

SECOND REGULAR SESSION

HOUSE BILL NO. 2111

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES MUSCHANY (Sponsor) AND CUNNINGHAM (86) (Co-sponsor).

Read 1st time February 13, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

3915L.02I

AN ACT

To repeal sections 160.400 and 160.405, RSMo, and to enact in lieu thereof two 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Section A. Sections 160.400 and 160.405, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 160.400 and 160.405, to read as follows:

160.400. 1. A charter school is an independent public school.

2 2. Charter schools may be operated only in a metropolitan school district or in an urban
3 school district containing most or all of a city with a population greater than three hundred fifty
4 thousand inhabitants, **or in any district that is not a K-8 district, that has an enrollment of**
5 **at least two thousand students, and that has been provisionally accredited for any period**
6 **of three consecutive years since July 1, 1999**, and may be sponsored by any of the following:

7 (1) The school board of the district;

8 (2) [A public four-year college or university with its primary campus in the school
9 district or in a county adjacent to the county in which the district is located, with an approved
10 teacher education program that meets regional or national standards of accreditation;

11 (3)] A community college [located in] **whose service area includes any portion of the**
12 **district**]; or

13 (4)] **(3)** Any private **or public** four-year college or university [located in a city not within
14 a county with an enrollment of at least one thousand students, and] **with its primary campus**
15 **in Missouri and** with an approved teacher preparation program.

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 3. The mayor of a city not within a county may request a sponsor under subdivision (2),
17 (3), or (4) of subsection 2 of this section to consider sponsoring a workplace charter school,
18 which is defined for purposes of sections 160.400 to 160.420 as a charter school with the ability
19 to target prospective students whose parent or parents are employed in a business district, as
20 defined in the charter, which is located in the city.

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

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

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

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

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

45 9. The expenses associated with sponsorship of charter schools shall be defrayed by the
46 department of elementary and secondary education retaining one and five-tenths percent of the
47 amount of state and local funding allocated to the charter school under section 160.415, not to
48 exceed one hundred twenty-five thousand dollars, adjusted for inflation. [Such amount shall not
49 be withheld when the sponsor is a school district or the state board of education.] The
50 department of elementary and secondary education shall remit the retained funds for each charter
51 school to the school's sponsor, provided the sponsor remains in good standing by fulfilling its

52 sponsorship obligations under sections 160.400 to 160.420 and 167.349, RSMo, with regard to
53 each charter school it sponsors. **Charter school sponsors may expend up to ten percent of**
54 **their sponsorship funding for costs not designated; however, the remaining funds shall be**
55 **designated to support charter school sponsorship activities or directly invested in the**
56 **sponsored schools.**

57 10. No university, college or community college shall grant a charter to a nonprofit
58 corporation if an employee of the university, college or community college is a member of the
59 corporation's board of directors.

60 11. No sponsor shall grant a charter under sections 160.400 to 160.420 and 167.349,
61 RSMo, without ensuring that a criminal background check and child abuse registry check are
62 conducted for all members of the governing board of the charter schools or the incorporators of
63 the charter school if initial directors are not named in the articles of incorporation, nor shall a
64 sponsor renew a charter without ensuring a criminal background check and child abuse registry
65 check are conducted for each member of the governing board of the charter school.

66 12. No member of the governing board of a charter school shall hold any office or
67 employment from the board or the charter school while serving as a member, nor shall the
68 member have any substantial interest, as defined in section 105.450, RSMo, in any entity
69 employed by or contracting with the board. No board member shall be an employee of a
70 company that provides substantial services to the charter school. All members of the governing
71 board of the charter school shall be considered decision-making public servants as defined in
72 section 105.450, RSMo, for the purposes of the financial disclosure requirements contained in
73 sections 105.483, 105.485, 105.487, and 105.489, RSMo.

74 13. A sponsor shall provide timely submission to the state board of education of all data
75 necessary to demonstrate that the sponsor is in material compliance with all requirements of
76 sections 160.400 to 160.420 and 167.349, RSMo.

77 14. The state board of education shall ensure each sponsor is in compliance with all
78 requirements under sections 160.400 to 160.420 and 167.349, RSMo, for each charter school
79 sponsored by any sponsor. The state board shall notify each sponsor of the standards for
80 sponsorship of charter schools, delineating both what is mandated by statute and what best
81 practices dictate. The state board, after a public hearing, may require remedial action for a
82 sponsor that it finds has not fulfilled its obligations of sponsorship, such remedial actions
83 including withholding the sponsor's funding and suspending for a period of up to one year the
84 sponsor's authority to sponsor a school that it currently sponsors or to sponsor any additional
85 school. If the state board removes the authority to sponsor a currently operating charter school,
86 the state board shall become the interim sponsor of the school for a period of up to three years
87 until the school finds a new sponsor or until the charter contract period lapses.

160.405. 1. A person, group or organization seeking to establish a charter school shall submit the proposed charter, as provided in this section, to a sponsor. If the sponsor is not a school board, the applicant shall give a copy of its application to the school board of the district in which the charter school is to be located and to the state board of education, within five business days of the date the application is filed with the proposed sponsor. The school board may file objections with the proposed sponsor, and, if a charter is granted, the school board may file objections with the state board of education. The charter shall include a mission statement for the charter school, a description of the charter school's organizational structure and bylaws of the governing body, which will be responsible for the policy and operational decisions of the charter school, a financial plan for the first three years of operation of the charter school including provisions for annual audits, a description of the charter school's policy for securing personnel services, its personnel policies, personnel qualifications, and professional development plan, a description of the grades or ages of students being served, the school's calendar of operation, which shall include at least the equivalent of a full school term as defined in section 160.011, and an outline of criteria specified in this section designed to measure the effectiveness of the school. The charter shall also state:

- (1) The educational goals and objectives to be achieved by the charter school;
- (2) A description of the charter school's educational program and curriculum;
- (3) The term of the charter, which shall be not less than five years, nor greater than ten years and shall be renewable;
- (4) A description of the charter school's pupil performance standards, which must meet the requirements of subdivision (6) of subsection 5 of this section. The charter school program must be designed to enable each pupil to achieve such standards;
- (5) A description of the governance and operation of the charter school, including the nature and extent of parental, professional educator, and community involvement in the governance and operation of the charter school; and
- (6) A description of the charter school's policies on student discipline and student admission, which shall include a statement, where applicable, of the validity of attendance of students who do not reside in the district but who may be eligible to attend under the terms of judicial settlements.

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

- (1) A charter may be approved when the sponsor determines that the requirements of this section are met and determines that the applicant is sufficiently qualified to operate a charter school. The sponsor's decision of approval or denial shall be made within ninety days of the filing of the proposed charter;

36 (2) If the charter is denied, the proposed sponsor shall notify the applicant in writing as
37 to the reasons for its denial and forward a copy to the state board of education within five
38 business days following the denial;

39 (3) If a proposed charter is denied by a sponsor, the proposed charter may be submitted
40 to the state board of education, along with the sponsor's written reasons for its denial. If the state
41 board determines that the applicant meets the requirements of this section, that the applicant is
42 sufficiently qualified to operate the charter school, and that granting a charter to the applicant
43 would be likely to provide educational benefit to the children of the district, the state board may
44 grant a charter and act as sponsor of the charter school. The state board shall review the
45 proposed charter and make a determination of whether to deny or grant the proposed charter
46 within sixty days of receipt of the proposed charter, provided that any charter to be considered
47 by the state board of education under this subdivision shall be submitted no later than March first
48 prior to the school year in which the charter school intends to begin operations. The state board
49 of education shall notify the applicant in writing as the reasons for its denial, if applicable; and

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

63 3. If a charter is approved by a sponsor, the charter application shall be submitted to the
64 state board of education, along with a statement of finding that the application meets the
65 requirements of sections 160.400 to 160.420 and section 167.439, RSMo, and a monitoring plan
66 under which the charter sponsor will evaluate the academic performance of students enrolled in
67 the charter school. The state board of education may, within sixty days, disapprove the granting
68 of the charter. The state board of education may disapprove a charter on grounds that the
69 application fails to meet the requirements of sections 160.400 to 160.420 and section 167.349,
70 RSMo, or that a charter sponsor previously failed to meet the statutory responsibilities of a
71 charter sponsor.

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

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

75 (1) Be nonsectarian in its programs, admission policies, employment practices, and all
76 other operations;

77 (2) Comply with laws and regulations of the state, county, or city relating to health,
78 safety, and state minimum educational standards, as specified by the state board of education,
79 including the requirements relating to student discipline under sections 160.261, 167.161,
80 167.164, and 167.171, RSMo, notification of criminal conduct to law enforcement authorities
81 under sections 167.115 to 167.117, RSMo, academic assessment under section 160.518,
82 transmittal of school records under section 167.020, RSMo, and the minimum number of school
83 days and hours required under section 160.041;

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

86 (4) Be financially accountable, use practices consistent with the Missouri financial
87 accounting manual, provide for an annual audit by a certified public accountant, publish audit
88 reports and annual financial reports as provided in chapter 165, RSMo, provided that the annual
89 financial report may be published on the department of elementary and secondary education's
90 Internet web site in addition to other publishing requirements, and provide liability insurance to
91 indemnify the school, its board, staff and teachers against tort claims. A charter school that
92 receives local educational agency status under subsection 6 of this section shall meet the
93 requirements imposed by the Elementary and Secondary Education Act for audits of such
94 agencies. For purposes of an audit by petition under section 29.230, RSMo, a charter school
95 shall be treated as a political subdivision on the same terms and conditions as the school district
96 in which it is located. For the purposes of securing such insurance, a charter school shall be
97 eligible for the Missouri public entity risk management fund pursuant to section 537.700, RSMo.
98 A charter school that incurs debt must include a repayment plan in its financial plan;

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

102 (6) (a) Design a method to measure pupil progress toward the pupil academic standards
103 adopted by the state board of education pursuant to section 160.514, collect baseline data during
104 at least the first three years for determining how the charter school is performing and to the
105 extent applicable, participate in the statewide system of assessments, comprised of the essential
106 skills tests and the nationally standardized norm-referenced achievement tests, as designated by
107 the state board pursuant to section 160.518, complete and distribute an annual report card as

108 prescribed in section 160.522, which shall also include a statement that background checks have
109 been completed on the charter school's board members, report to its sponsor, the local school
110 district, and the state board of education as to its teaching methods and any educational
111 innovations and the results thereof, and provide data required for the study of charter schools
112 pursuant to subsection 4 of section 160.410. No charter school will be considered in the
113 Missouri school improvement program review of the district in which it is located for the
114 resource or process standards of the program.

115 (b) For proposed high risk or alternative charter schools, sponsors shall approve
116 performance measures based on mission, curriculum, teaching methods, and services. Sponsors
117 shall also approve comprehensive academic and behavioral measures to determine whether
118 students are meeting performance standards on a different time frame as specified in that school's
119 charter. Student performance shall be assessed comprehensively to determine whether a high
120 risk or alternative charter school has documented adequate student progress. Student
121 performance shall be based on sponsor-approved comprehensive measures as well as
122 standardized public school measures. Annual presentation of charter school report card data to
123 the department of elementary and secondary education, the state board, and the public shall
124 include comprehensive measures of student progress.

125 (c) Nothing in this [paragraph] **subdivision** shall be construed as permitting a charter
126 school to be held to lower performance standards than other public schools within a district;
127 however, the charter of a charter school may permit students to meet performance standards on
128 a different time frame as specified in its charter;

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

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

133 (a) Documentation that the applicant has provided a copy of the application to the school
134 board of the district in which the charter school is to be located, except in those circumstances
135 where the school district is the sponsor of the charter school; and

136 (b) A statement outlining the reasons for approval or disapproval by the sponsor,
137 specifically addressing the requirements of sections 160.400 to 160.420 and 167.349, RSMo.

138 6. The charter of a charter school may be amended at the request of the governing body
139 of the charter school and on the approval of the sponsor. The sponsor and the governing board
140 and staff of the charter school shall jointly review the school's performance, management and
141 operations at least once every two years or at any point where the operation or management of
142 the charter school is changed or transferred to another entity, either public or private. The
143 governing board of a charter school may amend the charter, if the sponsor approves such

144 amendment, or the sponsor and the governing board may reach an agreement in writing to reflect
145 the charter school's decision to become a local educational agency [for the sole purpose of
146 seeking direct access to federal grants]. In such case the sponsor shall give the department of
147 elementary and secondary education written notice no later than March first of any year, with the
148 agreement to become effective July first. The department may waive the March first notice date
149 in its discretion. The department shall identify and furnish a list of its regulations that pertain
150 to local educational agencies to such schools within thirty days of receiving such notice.

151 7. (1) A sponsor may revoke a charter at any time if the charter school commits a serious
152 breach of one or more provisions of its charter or on any of the following grounds: failure to
153 meet academic performance standards as set forth in its charter, failure to meet generally
154 accepted standards of fiscal management, failure to provide information necessary to confirm
155 compliance with all provisions of the charter and sections 160.400 to 160.420 and 167.349,
156 RSMo, within forty-five days following receipt of written notice requesting such information,
157 or violation of law.

158 (2) The sponsor may place the charter school on probationary status to allow the
159 implementation of a remedial plan, which may require a change of methodology, a change in
160 leadership, or both, after which, if such plan is unsuccessful, the charter may be revoked.

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

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

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

172 (6) A charter sponsor shall make available the school accountability report card
173 information as provided under section 160.522 and the results of the academic monitoring
174 required under subsection 3 of this section.

175 8. A sponsor shall take all reasonable steps necessary to confirm that each charter school
176 sponsored by such sponsor is in material compliance and remains in material compliance with
177 all material provisions of the charter and sections 160.400 to 160.420 and 167.349, RSMo.
178 Every charter school shall provide all information necessary to confirm ongoing compliance with

179 all provisions of its charter and sections 160.400 to 160.420 and 167.349, RSMo, in a timely
180 manner to its sponsor.

181 9. A school district may enter into a lease with a charter school for physical facilities.

182 10. A governing board or a school district employee who has control over personnel
183 actions shall not take unlawful reprisal against another employee at the school district because
184 the employee is directly or indirectly involved in an application to establish a charter school. A
185 governing board or a school district employee shall not take unlawful reprisal against an
186 educational program of the school or the school district because an application to establish a
187 charter school proposes the conversion of all or a portion of the educational program to a charter
188 school. As used in this subsection, "unlawful reprisal" means an action that is taken by a
189 governing board or a school district employee as a direct result of a lawful application to
190 establish a charter school and that is adverse to another employee or an educational program.

191 11. Charter school board members shall be subject to the same liability for acts while
192 in office as if they were regularly and duly elected members of school boards in any other public
193 school district in this state. The governing board of a charter school may participate, to the same
194 extent as a school board, in the Missouri public entity risk management fund in the manner
195 provided under sections 537.700 to 537.756, RSMo.

196 12. Any entity, either public or private, operating, administering, or otherwise managing
197 a charter school shall be considered a quasi-public governmental body and subject to the
198 provisions of sections 610.010 to 610.035, RSMo.

199 13. The chief financial officer of a charter school shall maintain a surety bond in an
200 amount determined by the sponsor to be adequate based on the cash flow of the school.

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