

SECOND REGULAR SESSION

# HOUSE BILL NO. 2129

## 103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BOYKO.

4290H.011

JOSEPH ENGLER, Chief Clerk

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### AN ACT

To repeal section 160.405, RSMo, and to enact in lieu thereof one new section relating to charter school compliance with educational requirements.

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

Section A. Section 160.405, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 160.405, to read as follows:

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 legally binding performance contract that describes the obligations and responsibilities of the school and the sponsor as outlined in sections 160.400 to 160.425 and section 167.349 and shall address the following:

- (1) A mission and vision statement for the charter school;
- (2) A description of the charter school's organizational structure and bylaws of the governing body, which will be responsible for the policy, financial management, and operational decisions 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;

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.

- 17 (3) A financial plan for the first three years of operation of the charter school  
18 including provisions for annual audits;
- 19 (4) A description of the charter school's policy for securing personnel services, its  
20 personnel policies, personnel qualifications, and professional development plan;
- 21 (5) A description of the grades or ages of students being served;
- 22 (6) The school's calendar of operation, which shall include at least the equivalent of a  
23 full school term as defined in section 160.011;
- 24 (7) A description of the charter school's pupil performance standards and academic  
25 program performance standards, which shall meet the requirements of subdivision (6) of  
26 subsection 4 of this section. The charter school program shall be designed to enable each  
27 pupil to achieve such standards and shall contain a complete set of indicators, measures,  
28 metrics, and targets for academic program performance, including specific goals on  
29 graduation rates and standardized test performance and academic growth;
- 30 (8) A description of the charter school's educational program and curriculum;
- 31 (9) The term of the charter, which shall be five years and may be renewed;
- 32 (10) Procedures, consistent with the Missouri financial accounting manual, for  
33 monitoring the financial accountability of the charter, which shall meet the requirements of  
34 subdivision (4) of subsection 4 of this section;
- 35 (11) Preopening requirements for applications that require that charter schools meet  
36 all health, safety, and other legal requirements prior to opening;
- 37 (12) A description of the charter school's policies on student discipline and student  
38 admission, which shall include a statement, where applicable, of the validity of attendance of  
39 students who do not reside in the district but who may be eligible to attend under the terms of  
40 judicial settlements and procedures that ensure admission of students with disabilities in a  
41 nondiscriminatory manner;
- 42 (13) A description of the charter school's grievance procedure for parents or  
43 guardians;
- 44 (14) A description of the agreement and time frame for implementation between the  
45 charter school and the sponsor as to when a sponsor shall intervene in a charter school, when  
46 a sponsor shall revoke a charter for failure to comply with subsection 8 of this section, and  
47 when a sponsor will not renew a charter under subsection 9 of this section;
- 48 (15) Procedures to be implemented if the charter school should close, as provided in  
49 subdivision (6) of subsection 16 of section 160.400 including:
- 50 (a) Orderly transition of student records to new schools and archival of student  
51 records;
- 52 (b) Archival of business operation and transfer or repository of personnel records;
- 53 (c) Submission of final financial reports;

54 (d) Resolution of any remaining financial obligations;  
55 (e) Disposition of the charter school's assets upon closure; and  
56 (f) A notification plan to inform parents or guardians of students, the local school  
57 district, the retirement system in which the charter school's employees participate, and the  
58 state board of education within thirty days of the decision to close;  
59 (16) A description of the special education and related services that shall be available  
60 to meet the needs of students with disabilities; and  
61 (17) For all new or revised charters, procedures to be used upon closure of the charter  
62 school requiring that unobligated assets of the charter school be returned to the department of  
63 elementary and secondary education for their disposition, which upon receipt of such assets  
64 shall return them to the local school district in which the school was located, the state, or any  
65 other entity to which they would belong.  
66  
67 ~~[Charter schools operating on August 27, 2012, shall have until August 28, 2015, to meet the~~  
68 ~~requirements of this subsection.]~~  
69 2. Proposed charters shall be subject to the following requirements:  
70 (1) A charter shall be submitted to the sponsor, and follow the sponsor's policies and  
71 procedures for review and granting of a charter approval, and be approved by the state board  
72 of education by January thirty-first prior to the school year of the proposed opening date of  
73 the charter school;  
74 (2) A charter may be approved when the sponsor determines that the requirements of  
75 this section are met, determines that the applicant is sufficiently qualified to operate a charter  
76 school, and that the proposed charter is consistent with the sponsor's charter sponsorship  
77 goals and capacity. The sponsor's decision of approval or denial shall be made within ninety  
78 days of the filing of the proposed charter;  
79 (3) If the charter is denied, the proposed sponsor shall notify the applicant in writing  
80 as to the reasons for its denial and forward a copy to the state board of education within five  
81 business days following the denial;  
82 (4) If a proposed charter is denied by a sponsor, the proposed charter may be  
83 submitted to the state board of education, along with the sponsor's written reasons for its  
84 denial. If the state board determines that the applicant meets the requirements of this section,  
85 that the applicant is sufficiently qualified to operate the charter school, and that granting a  
86 charter to the applicant would be likely to provide educational benefit to the children of the  
87 district, the state board may grant a charter and act as sponsor of the charter school. The state  
88 board shall review the proposed charter and make a determination of whether to deny or grant  
89 the proposed charter within sixty days of receipt of the proposed charter, provided that any  
90 charter to be considered by the state board of education under this subdivision shall be

91 submitted no later than March first prior to the school year in which the charter school intends  
92 to begin operations. The state board of education shall notify the applicant in writing as the  
93 reasons for its denial, if applicable; and

94 (5) The sponsor of a charter school shall give priority to charter school applicants that  
95 propose a school oriented to high-risk students and to the reentry of dropouts into the school  
96 system. If a sponsor grants three or more charters, at least one-third of the charters granted by  
97 the sponsor shall be to schools that actively recruit dropouts or high-risk students as their  
98 student body and address the needs of dropouts or high-risk students through their proposed  
99 mission, curriculum, teaching methods, and services. For purposes of this subsection, a  
100 "high-risk" student is one who is at least one year behind in satisfactory completion of course  
101 work or obtaining high school credits for graduation, has dropped out of school, is at risk of  
102 dropping out of school, needs drug and alcohol treatment, has severe behavioral problems,  
103 has been suspended from school three or more times, has a history of severe truancy, is a  
104 pregnant or parenting teen, has been referred for enrollment by the judicial system, is exiting  
105 incarceration, is a refugee, is homeless or has been homeless sometime within the preceding  
106 six months, has been referred by an area school district for enrollment in an alternative  
107 program, or qualifies as high risk under department of elementary and secondary education  
108 guidelines. Dropout shall be defined through the guidelines of the school core data report.  
109 The provisions of this subsection do not apply to charters sponsored by the state board of  
110 education.

111 3. If a charter is approved by a sponsor, the charter application shall be submitted to  
112 the state board of education, along with a statement of finding by the sponsor that the  
113 application meets the requirements of sections 160.400 to 160.425 and section 167.349 and a  
114 monitoring plan under which the charter sponsor shall evaluate the academic performance,  
115 including annual performance reports, of students enrolled in the charter school. The state  
116 board of education shall approve or deny a charter application within sixty days of receipt of  
117 the application. The state board of education may deny a charter on grounds that the  
118 application fails to meet the requirements of sections 160.400 to 160.425 and section 167.349  
119 or that a charter sponsor previously failed to meet the statutory responsibilities of a charter  
120 sponsor. Any denial of a charter application made by the state board of education shall be in  
121 writing and shall identify the specific failures of the application to meet the requirements of  
122 sections 160.400 to 160.425 and section 167.349, and the written denial shall be provided  
123 within ten business days to the sponsor.

124 4. A charter school shall, as provided in its charter:

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

(2) Comply with laws and regulations of the state, county, or city relating to health, safety, and state minimum educational standards, as specified by the state board of education, **and other requirements for public schools in state law** including, **but not limited to**, the requirements relating to:

(a) Student discipline under sections 160.261, 167.161, 167.164, and 167.171~~[5]~~;

(b) Notification of criminal conduct to law enforcement authorities under sections 167.115 ~~[to]~~ **and** 167.117~~[5]~~;

(c) Academic assessment under section 160.518~~[5]~~;

(d) Transmittal of school records under section 167.020~~[5]~~;

(e) The minimum amount of school time required under section 171.031~~[5]~~ ~~and~~;

(f) The employee criminal history background check and the family care safety registry check under section 168.133;

(g) **Student participation in moderate physical activity under section 167.720;**

(h) **Interscholastic youth sports brain injury prevention under section 167.765;**

(i) **Conducting educational programs and activities and observing Veterans Day under section 170.049;**

(j) **Providing access to official recruiting representatives of the military under section 171.026;**

(k) **The minimum school term under section 163.021; and**

(l) **Prevailing wage requirements for school construction projects under section 290.230;**

(3) Except as provided in sections 160.400 to 160.425 and as specifically provided in other sections, 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, publish audit reports and annual financial reports as provided in chapter 165, provided that the annual financial report may be published on the department of elementary and secondary education's internet website in addition to other publishing requirements, and provide liability insurance to indemnify the school, its board, staff and teachers against tort claims. A charter school that receives local educational agency status under subsection 6 of this section shall meet the requirements imposed by the Elementary and Secondary Education Act for audits of such agencies and comply with all federal audit requirements for charters with local educational agency status. For purposes of an audit by petition under section 29.230, a charter school shall be treated as a political subdivision on the same terms and conditions as the school district in which it is located. For the purposes of securing such insurance, a charter school

163 shall be eligible for the Missouri public entity risk management fund pursuant to section  
164 537.700. A charter school that incurs debt shall include a repayment plan in its financial plan;

165 (5) Provide a comprehensive program of instruction for at least one grade or age  
166 group from early childhood through grade twelve, as specified in its charter;

167 (6) (a) Design a method to measure pupil progress toward the pupil academic  
168 standards adopted by the state board of education pursuant to section 160.514, establish  
169 baseline student performance in accordance with the performance contract during the first  
170 year of operation, collect student performance data as defined by the annual performance  
171 report throughout the duration of the charter to annually monitor student academic  
172 performance, and to the extent applicable based upon grade levels offered by the charter  
173 school, participate in the statewide system of assessments, comprised of the essential skills  
174 tests and the nationally standardized norm-referenced achievement tests, as designated by the  
175 state board pursuant to section 160.518, complete and distribute an annual report card as  
176 prescribed in section 160.522, which shall also include a statement that background checks  
177 have been completed on the charter school's board members, and report to its sponsor, the  
178 local school district, and the state board of education as to its teaching methods and any  
179 educational innovations and the results thereof. No charter school shall be considered in the  
180 Missouri school improvement program review of the district in which it is located for the  
181 resource or process standards of the program.

182 (b) For proposed high-risk or alternative charter schools, sponsors shall approve  
183 performance measures based on mission, curriculum, teaching methods, and services.  
184 Sponsors shall also approve comprehensive academic and behavioral measures to determine  
185 whether students are meeting performance standards on a different time frame as specified in  
186 that school's charter. Student performance shall be assessed comprehensively to determine  
187 whether a high-risk or alternative charter school has documented adequate student progress.  
188 Student performance shall be based on sponsor-approved comprehensive measures as well as  
189 standardized public school measures. Annual presentation of charter school report card data  
190 to the department of elementary and secondary education, the state board, and the public shall  
191 include comprehensive measures of student progress.

192 (c) Nothing in this subdivision shall be construed as permitting a charter school to be  
193 held to lower performance standards than other public schools within a district; however, the  
194 charter of a charter school may permit students to meet performance standards on a different  
195 time frame as specified in its charter. The performance standards for alternative and special  
196 purpose charter schools that target high-risk students as defined in subdivision (5) of  
197 subsection 2 of this section shall be based on measures defined in the school's performance  
198 contract with its sponsors;

199 (7) Comply with all applicable federal and state laws and regulations regarding  
200 students with disabilities, including sections 162.670 to 162.710, the Individuals with  
201 Disabilities Education Act (20 U.S.C. Section 1400 **et seq.**) and Section 504 of the  
202 Rehabilitation Act of 1973 (29 U.S.C. Section 794) or successor legislation;

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

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

208 (b) A statement outlining the reasons for approval or denial by the sponsor,  
209 specifically addressing the requirements of sections 160.400 to 160.425 and 167.349.

210 5. (1) Proposed or existing high-risk or alternative charter schools may include  
211 alternative arrangements for students to obtain credit for satisfying graduation requirements in  
212 the school's charter application and charter. Alternative arrangements may include, but not be  
213 limited to, credit for off-campus instruction, embedded credit, work experience through an  
214 internship arranged through the school, and independent studies. When the state board of  
215 education approves the charter, any such alternative arrangements shall be approved at such  
216 time.

217 (2) The department of elementary and secondary education shall conduct a study of  
218 any charter school granted alternative arrangements for students to obtain credit under this  
219 subsection after three years of operation to assess student performance, graduation rates,  
220 educational outcomes, and entry into the workforce or higher education.

221 6. The charter of a charter school may be amended at the request of the governing  
222 body of the charter school and on the approval of the sponsor. The sponsor and the governing  
223 board and staff of the charter school shall jointly review the school's performance,  
224 management and operations during the first year of operation and then every other year after  
225 the most recent review or at any point where the operation or management of the charter  
226 school is changed or transferred to another entity, either public or private. The governing  
227 board of a charter school may amend the charter, if the sponsor approves such amendment, or  
228 the sponsor and the governing board may reach an agreement in writing to reflect the charter  
229 school's decision to become a local educational agency. In such case the sponsor shall give  
230 the department of elementary and secondary education written notice no later than March first  
231 of any year, with the agreement to become effective July first. The department may waive the  
232 March first notice date in its discretion. The department shall identify and furnish a list of its  
233 regulations that pertain to local educational agencies to such schools within thirty days of  
234 receiving such notice.

235 7. Sponsors shall annually review the charter school's compliance with statutory  
236 standards including:

237 (1) Participation in the statewide system of assessments, as designated by the state  
238 board of education under section 160.518;

239 (2) Assurances for the completion and distribution of an annual report card as  
240 prescribed in section 160.522;

241 (3) The collection of baseline data during the first three years of operation to  
242 determine the longitudinal success of the charter school;

243 (4) A method to measure pupil progress toward the pupil academic standards adopted  
244 by the state board of education under section 160.514; and

245 (5) Publication of each charter school's annual performance report.

246 8. (1) (a) A sponsor's policies shall give schools clear, adequate, evidence-based, and  
247 timely notice of contract violations or performance deficiencies and mandate intervention  
248 based upon findings of the state board of education of the following:

249 a. The charter school provides a high school program which fails to maintain a  
250 graduation rate of at least seventy percent in three of the last four school years unless the  
251 school has dropout recovery as its mission;

252 b. The charter school's annual performance report results are below the district's  
253 annual performance report results based on the performance standards that are applicable to  
254 the grade level configuration of both the charter school and the district in which the charter  
255 school is located in three of the last four school years; and

256 c. The charter school is identified as a persistently lowest achieving school by the  
257 department of elementary and secondary education.

258 (b) A sponsor shall have a policy to revoke a charter during the charter term if there  
259 is:

260 a. Clear evidence of underperformance as demonstrated in the charter school's annual  
261 performance report in three of the last four school years; or

262 b. A violation of the law or the public trust that imperils students or public funds.

263 (c) A sponsor shall revoke a charter or take other appropriate remedial action, which  
264 may include placing the charter school on probationary status for no more than twenty-four  
265 months, provided that no more than one designation of probationary status shall be allowed  
266 for the duration of the charter contract, at any time if the charter school commits a serious  
267 breach of one or more provisions of its charter or on any of the following grounds: failure to  
268 meet the performance contract as set forth in its charter, failure to meet generally accepted  
269 standards of fiscal management, failure to provide information necessary to confirm  
270 compliance with all provisions of the charter and sections 160.400 to 160.425 and 167.349



271 within forty-five days following receipt of written notice requesting such information, or  
272 violation of law.

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

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

280 (4) The sponsor of a charter school shall establish procedures to conduct  
281 administrative hearings upon determination by the sponsor that grounds exist to revoke a  
282 charter. Final decisions of a sponsor from hearings conducted pursuant to this subsection are  
283 subject to an appeal to the state board of education, which shall determine whether the charter  
284 shall be revoked.

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

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

291 9. (1) A sponsor shall take all reasonable steps necessary to confirm that each charter  
292 school sponsored by such sponsor is in material compliance and remains in material  
293 compliance with all material provisions of the charter and sections 160.400 to 160.425 and  
294 167.349. Every charter school shall provide all information necessary to confirm ongoing  
295 compliance with all provisions of its charter and sections 160.400 to 160.425 and 167.349 in a  
296 timely manner to its sponsor.

297 (2) The sponsor's renewal process of the charter school shall be based on the thorough  
298 analysis of a comprehensive body of objective evidence and consider if:

299 (a) The charter school has maintained results on its annual performance report that  
300 meet or exceed the district in which the charter school is located based on the performance  
301 standards that are applicable to the grade-level configuration of both the charter school and  
302 the district in which the charter school is located in three of the last four school years;

303 (b) The charter school is organizationally and fiscally viable determining at a  
304 minimum that the school does not have:

305 a. A negative balance in its operating funds;

306 b. A combined balance of less than three percent of the amount expended for such  
307 funds during the previous fiscal year; or

308 c. Expenditures that exceed receipts for the most recently completed fiscal year;  
309 (c) The charter is in compliance with its legally binding performance contract and  
310 sections 160.400 to 160.425 and section 167.349; and  
311 (d) The charter school has an annual performance report consistent with a  
312 classification of accredited for three of the last four years and is fiscally viable as described in  
313 paragraph (b) of this subdivision. If such is the case, the charter school may have an  
314 expedited renewal process as defined by rule of the department of elementary and secondary  
315 education.

316 (3) (a) Beginning August first during the year in which a charter is considered for  
317 renewal, a charter school sponsor shall demonstrate to the state board of education that the  
318 charter school is in compliance with federal and state law as provided in sections 160.400 to  
319 160.425 and section 167.349 and the school's performance contract including but not limited  
320 to those requirements specific to academic performance.

321 (b) Along with data reflecting the academic performance standards indicated in  
322 paragraph (a) of this subdivision, the sponsor shall submit a revised charter application to the  
323 state board of education for review.

324 (c) Using the data requested and the revised charter application under paragraphs (a)  
325 and (b) of this subdivision, the state board of education shall determine if compliance with all  
326 standards enumerated in this subdivision has been achieved. The state board of education at  
327 its next regularly scheduled meeting shall vote on the revised charter application.

328 (d) If a charter school sponsor demonstrates the objectives identified in this  
329 subdivision, the state board of education shall renew the school's charter.

330 10. A school district may enter into a lease with a charter school for physical  
331 facilities.

332 11. A governing board or a school district employee who has control over personnel  
333 actions shall not take unlawful reprisal against another employee at the school district because  
334 the employee is directly or indirectly involved in an application to establish a charter school.  
335 A governing board or a school district employee shall not take unlawful reprisal against an  
336 educational program of the school or the school district because an application to establish a  
337 charter school proposes the conversion of all or a portion of the educational program to a  
338 charter school. As used in this subsection, "unlawful reprisal" means an action that is taken  
339 by a governing board or a school district employee as a direct result of a lawful application to  
340 establish a charter school and that is adverse to another employee or an educational program.

341 12. Charter school board members shall be subject to the same liability for acts while  
342 in office as if they were regularly and duly elected members of school boards in any other  
343 public school district in this state. The governing board of a charter school may participate, to

344 the same extent as a school board, in the Missouri public entity risk management fund in the  
345 manner provided under sections 537.700 to 537.756.

346 13. Any entity, either public or private, operating, administering, or otherwise  
347 managing a charter school shall be considered a quasi-public governmental body and subject  
348 to the provisions of sections 610.010 to 610.035.

349 14. The chief financial officer of a charter school shall maintain:

350 (1) A surety bond in an amount determined by the sponsor to be adequate based on  
351 the cash flow of the school; or

352 (2) An insurance policy issued by an insurance company licensed to do business in  
353 Missouri on all employees in the amount of five hundred thousand dollars or more that  
354 provides coverage in the event of employee theft.

355 15. The department of elementary and secondary education shall calculate an annual  
356 performance report for each charter school and shall publish it in the same manner as annual  
357 performance reports are calculated and published for districts and attendance centers.

358 16. The joint committee on education shall create a committee to investigate facility  
359 access and affordability for charter schools. The committee shall be comprised of equal  
360 numbers of the charter school sector and the public school sector and shall report its findings  
361 to the general assembly by December 31, 2016.

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