

Senator Deidre M. Henderson proposes the following substitute bill:

MODIFICATIONS TO CHARTER SCHOOL GOVERNANCE

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Deidre M. Henderson

House Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill amends provisions of The Utah Charter Schools Act.

Highlighted Provisions:

This bill:

▶ requires the State Board of Education to adopt principles and standards for quality charter authorizing;

▶ requires the State Board of Education to adopt rules for the oversight of a charter school authorizer;

▶ amends provisions related to appointment of the staff director for the State Charter School Board;

▶ modifies the State Board of Education's authority to review an application for a charter school to the State Charter School Board;

▶ requires certain persons to be absent from portions of a meeting where a conflict of interest may arise; and

▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **53A-1a-501.7**, as last amended by Laws of Utah 2016, Chapters 144 and 271

30 **53A-1a-505**, as last amended by Laws of Utah 2014, Chapter 363

31 **53A-1a-518**, as last amended by Laws of Utah 2010, Chapter 162

32 ENACTS:

33 **53A-1a-501.4**, Utah Code Annotated 1953



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

36 Section 1. Section **53A-1a-501.4** is enacted to read:

37 **53A-1a-501.4. Charter school authorizer standards -- State Board of Education**
38 **rules for review of authorizer action.**

39 (1) The State Board of Education shall adopt principles and standards for quality
40 charter authorizing, including:

41 (a) principles that:

- 42 (i) maintain high education standards;
- 43 (ii) subject to law, uphold charter school autonomy; and
- 44 (iii) protect student and public interests;

45 (b) standards that ensure:

- 46 (i) authorizer commitment and capacity;
- 47 (ii) a fair and reasonable application process and determination;
- 48 (iii) performance contracting;
- 49 (iv) ongoing oversight and evaluation; and
- 50 (v) fair and reasonable consequences for an authorizer that fails to comply with a
51 statute, rule, or, as described in this Subsection (1), principles and standards; and
52 (c) school readiness benchmarks for new charter schools.

53 (2) A charter school authorizer shall adopt and administer policies and practices
54 consistent with the principles and standards described in Subsection (1).

55 (3) The State Board of Education shall, in accordance with Title 63G, Chapter 3, Utah
56 Administrative Rulemaking Act, make rules for the oversight of an authorizer ~~§~~ → [] , including:

56a (a) overseeing authorizer compliance with statute, as applicable, and the principles and
56b standards described in Subsection (1) and the applicable policies and practices described in
56c Subsection (2); ☺

56d ⊕(b) rules that authorize assistance by the State Board of Education, if necessary, to an
56e authorizer in an effort to comply; and
56f (c) penalties for an authorizer that fails, after reasonable notice, to comply, including a
56g moratorium on the authorizer's authority to authorize a new charter school or enter into a
56h contract. ←Ŝ

57 Section 2. Section **53A-1a-501.7** is amended to read:

58 **53A-1a-501.7. State Charter School Board -- Staff director -- Staff.**

59 (1) ~~[(a)]~~ The State Charter School Board~~[, with the consent of the superintendent of~~
60 ~~public instruction,]~~ shall appoint a staff director for the State Charter School Board.

61 ~~[(b)]~~ (2) The State Charter School Board shall have authority to remove the staff
62 director ~~[with the consent of the superintendent of public instruction].~~

63 ~~[(c)]~~ (3) The position of staff director is exempt from the career service provisions of
64 Title 67, Chapter 19, Utah State Personnel Management Act.

65 (4) The State Charter school board may employ other staff as necessary.

66 ~~[(2)]~~ (5) The superintendent of public instruction shall provide space for staff of the
67 State Charter School Board in facilities occupied by the State Board of Education or the State
68 Board of Education's employees, with costs charged ~~[for the facilities]~~ equal to those charged
69 ~~[other]~~ to sections and divisions under the State Board of Education.

70 Section 3. Section **53A-1a-505** is amended to read:

71 **53A-1a-505. Charter schools authorized by the State Charter School Board --**
72 **Application process -- Prohibited bases of application denial.**

73 (1) (a) An applicant seeking authorization of a charter school from the State Charter
74 School Board shall provide a copy of the application to the local school board of the school
75 district in which the proposed charter school shall be located either before or at the same time it
76 files its application with the State Charter School Board.

77 (b) The local board may review the application and may offer suggestions or
78 recommendations to the applicant or the State Charter School Board prior to its acting on the
79 application.

80 (c) The State Charter School Board shall give due consideration to suggestions or
81 recommendations made by the local school board under Subsection (1)(b).

82 (d) The State Charter School Board shall review and, by majority vote, either approve
83 or deny the application.

84 (e) The State Board of Education shall, by majority vote, within 60 days after action by
85 the State Charter School Board under Subsection (1)(d) and subject to Subsection (2):

86 ~~[(i) approve or deny an application approved by the State Charter School Board; or]~~

87 ~~[(ii) hear an appeal, if any, of an application denied by the State Charter School Board.]~~

- 88 (i) consent to the State Charter School Board's approval of an application; or
- 89 (ii) remand the decision to approve an application back to the State Charter School
- 90 Board with a description of the State Charter School Board's noncompliance with state law or
- 91 State Board of Education rules.

92 (f) The State Board of Education's action under Subsection (1)~~(d)~~(e) is final action
 93 subject to judicial review.

94 (g) A charter school application may not be denied on the basis that the establishment
 95 of the charter school will have any or all of the following impacts on a public school, including
 96 another charter school:

- 97 (i) an enrollment decline;
- 98 (ii) a decrease in funding; or
- 99 (iii) a modification of programs or services.

100 (2) (a) Except as provided in Subsection (2)(b), the State Board of Education's review
 101 of a State Charter School Board decision to approve an application as described in Subsection
 102 (1)(e) is limited to reviewing the application approval process to determine whether the State
 103 Charter School Board complied with the requirements of state law and rules adopted by the
 104 State Board of Education as described in Section [53A-1a-501.4](#).

105 (b) The State Board of Education may remand a State Charter School Board's decision
 106 to approve an application back to the State Charter School Board if a student safety or health
 107 concern is raised.

108 ~~(2)~~ (3) The State Board of Education shall make a rule providing a timeline for the
 109 opening of a charter school following the approval of a charter school application by the State
 110 Charter School Board.

111 ~~(3)~~ (4) After approval of a charter school application and in accordance with Section
 112 [53A-1a-508](#), the applicant and the State Charter School Board shall set forth the terms and
 113 conditions for the operation of the charter school in a written charter agreement.

114 ~~(4)~~ (5) The State Charter School Board shall, in accordance with State Board of
 115 Education rules, establish and make public the State Charter School Board's:

- 116 (a) application requirements, in accordance with Section [53A-1a-504](#);
- 117 (b) application process, including timelines, in accordance with this section; and
- 118 (c) minimum academic, financial, and enrollment standards.

119 Section 4. Section 53A-1a-518 is amended to read:

120 **53A-1a-518. Regulated transactions and relationships -- Definitions --**

121 **Rulemaking.**

122 (1) As used in this section:

123 (a) "Charter school officer" means:

124 (i) a member of a charter school's governing board;

125 (ii) a member of a board or an officer of a nonprofit corporation under which a charter
126 school is organized and managed; or

127 (iii) the chief administrative officer of a charter school.

128 (b) (i) "Employment" means a position in which a person's salary, wages, pay, or
129 compensation, whether as an employee or contractor, is paid from charter school funds.

130 (ii) "Employment" does not include a charter school volunteer.

131 (c) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother,
132 uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,
133 sister-in-law, son-in-law, or daughter-in-law.

134 (2) (a) Except as provided in Subsection (2)(b), a relative of a charter school officer
135 may not be employed at a charter school.

136 (b) If a relative of a charter school officer is to be considered for employment in a
137 charter school, the charter school officer shall:

138 (i) disclose the relationship, in writing, to the other charter school officers;

139 (ii) submit the employment decision to the charter school's governing board for the
140 approval, by majority vote, of the charter school's governing board;

141 (iii) abstain from voting on the issue; and

142 (iv) be absent from ~~[any]~~ the portion of the meeting ~~[when]~~ where the employment is
143 being considered and determined.

144 (3) (a) Except as provided in Subsections (3)(b) and (3)(c), a charter school officer or a
145 relative of a charter school officer may not have a financial interest in a contract or other
146 transaction involving a charter school in which the charter school officer serves as a charter
147 school officer.

148 (b) If a charter school's governing board considers entering into a contract or executing
149 a transaction in which a charter school officer or a relative of a charter school officer has a

150 financial interest, the charter school officer shall:

151 (i) disclose the financial interest, in writing, to the other charter school officers;

152 (ii) submit the contract or transaction decision to the charter school's governing board
153 for the approval, by majority vote, of the charter school's governing board;

154 (iii) abstain from voting on the issue; and

155 (iv) be absent from [~~any~~] the portion of the meeting [~~when~~] where the contract or
156 transaction is being considered and determined.

157 (c) The provisions in Subsection (3)(a) do not apply to a reasonable contract of
158 employment for:

159 (i) the chief administrative officer of a charter school; or

160 (ii) a relative of the chief administrative officer of a charter school whose employment
161 is approved in accordance with the provisions in Subsection (2).

162 (4) The State Board of Education or State Charter School Board may not operate a
163 charter school.