

SECOND REGULAR SESSION

SENATE BILL NO. 729

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOUSE.

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TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 105.269, 160.400, 160.405 and 160.420, RSMo Supp. 1999, relating to charter schools, and to enact in lieu thereof four 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Section A. Sections 105.269, 160.400, 160.405 and 160.420, RSMo Supp. 1999, are repealed and four new sections enacted in lieu thereof, to be known as sections 105.269, 160.400, 160.405 and 160.420, to read as follows: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.

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

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is 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. 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] **twenty** percent of the school buildings [currently in use] **used for public school** instructional purposes in a district **during the preceding school year** may 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] **means** a relationship between the charter school and the [college or university] **affiliated institution** for purposes [of] **which shall include, at a minimum, oversight**, teacher training and staff development, curriculum and assessment development, **and providing classroom experience to students attending the affiliated institution and may include** 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. **The department of elementary and secondary education shall establish, by rule, and administer a grant-based funding program for reimbursing costs of higher education institutions affiliated with charter schools pursuant to this section. The program shall be funded from the increase in total higher education state appropriations from the 1999-2000 school year to the current school year, and an amount equal to the following amount shall be transferred annually from such appropriations to fund the program: one percent of the total amount of operating revenues provided to charter schools pursuant to section 160.415 for the preceding school year; provided that the amount shall be no less than one hundred thousand dollars and no greater than five hundred thousand dollars, for any school year. Grant applications may be submitted by any institution which is affiliated with a charter school pursuant to subsection 8 of this section. The grant application shall meet the requirements established pursuant to this section which shall include, at a minimum, demonstration of accomplishment of all aspects of affiliation status as provided pursuant to subsection 8 of this section. Grant awards to applicants shall be based upon the number of Missouri charter schools with which an applicant is affiliated, the enrollment at such schools and the degree to which the applicant has achieved affiliation status, 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 transferred to the general revenue fund on June thirtieth of the school year.

[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.**

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.**

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, when 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 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 days of the filing of the proposed charter;

(2) If the charter is denied, the proposed sponsor shall notify the applicant in writing as to the reasons for its denial;

(3) 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) 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 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, report to its sponsor, the local school district, and the state board of education as to its teaching methods and any educational innovations and the results thereof, and provide data required for the study of charter schools pursuant to subsection 3 of section 160.410. No charter school will be considered in the Missouri school improvement program

review of the district in which it is located for the resource or process standards of the program. Nothing in this paragraph shall be construed as permitting a charter school to be held to lower performance standards than other public schools within a district; however, the charter of a charter school may permit students to meet performance standards on a different time frame as specified in its charter;

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

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, 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 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. 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.

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. 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 noncertified 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.

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