

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 1858

(SENATE AUTHORS: COLEMAN)

DATE
02/20/2023

D-PG

Introduction and first reading
Referred to Education Policy

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to education; modifying charter school provisions; amending Minnesota
1.3 Statutes 2022, sections 124E.02; 124E.06, subdivision 1; 124E.16.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. Minnesota Statutes 2022, section 124E.02, is amended to read:

1.6 **124E.02 DEFINITIONS.**

1.7 (a) For purposes of this chapter, the terms defined in this section have the meanings
1.8 given them.

1.9 (b) "Affidavit" means a written statement the authorizer submits to the commissioner
1.10 for approval to establish a charter school under section 124E.06, subdivision 4, attesting to
1.11 its review and approval process before chartering a school.

1.12 (c) "Affiliate" means a person that directly or indirectly, through one or more
1.13 intermediaries, controls, is controlled by, or is under common control with another person.

1.14 (d) "Charter management organization" or "CMO" means any nonprofit or for-profit
1.15 entity that contracts with a charter school board of directors to provide, manage, or oversee
1.16 all or substantially all of a school's education program or a school's administrative, financial,
1.17 business, or operational functions.

1.18 ~~(d)~~ (e) "Control" means the ability to affect the management, operations, or policy actions
1.19 or decisions of a person, whether by owning voting securities, by contract, or otherwise.

2.1 (f) "Educational management organization" or "EMO" means a nonprofit or for-profit
 2.2 entity that provides, manages, or oversees all or substantially all of the education program,
 2.3 or the school's administrative, financial, business, or operational functions.

2.4 ~~(e)~~ (g) "Immediate family" means an individual whose relationship by blood, marriage,
 2.5 adoption, or partnership is no more remote than first cousin.

2.6 (h) "Market need and demand study" means a study that includes the following for the
 2.7 proposed locations of the school or additional site:

2.8 (1) current and projected demographic information;

2.9 (2) student enrollment patterns;

2.10 (3) information on existing schools and types of educational programs currently available;

2.11 (4) characteristics of proposed students and families;

2.12 (5) availability of properly zoned and classified facilities; and

2.13 (6) quantification of existing demand for the school or site.

2.14 ~~(f)~~ (i) "Person" means an individual or entity of any kind.

2.15 ~~(g)~~ (j) "Related party" means an affiliate or immediate relative of the other interested
 2.16 party, an affiliate of an immediate relative who is the other interested party, or an immediate
 2.17 relative of an affiliate who is the other interested party.

2.18 ~~(h)~~ (k) For purposes of this chapter, the terms defined in section 120A.05 have the same
 2.19 meanings.

2.20 Sec. 2. Minnesota Statutes 2022, section 124E.06, subdivision 1, is amended to read:

2.21 Subdivision 1. **Individuals eligible to organize.** (a) An authorizer, after receiving an
 2.22 application from a charter school developer, may charter either a licensed teacher under
 2.23 section 122A.18, subdivision 1, or a group of individuals that includes one or more licensed
 2.24 teachers under section 122A.18, subdivision 1, to operate a school subject to the
 2.25 commissioner's approval of the authorizer's affidavit under subdivision 4.

2.26 (b) "Application" under this section means the charter school business plan a charter
 2.27 school developer submits to an authorizer for approval to establish a charter school. This
 2.28 application must include:

2.29 (1) ~~the school developer's~~ proposed school's:

2.30 (i) ~~mission statement~~ and vision statements;

- 3.1 (ii) ~~school~~ purposes and goals;
- 3.2 (iii) educational program design and how the program will improve student learning,
- 3.3 success, and achievement;
- 3.4 (iv) plan to address the social and emotional learning needs of students and student
- 3.5 support services;
- 3.6 (v) plan to provide special education management and services;
- 3.7 (vi) plan for staffing the school with appropriately qualified and licensed personnel;
- 3.8 ~~(iv)~~ (vii) financial plan;
- 3.9 ~~(v)~~ (viii) governance and management structure and plan; and
- 3.10 ~~(vi)~~ background and experience;
- 3.11 (ix) market need and demand study; and
- 3.12 (x) plan for ongoing outreach and dissemination of information about the school's
- 3.13 offerings and enrollment procedure to families that reflect the diversity of Minnesota's
- 3.14 population and targeted groups under section 124E.17, subdivision 1, paragraph (a);
- 3.15 (2) the school developer's experience and background, including criminal history and
- 3.16 bankruptcy background checks;
- 3.17 ~~(2)~~ (3) any other information the authorizer requests; and
- 3.18 ~~(3)~~ (4) a "statement of assurances" of legal compliance prescribed by the commissioner.
- 3.19 (c) An authorizer shall not approve an application submitted by a charter school developer
- 3.20 under paragraph (a) if the application does not comply with subdivision 3, paragraph (e),
- 3.21 and section 124E.01, subdivision 1. The commissioner shall not approve an affidavit
- 3.22 submitted by an authorizer under subdivision 4 if the affidavit does not comply with
- 3.23 subdivision 3, paragraph (e), and section 124E.01, subdivision 1.

3.24 Sec. 3. Minnesota Statutes 2022, section 124E.16, is amended to read:

3.25 **124E.16 REPORTS.**

3.26 Subdivision 1. **Audit report.** (a) A charter school is subject to the same financial audits,

3.27 audit procedures, and audit requirements as a district, except as required under this

3.28 subdivision. Audits must be conducted in compliance with generally accepted governmental

3.29 auditing standards, the federal Single Audit Act, if applicable, and section 6.65 governing

3.30 auditing procedures. A charter school is subject to and must comply with sections 15.054;

4.1 118A.01; 118A.02; 118A.03; 118A.04; 118A.05; 118A.06 governing government property
 4.2 and financial investments; and sections 471.38; 471.391; 471.392; and 471.425 governing
 4.3 municipal contracting. The audit must comply with the requirements of sections 123B.75
 4.4 to 123B.83 governing school district finance, except when the commissioner and authorizer
 4.5 approve a deviation made necessary because of school program finances. The commissioner,
 4.6 state auditor, legislative auditor, or authorizer may conduct financial, program, or compliance
 4.7 audits. A charter school in statutory operating debt under sections 123B.81 to 123B.83 must
 4.8 submit a plan under section 123B.81, subdivision 4.

4.9 (b) The charter school must submit an audit report to the commissioner and its authorizer
 4.10 annually by December 31.

4.11 (c) The charter school, with the assistance of the auditor conducting the audit, must
 4.12 include with the report, as supplemental information: (1) a copy of a new management
 4.13 ~~agreements~~ agreement or an amendment to a current agreement with a charter management
 4.14 ~~organization or an educational management organization and (2) service agreements or~~
 4.15 ~~contracts over the lesser of \$100,000 or ten percent of the school's most recent annual audited~~
 4.16 ~~expenditures~~ CMO or EMO signed during the audit year; and (2) a copy of a service
 4.17 agreement or contract with a company or individual totaling over five percent of the audited
 4.18 expenditures for the most recent audit year. The agreements must detail the terms of the
 4.19 agreement, including the services provided and the annual costs for those services. ~~If the~~
 4.20 ~~entity that provides the professional services to the charter school is exempt from taxation~~
 4.21 ~~under section 501 of the Internal Revenue Code of 1986, that entity must file with the~~
 4.22 ~~commissioner by February 15 a copy of the annual return required under section 6033 of~~
 4.23 ~~the Internal Revenue Code of 1986.~~

4.24 (d) A charter school independent audit report shall include audited financial data of an
 4.25 affiliated building corporation under section 124E.13, subdivision 3, or other component
 4.26 unit.

4.27 (e) If the audit report finds that a material weakness exists in the financial reporting
 4.28 systems of a charter school, the charter school must submit a written report to the
 4.29 commissioner explaining how the charter school will resolve that material weakness. An
 4.30 auditor, as a condition of providing financial services to a charter school, must agree to
 4.31 make available information about a charter school's financial audit to the commissioner and
 4.32 authorizer upon request.

4.33 Subd. 2. **Annual public reports.** (a) A charter school must publish an annual report
 4.34 approved by the board of directors. The annual report must at least include information on

5.1 school enrollment, student attrition, governance and management, staffing, finances,
 5.2 management agreements with a CMO or EMO, academic performance, innovative practices
 5.3 and implementation, and future plans. A charter school may combine this report with the
 5.4 reporting required under section 120B.11 governing the world's best workforce. A charter
 5.5 school must post the annual report on the school's official website. A charter school also
 5.6 must distribute the annual report by publication, mail, or electronic means to its authorizer,
 5.7 school employees, and parents and legal guardians of students enrolled in the charter school.
 5.8 The reports are public data under chapter 13.

5.9 (b) An authorizer must submit an annual public report in a manner specified by the
 5.10 commissioner by January 15 for the previous school year ending June 30 that shall at least
 5.11 include key indicators of school academic, operational, and financial performance. The
 5.12 report is part of the system to evaluate authorizer performance under section 124E.05,
 5.13 subdivision 5.

5.14 Subd. 3. Public accounting and reporting CMO and EMO agreements. (a) A charter
 5.15 school that enters into a management agreement with a CMO or EMO must:

5.16 (1) publish on its website for at least 20 business days the proposed final agreement for
 5.17 public review and comment before the school board may adopt the contract or agreement.
 5.18 Any changes made to the posted agreement during the public review period or any proposed
 5.19 amendments to the agreement once adopted must be posted for 20 business days before the
 5.20 board may adopt the amendments to the contract;

5.21 (2) annually publish on its website a statement of assurance that no member of the school
 5.22 board, staff, or any agent of the school has been promised or received any form of
 5.23 compensation or gifts from the CMO or EMO and that no board member, employee, or
 5.24 agent of the CMO or EMO or any of the organization affiliates or providers serve on the
 5.25 charter school board; and

5.26 (3) conduct an independent review and evaluation of the services provided by the CMO
 5.27 or EMO and publish the evaluation on the school's website at least 30 business days before
 5.28 the end of the current contract.

5.29 (b) A management agreement with a CMO or EMO must contain the following:

5.30 (1) the term of the contract, not to exceed five years;

5.31 (2) the total dollar value of the contract including the annual projected costs of services;

5.32 (3) a description and terms of the services to be provided during the term of the contract;

6.1 (4) notice that a charter school closure during the term of the contract by action of the
6.2 authorizer or the school's board results in the balance of the current contract becoming null
6.3 and void;

6.4 (5) an annual statement of assurance to the charter school board that the CMO or EMO
6.5 provided no compensation or gifts to any charter school board member, staff member, or
6.6 agent of the charter school;

6.7 (6) an annual statement of assurance that no charter school board member, employee,
6.8 contractor, or agent of the CMO or EMO or any affiliated organization is a board member
6.9 of the charter school or any other charter school;

6.10 (7) the policies and protocols that meet federal and state laws regarding student and
6.11 personnel data collection, usage, access, retention, disclosure and destruction, and
6.12 indemnification and warranty provisions in case of data breaches by the CMO or EMO;

6.13 (8) the CMO or EMO must annually provide the charter school board a financial report
6.14 by July 31 that accounts for income and expenditures for the previous fiscal year using the
6.15 account categories in uniform financial accounting and reporting standards; and

6.16 (9) an annual assurance that all assets purchased on behalf of the charter school using
6.17 public funds remain assets of the school.

6.18 (c) Any agreement with a CMO or EMO containing any of the following provisions is
6.19 null and void:

6.20 (1) restrictions on the charter school's ability to operate a school upon termination of
6.21 the agreement;

6.22 (2) restrictions on the annual or total amount of the school's operating surplus or fund
6.23 balance;

6.24 (3) authorization to allow a CMO or EMO to withdraw funds from a charter school
6.25 account; or

6.26 (4) authorization to allow a CMO or EMO to loan funds to the charter school.

6.27 (d) A CMO or EMO or its affiliates, employees, or agents may not contract with, be
6.28 employed by, or serve on the board of an authorizer. An authorizer or its affiliates, employees,
6.29 or agents may not contract with, be employed by, serve as a paid consultant for, or serve as
6.30 a board member of a CMO or EMO.