

FIRST REGULAR SESSION

HOUSE BILL NO. 842

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SANDERS BROOKS.

Read 1st time March 29, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2135L.011

AN ACT

To repeal sections 160.400, 160.405, and 160.420, and to enact in lieu thereof three new sections relating to charter schools.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 160.400, 160.405, and 160.420, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 160.400, 160.405, and 160.420, to read as follows:

- 160.400. 1. A charter school is an independent, publicly supported school.
2. Charter schools may be operated only in a metropolitan school district or in an urban school district containing most or all of a city with a population greater than three hundred fifty thousand inhabitants and may be sponsored by any of the following:
- (1) The school board of the district;
- (2) A public four-year college or university with its primary campus in the school district or in a county adjacent to the county in which the district is located, with an approved teacher education program that meets regional or national standards of accreditation; [or]
- (3) A community college located in the district; **or**
- (4) Any four-year college or university, public or private, with an approved teacher preparation program based upon an application submitted to an approved by the state board of education.**
3. A maximum of five percent of the school buildings currently in use for instructional purposes in a district may be converted to charter schools. This limitation does not apply to vacant buildings or buildings not used for instructional purposes.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 4. No sponsor shall receive from an applicant for a charter school any fee of any type for
17 the consideration of a charter, nor may a sponsor condition its consideration of a charter on the
18 promise of future payment of any kind.

19 5. The charter school shall be a Missouri nonprofit corporation incorporated pursuant
20 to chapter 355, RSMo. The charter provided for herein shall constitute a contract between the
21 sponsor and the charter school.

22 6. As a nonprofit corporation incorporated pursuant to chapter 355, RSMo, the charter
23 school shall select the method for election of officers pursuant to section 355.326, RSMo, based
24 on the class of corporation selected. Meetings of the governing board of the charter school shall
25 be subject to the provisions of sections 610.010 to 610.030, RSMo, the open meetings law.

26 7. A sponsor of a charter school, its agents and employees are not liable for any acts or
27 omissions of a charter school that it sponsors, including acts or omissions relating to the charter
28 submitted by the charter school, the operation of the charter school and the performance of the
29 charter school.

30 8. A charter school may affiliate with a four-year college or university, including a
31 private college or university, or a community college as otherwise specified in subsection 2 of
32 this section when its charter is granted by a sponsor other than such college, university or
33 community college. Affiliation status recognizes a relationship between the charter school and
34 the college or university for purposes of teacher training and staff development, curriculum and
35 assessment development, use of physical facilities owned by or rented on behalf of the college
36 or university, and other similar purposes. The primary campus of the college or university must
37 be located within the county in which the school district lies wherein the charter school is located
38 or in a county adjacent to the county in which the district is located. A university, college or
39 community college may not charge or accept a fee for affiliation status.

40 9. No university, college or community college shall grant a charter to a nonprofit
41 corporation if an employee of the university, college or community college is a member of the
42 corporation's board of directors.

43 **10. All members of the governing board of the charter school shall be residents of**
44 **the standard metropolitan statistical area in which the charter school is located.**

45 **11. All members of the governing board of the charter school shall be considered**
46 **decision-making public servants as defined in subdivision (6) of section 105.450, RSMo, for**
47 **the purposes of the financial disclosure requirement contained in sections 105.483, 105.485,**
48 **105.487, and 105.489, RSMo.**

160.405. 1. A person, group or organization seeking to establish a charter school shall
2 submit the proposed charter, as provided in this section, to a sponsor. If the sponsor is not a
3 school board, the applicant shall give a copy of its application to the school board of the district

4 in which the charter school is to be located, when the application is filed with the proposed
5 sponsor. The school board may file objections with the proposed sponsor, and, if a charter is
6 granted, the school board may file objections with the state board of education. The charter shall
7 include a mission statement for the charter school, a description of the charter school's
8 organizational structure and bylaws of the governing body, which will be responsible for the
9 policy and operational decisions of the charter school, a financial plan for the first three years of
10 operation of the charter school including provisions for annual audits, a description of the charter
11 school's policy for securing personnel services, its personnel policies, personnel qualifications,
12 and professional development plan, a description of the grades or ages of students being served,
13 the school's calendar of operation, which shall include at least the equivalent of a full school term
14 as defined in section 160.011, and an outline of criteria specified in this section designed to
15 measure the effectiveness of the school. The charter shall also state:

- 16 (1) The educational goals and objectives to be achieved by the charter school;
- 17 (2) A description of the charter school's educational program and curriculum;
- 18 (3) The term of the charter, which shall be not less than five years, nor greater than ten
19 years and shall be renewable;
- 20 (4) A description of the charter school's pupil performance standards, which must meet
21 the requirements of subdivision (6) of subsection 5 of this section. The charter school program
22 must be designed to enable each pupil to achieve such standards; [and]
- 23 (5) A description of the governance and operation of the charter school, including the
24 nature and extent of parental, professional educator, and community involvement in the
25 governance and operation of the charter school; **and**
- 26 **(6) A description of the charter school's policies on student admission and school**
27 **discipline.**

28 2. Proposed charters shall be subject to the following requirements:

- 29 (1) A charter may be approved when the sponsor determines that the requirements of this
30 section are met and determines that the applicant is sufficiently qualified to operate a charter
31 school. The sponsor's decision shall be made within sixty days of the filing of the proposed
32 charter;
- 33 (2) If the charter is denied, the proposed sponsor shall notify the applicant in writing as
34 to the reasons for its denial;
- 35 (3) If a proposed charter is denied by a sponsor, the proposed charter may be submitted
36 to the state board of education, along with the sponsor's written reasons for its denial. If the state
37 board determines that the applicant meets the requirements of this section, **that the applicant**
38 **is sufficiently qualified to operate the charter school**, and that granting a charter to the
39 applicant would be likely to provide educational benefit to the children of the district, the state

40 board may grant, **at its discretion**, a charter and act as sponsor of the charter school, **provided**
41 **that any charter school to be considered by the state board of education shall be received**
42 **prior to the first day of March prior to the school year in which the charter school intends**
43 **to commence operations**; and

44 (4) The sponsor of a charter school shall give priority to charter school applicants that
45 propose a school oriented to high-risk students and to the reentry of dropouts into the school
46 system. If a sponsor grants three or more charters, at least one-third of the charters granted by
47 the sponsor shall be to schools that actively recruit dropouts or high-risk students as their student
48 body and address the needs of dropouts or high-risk students through their proposed mission,
49 curriculum, teaching methods, and services. For purposes of this subsection, a "high-risk"
50 student is one who is at least one year behind in satisfactory completion of course work or
51 obtaining credits for graduation, pregnant or a parent, homeless or has been homeless sometime
52 within the preceding six months, has limited English proficiency, has been suspended from
53 school three or more times, or has been referred by the school district for enrollment in an
54 alternative program. "Dropout" shall be defined through the guidelines of the school core data
55 report. The provisions of this subsection do not apply to charters sponsored by the state board
56 of education.

57 3. If a charter is approved by a sponsor, [it] **the charter application** shall be submitted
58 to the state board of education [which] **along with a statement of finding that the application**
59 **meets the requirement of sections 160.400 to 160.420 and section 167.349, RSMo, and a**
60 **monitoring plan under which the charter sponsor shall evaluate the academic performance**
61 **of students enrolled in the charter school. The state board of education** may, within
62 [forty-five] **ninety** days, disapprove the granting of the charter. The state board of education may
63 disapprove a charter [only] on grounds that the **charter** application fails to meet the requirements
64 of sections 160.400 to 160.420 **and section 167.349, RSMo, or that a charter sponsor**
65 **previously failed to meet the statutory responsibilities of charter sponsor.**

66 4. Any disapproval of a charter pursuant to subsection 3 of this section shall be subject
67 to judicial review pursuant to chapter 536, RSMo.

68 5. A charter school shall, as provided in its charter:

69 (1) Be nonsectarian in its programs, **governance**, admission policies, employment
70 practices, and all other operations;

71 (2) Comply with laws and regulations of the state, **county, or city** relating to health,
72 safety, and **state** minimum educational standards, **as specified by the state board of education,**
73 **including the requirements relating to student discipline under sections 160.261, 167.161,**
74 **167.164, and 167.171, RSMo, notification of criminal conduct to law enforcement**
75 **authorities under sections 167.115 and 167.117, RSMo, academic assessment under section**

160.518, transmittal of school records under section 167.020, RSMo, and the minimum number of school days and school hours required under section 160.011;

(3) Except as provided in sections 160.400 to 160.420, be exempt from all laws and rules relating to schools, governing boards and school districts;

(4) Be financially accountable, use practices consistent with the Missouri financial accounting manual, provide for an annual audit by a certified public accountant, [and] **publish a financial report as required of school districts under sections 165.111, RSMo, with the charter school subject to sanctions contained in that section. The charter school shall** provide liability insurance to indemnify the school, its board, staff and teachers against tort claims. For the purposes of securing such insurance, a charter school shall be eligible for the Missouri public entity risk management fund pursuant to section 537.700, RSMo. A charter school that incurs debt must include a repayment plan in its financial plan;

(5) Provide a comprehensive program of instruction for at least one grade or age group from kindergarten through grade twelve, which may include early childhood education if funding for such programs is established by statute, as specified in its charter;

(6) Design a method to measure pupil progress toward the pupil academic standards adopted by the state board of education pursuant to section 160.514, collect baseline data during at least the first three years for determining how the charter school is performing and to the extent applicable, participate in the statewide system of assessments, comprised of the essential skills tests and the nationally standardized norm-referenced achievement tests, as designated by the state board pursuant to section 160.518, complete and distribute an annual report card as prescribed in section 160.522, report to its sponsor, the local school district, and the state board of education as to its teaching methods and any educational innovations and the results thereof, and provide data required for the study of charter schools pursuant to subsection 3 of section 160.410. No charter school will be considered in the Missouri school improvement program review of the district in which it is located for the resource or process standards of the program. Nothing in this paragraph shall be construed as permitting a charter school to be held to lower performance standards than other public schools within a district; however, the charter of a charter school may permit students to meet performance standards on a different time frame as specified in its charter;

(7) Assure that the needs of special education children are met in compliance with all applicable federal and state laws and regulations; **and**

(8) Provide along with any request for review by the state board of education the following:

(a) Documentation that the applicant has provided a copy of the application to the school board of the district in which the charter school is to be located, except in those

112 **circumstances where the school district is the sponsor of the charter school; and**

113 **(b) A statement outlining the reasons for approval or disapproval by the sponsor,**
114 **specifically addressing the requirements of sections 160.400 to 160.420.**

115 6. The charter of a charter school may be amended at the request of the governing body
116 of the charter school and on the approval of the sponsor. The sponsor and the governing board
117 and staff of the charter school shall jointly review the school's performance, management and
118 operations at least once every two years **or at any point where the operation or management**
119 **of the charter school is changed or transferred to another entity, whether public or private.**

120 7. (1) A sponsor may revoke a charter at any time if the charter school commits a serious
121 breach of one or more provisions of its charter or on any of the following grounds: failure to
122 meet academic performance standards as set forth in its charter, failure to meet generally
123 accepted standards of fiscal management, or violation of law.

124 (2) The sponsor may place the charter school on probationary status to allow the
125 implementation of a remedial plan, after which, if such plan is unsuccessful, the charter may be
126 revoked.

127 (3) At least sixty days before acting to revoke a charter, the sponsor shall notify the board
128 of directors of the charter school of the proposed action in writing. The notice shall state the
129 grounds for the proposed action. The school's board of directors may request in writing a hearing
130 before the sponsor within two weeks of receiving the notice.

131 (4) The sponsor of a charter school shall establish procedures to conduct administrative
132 hearings upon determination by the sponsor that grounds exist to revoke a charter. Final
133 decisions of a sponsor from hearings conducted pursuant to this subsection are subject to judicial
134 review pursuant to chapter 536, RSMo.

135 (5) A termination shall be effective only at the conclusion of the school year, unless the
136 sponsor determines that continued operation of the school presents a clear and immediate threat
137 to the health and safety of the children.

138 **(6) The charter sponsor shall annually publish a school accountability report card**
139 **as provided under section 160.522, and the results of the monitoring required under**
140 **subsection 3 of this section.**

141 8. A school district may enter into a lease with a charter school for physical facilities.
142 A charter school may not be located on the property of a school district unless the district
143 governing board agrees.

144 9. A governing board or a school district employee who has control over personnel
145 actions shall not take unlawful reprisal against another employee at the school district because
146 the employee is directly or indirectly involved in an application to establish a charter school. A
147 governing board or a school district employee shall not take unlawful reprisal against an

148 educational program of the school or the school district because an application to establish a
149 charter school proposes the conversion of all or a portion of the educational program to a charter
150 school. As used in this subsection, "unlawful reprisal" means an action that is taken by a
151 governing board or a school district employee as a direct result of a lawful application to
152 establish a charter school and that is adverse to another employee or an educational program.

153 **10. Any entity, whether public or private, operating, administering, or otherwise**
154 **managing a charter school shall be considered a quasi-public governmental body and**
155 **subject to the provisions of sections 610.010 to 610.035, RSMo.**

156 **11. Any nonprofit corporation operating a charter school shall maintain a surety**
157 **bond in an amount not less than the total funds to be received by the charter school under**
158 **section 160.415 in any given school year as determined by the department of elementary**
159 **and secondary education.**

160 **12. The state board of education is granted the authority to promulgate rules and**
161 **regulations pursuant to the provisions of chapter 536, RSMo, to carry out the provisions**
162 **of sections 160.400 to 160.420 and 167.349, RSMo.**

163 **13. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**
164 **that is created under the authority delegated in this section shall become effective only if**
165 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**
166 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**
167 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**
168 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**
169 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**
170 **adopted after August 28, 2005, shall be invalid and void.**

160.420. 1. If a charter school offers to retain the services of an employee of a school
2 district, and the employee accepts a position at the charter school, the contract between the
3 charter school and the school district may provide that an employee at the employee's option may
4 remain an employee of the district and the charter school shall pay to the district the district's full
5 costs of salary and benefits provided to the employee. A teacher who accepts a position at a
6 charter school and opts to remain an employee of the district retains such teacher's permanent
7 teacher status and seniority rights in the district. The school district shall not be liable for any
8 such employee's acts while an employee of the charter school.

9 2. A charter school may employ noncertificated instructional personnel; provided that
10 no more than twenty percent of the full-time equivalent instructional staff positions at the school
11 are filled by noncertificated personnel. All noncertified instructional personnel shall be
12 supervised by certified instructional personnel. The charter school shall ensure that all
13 instructional employees of the charter school have experience, training and skills appropriate to

14 the instructional duties of the employee, and the charter school shall ensure that a criminal
15 background check and child abuse registry check are conducted for each employee of the charter
16 school prior to the hiring of the employee. **The charter school may not employ instructional**
17 **personnel whose certificate of license to teach has been revoked or is currently suspended**
18 **by the state board of education.** Appropriate experience, training and skills of noncertificated
19 instructional personnel shall be determined considering:

20 (1) Teaching certificates issued by another state or states;
21 (2) Certification by the National Standards Board;
22 (3) College degrees in the appropriate field;
23 (4) Evidence of technical training and competence when such is appropriate; and
24 (5) The level of supervision and coordination with certificated instructional staff.
25 3. Personnel employed by the charter school shall participate in the retirement system
26 of the school district in which the charter school is located, subject to the same terms, conditions,
27 requirements and other provisions applicable to personnel employed by the school district,
28 **except that any employee of an entity providing services to a charter school under**
29 **subsection 4 of section 160.415 may elect to participate in the retirement program provided**
30 **by that employer.** For purposes of participating in the retirement system, the charter school
31 shall be considered to be a public school within the school district, and personnel employed by
32 the charter school shall be public school employees. In the event of a lapse of the school
33 district's corporate organization as described in subsections 1 and 4 of section 162.081, RSMo,
34 personnel employed by the charter school shall continue to participate in the retirement system
35 and shall do so on the same terms, conditions, requirements and other provisions as they
36 participated prior to the lapse.