

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 218

101ST GENERAL ASSEMBLY

0450S.03C

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 160.415, 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Section A. Section 160.415, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 160.415,
3 to read as follows:

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

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

the pupil's school district when a student discontinues enrollment at a charter school.

2. **This subsection shall apply to all school years ending on or before June 30, 2021.** Except as provided in subsections 3 and 4 of this section, the aid payments for charter schools shall be as described in this subsection.

(1) 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 charter school's weighted average daily attendance and the state adequacy target, multiplied by the dollar value modifier for the district, plus local tax revenues per weighted average daily attendance from the incidental and teachers' funds in excess of the performance levy as defined in section 163.011 plus all other state aid attributable to such pupils.

(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] **pupil**.

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

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

(5) A school district shall pay the amounts due pursuant to this subsection as the disbursal agent and no later than twenty days following the receipt of any such funds. The department of elementary and secondary education shall pay the amounts due when it acts as the disbursal agent within five days of the required due date.

49 **3. This subsection shall apply to all school years**
50 **ending on or before June 30, 2021.** A workplace charter
51 school shall receive payment for each eligible pupil as
52 provided under subsection 2 of this section, except that if
53 the student is not a resident of the district and is
54 participating in a voluntary interdistrict transfer program,
55 the payment for such pupils shall be the same as provided
56 under section 162.1060.

57 **4. This subsection shall apply to all school years**
58 **ending on or before June 30, 2021.** A charter school that
59 has declared itself as a local educational agency shall
60 receive from the department of elementary and secondary
61 education an annual amount equal to the product of the
62 charter school's weighted average daily attendance and the
63 state adequacy target, multiplied by the dollar value
64 modifier for the district, plus local tax revenues per
65 weighted average daily attendance from the incidental and
66 teachers funds in excess of the performance levy as defined
67 in section 163.011 plus all other state aid attributable to
68 such pupils. If a charter school declares itself as a local
69 educational agency, the department of elementary and
70 secondary education shall, upon notice of the declaration,
71 reduce the payment made to the school district by the amount
72 specified in this subsection and pay directly to the charter
73 school the annual amount reduced from the school district's
74 payment.

75 **5. This subsection shall apply to all school years**
76 **ending on or before June 30, 2021.** If a school district
77 fails to make timely payments of any amount for which it is
78 the disbursal agent, the state department of elementary and
79 secondary education shall authorize payment to the charter
80 school of the amount due pursuant to subsection 2 of this

81 section and shall deduct the same amount from the next state
82 school aid apportionment to the owing school district. If a
83 charter school is paid more or less than the amounts due
84 pursuant to this section, the amount of overpayment or
85 underpayment shall be adjusted equally in the next twelve
86 payments by the school district or the department of
87 elementary and secondary education, as appropriate. Any
88 dispute between the school district and a charter school as
89 to the amount owing to the charter school shall be resolved
90 by the department of elementary and secondary education, and
91 the department's decision shall be the final administrative
92 action for the purposes of review pursuant to chapter 536.
93 During the period of dispute, the department of elementary
94 and secondary education shall make every administrative and
95 statutory effort to allow the continued education of
96 children in their current public charter school setting.

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

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

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

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

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

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

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

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

8. 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.

144 9. A charter school shall be eligible for
145 transportation state aid pursuant to section 163.161 and
146 shall be free to contract with the local district, or any
147 other entity, for the provision of transportation to the
148 students of the charter school.

149 10. (1) The proportionate share of state and federal
150 resources generated by students with disabilities or staff
151 serving them shall be paid in full to charter schools
152 enrolling those students by their school district where such
153 enrollment is through a contract for services described in
154 this section. The proportionate share of money generated
155 under other federal or state categorical aid programs shall
156 be directed to charter schools serving such students
157 eligible for that aid.

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

162 11. A charter school [may] **shall** not charge tuition or
163 impose fees that a school district is prohibited from
164 charging or imposing, except that a charter school may
165 receive tuition payments from districts in the same or an
166 adjoining county for nonresident students who transfer to an
167 approved charter school, as defined in section 167.895, from
168 an unaccredited district.

169 12. A charter school is authorized to incur debt in
170 anticipation of receipt of funds. A charter school may also
171 borrow to finance facilities and other capital items. A
172 school district may incur bonded indebtedness or take other
173 measures to provide for physical facilities and other
174 capital items for charter schools that it sponsors or
175 contracts with. Except as otherwise specifically provided

in sections 160.400 to 160.425, upon the dissolution of a charter school, any liabilities of the corporation will be satisfied through the procedures of chapter 355. A charter school shall satisfy all its financial obligations within twelve months of notice from the sponsor of the charter school's closure under subsection 8 of section 160.405. After satisfaction of all its financial obligations, a charter school shall return any remaining state and federal funds to the department of elementary and secondary education for disposition as stated in subdivision (17) of subsection 1 of section 160.405. The department of elementary and secondary education may withhold funding at a level the department determines to be adequate during a school's last year of operation until the department determines that school records, liabilities, and reporting requirements, including a full audit, are satisfied.

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

14. The governing [body] **board** 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] **shall** not be accepted by the governing [body] **board** 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.

15. (1) **As used in this subsection, the following terms mean:**

(a) **"Department", the department of elementary and secondary education;**

(b) **"Local aid", all local and county revenue received by the school district and charter schools within the school district.**

208 a. The term "local aid" includes, but is not limited
209 to, the following:

- 210 (i) Property taxes and delinquent taxes;
- 211 (ii) Merchants' and manufacturers' tax revenues;
- 212 (iii) Financial institutions' tax revenues;
- 213 (iv) City sales tax revenue, including city sales tax
214 collected in any city not within a county;
- 215 (v) Payments in lieu of taxes;
- 216 (vi) Revenues from state-assessed railroad and
217 utilities tax; and
- 218 (vii) Any future aid.

219 b. The term "local aid" shall not be construed to
220 include charitable contributions, gifts, and grants made to
221 school districts and charter schools; interest earnings of
222 school districts and charter schools; student fees paid to
223 school districts and charter schools; debt service
224 authorized by a public vote for the purpose of making
225 payments on a bond issuance of a school district;
226 Proposition C revenues received for school purposes from the
227 school district trust fund under section 163.087; or any
228 other funding solely intended for a particular school
229 district or charter school and their respective employees,
230 schools, foundations, or organizations.

231 (2) Each charter school and each school district
232 responsible for distributing local aid to charter schools
233 under this subsection shall include as part of their annual
234 independent audit an audit of pupil residency, enrollment,
235 and attendance in order to verify pupil residency in the
236 school district or local education agency.

237 (3) A school district having one or more resident
238 pupils attending a charter school shall pay to the charter
239 school an annual amount equal to the product of the charter

240 school's weighted average daily attendance and the state
241 adequacy target, multiplied by the dollar value modifier for
242 the district, less the charter school's share of local
243 effort as defined in section 163.011 plus all other state
244 aid attributable to such pupils plus local aid received by
245 the school district divided by the total weighted average
246 daily attendance of the school district and all charter
247 schools within the school district per weighted average
248 daily attendance of the charter school.

249 (4) A charter school that has declared itself as a
250 local educational agency shall receive all state aid
251 calculated under this subsection from the department and all
252 local aid calculated under this subsection from the school
253 district. A charter school shall receive an annual amount
254 equal to the product of the charter school's weighted
255 average daily attendance and the state adequacy target,
256 multiplied by the dollar value modifier for the district,
257 less the charter school's share of local effort as defined
258 in section 163.011 plus all other state aid attributable to
259 such pupils plus local aid received by the school district
260 divided by the total weighted average daily attendance of
261 the school district and all charter schools within the
262 school district per weighted average daily attendance of the
263 charter school.

264 (5) (a) The school district shall withhold from the
265 January local effort payment received by the school
266 district, an annual administrative fee for the purpose of
267 supporting administrative costs the school district incurs
268 for charter schools operating within the school district.
269 The administrative fee shall be equal to one-fourth of one
270 percent of the sum of the prior year's state aid received by
271 the school district, the prior year's state aid received by

the charter schools within the school district, and the prior year's local aid received by the school district and the charter schools within the school district. As used in this paragraph, "state aid" shall mean the product of the school district's or charter school's weighted average daily attendance and the state adequacy target, multiplied by the dollar value modifier for the district, less the school district or charter school's share of local effort, as defined in section 163.011.

(b) On or before December thirty-first of each year, the school district shall transmit to the department the total annual local aid calculation described in subdivision (6) of this subsection. If the school district fails to transmit the annual local aid calculation to the department, the school district shall not withhold the administrative fee.

(c) The department shall calculate the administrative fee under the formula in this subdivision using data from the previous school year. On or before January fifteenth of the following year, the department shall transmit to the school district the calculation of the administrative fee and make such calculation publicly available on the department's website.

(6) Each month the school district shall calculate the amount of local aid received by the school district that is owed to the charter school by the school district under this subsection. The school district shall pay to the charter school the amount of local aid owed to the charter school, as calculated by the school district using the previous month's weighted average daily attendance of the charter school. If any payment of local aid is due, the school district shall make monthly payments on the twenty-first day

304 of each month or upon the closest business day beginning in
305 July of each year.

306 (a) If the school district fails to make timely
307 payment the department shall impose any penalty the
308 department deems appropriate.

309 (b) The school district shall, as part of its annual
310 audit as required by section 165.111, include a report
311 converting the local aid received from an accrual basis to a
312 cash basis. Such report shall be made publicly available on
313 its district website in a searchable format or as a
314 downloadable and searchable document.

315 (7) The department shall conduct an annual review of
316 any payments made in the previous fiscal year under
317 subdivision (5) of this subsection to determine if there has
318 been any underpayment or overpayment. The annual review, to
319 be conducted in January of each year, shall include a
320 calculation of the amount of local aid owed to charter
321 schools using the first preceding year's annual audit
322 required by section 165.111. The school district shall pay
323 to the charter school the amount of local aid owed to the
324 charter school as calculated by the department. In the
325 event of an underpayment, the school district shall remit
326 the underpayment amount to the charter school. In the event
327 of an overpayment, the charter school shall remit the
328 overpayment amount to the school district.

329 (a) If the school district fails to remit any
330 underpayment amount to the charter school within thirty days
331 of notification of the underpayment amount, the department
332 shall impose any penalty the department deems appropriate.

333 (b) If the charter school fails to remit any
334 overpayment amount to the school district within thirty days

of notification of the overpayment amount, the department shall impose any penalty the department deems appropriate.

(8) If a prior year correction of the amount of local aid is necessary, the school district shall recalculate the amount owed to a charter school and either remit any underpayment amount to the charter school or provide a bill to the charter school for any overpayment amount. Any underpayment or overpayment amount shall be remitted under the schedules in paragraphs (a) and (b) of subdivision (6) of this subsection.

(9) (a) For the purposes of this subdivision, net cost for providing special educational services for the school district and each charter school within the school district shall be calculated as the total special educational services costs minus the total special educational services funding.

(b) For the purposes of this subdivision, total special educational services costs shall be calculated as the sum of the total cost of the following as reported on the annual secretary of the board report for the school district and each charter school within the school district:

- a. Department-defined special education instruction;
- b. Tuition for special education programs;
- c. Health services;
- d. Psychology services;
- e. Speech and language services;
- f. Audiology services;
- g. Occupational therapy;
- h. Physical therapy;
- i. Visually impaired services; and
- j. Special education transportation services.

(c) For the purposes of this subdivision, total special educational services funding shall be calculated as the sum of the state aid and local effort per weighted average daily attendance for the school district and the sum of the state aid and local aid per weighted average daily attendance for the charter schools within the school district multiplied by the total number of students with an individualized educational plan as reported in December to the department, plus any funds received under section 162.974, plus any funds received under the federal Individuals with Disabilities Education Act, plus any additional weighted state aid funds received as a result of serving a percentage of special education students that exceeds the special educational threshold as defined in 163.011. As used in this subdivision, "school district state aid" shall mean the product of the school district's weighted average daily attendance and the state adequacy target, multiplied by the dollar value modifier for the district, less the school district's share of local effort as defined in section 163.011. As used in this subdivision, "charter school state aid" shall mean the product of the charter school's weighted average daily attendance and the state adequacy target, multiplied by the dollar value modifier for the district, less the charter school's share of local effort as defined in section 163.011.

(d) Each school district that has charter schools operating within the school district and each charter school shall, as part of the annual audit provided to the department, report the number of students with an individualized education plan, the costs incurred for providing special educational services as described in paragraph (b) of this subdivision, the amount of funds

398 reimbursed under section 162.974, and the amount of funds
399 received under the federal Individuals with Disabilities
400 Education Act.

401 (e) On or before February fourteenth of each year, the
402 department shall calculate for each school district that has
403 charter schools operating within the school district and for
404 each charter school the net cost for providing special
405 educational services. The department shall transmit such
406 calculations to the charter school or school district and
407 make such calculations publicly available on the
408 department's website.

409 (f) The February local aid payment to charter schools
410 within the school district shall be paid from the total
411 local aid funds received in January by the school district.
412 The February local aid payment per weighted average daily
413 attendance to charter schools within the school district
414 shall be calculated as follows:

415 a. The school district shall withhold the
416 administrative fee described in paragraph (a) of subdivision
417 (5) of this subsection from the total local aid funds
418 received in January by the school district;

419 b. After withholding the administrative fee, the
420 school district shall withhold from the remaining local aid
421 funds an amount equal to the school district's prior year
422 net cost for providing special educational services only if
423 the school district is determined to have a positive net
424 cost by the department under paragraph (e) of this
425 subdivision;

426 c. After withholding the administrative fee, the
427 school district shall withhold from the remaining local aid
428 funds an amount equal to the sum of the prior year net cost
429 for providing special educational services for charter

430 schools within the school district for charter schools
431 determined to have a positive net cost by the department
432 under paragraph (e) of this subdivision. No later than
433 February twenty-eighth of each year the school district
434 shall distribute funds under this subparagraph to each
435 charter school determined to have a positive net cost, an
436 amount equal to such charter school's positive net cost;

437 d. After withholding the administrative fee and
438 special education funds under subparagraphs a., b., and c.,
439 of this paragraph, the school district shall divide the
440 remaining local aid funds by the sum of the current year
441 estimated weighted average daily attendance for January of
442 the school district plus the sum of the current year
443 estimated weighted average daily attendance for January of
444 all charter schools within the school district; and

445 e. To determine the amount of the February local aid
446 payment to each charter school within the school district,
447 the school district shall multiply the value calculated in
448 subparagraph d. of this paragraph by the current year
449 estimated weighted average daily attendance for January for
450 each charter school within the school district. The school
451 district shall distribute the February local aid payment to
452 each charter school within the school district on or before
453 February twenty-eighth.

454 (g) The department shall adjust the net cost for
455 providing special educational services for each charter
456 school and each school district that has charter schools
457 operating within the school district based on the report
458 required in paragraph (d) of this subdivision for reasons
459 including, but not limited to, underreporting or
460 overreporting the number of students with an individualized
461 educational plan or the cost to provide services to students

with an individualized educational plan, failure to draw down funds under section 162.974, failure to draw down or accrue for within the applicable fiscal year all funds to which the charter school or school district is entitled under the federal Individuals with Disabilities Education Act, and costs determined by the department to be excessive relative to the special educational services provided.

(h) Any funds received by the school district or charter school under this subdivision shall not be considered when calculating a withholding or payment in paragraph (f) of this subdivision in the subsequent year.

(i) This subdivision shall apply beginning on February 1, 2024.

(10) This subsection shall become effective on July 1, 2022.

16. The department may promulgate rules for the annual review of payments and any penalties to be assessed under subsection 15 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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 the effective date of this act, shall be invalid and void.

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