

SECOND REGULAR SESSION

SENATE BILL NO. 789

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS FLOTRON, WIGGINS, HOUSE, YECKEL, KENNEY, CLAY
MUELLER, SCOTT, SIMS, EHLMANN, KINDER, KLARICH AND McKENNA.

Read 1st time January 21, 1998, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S3399.01I

AN ACT

To amend chapter 160, RSMo, by adding thereto five new sections relating to charter schools.

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

Section A. Chapter 160, RSMo, is amended by adding thereto five new sections, to be known as sections 160.600, 160.603, 160.606, 160.609 and 160.611, to read as follows:

160.600. 1. A charter school is an independent, publicly supported school. Charter schools may be established in any school district in the state.

2. (1) Charter schools may be sponsored in a metropolitan school district or an urban school district containing most or all of a city with a population greater than three hundred fifty thousand inhabitants by any of the following: the school board of the district, a four-year college or university located in Missouri with an approved teacher education program that meets regional or national standards of accreditation, a community college or the mayor of the city in which the district is located or primarily located.

(2) Charter schools may be sponsored in school districts not described in subdivision (1) of this subsection and which districts have an average four-year persistence to graduation rate of less than sixty-five percent for the three immediately preceding school years by any of the following: the school board of the district, a four-year college or university located in Missouri with an approved teacher education program that meets regional or national standards of accreditation or a community college.

(3) Charter schools may be sponsored in school districts not described in subdivision (1) of this subsection and which districts have an average four-year persistence to graduation rate of at least sixty-five percent for the three immediately

preceding school years only by the school board of the district.

3. 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.

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

5. A sponsor of a charter school, its agents and employees are not vicariously 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.

160.603. 1. A person, group or organization seeking to establish a charter school shall submit the proposed charter, as provided in subsection 3 of this section, to a sponsor. 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, and personnel qualifications, 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; and

(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 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 160.600 to 160.611.

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 160.600 to 160.611, be exempt from all laws and rules relating to schools, governing boards and school districts;

(4) Be financially accountable, provide for an annual audit by a certified public accountant, 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;

(5) Provide a comprehensive program of instruction for at least one grade or age group up to grade twelve including kindergarten and early childhood education, 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 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 and 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;

(7) Work to ensure that the needs of special education children are met.

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.

(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 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 and:

(1) With respect to a school district employee, results in one or more of the following:

- (a) Disciplinary or corrective action;**
- (b) Transfer or reassignment;**
- (c) Suspension, demotion or dismissal;**
- (d) An unfavorable performance evaluation;**

- (e) A reduction in pay, benefits or awards;**
 - (f) Elimination of the employee's position without a reduction in force by reason of lack of money or work;**
 - (g) Other significant changes in duties or responsibilities that are inconsistent with the employee's salary or employment classification;**
- (2) With respect to an educational program, results in one or more of the following:**
- (a) Suspension or termination of the program;**
 - (b) Transfer or reassignment of the program to a less favorable department;**
 - (c) Relocation of the program to a less favorable site within the school or school district;**
 - (d) Significant reduction or termination of funding for the program.**

160.606. 1. A charter school shall enroll all pupils who submit a timely application, unless the number of applications exceeds the capacity of a program, class, grade level or building. If capacity is insufficient to enroll all pupils who submit a timely application, the charter school shall have an admissions process that assures all applicants of an equal chance of gaining admission except that:

(1) A charter school may establish a geographical area around the school whose residents will receive a preference for enrolling in the school, provided such preferences conform to policies and guidelines established by the state board of education; and

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

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

3. A student in a charter school may opt to participate in athletic or other extracurricular activities of the school the student would otherwise attend in the student's district of residence unless the charter school offers the same activity.

160.609. 1. For the purposes of calculation and distribution of state school aid under section 163.031, RSMo, pupils enrolled in a charter school shall be included in the pupil enrollment of the school district within which each pupil resides, except that payment of state aid for such pupil shall be made by the department of elementary and secondary education to the charter school attended as provided in subsection 2 of this section and shall not be made to the pupil's district of residence. Each charter school shall report the names, addresses, and eligibility for free or reduced price lunch or other categorical aid, of pupils resident in a school district who are enrolled in the charter school to the school district in which those pupils reside and to the state

department of elementary and secondary education. Each charter school shall promptly notify the state department of elementary and secondary education and the pupil's school district when a student discontinues enrollment at a charter school.

2. For each pupil attending a charter school, the department of elementary and secondary education shall pay to the charter school an annual amount equal to the per pupil state aid pursuant to section 163.031, RSMo, which would otherwise be received by the pupil's district of residence plus all other state aid attributable to such pupil, including summer school, if applicable, and the pupil's school district of residence shall pay to the charter school the product of the equalized, adjusted operating levy for school purposes for the pupil's district of residence for the current year times the guaranteed tax base per eligible pupil, as defined in section 163.011, RSMo, less the above mentioned amount paid by the department to the charter school. 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. The amounts provided pursuant to this subsection shall be prorated for partial year enrollment for a pupil.

3. If a school district fails to make timely payments of any amount for which it is the disbursal agent, the state department of elementary and secondary education shall authorize payment to the charter school of the amount due pursuant to subsection 2 and shall deduct the same amount from the next state school aid apportionment to the owing school district.

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

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

6. A charter school shall not be eligible for transportation state aid pursuant to section 163.161, RSMo. A school district shall, however, provide transportation to pupils attending a charter school located in the district and shall obtain transportation state aid on the same basis that it provides transportation and receives such aid for pupils attending schools in the district.

7. (1) The proportionate share of state and federal resources generated by students with disabilities or staff serving them shall be paid in full to charter schools

enrolling those students by their school district where such enrollment is through a contract for services described in this section. The proportionate share of money generated under other federal or state categorical aid programs shall be directed to charter schools serving such students eligible for that aid.

(2) A school district may, pursuant to contract with a charter school, provide all or part of the special services provided pursuant to section 162.705, RSMo.

(3) Where there is no contract for special services for students with disabilities, enrollment of students in a charter school shall not entitle the student to special education services at the charter school. Such students may obtain special education and related services pursuant to state regulation provisions relating to access by private school students.

(4) Notwithstanding any provision to the contrary in section 162.857, RSMo, each school district located within a special school district may enroll a student with a disability residing in the school district in a charter school. Such enrollment shall be by contract pursuant to section 162.705, RSMo, and shall only occur by joint agreement of the parent, charter school and school district of the child's residence. Agreement from the special school district is not required. Such enrollment shall only occur if the school district has filed, and obtained approval of, a compliance plan specifically addressing students with disabilities placed with the school district in a charter school, with the department of elementary and secondary education. Waiver of compliance requirements may be requested from the department of elementary and secondary education. The department of elementary and secondary education may seek waiver approval from the United States Department of Education.

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

9. A charter school is authorized to incur debt in anticipation of receipt of funds. A charter school may also borrow to finance facilities and other capital items. A school district may incur bonded indebtedness or take other measures to provide for physical facilities for charter schools that it sponsors or contracts with.

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

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

160.611. 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 the charter school shall pay to the district the district's full costs of salary and benefits provided to the employee. A teacher who accepts a position at a charter school and opts to remain an employee of the district retains such teacher's permanent teacher status and seniority rights in the district for a period of up to three years or for any longer period that the teacher and the district agree to.

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. 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. Full-time personnel employed by the charter school may, at the charter school'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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