

CHARTER SCHOOL CLOSURE AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Sophia M. DiCaro

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to the closure of a charter school.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to the closure of a charter school;
- ▶ amends a charter school authorizer's duties;
- ▶ grants rulemaking authority to the State Board of Education; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53A-1a-502.5, as last amended by Laws of Utah 2014, Chapter 406

53A-1a-504, as last amended by Laws of Utah 2015, Chapter 389

53A-1a-510.5, as last amended by Laws of Utah 2014, Chapter 363

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53A-1a-502.5** is amended to read:



28 **53A-1a-502.5. Approval of increase in charter school enrollment capacity.**

29 (1) For the purposes of this section:

30 (a) "High growth area" means an area of the state where school enrollment is
31 significantly increasing or projected to significantly increase.

32 (b) "Next school year" means the school year that begins on or after the July 1
33 immediately following the end of a general session of the Legislature.

34 (2) The State Board of Education may approve an increase in charter school enrollment
35 capacity [~~in the 2012-13 school year or thereafter~~] subject to the Legislature:

36 (a) appropriating funds for an increase in charter school enrollment capacity in the next
37 school year; or

38 (b) authorizing an increase in charter school enrollment capacity in the school year
39 immediately following the next school year.

40 (3) In appropriating funds for, or authorizing, an increase in charter school enrollment
41 capacity, the Legislature shall provide a separate appropriation or authorization of enrollment
42 capacity for a charter school proposed and approved in response to a request for applications
43 issued under Section [53A-1a-501.9](#).

44 (4) (a) A charter school may annually submit a request to the State Board of Education
45 for an increase in enrollment capacity in the amount of .25 times the number of students in
46 grades 9 through 12 enrolled in an online course in the previous school year through the
47 Statewide Online Education Program.

48 (b) A charter school shall submit a request for an increase in enrollment capacity
49 pursuant to Subsection (4)(a) on or before October 1 of the school year for which the increase
50 in enrollment capacity is requested.

51 (c) The State Board of Education shall approve a request for an increase in enrollment
52 capacity made under Subsection (4)(a) subject to the availability of sufficient funds
53 appropriated under Section [53A-1a-513](#) to provide the full amount of the per student allocation
54 for each charter school student in the state to supplement school district property tax revenues.

55 (d) An increase in enrollment capacity approved under Subsection (4)(c) shall be a
56 permanent increase in the charter school's enrollment capacity.

57 (5) (a) On or before January 1, 2017, in accordance with Title 63G, Chapter 3, Utah
58 Administrative Rulemaking Act, the State Board of Education shall, after consultation with

59 charter school authorizers, make rules establishing requirements, procedures, and deadlines for
 60 an expansion of a charter school.

61 (b) The rules described in Subsection (5)(a) shall include rules related to:

62 (i) an expansion of a charter school when another charter school issues a notice of
 63 closure; and

64 (ii) the establishment of a satellite campus.

65 ~~[(5)]~~ (6) (a) If the Legislature does not appropriate funds for an increase in charter
 66 school enrollment capacity that is tentatively approved by the State Board of Education, the
 67 State Board of Education shall prioritize the tentatively approved schools and expansions based
 68 on approved funds.

69 (b) A charter school or expansion that is tentatively approved, but not funded, shall be
 70 considered to be tentatively approved for the next application year and receive priority status
 71 for available funding.

72 ~~[(6)]~~ (7) (a) Except as provided in Subsection ~~[(5)]~~ (6)(b) or ~~[(6)]~~ (7)(b), in approving
 73 an increase in charter school enrollment capacity for new charter schools and expanding charter
 74 schools, the State Board of Education shall give:

75 (i) high priority to approving a new charter school or a charter school expansion in a
 76 high growth area; and

77 (ii) low priority to approving a new charter school or a charter school expansion in an
 78 area where student enrollment is stable or declining.

79 (b) An applicant seeking to establish a charter school in a high growth area may elect
 80 to not receive high priority status as provided in Subsection ~~[(6)]~~ (7)(a)(i).

81 Section 2. Section **53A-1a-504** is amended to read:

82 **53A-1a-504. Charter school application -- Applicants -- Contents.**

83 (1) (a) An application to establish a charter school may be submitted by:

84 (i) an individual;

85 (ii) a group of individuals; or

86 (iii) a nonprofit legal entity organized under Utah law.

87 (b) An authorized charter school may apply under this chapter for a charter from
 88 another charter school authorizer.

89 (2) A charter school application shall include:

- 90 (a) the purpose and mission of the school;
- 91 (b) except for a charter school authorized by a local school board, a statement that,
- 92 after entering into a charter agreement, the charter school will be organized and managed under
- 93 Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act;
- 94 (c) a description of the governance structure of the school, including:
 - 95 (i) a list of the governing board members that describes the qualifications of each
 - 96 member; and
 - 97 (ii) an assurance that the applicant shall, within 30 days of authorization, provide the
 - 98 authorizer with the results of a background check for each member;
- 99 (d) a description of the target population of the school that includes:
 - 100 (i) the projected maximum number of students the school proposes to enroll;
 - 101 (ii) the projected school enrollment for each of the first three years of school operation;
 - 102 and
 - 103 (iii) the ages or grade levels the school proposes to serve;
- 104 (e) academic goals;
- 105 (f) qualifications and policies for school employees, including policies that:
 - 106 (i) comply with the criminal background check requirements described in Section
 - 107 [53A-1a-512.5](#);
 - 108 (ii) require employee evaluations; and
 - 109 (iii) address employment of relatives within the charter school;
- 110 (g) a description of how the charter school will provide, as required by state and federal
- 111 law, special education and related services;
- 112 (h) for a public school converting to charter status, arrangements for:
 - 113 (i) students who choose not to continue attending the charter school; and
 - 114 (ii) teachers who choose not to continue teaching at the charter school;
- 115 (i) a statement that describes the charter school's plan for establishing the charter
- 116 school's facilities, including:
 - 117 (i) whether the charter school intends to lease or purchase the charter school's facilities;
 - 118 and
 - 119 (ii) financing arrangements;
- 120 (j) a market analysis of the community the school plans to serve;

- 121 (k) a capital facility plan;
- 122 (l) a business plan;
- 123 (m) other major issues involving the establishment and operation of the charter school;

124 and

125 (n) the signatures of the governing board members of the charter school.

126 (3) A charter school authorizer may require a charter school application to include:

127 (a) the charter school's proposed:

- 128 (i) curriculum;
- 129 (ii) instructional program; or
- 130 (iii) delivery methods;

131 (b) a method for assessing whether students are reaching academic goals, including, at

132 a minimum, participation in the Utah Performance Assessment System for Students under

133 Chapter 1, Part 6, Achievement Tests;

134 (c) a proposed calendar;

135 (d) sample policies;

136 (e) a description of opportunities for parental involvement;

137 (f) a description of the school's administrative, supervisory, or other proposed services
138 that may be obtained through service providers; or

139 (g) other information that demonstrates an applicant's ability to establish and operate a
140 charter school.

141 ~~[(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
142 ~~the State Board of Education shall make rules regarding the expansion of a charter school,~~
143 ~~including establishing a satellite campus, that provide:]~~

144 ~~[(a) requirements for a charter school to apply and qualify for expansion; and]~~

145 ~~[(b) procedures and deadlines for the application process.]~~

146 Section 3. Section **53A-1a-510.5** is amended to read:

147 **53A-1a-510.5. Charter school closure.**

148 (1) If a charter school is closed for any reason, including the termination of a charter in
149 accordance with Section **53A-1a-510** or the conversion of a charter school to a private school,
150 the provisions of this section apply.

151 (2) (a) ~~[As soon as possible]~~ If an authorizer decides to close a charter school, no later

152 than 10 days after the day on which the authorizer makes the decision [is made] to close [a] the
 153 charter school, [notification of the decision, in writing, shall be provided by the charter school
 154 to] the charter school shall notify the following in writing that the charter school will be closed:

- 155 (i) [its] the charter [school] school's authorizer;
- 156 (ii) the State Charter School Board;
- 157 (iii) the State Board of Education;
- 158 (iv) parents of [its] students enrolled in the charter school;
- 159 (v) [its] the charter school's creditors; [and]
- 160 (vi) the charter school's lease holders;
- 161 (vii) the charter school's bond issuers;
- 162 (viii) other entities that may have a claim to the charter school's assets; and
- 163 [~~(vi)~~] (ix) the school district in which the charter school is located and other charter
 164 schools located in that school district.

165 (b) The notification [under] described in Subsection (2)(a) shall include:

- 166 (i) the proposed date of the charter school closure;
- 167 (ii) the charter school's plans to help students identify and transition into a new school;
- 168 and
- 169 (iii) contact information for the charter school during the transition.

170 (3) [A] No later than 30 days after the day on which an authorizer makes the decision
 171 to close a charter school, the closing charter school shall:

172 [~~(a) present a school closure plan to its authorizer as soon as possible after the decision~~
 173 to close is made;]

174 [~~(b)~~] (a) designate a custodian for the protection of student files and school business
 175 records;

176 [~~(c)~~] (b) maintain a base of operation throughout the charter school closing, including:

- 177 (i) an office;
- 178 (ii) hours of operation; [and]
- 179 (iii) operational telephone service with voice messaging stating the hours of operation;

180 and

181 (iv) a designated individual to respond to questions or requests during the hours of
 182 operation; and

183 ~~[(d)]~~ (c) maintain insurance coverage and risk management coverage throughout the
 184 transition to closure and for a period following closure of the charter school as specified by the
 185 authorizer[;].

186 (4) The closing charter school's authorizer shall ensure that the closing charter school:
 187 ~~[(e) complete]~~ (a) completes a financial audit immediately after the decision to close is
 188 made;

189 ~~[(f)]~~ (b) takes inventory of all assets of the charter school;

190 ~~[(g) list]~~ (c) lists all creditors of the charter school and specifically ~~[identify]~~ identifies
 191 secured creditors and assets that are security interests; and

192 ~~[(h) protect]~~ (d) protects all school assets against theft, misappropriation, and
 193 deterioration.

194 ~~[(4)]~~ (5) The closing charter school's authorizer shall ensure that:

195 (a) any assets held subject to written conditions or limitations in accordance with
 196 Section 53A-1a-517 ~~[shall be]~~ are disposed of in accordance with those conditions or
 197 limitations[-];

198 (b) ~~[AH]~~ (i) all liabilities and obligations of the closing charter school ~~[shall be]~~ are
 199 paid and discharged; or

200 (ii) adequate provisions ~~[shall be]~~ are made to discharge the liabilities and obligations
 201 to the extent of the closing charter school's assets[-]; and

202 ~~[(c) (i) The remaining assets shall be returned to the closing charter school's~~
 203 ~~authorizer.]~~

204 ~~[(ii) The authorizer may liquidate assets at fair market value or assign the assets to~~
 205 ~~another public school.]~~

206 ~~[(5) To]~~ (c) to the extent possible, all leases, service agreements, and other contracts
 207 not necessary for the transition of the closing charter school ~~[should be]~~ are terminated.

208 (6) The closing charter school's authorizer shall oversee liquidation of assets and
 209 payment of debt in accordance with board rule.

210 ~~[(6)]~~ (7) The closing charter school shall:

211 (a) comply with all state and federal reporting requirements; and

212 (b) submit all documentation and complete all state and federal reports required by ~~[its]~~
 213 the closing charter school's authorizer or the State Board of Education, including documents to

214 verify ~~[its]~~ the closing charter school's compliance with procedural requirements ~~[as well as]~~
215 and satisfaction of all financial issues.

216 ~~[(7)]~~ (8) When the closing charter school's financial affairs are closed out and
217 dissolution is complete, the authorizer shall ensure that a final audit of the charter school is
218 completed.

219 ~~[(8) The]~~ (9) On or before January 1, 2017, in accordance with Title 63G, Chapter 3,
220 Utah Administrative Rulemaking Act, the State Board of Education ~~[may]~~ shall, after
221 consultation with charter school authorizers, make rules that:

222 (a) provide additional closure ~~[requirements upon]~~ procedures for charter schools ~~[or~~
223 ~~that specify elements of charter school closure plans.]; and~~

224 (b) establish a charter school closure process.

Legislative Review Note
Office of Legislative Research and General Counsel