

SENATE BILL NO. 398

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN (26).

1375S.01H

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 160.400 and 160.425, RSMo, and to enact in lieu thereof three new sections relating to charter schools.

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

Section A. Sections 160.400 and 160.425, RSMo, are
2 repealed and three new sections enacted in lieu thereof, to be
3 known as sections 160.400, 160.422, and 160.425, to read as
4 follows:

160.400. 1. A charter school is an independent public
2 school.

3 2. **[Except as further provided in subsection 4 of this**
4 **section,]** Charter schools may be operated only:

5 (1) In a metropolitan school district;

6 (2) In an urban school district containing most or all
7 of a city with a population greater than three hundred fifty
8 thousand inhabitants;

9 (3) In a school district that has been classified as
10 unaccredited by the state board of education;

11 (4) In a school district that has been classified as
12 provisionally accredited by the state board of education and
13 has received scores on its annual performance report
14 consistent with a classification of provisionally accredited
15 or unaccredited for three consecutive school years beginning
16 with the 2012-13 accreditation year under the following
17 conditions:

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

18 (a) The eligibility for charter schools of any school
19 district whose provisional accreditation is based in whole
20 or in part on financial stress as defined in sections
21 161.520 to 161.529, or on financial hardship as defined by
22 rule of the state board of education, shall be decided by a
23 vote of the state board of education during the third
24 consecutive school year after the designation of provisional
25 accreditation; and

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

31 (5) In a school district located within a county with
32 more than one hundred fifty thousand but fewer than two
33 hundred thousand inhabitants, provided that the provisions
34 of subsections 15 to 18 of section 160.415 shall not apply
35 to any charter school operated in such county; [or]

36 (6) **In a school district located within a county with**
37 **a charter form of government;**

38 (7) **In any municipality with a population greater than**
39 **thirty thousand; or**

40 (8) In a school district that has been accredited
41 without provisions, sponsored only by the local school
42 board; provided that no board with a current year enrollment
43 of one thousand five hundred fifty students or greater shall
44 permit more than thirty-five percent of its student
45 enrollment to enroll in charter schools sponsored by the
46 local board under the authority of this subdivision, except
47 that this restriction shall not apply to any school district
48 that subsequently becomes eligible under subdivision (3) or
49 (4) of this subsection or to any district accredited without

50 provisions that sponsors charter schools prior to having a
51 current year student enrollment of one thousand five hundred
52 fifty students or greater.

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

56 (1) The school board of the district in any district
57 which is sponsoring a charter school as of August 27, 2012,
58 as permitted under subdivision (1) or (2) of subsection 2 of
59 this section, the special administrative board of a
60 metropolitan school district during any time in which powers
61 granted to the district's board of education are vested in a
62 special administrative board, or if the state board of
63 education appoints a special administrative board to retain
64 the authority granted to the board of education of an urban
65 school district containing most or all of a city with a
66 population greater than three hundred fifty thousand
67 inhabitants, the special administrative board of such school
68 district;

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

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

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

78 (5) Any two-year private vocational or technical
79 school designated as a 501(c)(3) nonprofit organization
80 under the Internal Revenue Code of 1986, as amended, and

81 accredited by the Higher Learning Commission, with its
82 primary campus in Missouri;

83 (6) The Missouri charter public school commission
84 created in section 160.425.

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

89 (1) As a district transitions from unaccredited to
90 provisionally accredited, the district shall continue to
91 fall under the requirements for an unaccredited district
92 until it achieves three consecutive full school years of
93 provisional accreditation;

94 (2) As a district transitions from provisionally
95 accredited to full accreditation, the district shall
96 continue to fall under the requirements for a provisionally
97 accredited district until it achieves three consecutive full
98 school years of full accreditation;

99 (3) In any school district classified as unaccredited
100 or provisionally accredited where a charter school is
101 operating and is sponsored by an entity other than the local
102 school board, when the school district becomes classified as
103 accredited without provisions, a charter school may continue
104 to be sponsored by the entity sponsoring it prior to the
105 classification of accredited without provisions and shall
106 not be limited to the local school board as a sponsor.

107 A charter school operating in a school district identified
108 in subdivision (1), (2), or (5) of subsection 2 of this
109 section may be sponsored by any of the entities identified
110 in subsection 3 of this section, irrespective of the
111 accreditation classification of the district in which it is

112 located. A charter school in a district described in this
113 subsection whose charter provides for the addition of grade
114 levels in subsequent years may continue to add levels until
115 the planned expansion is complete to the extent of grade
116 levels in comparable schools of the district in which the
117 charter school is operated.

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

126 [6.] No sponsor shall receive from an applicant for a
127 charter school any fee of any type for the consideration of
128 a charter, nor may a sponsor condition its consideration of
129 a charter on the promise of future payment of any kind.

130 [7.] 5. The charter school shall be organized as a
131 Missouri nonprofit corporation incorporated pursuant to
132 chapter 355. The charter provided for herein shall
133 constitute a contract between the sponsor and the charter
134 school.

135 [8.] 6. As a nonprofit corporation incorporated
136 pursuant to chapter 355, the charter school shall select the
137 method for election of officers pursuant to section 355.326
138 based on the class of corporation selected. Meetings of the
139 governing board of the charter school shall be subject to
140 the provisions of sections 610.010 to 610.030.

141 [9.] 7. A sponsor of a charter school, its agents and
142 employees are not liable for any acts or omissions of a
143 charter school that it sponsors, including acts or omissions

144 relating to the charter submitted by the charter school, the
145 operation of the charter school and the performance of the
146 charter school.

147 [10.] 8. A charter school may affiliate with a four-
148 year college or university, including a private college or
149 university, or a community college as otherwise specified in
150 subsection 3 of this section when its charter is granted by
151 a sponsor other than such college, university or community
152 college. Affiliation status recognizes a relationship
153 between the charter school and the college or university for
154 purposes of teacher training and staff development,
155 curriculum and assessment development, use of physical
156 facilities owned by or rented on behalf of the college or
157 university, and other similar purposes. A university,
158 college or community college may not charge or accept a fee
159 for affiliation status.

160 [11.] 9. The expenses associated with sponsorship of
161 charter schools shall be defrayed by the department of
162 elementary and secondary education retaining one and five-
163 tenths percent of the amount of state and local funding
164 allocated to the charter school under section 160.415, not
165 to exceed one hundred twenty-five thousand dollars, adjusted
166 for inflation. The department of elementary and secondary
167 education shall remit the retained funds for each charter
168 school to the school's sponsor, provided the sponsor remains
169 in good standing by fulfilling its sponsorship obligations
170 under sections 160.400 to 160.425 and 167.349 with regard to
171 each charter school it sponsors, including appropriate
172 demonstration of the following:

173 (1) Expends no less than ninety percent of its charter
174 school sponsorship funds in support of its charter school

175 sponsorship program, or as a direct investment in the
176 sponsored schools;

177 (2) Maintains a comprehensive application process that
178 follows fair procedures and rigorous criteria and grants
179 charters only to those developers who demonstrate strong
180 capacity for establishing and operating a quality charter
181 school;

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

188 (4) Conducts contract oversight that evaluates
189 performance, monitors compliance, informs intervention and
190 renewal decisions, and ensures autonomy provided under
191 applicable law; and

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

195 [12.] 10. Sponsors receiving funds under subsection
196 [11] 9 of this section shall be required to submit annual
197 reports to the joint committee on education demonstrating
198 they are in compliance with subsection [17] 15 of this
199 section.

200 [13.] 11. No university, college or community college
201 shall grant a charter to a nonprofit corporation if an
202 employee of the university, college or community college is
203 a member of the corporation's board of directors.

204 [14.] 12. No sponsor shall grant a charter under
205 sections 160.400 to 160.425 and 167.349 without ensuring
206 that a criminal background check and family care safety

207 registry check are conducted for all members of the
208 governing board of the charter schools or the incorporators
209 of the charter school if initial directors are not named in
210 the articles of incorporation, nor shall a sponsor renew a
211 charter without ensuring a criminal background check and
212 family care safety registry check are conducted for each
213 member of the governing board of the charter school.

214 [15.] 13. No member of the governing board of a
215 charter school shall hold any office or employment from the
216 board or the charter school while serving as a member, nor
217 shall the member have any substantial interest, as defined
218 in section 105.450, in any entity employed by or contracting
219 with the board. No board member shall be an employee of a
220 company that provides substantial services to the charter
221 school. All members of the governing board of the charter
222 school shall be considered decision-making public servants
223 as defined in section 105.450 for the purposes of the
224 financial disclosure requirements contained in sections
225 105.483, 105.485, 105.487, and 105.489.

226 [16.] 14. A sponsor shall develop the policies and
227 procedures for:

228 (1) The review of a charter school proposal including
229 an application that provides sufficient information for
230 rigorous evaluation of the proposed charter and provides
231 clear documentation that the education program and academic
232 program are aligned with the state standards and grade-level
233 expectations, and provides clear documentation of effective
234 governance and management structures, and a sustainable
235 operational plan;

236 (2) The granting of a charter;

237 (3) The performance contract that the sponsor will use
238 to evaluate the performance of charter schools. Charter

239 schools shall meet current state academic performance
240 standards as well as other standards agreed upon by the
241 sponsor and the charter school in the performance contract;

242 (4) The sponsor's intervention, renewal, and
243 revocation policies, including the conditions under which
244 the charter sponsor may intervene in the operation of the
245 charter school, along with actions and consequences that may
246 ensue, and the conditions for renewal of the charter at the
247 end of the term, consistent with subsections 8 and 9 of
248 section 160.405;

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

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

254 The department shall provide guidance to sponsors in
255 developing such policies and procedures.

256 **[17.] 15.** (1) A sponsor shall provide timely
257 submission to the state board of education of all data
258 necessary to demonstrate that the sponsor is in material
259 compliance with all requirements of sections 160.400 to
260 160.425 and section 167.349. The state board of education
261 shall ensure each sponsor is in compliance with all
262 requirements under sections 160.400 to 160.425 and 167.349
263 for each charter school sponsored by any sponsor. The state
264 board shall notify each sponsor of the standards for
265 sponsorship of charter schools, delineating both what is
266 mandated by statute and what best practices dictate. The
267 state board shall evaluate sponsors to determine compliance
268 with these standards every three years. The evaluation
269 shall include a sponsor's policies and procedures in the

270 areas of charter application approval; required charter
271 agreement terms and content; sponsor performance evaluation
272 and compliance monitoring; and charter renewal,
273 intervention, and revocation decisions. Nothing shall
274 preclude the department from undertaking an evaluation at
275 any time for cause.

276 (2) If the department determines that a sponsor is in
277 material noncompliance with its sponsorship duties, the
278 sponsor shall be notified and given reasonable time for
279 remediation. If remediation does not address the compliance
280 issues identified by the department, the commissioner of
281 education shall conduct a public hearing and thereafter
282 provide notice to the charter sponsor of corrective action
283 that will be recommended to the state board of education.
284 Corrective action by the department may include withholding
285 the sponsor's funding and suspending the sponsor's authority
286 to sponsor a school that it currently sponsors or to sponsor
287 any additional school until the sponsor is reauthorized by
288 the state board of education under section 160.403.

289 (3) The charter sponsor may, within thirty days of
290 receipt of the notice of the commissioner's recommendation,
291 provide a written statement and other documentation to show
292 cause as to why that action should not be taken. Final
293 determination of corrective action shall be determined by
294 the state board of education based upon a review of the
295 documentation submitted to the department and the charter
296 sponsor.

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

301 [18.] 16. If a sponsor notifies a charter school of
302 closure under subsection 8 of section 160.405, the
303 department of elementary and secondary education shall
304 exercise its financial withholding authority under
305 subsection 12 of section 160.415 to assure all obligations
306 of the charter school shall be met. The state, charter
307 sponsor, or resident district shall not be liable for any
308 outstanding liability or obligations of the charter school.

160.422. 1. Any city not within a county shall not
2 adopt, enforce, impose, or administer an ordinance, local
3 policy, or local resolution that prohibits property sold,
4 leased, or transferred by the city not within a county from
5 being used for any lawful educational purpose by a charter
6 school.

7 2. Any city not within a county shall not impose,
8 enforce, or apply any deed restriction that expressly, or by
9 its operation, prohibits property sold, leased, or
10 transferred by the city not within a county from being used
11 for any lawful educational purpose by a charter school. Any
12 deed restriction or affirmative use deed restriction that
13 affirmatively allows for only one or more specified uses or
14 purposes that do not include any educational use or purpose
15 is prohibited under this section. Any deed restriction or
16 affirmative use deed restriction in effect on the effective
17 date of this section that prohibits or does not permit
18 property previously used for any educational purpose from
19 being used for any future educational purpose is void.

20 3. If any city not within a county offers property of
21 the city not within a county for sale, lease, or rent, the
22 city not within a county shall not refuse to sell, lease, or
23 rent the property to a charter school solely because the
24 charter school intends to use the property for an

25 educational purpose, if the intent of the charter school is
26 to use the property for a lawful educational purpose. If
27 the city not within a county offers property of the city not
28 within a county for sale, lease, or rent, the city not
29 within a county is not required to sell, lease, or rent the
30 property to a charter school solely because the charter
31 school intends to use the property for an educational
32 purpose.

33 4. Any ordinance, policy, regulation, deed, or
34 contract made in violation of this section shall be void
35 from its inception.

160.425. 1. The "Missouri Charter Public School
2 Commission" is hereby created with the authority to sponsor
3 high quality charter schools throughout the state of
4 Missouri.

5 2. The commission shall consist of nine members
6 appointed by the governor, by and with the advice and
7 consent of the senate. No more than five of the members
8 shall be of the same political party. No more than two
9 members shall be from the same congressional district. The
10 term of office of each member shall be four years, except
11 those of the members first appointed, of which three shall
12 be appointed for a term of one year, two for a term of two
13 years, two for a term of three years, and two for a term of
14 four years. At the expiration of the term of each member,
15 the governor, by and with the advice and consent of the
16 senate, shall appoint a successor.

17 3. The appointees to the commission shall be selected
18 as follows:

19 (1) One member selected by the governor from a slate
20 of three recommended by the commissioner of education;

21 (2) One member selected by the governor from a slate
22 of three recommended by the commissioner of higher education;

23 (3) One member selected by the governor from a slate
24 of three recommended by the president pro tempore of the
25 senate;

26 (4) One member selected by the governor from a slate
27 of three recommended by the speaker of the house of
28 representatives; and

29 (5) Five additional members appointed by the governor,
30 one of whom shall be selected from a slate of three nominees
31 recommended by the Missouri School Boards Association.

32 4. Members appointed to the commission shall
33 collectively possess strong experience and expertise in
34 governance, management and finance, school leadership,
35 assessment, curriculum and instruction, and education law.
36 All members of the commission shall have demonstrated
37 understanding of and commitment to charter schooling as a
38 strategy for strengthening public education.

39 5. The commission shall annually elect a chairperson
40 and vice chairperson, who shall act as chairperson in his or
41 her absence. The commission shall meet at the call of the
42 chairperson. The chairperson may call meetings at such
43 times as he or she deems advisable and shall call a meeting
44 when requested to do so by three or more members of the
45 commission. Members of the commission are not eligible to
46 receive compensation.

47 6. The commission may approve proposed charters for
48 its sponsorship under sections 160.400 to 160.425 and shall:

49 (1) Comply with all of the requirements applicable to
50 sponsors under sections 160.400 to 160.425;

51 (2) Exercise sponsorship over charters approved by the
52 commission under sections 160.400 to 160.425, including

53 receipt of sponsorship funding under subsection [11] 9 of
54 section 160.400. Sponsorship funding due to the commission
55 shall be deposited to the credit of the charter public
56 school commission revolving fund created pursuant to this
57 section.

58 7. Charter schools sponsored by the commission shall
59 comply with all of the requirements applicable to charter
60 schools under sections 160.400 to 160.425.

61 8. The commission shall conduct its business in
62 accordance with chapter 610.

63 9. The department of elementary and secondary
64 education shall provide start-up funding for the commission
65 to operate. The commission shall reimburse the department's
66 costs from any funds it receives as sponsor under section
67 160.400.

68 10. The commission is authorized to receive and expend
69 gifts, grants, and donations of any kind from any public or
70 private entity to carry out the purposes of sections 160.400
71 to 160.425, subject to the terms and conditions under which
72 they are given, provided that all such terms and conditions
73 are permissible under law.

74 11. There is hereby created in the state treasury the
75 "Charter Public School Commission Revolving Fund", which
76 shall consist of moneys collected under this section. The
77 state treasurer shall be custodian of the fund. In
78 accordance with sections 30.170 and 30.180, the state
79 treasurer may approve disbursements. Notwithstanding the
80 provisions of section 33.080 to the contrary, any moneys
81 remaining in the fund at the end of the biennium shall not
82 revert to the credit of the general revenue fund. The state
83 treasurer shall invest moneys in the fund in the same manner
84 as other funds are invested. Subject to appropriation,

85 moneys in the fund shall be used solely for the
86 administration of this section.

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