

SCHOOL GOVERNANCE AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Howard A. Stephenson

House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill amends provisions related to the governance of school districts and charter schools.

Highlighted Provisions:

This bill:

- ▶ requires a charter school authorizer to make certain reports regarding the school improvement process;
- ▶ enacts language related to a school district or charter school budget and budget procedures;
- ▶ amends provisions authorizing a governing board to make an appropriation;
- ▶ amends provisions governing a warrant drawn by a school budget officer;
- ▶ amends provisions related to monthly budget reports; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53A-1a-509.5, as enacted by Laws of Utah 2015, Chapter 299



- 28 **53A-1a-511**, as last amended by Laws of Utah 2015, Chapters 138, 150, and 232
- 29 **53A-19-101**, as enacted by Laws of Utah 1988, Chapter 2
- 30 **53A-19-102**, as last amended by Laws of Utah 2010, Chapters 84, 135, and 160
- 31 **53A-19-104**, as last amended by Laws of Utah 2009, Chapter 388
- 32 **53A-19-106**, as enacted by Laws of Utah 1988, Chapter 2
- 33 **53A-19-108**, as enacted by Laws of Utah 1988, Chapter 2

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

36 Section 1. Section **53A-1a-509.5** is amended to read:

37 **53A-1a-509.5. Voluntary school improvement process.**

38 (1) As used in this section, "high performing charter school" means a charter school
 39 that:

40 (a) satisfies all requirements of state law and State Board of Education rules;

41 (b) has operated for at least three years meeting the terms of the school's charter
 42 agreement; and

43 (c) has students performing at or above the academic performance standard in the
 44 school's charter agreement.

45 (2) (a) Subject to Subsection (2)(b), a governing board may voluntarily request the
 46 charter school's authorizer to place the school in a school improvement process.

47 (b) A governing board shall provide notice and a hearing on the governing board's
 48 intent to make a request under Subsection (2)(a) to parents and guardians of students enrolled
 49 in the charter school.

50 (3) An authorizer may grant a governing board's request to be placed in a school
 51 improvement process if the governing board has provided notice and a hearing under
 52 Subsection (2)(b).

53 (4) An authorizer that has entered into a school improvement process with a governing
 54 board shall:

55 (a) enter into a contract with the governing board on the terms of the school
 56 improvement process;

57 (b) notify the State Board of Education that the authorizer has entered into a school
 58 improvement process with the governing board; [~~and~~]

59 (c) make a report to a committee of the State Board of Education regarding the school
60 improvement process; and

61 ~~[(c)]~~ (d) notify the Utah Charter School Finance Authority that the authorizer has
62 entered into a school improvement process with the governing board if the charter school is a
63 qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part
64 2, Charter School Credit Enhancement Program.

65 (5) Upon notification under Subsection (4)(b), and after the report described in
66 Subsection (4)(c), the State Board of Education shall notify charter schools and the school
67 district in which the charter school is located that the governing board has entered into a school
68 improvement process with the charter school's authorizer.

69 (6) A high performing charter school or the school district in which the charter school
70 is located may apply to the governing board to assume operation and control of the charter
71 school that has been placed in a school improvement process.

72 (7) A governing board that has entered into a school improvement process shall review
73 applications submitted under Subsection (6) and submit a proposal to the charter school's
74 authorizer to:

75 (a) terminate the school's charter, notwithstanding the requirements of Section
76 [53A-1a-510](#); and

77 (b) transfer operation and control of the charter school to:

78 (i) the school district in which the charter school is located; or

79 (ii) a high performing charter school.

80 (8) Except as provided in Subsection (9) and subject to Subsection (10), an authorizer
81 may:

82 (a) approve a governing board's proposal under Subsection (7); or

83 (b) (i) deny a governing board's proposal under Subsection (7); and

84 (ii) (A) terminate the school's charter in accordance with Section [53A-1a-510](#);

85 (B) allow the governing board to submit a revised proposal; or

86 (C) take no action.

87 (9) An authorizer may not take an action under Subsection (8) for a qualifying charter
88 school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School
89 Credit Enhancement Program, without mutual agreement of the Utah Charter School Finance

90 Authority and the authorizer.

91 (10) (a) An authorizer that intends to transfer operation and control of a charter school
92 as described in Subsection (7)(b) shall request approval from the State Board of Education.

93 (b) (i) The State Board of Education shall consider an authorizer's request under
94 Subsection (10)(a) within 30 days of receiving the request.

95 (ii) If the State Board of Education denies an authorizer's request under Subsection
96 (10)(a), the authorizer may not transfer operation and control of the charter school as described
97 in Subsection (7)(b).

98 (iii) If the State Board of Education does not take action on an authorizer's request
99 under Subsection (10)(a) within 30 days of receiving the request, an authorizer may proceed to
100 transfer operation and control of the charter school as described in Subsection (7)(b).

101 Section 2. Section **53A-1a-511** is amended to read:

102 **53A-1a-511. Waivers from state board rules -- Application of statutes and rules**
103 **to charter schools.**

104 (1) A charter school shall operate in accordance with its charter and is subject to Title
105 53A, State System of Public Education, and other state laws applicable to public schools,
106 except as otherwise provided in this part.

107 (2) (a) A charter school or any other public school or school district may apply to the
108 State Board of Education for a waiver of any state board rule that inhibits or hinders the school
109 or the school district from accomplishing its mission or educational goals set out in its strategic
110 plan or charter.

111 (b) The state board may grant the waiver, unless:

112 (i) the waiver would cause the school district or the school to be in violation of state or
113 federal law; or

114 (ii) the waiver would threaten the health, safety, or welfare of students in the district or
115 at the school.

116 (c) If the State Board of Education denies the waiver, the reason for the denial shall be
117 provided in writing to the waiver applicant.

118 (3) (a) Except as provided in Subsection (3)(b), State Board of Education rules
119 governing the following do not apply to a charter school:

120 (i) school libraries;

- 121 (ii) required school administrative and supervisory services; and
122 (iii) required expenditures for instructional supplies.
- 123 (b) A charter school shall comply with rules implementing statutes that prescribe how
124 state appropriations may be spent.
- 125 (4) The following provisions of Title 53A, State System of Public Education, and rules
126 adopted under those provisions, do not apply to a charter school:
- 127 (a) Sections [53A-1a-108](#) and [53A-1a-108.5](#), requiring the establishment of a school
128 community council and school improvement plan;
- 129 (b) Section [53A-3-420](#), requiring the use of activity disclosure statements;
- 130 (c) Section [53A-12-207](#), requiring notification of intent to dispose of textbooks;
- 131 (d) Section [53A-13-107](#), requiring annual presentations on adoption;
- 132 (e) [~~Chapter 19, Part 1, Fiscal Procedures;~~] Sections [53A-19-103](#) and [53A-19-105](#)
133 pertaining to fiscal procedures of school districts and local school boards; and
- 134 (f) Section [53A-14-107](#), requiring an independent evaluation of instructional materials.
- 135 (5) For the purposes of Title 63G, Chapter 6a, Utah Procurement Code, a charter
136 school is considered an educational procurement unit as defined in Subsection [63G-6a-104](#)(7).
- 137 (6) Each charter school shall be subject to:
- 138 (a) Title 52, Chapter 4, Open and Public Meetings Act; and
- 139 (b) Title 63G, Chapter 2, Government Records Access and Management Act.
- 140 (7) A charter school is exempt from Section [51-2a-201.5](#), requiring accounting reports
141 of certain nonprofit corporations. A charter school is subject to the requirements of Section
142 [53A-1a-507](#).
- 143 (8) (a) The State Charter School Board shall, in concert with the charter schools, study
144 existing state law and administrative rules for the purpose of determining from which laws and
145 rules charter schools should be exempt.
- 146 (b) (i) The State Charter School Board shall present recommendations for exemption to
147 the State Board of Education for consideration.
- 148 (ii) The State Board of Education shall consider the recommendations of the State
149 Charter School Board and respond within 60 days.
- 150 Section 3. Section **53A-19-101** is amended to read:
- 151 **53A-19-101. School district and charter school budgets.**

152 ~~[(1) The superintendent of each school district is the budget officer of the district.]~~

153 (1) As used in this section:

154 (a) "Budget officer" means:

155 (i) for a school district, the school district's superintendent; or

156 (ii) for a charter school, an individual selected by the charter school governing board.

157 (b) "Governing board" means:

158 (i) for a school district, the local school board; or

159 (ii) for a charter school, the charter school governing board.

160 (2) ~~[Prior to]~~ Before June 1 of each year, the ~~[superintendent]~~ budget officer shall

161 prepare ~~[and file with the local school board]~~ a tentative budget~~[-]~~, with supporting

162 documentation, to be submitted to the budget officer's governing board.

163 (3) The tentative budget and supporting documents shall include the following items:

164 (a) the revenues and expenditures of the preceding fiscal year;

165 (b) the estimated revenues and expenditures of the current fiscal year;

166 (c) for a school district, an estimate of the revenues for the succeeding fiscal year based

167 upon the lowest tax levy that will raise the required revenue, using the current year's taxable

168 value as the basis for this calculation;

169 (d) a detailed estimate of the essential expenditures for all purposes for the next

170 succeeding fiscal year; and

171 (e) the estimated financial condition of the school district or charter school by funds at

172 the close of the current fiscal year.

173 ~~[(3)]~~ (4) The tentative budget shall be filed with the district business administrator or

174 charter school executive director for public inspection at least 15 days ~~[prior to]~~ before the date

175 of ~~[its]~~ the tentative budget's proposed adoption by the ~~[local school]~~ governing board.

176 Section 4. Section **53A-19-102** is amended to read:

177 **53A-19-102. Local governing board budget procedures.**

178 (1) As used in this section:

179 (a) "Budget officer" means:

180 (i) for a school district, the school district's superintendent; or

181 (ii) for a charter school, an individual selected by the charter school governing board.

182 (b) "Governing board" means:

183 (i) for a school district, the local school board; or

184 (ii) for a charter school, the charter school governing board.

185 ~~[(1)]~~ (2) (a) ~~[Prior to]~~ For a school district, before June 22 of each year, a local school
186 board shall adopt a budget and make appropriations for the next fiscal year.

187 (b) ~~[H]~~ For a school district, if the tax rate in the school district's proposed budget
188 exceeds the certified tax rate defined in Section 59-2-924, the local school board shall comply
189 with Section 59-2-919 in adopting the budget, except as provided by Section 53A-17a-133.

190 ~~[(2)]~~ (3) (a) ~~[Prior to]~~ For a school district, before the adoption or amendment of a
191 budget, a local school board shall hold a public hearing, as defined in Section 10-9a-103, on
192 the proposed budget or budget amendment.

193 (b) In addition to complying with Title 52, Chapter 4, Open and Public Meetings Act,
194 in regards to the public hearing described in Subsection ~~[(2)]~~ (3)(a), at least 10 days prior to the
195 public hearing, a local school board shall:

196 (i) publish a notice of the public hearing in a newspaper or combination of newspapers
197 of general circulation in the school district, except as provided in Section 45-1-101;

198 (ii) publish a notice of the public hearing electronically in accordance with Section
199 45-1-101;

200 (iii) file a copy of the proposed budget with the local school board's business
201 administrator for public inspection; and

202 (iv) post the proposed budget on the school district's Internet website.

203 (c) A notice of a public hearing on a school district's proposed budget shall include
204 information on how the public may access the proposed budget as provided in Subsections
205 ~~[(2)]~~ (3)(b)(iii) and ~~[(2)](b)]~~ (iv).

206 (4) For a charter school, before June 22 of each year, a charter school governing board
207 shall adopt a budget for the next fiscal year.

208 ~~[(3) A local school]~~ (5) Within 30 days of adopting a budget, a governing board shall
209 file a copy of the adopted budget with the state auditor and the State Board of Education.

210 Section 5. Section 53A-19-104 is amended to read:

211 **53A-19-104. Limits on appropriations -- Estimated expendable revenue.**

212 (1) As used in this section:

213 (a) "Budget officer" means:

214 (i) for a school district, the school district's superintendent; or
215 (ii) for a charter school, an individual selected by the charter school governing board.

216 (b) "Governing board" means:

217 (i) for a school district, the local school board; or

218 (ii) for a charter school, the charter school governing board.

219 ~~[(1)]~~ (2) A ~~[local school]~~ governing board may not make ~~[any]~~ an appropriation in
220 excess of its estimated expendable revenue, including undistributed reserves, for the following
221 fiscal year.

222 (3) A governing board may reduce a budget appropriation at the governing board's
223 regular meeting if notice of the proposed action is given to all governing board members and to
224 the district superintendent or charter school executive director, as applicable, at least one week
225 before the meeting.

226 ~~[(2) In]~~ (4) For a school district, in determining the estimated expendable revenue, any
227 existing deficits arising through excessive expenditures from former years are deducted from
228 the estimated revenue for the ensuing year to the extent of at least 10% of the entire tax revenue
229 of the district for the previous year.

230 ~~[(3) In]~~ (5) For a school district, in the event of financial hardships, the local school
231 board may deduct from the estimated expendable revenue for the ensuing year, by fund, at least
232 25% of the deficit amount.

233 ~~[(4) All]~~ (6) For a school district, all estimated balances available for appropriations at
234 the end of the fiscal year shall revert to the funds from which they were appropriated and shall
235 be fund balances available for appropriation in the budget of the following year.

236 ~~[(5) A local school board may reduce a budget appropriation at its regular meeting if~~
237 ~~notice of the proposed action is given to all board members and the district superintendent at~~
238 ~~least one week prior to the meeting.]~~

239 ~~[(6) An]~~ (7) For a school district, an increase in an appropriation may not be made by
240 the local school board unless the following steps are taken:

241 (a) the local school board receives a written request from the district superintendent
242 that sets forth the reasons for the proposed increase;

243 (b) notice of the request is published:

244 (i) in a newspaper of general circulation within the school district at least one week

245 ~~[prior to]~~ before the local school board meeting at which the request will be considered; and

246 (ii) in accordance with Section 45-1-101, at least one week ~~[prior to]~~ before the local
247 school board meeting at which the request will be considered; and

248 (c) the local school board holds a public hearing on the request ~~[prior to]~~ before the
249 local school board's acting on the request.

250 Section 6. Section **53A-19-106** is amended to read:

251 **53A-19-106. Warrants drawn by budget officer.**

252 (1) As used in this section:

253 (a) "Budget officer" means:

254 (i) for a school district, the school district's superintendent; or

255 (ii) for a charter school, an individual selected by the charter school governing board.

256 (b) "Governing board" means:

257 (i) for a school district, the local school board; or

258 (ii) for a charter school, the charter school governing board.

259 (2) The ~~[business administrator]~~ budget officer of a ~~[local school]~~ governing board may

260 not draw warrants on school district or charter school funds except in accordance with and

261 within the limits of the budget passed by the ~~[local school]~~ governing board.

262 Section 7. Section **53A-19-108** is amended to read:

263 **53A-19-108. Monthly budget reports.**

264 (1) As used in this section:

265 (a) "Budget officer" means:

266 (i) for a school district, the school district's superintendent; or

267 (ii) for a charter school, an individual selected by the charter school governing board.

268 (b) "Governing board" means:

269 (i) for a school district, the local school board; or

270 (ii) for a charter school, the charter school governing board.

271 ~~[(+)]~~ (2) The business administrator or budget officer of ~~[each local school]~~ a

272 governing board shall provide each board member with a report, on a monthly basis, that

273 includes the following information:

274 (a) the amounts of all budget appropriations;

275 (b) the disbursements from the appropriations as of the date of the report; and

276 (c) the percentage of the disbursements as of the date of the report.
277 [~~(2)~~ ~~A~~] (3) Within five days of providing the monthly report described in Subsection
278 (2) to a governing board, the business administrator or budget officer shall make a copy of the
279 report [shall be] available for public review.

Legislative Review Note
Office of Legislative Research and General Counsel