.

SECTION 2. Arkansas Code § 6-23-201(a)(1), concerning conversion charter school applications is amended to read as follows:

(a)(1) Any public school district may apply to the ~~State Board of Education~~ State Public Charter School Commission for conversion public charter school status for a public school in the public school district in accordance with a schedule approved by the ~~state board~~ commission.

SECTION 3. Arkansas Code § 6-23-201(b)(6), concerning conversion charter school applications, is amended to read as follows:

(6) List the specific provisions of this title and the specific rules and regulations promulgated by the ~~state board~~ commission from which the conversion public charter school will be exempt.

SECTION 4. Arkansas Code §§ 6-23-202-6-23-204 are amended to read as follows:

6-23-202. Authorization for conversion public charter school status.

As requested by the conversion public charter school applicant, the ~~State Board of Education~~ State Public Charter School Commission shall review the application for conversion public charter school status and may approve any application that:

(1) Provides a plan for improvement at the school level for improving student learning and for meeting or exceeding the state education goals;

(2) Includes a set of performance-based objectives and student achievement objectives for the term of the charter and the means for measuring those objectives on at least a yearly basis;

(3) Includes a proposal to directly and substantially involve the parents of students to be enrolled in the conversion public charter school, as well as the certified employees and the broader community, in the process of carrying out the terms of the charter; and

(4) Includes an agreement to provide a yearly report to parents, the community, the local school board, and the ~~state board~~ commission that indicates the progress made by the conversion public charter school in meeting the performance objectives during the previous year.

6-23-203. Resubmission of applications.

(a) ~~The State Board of Education~~ State Public Charter School Commission may allow applicants to resubmit applications for conversion public charter school status if the original application was, in the opinion of the ~~state board~~ commission, deficient in one (1) or more respects.

(b) ~~The Department of Education~~ commission may provide technical assistance to the conversion public charter school applicants in the creation or modification of these applications.

6-23-204. Charter renewal.

~~The State Board of Education~~ State Public Charter School Commission is authorized to renew charters of conversion public charter schools on a one-year or multiyear basis, not to exceed five (5) years, after the initial five-year period if the renewal is approved by the local school board.

SECTION 5. Arkansas Code § 6-23-206 is amended to read as follows:

6-23-206. Rules and regulations.

~~The State Board of Education~~ State Public Charter School Commission is authorized and directed to establish rules and regulations for conversion public charter schools.

SECTION 6. Arkansas Code §§ 6-23-301--6-23-305 are amended to read as follows:

6-23-301. Application forms and procedures for open-enrollment public charter schools.

(a) ~~The State Board of Education~~ State Public Charter School Commission shall adopt:

(1) An application form, a schedule, and a procedure that must be used to apply for a charter for an open-enrollment public charter school; and

(2) Criteria to use in selecting a program for which a charter may be granted.

(b) The application form must provide space for including all information required under this chapter to be contained in the charter.

(c) [Repealed.]

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

(a) ~~Pursuant to~~ Under the provisions of this chapter, an eligible entity may apply to the ~~State Board of Education~~ State Public Charter School Commission 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~~ commission for an open-enrollment public charter school shall be made in accordance with a schedule approved by the ~~state board~~ commission.

(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 the public school district in which the open-enrollment public charter school is likely to be located.

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

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

(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~~ commission to be considered at the time of the ~~state board's~~ commission'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~~ commission 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.

(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~~ commission; 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 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~~ commission 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~~ commission.

(B) The ~~state board~~ commission 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 licensed 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 licensed teacher's objections.

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

As requested by the applicant for an open-enrollment public charter school, the ~~State Board of Education~~ State Public Charter School Commission shall review the application for an open-enrollment public charter school and may approve any application that:

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

(2) Includes a set of performance criteria that will be used during the initial five-year period of the open-enrollment public charter school's operation to measure its progress in meeting its academic performance goals;

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

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

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

(6) Establishes the eligible entity's status as a tax-exempt organization under § 501(c)(3) of the Internal Revenue Code of 1986 ~~prior to~~ before the first day of its operation with students.

6-23-304. Requirements – Preference for certain districts.

(a) The ~~State Board of Education~~ State Public Charter School Commission may approve or deny an application based on:

(1) Criteria provided by law or by rule adopted by the ~~state board~~ commission;

(2) Findings of the ~~state board~~ commission relating to improving student performance and encouraging innovative programs; and

(3) Written findings or statements received by the ~~state board~~ commission from any public school district likely to be affected by the open-enrollment public charter school.

(b) The ~~state board~~ commission shall give preference in approving an application for an open-enrollment public charter school to be located in any public school district:

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

(2) When the district has been classified by the state board as in academic distress under § 6-15-428; or

(3) When the district has been classified by the Department of Education as in some phase of school improvement status under § 6-15-426 or some phase of fiscal distress under the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq., if the fiscal distress status is a result of administrative fiscal mismanagement, as determined by the state board.

(c)(1)(A) Beginning with the 2011-2012 school year, the ~~state board~~ commission may grant no more than a total of twenty-four (24) charters for

open-enrollment public charter schools except as provided under subdivision (c)(1)(B) of this section.

(B) If the cap on the number of charters available for an open-enrollment public charter school is within two (2) charters of meeting any existing limitation or cap on available open-enrollment charters, the number of available charters shall automatically increase by five (5) slots more than the most recent existing limitation or cap on open-enrollment charters.

(C) By March 1 each year, the department shall issue a commissioner's memo stating the existing limitation on the number of charters available for open-enrollment public charter schools and the number of charters available for open-enrollment public charter schools during the next application cycle.

(2) An open-enrollment public charter applicant's school campus shall be limited to a single open-enrollment public charter school per charter except as allowed in subdivision (d)(3) of this section.

(3) An open-enrollment public charter school shall not open in the service area of a public school district administratively reorganized under § 6-13-1601 et seq. until after the third year of the administrative reorganization.

(4) A private or parochial elementary or secondary school shall not be eligible for open-enrollment public charter school status.

(d) A charter applicant that receives an approved open-enrollment public charter may petition the ~~state board~~ commission 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:

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

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

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

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

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

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

6-23-305. Notice of disapproval – Assistance with resubmission of application.

(a) If the ~~State Board of Education~~ State Public Charter School Commission disapproves an application for an open-enrollment public charter school, the ~~state board~~ commission shall notify the applicant in writing of the reasons for such disapproval.

(b) The ~~state board~~ commission may allow the applicant for an open-enrollment public charter school to resubmit its application if the original application was found to be deficient by the ~~state board~~ commission.

(c) The Department of Education may provide technical assistance to the applicant for an open-enrollment public charter school in the creation or modification of its application.

SECTION 7. Arkansas Code § 6-23-306(3), concerning contents of open-enrollment public charters, is amended to read as follows:

(3) Provide that the continuation or renewal of the open-enrollment public charter is contingent on acceptable student performance on assessment instruments adopted by the ~~State Board of Education~~ State Public Charter School Commission and on compliance with any accountability provision specified by the open-enrollment public charter, by a deadline, or at intervals specified by the open-enrollment public charter;

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~~ State Public Charter School Commission may renew the open-enrollment public charter on a one-year or multiyear basis, not to exceed twenty (20) years.

SECTION 9. Arkansas Code §§ 6-23-309--6-23-310 are amended to read as follows:

6-23-309. Rules and regulations.

The ~~State Board of Education~~ State Public Charter School Commission is authorized to promulgate rules and regulations for the creation of open-enrollment public charter schools.

6-23-310. Status report.

The ~~State Board of Education~~ State Public Charter School Commission shall report on the status of the open-enrollment public charter school programs to the General Assembly each biennium and to the House ~~Interim~~ Committee on Education and the Senate ~~Interim~~ Committee on Education during the interim between regular sessions of the General Assembly.

SECTION 10. Arkansas Code § 6-23-401(b), concerning open-enrollment charter authority, is amended to read as follows:

(b) An open-enrollment public charter school is subject to any prohibition, restriction, or requirement imposed by this title and any rule and regulation promulgated or utilized by the ~~State Board of Education~~ State Public Charter School Commission under this title relating to:

- (1) Monitoring compliance with this chapter, as determined by the commissioner;
- (2) Public school accountability under this title;
- (3) High school graduation requirements as established by the ~~state board~~ commission;
- (4) Special education programs as provided by this title;
- (5) Conducting criminal background checks for employees as provided in this title; and
- (6) Health and safety codes as established by the ~~state board~~ commission and local governmental entities.

SECTION 11. Arkansas Code § 6-23-404(c), concerning evaluation of open-enrollment public charter schools, is amended to read as follows:

(c) The ~~State Board of Education~~ State Public Charter School Commission may require the charter holder to appear before the ~~state board~~ commission to discuss the results of the evaluation and to present further

information to the ~~state board~~ commission as the department or the ~~state board~~ commission deems necessary.

SECTION 12. Arkansas Code § 6-23-406 is amended to read as follows:

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~~ State Public Charter School Commission on the open-enrollment public charter school's:

(A) Overall financial condition; and

(B) Overall condition of student enrollment.

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

(a)(1) An open-enrollment public charter school shall receive funds equal to the amount that a public school would receive under § 6-20-2305(a) and (b) as well as any other funding that a public charter school is entitled to receive under law or under rules promulgated by the ~~State Board of Education~~ State Public Charter School Commission.

(2)(A) For the first year of operation and for the first year the open-enrollment public charter school adds a new grade, the foundation funding and enhanced educational funding for an open-enrollment public charter school is determined as follows:

(i) The initial funding estimate shall be based on enrollment as of July 1 of the current school year;

(ii) In December, funding will be adjusted based upon the first quarter average daily membership; and

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

(B) For the second year and each school year thereafter, the previous year's average daily membership will be used to calculate foundation funding and any enhanced educational funding amounts.

(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~~ commission rules governing special needs funding; and

(B) For the second year and each school year of operation thereafter, the previous year's October 1 national school lunch student count as specified in ~~state board~~ commission rules governing special needs funding will be used to calculate national school lunch state categorical funding for the open-enrollment public charter school.

(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) 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 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.

(B) 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.

(5) The Department of Education shall distribute other categorical funding under § 6-20-2305(a) and (b) for which an open-enrollment public charter school is eligible as provided by state law and rules promulgated or utilized by the ~~state board~~ commission.

(6) An open-enrollment public charter school shall not be denied foundation funding, enhanced educational funding, or categorical funding in the first year or any year of operation provided that the open-enrollment public charter school submits to the department the number of students eligible for funding as specified in applicable rules.

(7) Foundation funding for an open-enrollment public charter school shall be paid in twelve (12) installments each fiscal year.

SECTION 14. Arkansas Code § 6-23-502 is amended to read as follows:
6-23-502. Source of funding.

(a) Open-enrollment public charter schools shall be funded each year through funds set aside from funds appropriated to state foundation funding aid in the Public School Fund.

(b) The amount set aside shall be determined by the ~~State Board of Education~~ State Public Charter School Commission.

SECTION 15. Arkansas Code §§ 6-23-505--6-23-507 are amended to read as follows:

6-23-505. Annual audit.

An open-enrollment public charter school shall prepare an annual certified audit of the financial condition and transactions of the open-enrollment public charter school as of June 30 of each year in accordance with generally accepted auditing procedures and containing any other data as determined by the ~~State Board of Education~~ State Public Charter School Commission.

6-23-506. Assets of school as property of state.

(a) Upon dissolution of the open-enrollment public charter school or upon nonrenewal or revocation of the charter, all net assets of the open-enrollment public charter school, including any interest in real property, purchased with public funds shall be deemed the property of the state, unless otherwise specified in the charter of the open-enrollment public charter school.

(b)(1) If the open-enrollment public charter school used state funds to purchase or finance personal property, real property, or fixtures for use by the open-enrollment public charter school, the ~~State Board of Education~~ State Public Charter School Commission may require that the property be sold.

(2) The state has a perfected priority security interest in the net proceeds from the sale or liquidation of the property to the extent of the public funds used in the purchase.

6-23-507. Rules and regulations.

The ~~State Board of Education~~ State Public Charter School Commission shall have the authority to promulgate rules and regulations in accordance

with other state and federal statutes to implement this subchapter and § 6-23-402.

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

6-23-601. Application for limited public charter school status – Approval – Teacher transfers – Annual evaluation.

(a)(1) Any public school may apply to the ~~State Board of Education~~ State Public Charter School Commission for limited public charter school status for alternative comprehensive staffing and compensation programs designed to enhance student and teacher performance and improve employee salaries, opportunities, and incentives, to be known as a limited public charter school.

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

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

(b) The application shall:

(1)(A) Contain the provisions of this title and the specific rules and regulations promulgated by the ~~state board~~ commission from which the limited public charter school will be exempt.

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

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

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

(iii) The committee on personnel policies requirements set forth in § 6-17-201 et seq.; and

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

(C) ~~No~~ A limited public charter school ~~may~~ shall not be allowed an exemption that would allow a full-time certified employee to be

paid less than the salary provided in the public school district's salary schedule for that employee;

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

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

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

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

(c)(1) Any application to obtain limited public charter school status approved by a local school board shall be forwarded by the local school board to the ~~state board~~ commission.

(2) If a local school board does not approve a public school's application, the local school board shall inform the applicants and faculty of the public school of the local school board's reasons for not approving the application.

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

(2) If the transfer of a teacher within a public school district is not possible because only one (1) public school exists for the teacher's certification level, then the local school board shall call for a vote of the certified teachers in the proposed limited public charter school site and proceed, at the local school board's option, with the limited public charter school application if a majority of the certified teachers approve the

proposal.

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

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

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

(e)(1) Limited public charter schools shall be evaluated annually by the department based on criteria approved by the ~~state board~~ commission including without limitation:

(A) Student performance data in order to determine progress in student achievement that has been achieved by the limited public charter school; and

(B) The limited public charter school's compliance with § 6-23-107.

(2) The department shall annually report its evaluation to the ~~state board~~ commission.

(3) Based upon that evaluation, the ~~state board~~ commission may revoke a limited public charter.

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

SECTION 17. Arkansas Code Title 25 is amended to add an additional chapter to read as follows:

CHAPTER 43 State Public Charter School Commission

25-43-101. State Public Charter School Commission.

(a) The State Public Charter School Commission is established as an independent state commission with statewide jurisdiction and authority under

the Arkansas Quality Public Charter Schools Act of 2013, § 6-23-101 et seq.

(b) The purpose of the commission is to authorize high-quality charter schools, including conversion, limited, and open-enrollment charter schools, throughout the state consistent with the Arkansas Quality Public Charter Schools Act of 2013, § 6-23-101 et seq.

25-43-102. Membership.

(a)(1) The State Public Charter School Commission shall consist of five (5) members, with no more than two (2) members from the same congressional district at any time, as follows:

(A) One (1) member shall be appointed by the Governor;

(B) One (1) member shall be appointed by the President Pro Tempore of the Senate;

(C) One (1) member shall be appointed by the Speaker of the House of Representatives;

(D) One (1) member shall be appointed by the Chair of the Senate Committee on Education; and

(E) One (1) member shall be appointed by the Chair of the House Committee on Education.

(2) When considering appointments to the commission, the Governor, President Pro Tempore of the Senate, Speaker of the House, Chair of the Senate Committee on Education, and Chair of the House Committee on Education shall ensure statewide geographic diversity among commission members.

(3)(A) Appointed commission members collectively shall possess strong experience and expertise in public and nonprofit governance, management, finance, public school leadership, assessment, curriculum and instruction, and public education law.

(B) All commission members shall demonstrate an understanding and commitment to using public charter schools as a strategy for strengthening public education.

(4) All commission members shall submit to a criminal background check by the Identification Bureau of the Department of Arkansas State Police and a Child Maltreatment Central Registry check by the Department of Human Services.

(b)(1) The initial term of office for:

(A) Two (2) commission members shall be four (4) years;

(B) Two (2) commission members shall be three (3) years;

and

(C) One (1) commission member shall be two (2) years.

(2) After the initial term of office is complete, each member shall serve a term of five (5) years with no commission member serving more than seven (7) consecutive years.

(c) The commission may authorize, by a majority vote of the membership cast during the first regularly scheduled meeting of each calendar year, expense reimbursements and stipends to commission members for performing official commission duties and performing any business of the commission as permitted under §§ 25-16-902 and 25-16-904.

(d) The commission shall operate with dedicated resources and staff within the Department of Education qualified to execute the day-to-day responsibilities of authorizing public charter schools under the Arkansas Quality Public Charter Schools Act of 2013, § 6-23-101 et seq.

(e) The commission shall carry out its work consistent with the best practices set forth in Principles and Standards for Quality Charter School Authorizing promulgated by the National Association of Charter School Authorizers in compliance with the Arkansas Quality Public Charter School Act of 2013, § 6-23-101 et seq., and other state and federal laws.

25-43-103. Duties and responsibilities.

(a) The State Public Charter School Commission shall be responsible for:

(1) All conversion, limited and open-enrollment charter schools under the authority of the commission.

(A) A charter school shall not be established, maintained, or renewed without the express authority of the commission except for any charter school currently in existence upon the effective date of this act, which shall continue to exist under the terms of the charter school's current charter, subject to the authority of the commission and state law.

(B) The current forms, procedures, requirements, processes, and rules used by the State Board of Education for public charter schools shall continue to be used by the commission if practicable;

(2) Maintaining high academic, financial, governance, and

management standards by:

(A) Approving only public charter school applicants that are:

(i) Qualified and capable of a public charter school operation in all aspects; and

(ii) In compliance with federal and state laws and regulations;

(B) Establishing uniform, objective, measurable standards for all public charter schools;

(C) Renewing only those public charter schools that achieve the standards and revoking the charter of public charter schools that fail to meet the standards; and

(D) Promulgating and maintaining regulatory control and guidance in governing public charter schools in Arkansas;

(3) Ensuring that public charter schools have autonomy by:

(A) Exercising the commission's oversight responsibilities in a manner that secures public charter schools from regulatory interference by other governmental agencies; and

(B) Minimizing the administrative burdens for public charters schools;

(4) Ensuring the interests of public charter school students, as well as the public, are protected by requiring that:

(A) Public charter schools follow policies for student admissions, special education services, "English-language learner", discipline, expulsion, safety, and student records that are in accordance with federal and state law;

(B) The governance of public charter schools follow the best practices of nonprofit governance consistent with providing a public service through nongovernmental means; and

(C) The governing boards of each public charter school operate with a high degree of transparency and accountability to the public, including providing periodic financial reporting, conducting annual independent audits of financial statements, and adhering to applicable state laws for public information and open meetings.

(b)(1) The commission is not required to approve any public charter school application.

(2) Decisions of the commission are final, including decisions to:

- (A) Deny a charter;
- (B) Deny the renewal of a charter; and
- (C) Revoke a charter.

(3) The commission may require a public charter school applicant to modify or supplement a charter application as a condition of approval.

(c) The commission shall submit a report to the Senate Committee on Education and the House Committee on Education no later than October 1 each year addressing:

(1) The academic, operational, and financial performance of all operating public charter schools under the jurisdiction of the commission based on the performance expectations for public charter schools outlined in the Arkansas Quality Public Charter School Act of 2013, § 6-23-101 et seq. and other applicable state and federal laws and regulations governing academic, operational, and financial performance of public charter schools;

(2) The status of the commission's public charter school portfolio, identifying all public charter schools in each of the following categories:

- (A) Approved but not yet open;
- (B) Operating;
- (C) Renewed;
- (D) Transferred;
- (E) Revoked;
- (F) Not renewed;
- (G) Voluntarily closed; and
- (H) Never opened; and

(3) The authorizing functions provided by the commission to the public charter schools under the commissions jurisdiction, including operating costs and expenses detailed in annual audited financial statements that conform to generally accepted accounting principles.

25-43-104. Activities of the State Public Charter School Commission. The State Public Charter School Commission shall:

(1) Assess annually the educational needs of the state and release requests for proposals for open-enrollment public charter school

solutions to address the identified needs, including converting low-performing public schools to public charter schools as a part of the state's plan for improving low-performing traditional public schools, receive solicited and unsolicited applications, evaluate applications, and make approval and denial decisions;

(2) Execute contracts between the commission and public charter schools detailing the rights and responsibilities of the commission and the public charter school, specifically how the public charter school's performance under the Arkansas Comprehensive Testing, Assessment, and Accountability Program, § 6-15-401 et seq., will be the primary, but not sole, basis for renewal;

(3) Monitor the performance of public charter schools under the jurisdiction of the commission on a regular basis;

(4) Establish revocation, intervention, and renewal criteria and processes for the public charter schools under the commission's jurisdiction;

(5) Disseminate the commission policies and practices to other public charter school authorizing entities in the state; and

(6) Implement practices to support students affected by school closures, including without limitation strategies to replace low-performing public charter schools with high-performing public charter schools.

25-24-105. Effective date.

Beginning on July 1, 2013, the State Public Charter School Commission shall be responsible for soliciting, reviewing, authorizing, monitoring, creating reports, denying, revoking, or altering the charter contracts of all conversion, limited, open-enrollment, and performance public charter schools, including all public charter schools established before July 1, 2013.