

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 729

90TH GENERAL ASSEMBLY

Reported from the Committee on Education, February 17, 2000, with recommendation that the Senate Committee Substitute do pass.

2296S.06C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 105.269, 160.400, 160.405, 160.410, 160.415 and 160.420, RSMo Supp. 1999, relating to charter schools, and to enact in lieu thereof six new sections relating to the same subject.

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

Section A. Sections 105.269, 160.400, 160.405, 160.410, 160.415 and 160.420, RSMo Supp. 1999, are repealed and six new sections enacted in lieu thereof, to be known as sections 105.269, 160.400, 160.405, 160.410, 160.415 and 160.420, to read as follows:

105.269. 1. Any [metropolitan] school district [who has individuals who work in said district which are employed by the state of Missouri who participate in the volunteer tutoring program as provided in said section] **in which charter schools may be established pursuant to sections 160.400 to 160.420, RSMo**, and which has at least a five percent shortage of certified teachers may apply to the department of elementary and secondary education for waivers to allow retired teachers to teach in said [metropolitan] school district for up to two years without losing his or her retirement benefits. Said retired teacher need not be in the teacher's salary scale. Said [metropolitan] school district shall place an emphasis on hiring retired teachers to teach in areas that include but are not limited to, improving student reading, which may include elementary remedial reading and the "Read to be Ready Program" as established [under this act] **pursuant to sections 167.340 to 167.349, RSMo**, math, science and special education.

2. The department of elementary and secondary education shall adopt rules to implement the provisions of this section.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

created under the authority delegated in this section and section 167.640, RSMo, shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and section 167.640, RSMo, and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

160.400. 1. A charter school is an independent, publicly supported school.

2. **Except as otherwise provided pursuant to this section**, 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 **or any school district containing territory formerly contained in any school district in which charter schools were authorized to be established pursuant to this section** 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 containing all or a portion of the 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.

3. A maximum of **[five] ten** percent of the school buildings **[currently in use] used** for **public school** instructional purposes in a district **during the preceding school year** may, **at the discretion of the local school board**, be converted to charter schools. This limitation does not apply to vacant buildings or buildings not used for instructional purposes.

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

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

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

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

charter school.

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

9. There is hereby established in the state treasury the "Charter School Sponsor Oversight Fund". The fund shall receive moneys remitted pursuant to subdivision (6) of subsection 2 of section 160.415. The department of elementary and secondary education shall establish, by rule, and administer a grant-based funding program for reimbursing costs of school districts and higher education institutions sponsoring charter schools pursuant to this section. The program shall be funded from the charter school sponsor oversight fund. Grant applications may be submitted by any school district or institution which is sponsoring a charter school pursuant to this section. The grant application shall meet the requirements established pursuant to this section which shall include, at a minimum, demonstration of implementation of all requirements of sections 160.400 to 160.420 with regard to charter schools sponsored by the district or institution. Grant awards to applicants shall be based upon the number of Missouri charter schools sponsored by the applicant, the enrollment at such schools and the degree to which the sponsor has implemented the requirements of sections 160.400 to 160.420, as determined pursuant to rule. If the funding is insufficient in any year to fund all eligible, fundable grant applications, all grant awards shall be uniformly prorated until the total amount of grant awards matches the available funds. Any available funding in excess of the total of eligible, fundable grant applications shall be retained in the fund the following year and counted as current year remitted funds for the purpose of reducing the rate of remittance pursuant to subdivision (6) of subsection 2 of section 160.415.

[9.] 10. 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.

11. No sponsor shall grant a charter pursuant to sections 160.400 to 160.420 without ensuring that a criminal background check and child abuse registry check are conducted for all members of the board of directors 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 child abuse registry check are conducted for each member of the board of directors of the charter school.

12. The department of elementary and secondary education shall provide for board member training for new members of charter school boards of directors. The training shall be specifically designed to address the educational needs of charter school board members. This subsection shall not be construed to require any charter school board member to attend any training offered pursuant to this subsection.

13. No member of the board of directors of a charter school shall hold any office or employment from the board or the charter school while a member of the board nor have any financial interest in any entity employed by or contracting with the board.

14. No school district or other entity may use any state funds whatsoever, directly or indirectly, in support of any action challenging the constitutionality of sections 160.400 to 160.420.

15. A sponsor shall provide timely submission to the state board of education of all data necessary, as specified by rule of the state board of education to demonstrate that the sponsor is in compliance with all requirements of sections 160.400 to 160.420. Any sponsor found to have violated sections 160.400 to 160.420 may, for the first violation and shall, for all subsequent violations, have its authority to approve new charters suspended pursuant to rule of the state board of education for a period of up to four years.

16. For school years 2001-02 through 2005-06, no new charter schools may be established in a district in a school year if the fraction of pupils enrolled in charter schools in the district exclusive of students who are re-enrolled dropouts, as that fraction is determined by the state board, at the commencement of the preceding school year exceeded fifteen percent.

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 the state board of education, [when] 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; and
- (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.

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

(1) A charter application shall be provided to a proposed sponsor no later than October first in order for a charter school to be eligible to begin operation in the following school year. The proposed sponsor shall forward a copy of the charter application to the state board of education and to the school board of the district if the proposed sponsor is not a school board within five business days of receipt of the application;

[(1)] **(2)** 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 shall be made within [sixty] **ninety** days of the filing of the proposed charter;

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

[(3)] **(4)** If a proposed charter is denied by a sponsor, the proposed charter may be submitted to the state board of education, along with the sponsor's written reasons for its denial. If the state board determines that the applicant meets the requirements of this section and that granting a charter to the applicant would be likely to provide educational benefit to the children of the district, the state board may grant a charter and act as sponsor of the charter school. **The state board shall review the proposed charter and make a determination of whether to deny or grant the proposed charter within sixty days of receipt of the proposed charter;** and

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

3. If a charter is approved by a sponsor, it shall be submitted to the state board of education which may, within **[forty-five] sixty** days, disapprove the granting of the charter. The state board of education may disapprove a charter only on grounds that the application fails to meet the requirements of sections 160.400 to 160.420.

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

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

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

(2) Comply with laws and regulations of the state relating to health, safety, and minimum educational standards;

(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, **publish audit reports and annual financial reports as provided pursuant to chapter 165, RSMo**, and 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] **employ** 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 **which shall also include a complete report of the results of background checks and of the charter school's board members**, 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, **but the academic performance of resident students of the charter school shall be considered to the same extent that the academic performance of other resident students educated by the school district is considered in the Missouri school improvement program review of the school district.** 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;

(8) Provide, in a timely fashion, all information necessary to confirm on-going compliance with all provisions of the charter and sections 160.400 to 160.420 as specified by rule of the state board of education.

6. The charter of a charter school may be amended at the request of the governing body of the charter school and on the approval of the sponsor. The sponsor and the governing board and staff of the charter school shall jointly review the school's performance, management and operations at least once every two years.

7. (1) A sponsor may revoke a charter at any time if the charter school commits a serious breach of one or more provisions of its charter or on any of the following grounds: failure to meet academic performance standards as set forth in its charter, failure to meet generally accepted standards of fiscal management, **failure to provide in a timely fashion information necessary to confirm compliance with all provisions of the charter and sections 160.400 to 160.420** or violation of law.

(2) The sponsor may place the charter school on probationary status to allow the implementation of a remedial plan, after which, if such plan is unsuccessful, the charter may be revoked. **The sponsor may require the remedial plan to provide for a change in**

methodology or leadership, or both.

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

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

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

8. A sponsor shall take all steps necessary to on-goingly confirm each charter school sponsored by such sponsor is in compliance with all provisions of the charter and sections 160.400 to 160.420.

[8.] **9.** A school district may enter into a lease with a charter school for physical facilities. A charter school may not be located on the property of a school district unless the district governing board agrees.

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

11. Any charter school board member, officer or employee who willfully neglects or refuses to perform any duty imposed upon such person pursuant to sections 160.400 to 160.420, or who willfully violates any provision of sections 160.400 to 160.420, is guilty of a misdemeanor and on conviction shall be punished by a fine of not more than five hundred dollars or by imprisonment in the county jail not to exceed one year.

160.410. 1. A charter school shall enroll all pupils resident in the district in which it operates or eligible to attend a district's school under an urban voluntary transfer program who submit a timely application, unless the number of applications exceeds the capacity of a program, class, grade level or building. If capacity is insufficient to enroll all pupils who submit a timely application, the charter school shall have an admissions process that assures all applicants of an

equal chance of gaining admission except that:

(1) A charter school may establish a geographical area around the school whose residents will receive a preference for enrolling in the school, provided that such preferences do not result in the establishment of racially or socioeconomically isolated schools and provided such preferences conform to policies and guidelines established by the state board of education; [and]

(2) A charter school may also give a preference for admission of children whose siblings attend the school or whose parents are employed at the school; **and**

(3) Beginning with the 2001-2002 school year, charter schools shall ensure that their enrollment policy does not result in a student enrollment with a fraction of pupils eligible for free or reduced price lunch which is lower than thirty percentage points below the district-wide average fraction.

2. A charter school shall not limit admission based on race, ethnicity, national origin, disability, gender, income level, proficiency in the English language or athletic ability, but may limit admission to pupils within a given age group or grade level.

3. The department of elementary and secondary education shall commission a study of the performance of students at each charter school in comparison with a comparable group and a study of the impact of charter schools upon the districts in which they are located, to be conducted by a contractor selected through a request for proposal. The department of elementary and secondary education shall reimburse the contractor from funds appropriated by the general assembly for the purpose. The study of a charter school's student performance in relation to a comparable group shall be designed to provide information that would allow parents and educators to make valid comparisons of academic performance between the charter school's students and a group of students comparable to the students enrolled in the charter school. The impact study shall be undertaken every two years to determine the effect of charter schools on education stakeholders in the districts where charter schools are operated. The impact study may include, but is not limited to, determining if changes have been made in district policy or procedures attributable to the charter school and to perceived changes in attitudes and expectations on the part of district personnel, school board members, parents, students, the business community and other education stakeholders. The department of elementary and secondary education shall make the results of the studies public and shall deliver copies to the governing boards of the charter schools, the sponsors of the charter [school] **schools**, the school board and superintendent of the districts in which the charter schools are operated.

4. A charter school shall make available for public inspection, free of charge, and provide upon request, to any school-age pupil resident in the district in which the school is located and to the parent, guardian or other custodian of any such student, the following information:

(1) The school's charter; and

(2) The school's most recent annual report card published pursuant to section 160.522. The charter school may charge reasonable fees for furnishing copies of documents pursuant to this subsection.

160.415. 1. For the purposes of calculation and distribution of state school aid under section 163.031, RSMo, pupils enrolled in a charter school shall be included in the pupil enrollment of the school district within which each pupil resides. Each charter school shall report the names, addresses, and eligibility for free or reduced-price lunch or other categorical aid, of pupils resident in a school district who are enrolled in the charter school to the school district in which those pupils reside and to the state department of elementary and secondary education. Each charter school shall promptly notify the state department of elementary and secondary education and the pupil's school district when a student discontinues enrollment at a charter school.

2. (1) **Except as provided in subdivision (6) of this subsection**, a school district having one or more resident pupils attending a charter school shall pay to the charter school an annual amount equal to the product of the equalized, adjusted operating levy for school purposes for the pupils' district of residence for the current year times the guaranteed tax base per eligible pupil, as defined in section 163.011, RSMo, times the number of the district's resident pupils attending the charter school plus all other state aid attributable to such pupils, including summer school, if applicable, and all aid provided pursuant to section 163.031, RSMo.

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

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

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

(5) The per-pupil amount paid by a school district to a charter school shall be reduced by the amount per pupil determined by the state board of education to be needed by the district in the current year for repayment of leasehold revenue bonds obligated pursuant to a federal court desegregation action.

(6) One-half of one percent of the amount specified to be paid pursuant to this subsection shall be remitted to the state treasurer for deposit in the charter school sponsor oversight fund established pursuant to section 160.400, provided that the percentage remitted shall be reduced each year by the state board of education by rule to the extent necessary to ensure that the total amount remitted in the current school year equals five hundred thousand dollars as nearly as is practicable.

3. If a school district fails to make timely payments of any amount for which it is the disbursal agent, the state department of elementary and secondary education shall authorize

payment to the charter school of the amount due pursuant to subsection 2 of this section and shall deduct the same amount from the next state school aid apportionment to the owing school district. If a charter school is paid more or less than the amounts due pursuant to subsection 2 of this section, the amount of overpayment or underpayment shall be adjusted in its next payment by the school district or the department of elementary and secondary education, as appropriate. Any dispute between the school district and a charter school as to the amount owing to the charter school shall be resolved by the department of elementary and secondary education, and the department's decision shall be the final administrative action for the purposes of review pursuant to chapter 536, RSMo.

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

5. A charter school may enter into contracts with community partnerships and state agencies acting in collaboration with such partnerships that provide services to children and their families linked to the school.

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

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

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

8. A charter school may not charge tuition, nor may it impose fees that a school district is prohibited from imposing.

9. A charter school is authorized to incur debt in anticipation of receipt of funds. A charter school may also borrow to finance facilities and other capital items. A school district may incur bonded indebtedness or take other measures to provide for physical facilities and other capital items for charter schools that it sponsors or contracts with. Upon the dissolution of a charter school, any liabilities of the corporation will be satisfied through the procedures of chapter 355, RSMo.

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

11. The governing body of a charter school is authorized to accept grants, gifts or donations of any kind and to expend or use such grants, gifts or donations. A grant, gift or donation may not be accepted by the governing body if it is subject to any condition contrary to law applicable to the charter school or other public schools, or contrary to the terms of the charter.

160.420. 1. If a charter school offers to retain the services of an employee of a school district, and the employee [accepts a position at the charter school, the contract between the charter school and the school district may provide that an employee at the employee's option may remain an employee of the district and] **chooses to remain an employee of the district and provides written notice to the school board holder from July first of the school year,** the charter school shall pay to the district the district's full costs of salary and benefits provided to the employee. A teacher who accepts a position at a charter school and opts to remain an employee of the district retains such teacher's permanent teacher status and seniority rights in the district **for two school years.** The school district shall not be liable for any such employee's acts while an employee of the charter school.

2. A charter school may employ noncertificated instructional personnel; provided that no more than twenty percent of the full-time equivalent instructional staff positions at the school are filled by noncertificated personnel. All noncertificated instructional personnel shall be supervised by certified instructional personnel. The charter school shall ensure that all instructional employees of the charter school have experience, training and skills appropriate to the instructional duties of the employee, and the charter school shall ensure that a criminal background check and child abuse registry check are conducted for each employee of the charter school prior to the hiring of the employee. Appropriate experience, training and skills of noncertificated instructional personnel shall be determined considering:

- (1) Teaching certificates issued by another state or states;
- (2) Certification by the National Standards Board;
- (3) College degrees in the appropriate field;
- (4) Evidence of technical training and competence when such is appropriate; and
- (5) Level of supervision and coordination with certificated instructional staff.

3. Personnel employed by the charter school [shall] **may, at the employee's option,** participate in the retirement system of the school district in which the charter school is located, subject to the same terms, conditions, requirements and other provisions applicable to personnel employed by the school district.