

FIRST REGULAR SESSION

# SENATE BILL NO. 428

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EIGEL.

Read 1st time February 15, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1835S.011

## AN ACT

To repeal sections 160.400, 160.420, and 167.349, RSMo, and to enact in lieu thereof three new sections relating to charter schools, with a delayed effective date.

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

Section A. Sections 160.400, 160.420, and 167.349, RSMo, are repealed  
2 and three new sections enacted in lieu thereof, to be known as sections 160.400,  
3 160.420, and 167.349, 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  
3 schools may be 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  
6 population greater than three hundred fifty thousand inhabitants;  
7 (3) In a school district that has been classified as unaccredited by the  
8 state board of education;  
9 (4) In a school district that has been classified as provisionally accredited  
10 by the state board of education and has received scores on its annual performance  
11 report consistent with a classification of provisionally accredited or unaccredited  
12 for three consecutive school years beginning with the 2012-13 accreditation year  
13 under the following conditions:

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

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

19 provisional accreditation; and

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

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

34 3. [Except as further provided in subsection 4 of this section,] The  
35 following entities are eligible to sponsor charter schools:

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

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

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

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

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

59 (6) The Missouri charter public school commission created in section  
60 160.425.

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

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

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

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

78 A charter school operating in [a] **any** school district [identified in subdivision (1)  
79 or (2) of subsection 2 of this section] may be sponsored by any of the entities  
80 identified in subsection 3 of this section[, irrespective of the accreditation  
81 classification of the district in which it is located]. A charter school [in a district  
82 described in this subsection] whose charter provides for the addition of grade  
83 levels in subsequent years may continue to add levels until the planned  
84 expansion is complete to the extent of grade levels in comparable schools of the  
85 district in which the charter school is operated.

86 5. The mayor of a city not within a county may request a sponsor under  
87 subdivision (2), (3), (4), (5), or (6) of subsection 3 of this section to consider  
88 sponsoring a "workplace charter school", which is defined for purposes of sections  
89 160.400 to 160.425 as a charter school with the ability to target prospective  
90 students whose parent or parents are employed in a business district, as defined

91 in the charter, which is located in the city.

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

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

98           8. As a nonprofit corporation incorporated pursuant to chapter 355, the  
99 charter school shall select the method for election of officers pursuant to section  
100 355.326 based on the class of corporation selected. Meetings of the governing  
101 board of the charter school shall be subject to the provisions of sections 610.010  
102 to 610.030.

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

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

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

126           (1) Expends no less than ninety percent of its charter school sponsorship

127 funds in support of its charter school sponsorship program, or as a direct  
128 investment in the sponsored schools;

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

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

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

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

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

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

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

155 15. No member of the governing board of a charter school shall hold any  
156 office or employment from the board or the charter school while serving as a  
157 member, nor shall the member have any substantial interest, as defined in  
158 section 105.450, in any entity employed by or contracting with the board. No  
159 board member shall be an employee of a company that provides substantial  
160 services to the charter school. All members of the governing board of the charter  
161 school shall be considered decision-making public servants as defined in section  
162 105.450 for the purposes of the financial disclosure requirements contained in

163 sections 105.483, 105.485, 105.487, and 105.489.

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

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

171 (2) The granting of a charter;

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

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

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

183 (6) Procedures to be implemented if a charter school should close,  
184 consistent with the provisions of subdivision (15) of subsection 1 of section  
185 160.405.

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

188 17. (1) A sponsor shall provide timely submission to the state board of  
189 education of all data necessary to demonstrate that the sponsor is in material  
190 compliance with all requirements of sections 160.400 to 160.425 and section  
191 167.349. The state board of education shall ensure each sponsor is in compliance  
192 with all requirements under sections 160.400 to 160.425 and 167.349 for each  
193 charter school sponsored by any sponsor. The state board shall notify each  
194 sponsor of the standards for sponsorship of charter schools, delineating both what  
195 is mandated by statute and what best practices dictate. The state board shall  
196 evaluate sponsors to determine compliance with these standards every three  
197 years. The evaluation shall include a sponsor's policies and procedures in the  
198 areas of charter application approval; required charter agreement terms and

199 content; sponsor performance evaluation and compliance monitoring; and charter  
200 renewal, intervention, and revocation decisions. Nothing shall preclude the  
201 department from undertaking an evaluation at any time for cause.

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

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

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

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

160.420. 1. [Any] **Each** school district [in which charter schools may be  
2 established under sections 160.400 to 160.425] shall establish a uniform policy  
3 which provides that if a charter school offers to retain the services of an employee  
4 of a school district, and the employee accepts a position at the charter school, an  
5 employee at the employee's option may remain an employee of the district and the  
6 charter school shall pay to the district the district's full costs of salary and  
7 benefits provided to the employee. The district's policy shall provide that any  
8 teacher who accepts a position at a charter school and opts to remain an employee

9 of the district retains such teacher's permanent teacher status and retains such  
10 teacher's seniority rights in the district for three years. The school district shall  
11 not be liable for any such employee's acts while an employee of the charter school.

12 2. A charter school may employ noncertificated instructional personnel;  
13 provided that no more than twenty percent of the full-time equivalent  
14 instructional staff positions at the school are filled by noncertificated personnel.  
15 All noncertificated instructional personnel shall be supervised by certificated  
16 instructional personnel. A charter school that has a foreign language immersion  
17 experience as its chief educational mission, as stated in its charter, shall not be  
18 subject to the twenty-percent requirement of this subsection but shall ensure that  
19 any teachers whose duties include instruction given in a foreign language have  
20 current valid credentials in the country in which such teacher received his or her  
21 training and shall remain subject to the remaining requirements of this  
22 subsection. The charter school shall ensure that all instructional employees of  
23 the charter school have experience, training and skills appropriate to the  
24 instructional duties of the employee, and the charter school shall ensure that a  
25 criminal background check and family care safety registry check are conducted  
26 for each employee of the charter school prior to the hiring of the employee under  
27 the requirements of section 168.133. The charter school may not employ  
28 instructional personnel whose certificate of license to teach has been revoked or  
29 is currently suspended by the state board of education. Appropriate experience,  
30 training and skills of noncertificated instructional personnel shall be determined  
31 considering:

- 32 (1) Teaching certificates issued by another state or states;  
33 (2) Certification by the National Board for Professional Teaching  
34 Standards;  
35 (3) College degrees in the appropriate field;  
36 (4) Evidence of technical training and competence when such is  
37 appropriate; and  
38 (5) The level of supervision and coordination with certificated  
39 instructional staff.

40 3. Personnel employed by the charter school shall participate in the  
41 retirement system of the school district in which the charter school is located,  
42 subject to the same terms, conditions, requirements and other provisions  
43 applicable to personnel employed by the school district. For purposes of  
44 participating in the retirement system, the charter school shall be considered to

45 be a public school within the school district, and personnel employed by the  
46 charter school shall be public school employees. In the event of a lapse of the  
47 school district's corporate organization as described in subsections 1 and 4 of  
48 section 162.081, personnel employed by the charter school shall continue to  
49 participate in the retirement system and shall do so on the same terms,  
50 conditions, requirements and other provisions as they participated prior to the  
51 lapse.

167.349. In any school district to which any provisions of sections 167.340  
2 to 167.346 apply [and in which district charter schools may be established  
3 pursuant to section 160.400], any state college or university which provides  
4 educational programs to any part of such district and any campus of the state  
5 university located in a county of the third classification may sponsor one or more  
6 charter schools pursuant to section 160.400 and, in addition to the purposes for  
7 which charter schools may be established pursuant to sections 160.400 to 160.420,  
8 such charter schools may be established to emphasize remediation of reading  
9 deficiencies.

Section B. Section A of this act shall become effective July 1, 2018.

Bill ✓

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