

SECOND REGULAR SESSION

HOUSE BILL NO. 2448

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DAVIS.

5803H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 160.400 and 160.415, RSMo, and to enact in lieu thereof two new sections relating to the establishment of charter schools.

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

Section A. Sections 160.400 and 160.415, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 160.400 and 160.415, to read as follows:

160.400. 1. A charter school is an independent public school.
2 2. Except as further provided in subsection 4 of this section, charter schools may be
3 operated only:

4 (1) In a metropolitan school district;

5 (2) In an urban school district containing most or all of a city with a population
6 greater than three hundred fifty thousand inhabitants;

7 (3) In a school district that has been classified as unaccredited by the state board of
8 education;

9 (4) In a school district that has been classified as provisionally accredited by the state
10 board of education and has received scores on its annual performance report consistent with a
11 classification of provisionally accredited or unaccredited for three consecutive school years
12 beginning with the 2012-13 accreditation year under the following conditions:

13 (a) The eligibility for charter schools of any school district whose provisional
14 accreditation is based in whole or in part on financial stress as defined in sections 161.520 to
15 161.529, or on financial hardship as defined by rule of the state board of education, shall be
16 decided by a vote of the state board of education during the third consecutive school year after
17 the designation of provisional accreditation; and

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.

18 (b) The sponsor is limited to the local school board or a sponsor who has met the
19 standards of accountability and performance as determined by the department based on
20 sections 160.400 to 160.425 and section 167.349 and properly promulgated rules of the
21 department;

22 (5) In a school district located within a county with more than one hundred fifty
23 thousand but fewer than two hundred thousand inhabitants, provided that the provisions of
24 subsections 15 to 18 of section 160.415 shall not apply to any charter school operated in such
25 county; ~~or~~

26 (6) In a school district that has been accredited without provisions, sponsored only by
27 the local school board; provided that no board with a current year enrollment of one thousand
28 five hundred fifty students or greater shall permit more than thirty-five percent of its student
29 enrollment to enroll in charter schools sponsored by the local board under the authority of this
30 subdivision, except that this restriction shall not apply to any school district that subsequently
31 becomes eligible under subdivision (3) or (4) of this subsection or to any district accredited
32 without provisions that sponsors charter schools prior to having a current year student
33 enrollment of one thousand five hundred fifty students or greater; **or**

34 **(7) In a school district with the majority of such district located within a county**
35 **with more than one hundred thousand but fewer than one hundred twenty thousand**
36 **inhabitants and with a county seat with more than nine thousand but fewer than eleven**
37 **thousand inhabitants.**

38 3. Except as further provided in subsection 4 of this section, the following entities are
39 eligible to sponsor charter schools:

40 (1) The school board of the district in any district which is sponsoring a charter
41 school as of August 27, 2012, as permitted under subdivision (1) ~~or~~, (2), **or (7)** of subsection
42 2 of this section, the special administrative board of a metropolitan school district during any
43 time in which powers granted to the district's board of education are vested in a special
44 administrative board, or if the state board of education appoints a special administrative board
45 to retain the authority granted to the board of education of an urban school district containing
46 most or all of a city with a population greater than three hundred fifty thousand inhabitants,
47 the special administrative board of such school district;

48 (2) A public four-year college or university with an approved teacher education
49 program that meets regional or national standards of accreditation;

50 (3) A community college, the service area of which encompasses some portion of the
51 district;

52 (4) Any private four-year college or university with an enrollment of at least one
53 thousand students, with its primary campus in Missouri, and with an approved teacher
54 preparation program;

55 (5) Any two-year private vocational or technical school designated as a 501(c)(3)
56 nonprofit organization under the Internal Revenue Code of 1986, as amended, and accredited
57 by the Higher Learning Commission, with its primary campus in Missouri;

58 (6) The Missouri charter public school commission created in section 160.425.

59 4. Changes in a school district's accreditation status that affect charter schools shall be
60 addressed as follows, except for the districts described in subdivisions (1) ~~and~~, (2), and (7)
61 of subsection 2 of this section:

62 (1) As a district transitions from unaccredited to provisionally accredited, the district
63 shall continue to fall under the requirements for an unaccredited district until it achieves three
64 consecutive full school years of provisional accreditation;

65 (2) As a district transitions from provisionally accredited to full accreditation, the
66 district shall continue to fall under the requirements for a provisionally accredited district
67 until it achieves three consecutive full school years of full accreditation;

68 (3) In any school district classified as unaccredited or provisionally accredited where
69 a charter school is operating and is sponsored by an entity other than the local school board,
70 when the school district becomes classified as accredited without provisions, a charter school
71 may continue to be sponsored by the entity sponsoring it prior to the classification of
72 accredited without provisions and shall not be limited to the local school board as a sponsor.

73

74 A charter school operating in a school district identified in subdivision (1), (2), ~~(5)~~, or (7)
75 of subsection 2 of this section may be sponsored by any of the entities identified in subsection
76 3 of this section, irrespective of the accreditation classification of the district in which it is
77 located. A charter school in a district described in this subsection whose charter provides for
78 the addition of grade levels in subsequent years may continue to add levels until the planned
79 expansion is complete to the extent of grade levels in comparable schools of the district in
80 which the charter school is operated.

81 5. The mayor of a city not within a county may request a sponsor under subdivision
82 (2), (3), (4), (5), or (6) of subsection 3 of this section to consider sponsoring a "workplace
83 charter school", which is defined for purposes of sections 160.400 to 160.425 as a charter
84 school with the ability to target prospective students whose parent or parents are employed in
85 a business district, as defined in the charter, which is located in the city.

86 6. No sponsor shall receive from an applicant for a charter school any fee of any type
87 for the consideration of a charter, nor may a sponsor condition its consideration of a charter
88 on the promise of future payment of any kind.

89 7. The charter school shall be organized as a Missouri nonprofit corporation
90 incorporated pursuant to chapter 355. The charter provided for herein shall constitute a
91 contract between the sponsor and the charter school.

92 8. As a nonprofit corporation incorporated pursuant to chapter 355, the charter school
93 shall select the method for election of officers pursuant to section 355.326 based on the class
94 of corporation selected. Meetings of the governing board of the charter school shall be
95 subject to the provisions of sections 610.010 to 610.030.

96 9. A sponsor of a charter school, its agents and employees are not liable for any acts
97 or omissions of a charter school that it sponsors, including acts or omissions relating to the
98 charter submitted by the charter school, the operation of the charter school and the
99 performance of the charter school.

100 10. A charter school may affiliate with a four-year college or university, including a
101 private college or university, or a community college as otherwise specified in subsection 3 of
102 this section when its charter is granted by a sponsor other than such college, university or
103 community college. Affiliation status recognizes a relationship between the charter school
104 and the college or university for purposes of teacher training and staff development,
105 curriculum and assessment development, use of physical facilities owned by or rented on
106 behalf of the college or university, and other similar purposes. A university, college or
107 community college may not charge or accept a fee for affiliation status.

108 11. The expenses associated with sponsorship of charter schools shall be defrayed by
109 the department of elementary and secondary education retaining one and five-tenths percent
110 of the amount of state and local funding allocated to the charter school under section 160.415,
111 not to exceed one hundred twenty-five thousand dollars, adjusted for inflation. The
112 department of elementary and secondary education shall remit the retained funds for each
113 charter school to the school's sponsor, provided the sponsor remains in good standing by
114 fulfilling its sponsorship obligations under sections 160.400 to 160.425 and 167.349 with
115 regard to each charter school it sponsors, including appropriate demonstration of the
116 following:

117 (1) Expends no less than ninety percent of its charter school sponsorship funds in
118 support of its charter school sponsorship program, or as a direct investment in the sponsored
119 schools;

120 (2) Maintains a comprehensive application process that follows fair procedures and
121 rigorous criteria and grants charters only to those developers who demonstrate strong capacity
122 for establishing and operating a quality charter school;

123 (3) Negotiates contracts with charter schools that clearly articulate the rights and
124 responsibilities of each party regarding school autonomy, expected outcomes, measures for
125 evaluating success or failure, performance consequences based on the annual performance
126 report, and other material terms;

(4) Conducts contract oversight that evaluates performance, monitors compliance, informs intervention and renewal decisions, and ensures autonomy provided under applicable law; and

(5) Designs and implements a transparent and rigorous process that uses comprehensive data to make merit-based renewal decisions.

12. Sponsors receiving funds under subsection 11 of this section shall be required to submit annual reports to the joint committee on education demonstrating they are in compliance with subsection 17 of this section.

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

14. No sponsor shall grant a charter under sections 160.400 to 160.425 and 167.349 without ensuring that a criminal background check and family care safety registry check are conducted for all members of the governing board of the charter schools or the incorporators of the charter school if initial directors are not named in the articles of incorporation, nor shall a sponsor renew a charter without ensuring a criminal background check and family care safety registry check are conducted for each member of the governing board of the charter school.

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

16. A sponsor shall develop the policies and procedures for:

(1) The review of a charter school proposal including an application that provides sufficient information for rigorous evaluation of the proposed charter and provides clear documentation that the education program and academic program are aligned with the state standards and grade-level expectations, and provides clear documentation of effective governance and management structures, and a sustainable operational plan;

(2) The granting of a charter;

(3) The performance contract that the sponsor will use to evaluate the performance of charter schools. Charter schools shall meet current state academic performance standards as well as other standards agreed upon by the sponsor and the charter school in the performance contract;

(4) The sponsor's intervention, renewal, and revocation policies, including the conditions under which the charter sponsor may intervene in the operation of the charter school, along with actions and consequences that may ensue, and the conditions for renewal of the charter at the end of the term, consistent with subsections 8 and 9 of section 160.405;

(5) Additional criteria that the sponsor will use for ongoing oversight of the charter; and

(6) Procedures to be implemented if a charter school should close, consistent with the provisions of subdivision (15) of subsection 1 of section 160.405.

The department shall provide guidance to sponsors in developing such policies and procedures.

17. (1) A sponsor shall provide timely submission to the state board of education of all data necessary to demonstrate that the sponsor is in material compliance with all requirements of sections 160.400 to 160.425 and section 167.349. The state board of education shall ensure each sponsor is in compliance with all requirements under sections 160.400 to 160.425 and 167.349 for each charter school sponsored by any sponsor. The state board shall notify each sponsor of the standards for sponsorship of charter schools, delineating both what is mandated by statute and what best practices dictate. The state board shall evaluate sponsors to determine compliance with these standards every three years. The evaluation shall include a sponsor's policies and procedures in the areas of charter application approval; required charter agreement terms and content; sponsor performance evaluation and compliance monitoring; and charter renewal, intervention, and revocation decisions. Nothing shall preclude the department from undertaking an evaluation at any time for cause.

(2) If the department determines that a sponsor is in material noncompliance with its sponsorship duties, the sponsor shall be notified and given reasonable time for remediation. If remediation does not address the compliance issues identified by the department, the commissioner of education shall conduct a public hearing and thereafter provide notice to the charter sponsor of corrective action that will be recommended to the state board of education. Corrective action by the department may include withholding the sponsor's funding and suspending the sponsor's authority to sponsor a school that it currently sponsors or to sponsor any additional school until the sponsor is reauthorized by the state board of education under section 160.403.

(3) The charter sponsor may, within thirty days of receipt of the notice of the commissioner's recommendation, provide a written statement and other documentation to show cause as to why that action should not be taken. Final determination of corrective action shall be determined by the state board of education based upon a review of the documentation submitted to the department and the charter sponsor.

201 (4) If the state board removes the authority to sponsor a currently operating charter
202 school under any provision of law, the Missouri charter public school commission shall
203 become the sponsor of the school.

204 18. If a sponsor notifies a charter school of closure under subsection 8 of section
205 160.405, the department of elementary and secondary education shall exercise its financial
206 withholding authority under subsection 12 of section 160.415 to assure all obligations of the
207 charter school shall be met. The state, charter sponsor, or resident district shall not be liable
208 for any outstanding liability or obligations of the charter school.

160.415. 1. For the purposes of calculation and distribution of state school aid under
2 section 163.031, pupils enrolled in a charter school shall be included in the pupil enrollment
3 of the school district within which each pupil resides. Each charter school shall report the
4 eligibility for free and reduced price lunch, special education, or limited English proficiency
5 status, as well as eligibility for categorical aid, of pupils resident in a school district who are
6 enrolled in the charter school to the school district in which those pupils reside. The charter
7 school shall report the average daily attendance data, free and reduced price lunch count,
8 special education pupil count, and limited English proficiency pupil count to the state
9 department of elementary and secondary education. Each charter school shall promptly
10 notify the state department of elementary and secondary education and the pupil's school
11 district when a pupil discontinues enrollment at a charter school.

12 2. Except as provided in subsections 3 and 4 of this section, the aid payments for
13 charter schools shall be as described in this subsection.

14 (1) A school district having one or more resident pupils attending a charter school
15 shall pay to the charter school an annual amount equal to the product of the charter school's
16 weighted average daily attendance and the state adequacy target, multiplied by the dollar
17 value modifier for the district, plus local tax revenues per weighted average daily attendance
18 from the incidental and teachers' funds in excess of the performance levy as defined in section
19 163.011 plus all other state aid attributable to such pupils.

20 (2) The district of residence of a pupil attending a charter school shall also pay to the
21 charter school any other federal or state aid that the district receives on account of such pupil.

22 (3) If the department overpays or underpays the amount due to the charter school,
23 such overpayment or underpayment shall be repaid by the charter school or credited to the
24 charter school in twelve equal payments in the next fiscal year.

25 (4) The amounts provided pursuant to this subsection shall be prorated for partial year
26 enrollment for a pupil.

27 (5) A school district shall pay the amounts due pursuant to this subsection as the
28 disbursal agent and no later than twenty days following the receipt of any such funds. The

29 department of elementary and secondary education shall pay the amounts due when it acts as
30 the disbursal agent within five days of the required due date.

31 3. A workplace charter school shall receive payment for each eligible pupil as
32 provided under subsection 2 of this section, except that if the pupil is not a resident of the
33 district and is participating in a voluntary interdistrict transfer program, the payment for such
34 pupils shall be the same as provided under section 162.1060.

35 4. A charter school that has declared itself as a local educational agency shall receive
36 from the department of elementary and secondary education an annual amount equal to the
37 product of the charter school's weighted average daily attendance and the state adequacy
38 target, multiplied by the dollar value modifier for the district, plus local tax revenues per
39 weighted average daily attendance from the incidental and teachers funds in excess of the
40 performance levy as defined in section 163.011 plus all other state aid attributable to such
41 pupils. If a charter school declares itself as a local educational agency, the department of
42 elementary and secondary education shall, upon notice of the declaration, reduce the payment
43 made to the school district by the amount specified in this subsection and pay directly to the
44 charter school the annual amount reduced from the school district's payment.

45 5. If a school district fails to make timely payments of any amount for which it is the
46 disbursal agent, the state department of elementary and secondary education shall authorize
47 payment to the charter school of the amount due pursuant to subsection 2 of this section and
48 shall deduct the same amount from the next state school aid apportionment to the owing
49 school district. If a charter school is paid more or less than the amounts due pursuant to this
50 section, the amount of overpayment or underpayment shall be adjusted equally in the next
51 twelve payments by the school district or the department of elementary and secondary
52 education, as appropriate. Any dispute between the school district and a charter school as to
53 the amount owing to the charter school shall be resolved by the department of elementary and
54 secondary education, and the department's decision shall be the final administrative action for
55 the purposes of review pursuant to chapter 536. During the period of dispute, the department
56 of elementary and secondary education shall make every administrative and statutory effort to
57 allow the continued education of students in their current charter school setting.

58 6. The charter school and a local school board may agree by contract for services to
59 be provided by the school district to the charter school. The charter school may contract with
60 any other entity for services. Such services may include but are not limited to food service,
61 custodial service, maintenance, management assistance, curriculum assistance, media
62 services and libraries and shall be subject to negotiation between the charter school and
63 the local school board or other entity. Documented actual costs of such services shall be paid
64 for by the charter school.

65 7. In the case of a proposed charter school that intends to contract with an education
66 service provider for substantial educational services or management services, the request for
67 proposals shall additionally require the charter school applicant to:

68 (1) Provide evidence of the education service provider's success in serving student
69 populations similar to the targeted population, including demonstrated academic achievement
70 as well as successful management of nonacademic school functions, if applicable;

71 (2) Provide a term sheet setting forth the proposed duration of the service contract;
72 roles and responsibilities of the governing board, the school staff, and the service provider;
73 scope of services and resources to be provided by the service provider; performance
74 evaluation measures and time lines; compensation structure, including clear identification of
75 all fees to be paid to the service provider; methods of contract oversight and enforcement;
76 investment disclosure; and conditions for renewal and termination of the contract;

77 (3) Disclose any known conflicts of interest between the school governing board and
78 proposed service provider or any affiliated business entities;

79 (4) Disclose and explain any termination or nonrenewal of contracts for equivalent
80 services for any other charter school in the United States within the past five years;

81 (5) Ensure that the legal counsel for the charter school shall report directly to the
82 charter school's governing board; and

83 (6) Provide a process to ensure that the expenditures that the education service
84 provider intends to bill to the charter school shall receive prior approval of the governing
85 board or its designee.

86 8. A charter school may enter into contracts with community partnerships and state
87 agencies acting in collaboration with such partnerships that provide services to students and
88 their families linked to the school.

89 9. A charter school shall be eligible for transportation state aid pursuant to section
90 163.161 and shall be free to contract with the local district, or any other entity, for the
91 provision of transportation to the students of the charter school.

92 10. (1) The proportionate share of state and federal resources generated by students
93 with disabilities or staff serving them shall be paid in full to charter schools enrolling those
94 students by their school district where such enrollment is through a contract for services
95 described in this section. The proportionate share of money generated under other federal or
96 state categorical aid programs shall be directed to charter schools serving such students
97 eligible for that aid.

98 (2) A charter school shall provide the special services provided pursuant to section
99 162.705 and may provide the special services pursuant to a contract with a school district or
100 any provider of such services.

101 11. A charter school shall not charge tuition or impose fees that a school district is
102 prohibited from charging or imposing, except that a charter school may receive tuition
103 payments from districts in the same or an adjoining county for nonresident students who
104 transfer to an approved charter school, as defined in section 167.895, from an unaccredited
105 district.

106 12. A charter school is authorized to incur debt in anticipation of receipt of funds. A
107 charter school may also borrow to finance facilities and other capital items. A school district
108 may incur bonded indebtedness or take other measures to provide for physical facilities and
109 other capital items for charter schools that it sponsors or contracts with. Except as otherwise
110 specifically provided in sections 160.400 to 160.425, upon the dissolution of a charter school,
111 any liabilities of the corporation will be satisfied through the procedures of chapter 355. A
112 charter school shall satisfy all its financial obligations within twelve months of notice from
113 the sponsor of the charter school's closure under subsection 8 of section 160.405. After
114 satisfaction of all its financial obligations, a charter school shall return any remaining state
115 and federal funds to the department of elementary and secondary education for disposition as
116 stated in subdivision (17) of subsection 1 of section 160.405. The department of elementary
117 and secondary education may withhold funding at a level the department determines to be
118 adequate during a school's last year of operation until the department determines that school
119 records, liabilities, and reporting requirements, including a full audit, are satisfied.

120 13. Charter schools shall not have the power to acquire property by eminent domain.

121 14. The governing board of a charter school is authorized to accept grants, gifts or
122 donations of any kind and to expend or use such grants, gifts or donations. A grant, gift or
123 donation shall not be accepted by the governing board if it is subject to any condition contrary
124 to law applicable to the charter school or other public schools, or contrary to the terms of the
125 charter.

126 15. In addition to any state aid remitted to charter schools under this section, the
127 department of elementary and secondary education shall remit to any charter school an
128 amount equal to the weighted average daily attendance of the charter school multiplied by the
129 difference of:

130 (1) The amount of state aid and local aid per weighted average daily attendance
131 received by the school district in which the charter school is located, not including any funds
132 remitted to charter schools in the district. For the purposes of this subdivision, the weighted
133 average daily attendance of the school district shall not include the weighted average daily
134 attendance of the charter schools located in the district; and

135 (2) The amount of state aid and local aid per weighted average daily attendance of the
136 charter school received by the charter school.

137 16. Charter schools may adjust weighted average daily attendance pursuant to section
138 163.036.

139 17. When calculating the amounts in subdivisions (1) and (2) of subsection 15 of this
140 section, the department shall utilize the most current data to which the department has access.

141 18. For the purposes of subsection 15 of this section:

142 (1) The definitions contained in section 163.011, shall apply;

143 (2) The term "local aid" shall mean all local and county revenue received, including,
144 but not limited to, the following:

145 (a) Property taxes and delinquent taxes;

146 (b) Merchants' and manufacturers' tax revenues;

147 (c) Financial institutions' tax revenues;

148 (d) City sales tax revenue, including city sales tax collected in any city not within a
149 county;

150 (e) Payments in lieu of taxes; and

151 (f) Revenues from state-assessed railroad and utilities tax;

152 (3) The term local aid shall not be construed to include:

153 (a) Charitable contributions, gifts, and grants made to school districts;

154 (b) Interest earnings of school districts and student fees paid to school districts;

155 (c) Debt service authorized by a public vote for the purpose of making payments on a
156 bond issuance of a school district;

157 (d) Proposition C revenues received for school purposes from the school district trust
158 fund under section 163.087; or

159 (e) Any other funding solely intended for a particular school district or their
160 respective employees, schools, foundations, or organizations;

161 (4) The term "state aid" shall mean any revenues received pursuant to this section and
162 sections 163.043 and 163.087.

163 19. ~~Notwithstanding any other provision of law to the contrary, subsections 15 to 18~~
164 ~~of this section shall be applicable to charter schools operated only in the following school~~
165 ~~districts, provided that no such school district shall be located in a county with more than one~~
166 ~~hundred fifty thousand but fewer than two hundred thousand inhabitants:~~

167 ~~(1) In a metropolitan school district;~~

168 ~~(2) In an urban school district containing most or all of a city with more than four~~
169 ~~hundred thousand inhabitants and located in more than one county;~~

170 ~~(3) In a school district that has been classified as unaccredited by the state board of~~
171 ~~education;~~

172 ~~(4) In a school district that has been classified as provisionally accredited by the state~~
173 ~~board of education and has received scores on its annual performance report consistent with a~~

174 ~~classification of provisionally accredited or unaccredited for three consecutive school years~~
175 ~~beginning with the 2012-13 accreditation year under the conditions described in paragraphs~~
176 ~~(a) and (b) of subdivision (4) of subsection 2 of section 160.400; or~~

177 ~~(5) In a school district that has been accredited without provisions, sponsored only by~~
178 ~~the local school board under the conditions described in subdivision (6) of subsection 2 of~~
179 ~~section 160.400.~~

180 ~~20.]~~ (1) The members of the governing board of a charter school shall be residents of
181 the state of Missouri.

182 (2) Any current member of a governing board of a charter school who does not meet
183 the requirements in subdivision (1) of this subsection may complete their term. Such
184 individual shall not be renominated as a member of the governing board on which he or she
185 sits.

186 ~~[21.]~~ **20.** (1) Any charter school management company operating a charter school in
187 the state shall be a nonprofit corporation incorporated pursuant to chapter 355.

188 (2) Notwithstanding any provision of law to the contrary, if a charter school is
189 operated by a charter school management company, all laws and regulations that apply to
190 employees of such charter school shall apply to the actions of any employees of the
191 management company while they are conducting any work relating to the direct decision-
192 making of the operation of such charter school.

193 ~~[22.]~~ **21.** Beginning July 1, 2023, the provisions of section 160.995 shall be
194 applicable to charter schools.

195 ~~[23.]~~ **22.** Each charter school shall publish its annual performance report on the
196 school's website in a downloadable format.

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