

FIRST REGULAR SESSION

SENATE BILL NO. 564

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SMITH.

Read 1st time February 26, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1974S.02I

AN ACT

To repeal section 160.405, RSMo, and to enact in lieu thereof one new section relating to charter schools.

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

Section A. Section 160.405, RSMo, is repealed and one new section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

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

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

20 (1) The educational goals and objectives to be achieved by the charter
21 school;

22 (2) A description of the charter school's educational program and
23 curriculum;

24 (3) The term of the charter, which shall be not less than five years, nor
25 greater than ten years and shall be renewable;

26 (4) A description of the charter school's pupil performance standards,
27 which must meet the requirements of subdivision (6) of subsection 5 of this
28 section. The charter school program must be designed to enable each pupil to
29 achieve such standards;

30 (5) A description of the governance and operation of the charter school,
31 including the nature and extent of parental, professional educator, and
32 community involvement in the governance and operation of the charter school;
33 and

34 (6) A description of the charter school's policies on student discipline and
35 student admission, which shall include a statement, where applicable, of the
36 validity of attendance of students who do not reside in the district but who may
37 be eligible to attend under the terms of judicial settlements.

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

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

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

47 (3) If a proposed charter is denied by a sponsor, the proposed charter may
48 be submitted to the state board of education, along with the sponsor's written
49 reasons for its denial. If the state board determines that the applicant meets the
50 requirements of this section, that the applicant is sufficiently qualified to operate
51 the charter school, and that granting a charter to the applicant would be likely
52 to provide educational benefit to the children of the district, the state board may
53 grant a charter and act as sponsor of the charter school. The state board shall
54 review the proposed charter and make a determination of whether to deny or
55 grant the proposed charter within sixty days of receipt of the proposed charter,

56 provided that any charter to be considered by the state board of education under
57 this subdivision shall be submitted no later than March first prior to the school
58 year in which the charter school intends to begin operations. The state board of
59 education shall notify the applicant in writing as the reasons for its denial, if
60 applicable; and

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

77 3. If a charter is approved by a sponsor, the charter application shall be
78 submitted to the state board of education, along with a statement of finding that
79 the application meets the requirements of sections 160.400 to 160.420 and section
80 167.439, RSMo, and a monitoring plan under which the charter sponsor will
81 evaluate the academic performance of students enrolled in the charter
82 school. The state board of education may, within sixty days, disapprove the
83 granting of the charter. The state board of education may disapprove a charter
84 on grounds that the application fails to meet the requirements of sections 160.400
85 to 160.420 and section 167.349, RSMo, or that a charter sponsor previously failed
86 to meet the statutory responsibilities of a charter sponsor.

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

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

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

92 (2) Comply with laws and regulations of the state, county, or city relating
93 to health, safety, and state minimum educational standards, as specified by the
94 state board of education, including the requirements relating to student discipline
95 under sections 160.261, 167.161, 167.164, and 167.171, RSMo, notification of
96 criminal conduct to law enforcement authorities under sections 167.115 to
97 167.117, RSMo, academic assessment under section 160.518, transmittal of school
98 records under section 167.020, RSMo, and the minimum number of school days
99 and hours required under section 160.041;

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

102 (4) Be financially accountable, use practices consistent with the Missouri
103 financial accounting manual, provide for an annual audit by a certified public
104 accountant, publish audit reports and annual financial reports as provided in
105 chapter 165, RSMo, provided that the annual financial report may be published
106 on the department of elementary and secondary education's Internet web site in
107 addition to other publishing requirements, and provide liability insurance to
108 indemnify the school, its board, staff and teachers against tort claims. A charter
109 school that receives local educational agency status under subsection 6 of this
110 section shall meet the requirements imposed by the Elementary and Secondary
111 Education Act for audits of such agencies. For purposes of an audit by petition
112 under section 29.230, RSMo, a charter school shall be treated as a political
113 subdivision on the same terms and conditions as the school district in which it is
114 located. For the purposes of securing such insurance, a charter school shall be
115 eligible for the Missouri public entity risk management fund pursuant to section
116 537.700, RSMo. A charter school that incurs debt must include a repayment plan
117 in its financial plan;

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

122 (6) (a) Design a method to measure pupil progress toward the pupil
123 academic standards adopted by the state board of education pursuant to section
124 160.514, collect baseline data during at least the first three years for determining
125 how the charter school is performing and to the extent applicable, participate in
126 the statewide system of assessments, comprised of the essential skills tests and
127 the nationally standardized norm-referenced achievement tests, as designated by

128 the state board pursuant to section 160.518, complete and distribute an annual
129 report card as prescribed in section 160.522, which shall also include a statement
130 that background checks have been completed on the charter school's board
131 members, report to its sponsor, the local school district, and the state board of
132 education as to its teaching methods and any educational innovations and the
133 results thereof, and provide data required for the study of charter schools
134 pursuant to subsection 4 of section 160.410. No charter school will be considered
135 in the Missouri school improvement program review of the district in which it is
136 located for the resource or process standards of the program.

137 (b) For proposed high risk or alternative charter schools, sponsors shall
138 approve performance measures based on mission, curriculum, teaching methods,
139 and services. Sponsors shall also approve comprehensive academic and
140 behavioral measures to determine whether students are meeting performance
141 standards on a different time frame as specified in that school's charter. Student
142 performance shall be assessed comprehensively to determine whether a high risk
143 or alternative charter school has documented adequate student progress. Student
144 performance shall be based on sponsor-approved comprehensive measures as well
145 as standardized public school measures. Annual presentation of charter school
146 report card data to the department of elementary and secondary education, the
147 state board, and the public shall include comprehensive measures of student
148 progress.

149 (c) Nothing in this paragraph shall be construed as permitting a charter
150 school to be held to lower performance standards than other public schools within
151 a district; however, the charter of a charter school may permit students to meet
152 performance standards on a different time frame as specified in its charter;

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

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

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

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

164 6. The charter of a charter school may be amended at the request of the
165 governing body of the charter school and on the approval of the sponsor. The
166 sponsor and the governing board and staff of the charter school shall jointly
167 review the school's performance, management and operations at least once every
168 two years or at any point where the operation or management of the charter
169 school is changed or transferred to another entity, either public or private. The
170 governing board of a charter school may amend the charter, if the sponsor
171 approves such amendment, or the sponsor and the governing board may reach an
172 agreement in writing to reflect the charter school's decision to become a local
173 educational agency for the sole purpose of seeking direct access to federal grants.
174 In such case the sponsor shall give the department of elementary and secondary
175 education written notice no later than March first of any year, with the
176 agreement to become effective July first. The department may waive the March
177 first notice date in its discretion. The department shall identify and furnish a list
178 of its regulations that pertain to local educational agencies to such schools within
179 thirty days of receiving such notice.

180 7. (1) A sponsor may revoke a charter at any time if the charter school
181 commits a serious breach of one or more provisions of its charter or on any of the
182 following grounds: failure to meet academic performance standards as set forth
183 in its charter, failure to meet generally accepted standards of fiscal management,
184 failure to provide information necessary to confirm compliance with all provisions
185 of the charter and sections 160.400 to 160.420 and 167.349, RSMo, within
186 forty-five days following receipt of written notice requesting such information, or
187 violation of law.

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

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

197 (4) The sponsor of a charter school shall establish procedures to conduct
198 administrative hearings upon determination by the sponsor that grounds exist to
199 revoke a charter. Final decisions of a sponsor from hearings conducted pursuant

200 to this subsection are subject to judicial review pursuant to chapter 536, RSMo.

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

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

207 8. A sponsor shall take all reasonable steps necessary to confirm that each
208 charter school sponsored by such sponsor is in material compliance and remains
209 in material compliance with all material provisions of the charter and sections
210 160.400 to 160.420 and 167.349, RSMo. Every charter school shall provide all
211 information necessary to confirm ongoing compliance with all provisions of its
212 charter and sections 160.400 to 160.420 and 167.349, RSMo, in a timely manner
213 to its sponsor.

214 9. **For any charter school that operates in the state and measures**
215 **student progress by using the Missouri assessment program, the**
216 **department of elementary and secondary education shall compare an**
217 **average of the student scores from the charter school's first and second**
218 **years of operation with an average of the student scores from the**
219 **charter school's sixth and seventh years of operation. If the average of**
220 **the scores from the sixth and seventh years of operation are worse than**
221 **the average from the first and second years of operation, the**
222 **department of elementary and secondary education shall conduct a**
223 **public hearing within sixty days. At such hearing, the charter school**
224 **may provide the department with a compelling reason as to why its**
225 **charter should not be revoked. After the public hearing, the**
226 **department shall have ninety days to make a recommendation to the**
227 **state board of education as to whether the charter school should be**
228 **placed under a two-year period of monitoring and probation. If the**
229 **state board of education determines that placing the charter school**
230 **under a two-year period of monitoring and probation is necessary, the**
231 **state board of education shall revoke the charter school's charter and**
232 **the school shall be closed at the end of the two-year period if the**
233 **student scores have not improved. If the state board of education**
234 **revokes a charter school's charter, the sponsor shall be prohibited from**
235 **becoming the sponsor of another charter school.**

236 **10.** A school district may enter into a lease with a charter school for
237 physical facilities.

238 **[10.] 11.** A governing board or a school district employee who has control
239 over personnel actions shall not take unlawful reprisal against another employee
240 at the school district because the employee is directly or indirectly involved in an
241 application to establish a charter school. A governing board or a school district
242 employee shall not take unlawful reprisal against an educational program of the
243 school or the school district because an application to establish a charter school
244 proposes the conversion of all or a portion of the educational program to a charter
245 school. As used in this subsection, "unlawful reprisal" means an action that is
246 taken by a governing board or a school district employee as a direct result of a
247 lawful application to establish a charter school and that is adverse to another
248 employee or an educational program.

249 **[11.] 12.** Charter school board members shall be subject to the same
250 liability for acts while in office as if they were regularly and duly elected
251 members of school boards in any other public school district in this state. The
252 governing board of a charter school may participate, to the same extent as a
253 school board, in the Missouri public entity risk management fund in the manner
254 provided under sections 537.700 to 537.756, RSMo.

255 **[12.] 13.** Any entity, either public or private, operating, administering,
256 or otherwise managing a charter school shall be considered a quasi-public
257 governmental body and subject to the provisions of sections 610.010 to 610.035,
258 RSMo.

259 **[13.] 14.** The chief financial officer of a charter school shall maintain a
260 surety bond in an amount determined by the sponsor to be adequate based on the
261 cash flow of the school.

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