

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 218

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Section A. Section 160.415, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 160.415, to read as follows:

160.415. 1. For the purposes of calculation and distribution of state school aid under section 163.031, pupils enrolled in a charter school shall be included in the pupil enrollment of the school district within which each pupil resides. Each charter school shall report the [names, addresses, and] eligibility for free and reduced price lunch, special education, or limited English proficiency status, as well as eligibility for 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. The charter school shall report the average daily attendance data, free and reduced price lunch count, special education pupil count, and limited English proficiency pupil count 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. 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.

3. This subsection shall apply to all school years ending on or before June 30, 2021. A workplace charter school shall receive payment for each eligible pupil as provided under subsection 2 of this section, except that if the student is not a resident of the district and is participating in a voluntary interdistrict transfer program,

the payment for such pupils shall be the same as provided under section 162.1060.

4. This subsection shall apply to all school years ending on or before June 30, 2021. A charter school that has declared itself as a local educational agency shall receive from the department of elementary and secondary education 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. If a charter school declares itself as a local educational agency, the department of elementary and secondary education shall, upon notice of the declaration, reduce the payment made to the school district by the amount specified in this subsection and pay directly to the charter school the annual amount reduced from the school district's payment.

5. This subsection shall apply to all school years ending on or before June 30, 2021. 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 of this section and shall deduct the same amount from the next state school aid apportionment to the owing school district. If a charter school is paid more or less than the amounts due pursuant to this section, the amount of overpayment or underpayment shall be adjusted equally in the next twelve payments by the school district or the department of elementary and secondary education, as appropriate. Any

dispute between the school district and a charter school as to the amount owing to the charter school shall be resolved by the department of elementary and secondary education, and the department's decision shall be the final administrative action for the purposes of review pursuant to chapter 536. During the period of dispute, the department of elementary and secondary education shall make every administrative and statutory effort to allow the continued education of children in their current public charter school setting.

6. 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. Documented actual costs of such services shall be paid for by the charter school.

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

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

10. (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 charter school shall provide the special services provided pursuant to section 162.705 and may provide the special services pursuant to a contract with a school district or any provider of such services.

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

12. 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 and other capital items for charter schools that it sponsors or 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.

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

(i) Property taxes and delinquent taxes;

(ii) Merchants' and manufacturers' tax revenues;

(iii) Financial institutions' tax revenues;

(iv) City sales tax revenue, including city sales tax collected in any city not within a county;

(v) Payments in lieu of taxes;

(vi) Revenues from state-assessed railroad and utilities tax; and

(vii) Any future aid.

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

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

(3) 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, less the charter school's share of local effort as defined in section 163.011 plus all other state aid attributable to such pupils plus local aid received by the school district divided by the total weighted average daily attendance of the school district and all charter schools within the school district per weighted average daily attendance of the charter school.

(4) A charter school that has declared itself as a local educational agency shall receive all state aid calculated under this subsection from the department and all

local aid calculated under this subsection from the school district. A charter school shall receive 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, less the charter school's share of local effort as defined in section 163.011 plus all other state aid attributable to such pupils plus local aid received by the school district divided by the total weighted average daily attendance of the school district and all charter schools within the school district per weighted average daily attendance of the charter school.

(5) (a) The school district shall withhold from the January local effort payment received by the school district, an annual administrative fee for the purpose of supporting administrative costs the school district incurs for charter schools operating within the school district. The administrative fee shall be equal to one-fourth of one percent of the sum of the prior year's state aid received by 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 of each month or upon the closest business day beginning in July of each year.

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

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

(7) The department shall conduct an annual review of any payments made in the previous fiscal year under subdivision (5) of this subsection to determine if there has

been any underpayment or overpayment. The annual review, to be conducted in January of each year, shall include a calculation of the amount of local aid owed to charter schools using the first preceding year's annual audit required by section 165.111. The school district shall pay to the charter school the amount of local aid owed to the charter school as calculated by the department. In the event of an underpayment, the school district shall remit the underpayment amount to the charter school. In the event of an overpayment, the charter school shall remit the overpayment amount to the school district.

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

(b) If the charter school fails to remit any 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 reimbursed under section 162.974, and the amount of funds received under the federal Individuals with Disabilities Education Act.

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

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

a. The school district shall withhold the administrative fee described in paragraph (a) of subdivision

(5) of this subsection from the total local aid funds received in January by the school district;

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

c. After withholding the administrative fee, the school district shall withhold from the remaining local aid funds an amount equal to the sum of the prior year net cost for providing special educational services for charter schools within the school district for charter schools determined to have a positive net cost by the department under paragraph (e) of this subdivision. No later than February twenty-eighth of each year the school district shall distribute funds under this subparagraph to each charter school determined to have a positive net cost, an amount equal to such charter school's positive net cost;

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

e. To determine the amount of the February local aid payment to each charter school within the school district, the school district shall multiply the value calculated in subparagraph d. of this paragraph by the current year estimated weighted average daily attendance for January for

each charter school within the school district. The school district shall distribute the February local aid payment to each charter school within the school district on or before February twenty-eighth.

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