

SECOND REGULAR SESSION

# SENATE BILL NO. 762

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KEAVENY.

Read 1st time February 7, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

5608S.011

## AN ACT

To repeal sections 160.405, 160.410, and 160.539, RSMo, and to enact in lieu thereof three new sections relating to alternative educational procedures for charter schools.

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

Section A. Sections 160.405, 160.410, and 160.539, RSMo, are repealed  
2 and three new sections enacted in lieu thereof, to be known as sections 160.405,  
3 160.410, and 160.539, to read as follows:

160.405. 1. A person, group or organization seeking to establish a charter  
2 school shall submit the proposed charter, as provided in this section, to a sponsor.  
3 If the sponsor is not a school board, the applicant shall give a copy of its  
4 application to the school board of the district in which the charter school is to be  
5 located and to the state board of education, within five business days of the date  
6 the application is filed with the proposed sponsor. The school board may file  
7 objections with the proposed sponsor, and, if a charter is granted, the school  
8 board may file objections with the state board of education. The charter shall  
9 include a mission statement for the charter school, a description of the charter  
10 school's organizational structure and bylaws of the governing body, which will be  
11 responsible for the policy and operational decisions of the charter school, a  
12 financial plan for the first three years of operation of the charter school including  
13 provisions for annual audits, a description of the charter school's policy for  
14 securing personnel services, its personnel policies, personnel qualifications, and  
15 professional development plan, a description of the grades or ages of students  
16 being served, the school's calendar of operation, which shall include at least the  
17 equivalent of a full school term as defined in section 160.011, and an outline of

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

18 criteria specified in this section designed to measure the effectiveness of the  
19 school. The charter shall also state:

20 (1) The educational goals and objectives to be achieved by the charter  
21 school;

22 (2) A description of the charter school's educational program and  
23 curriculum;

24 (3) The term of the charter, which shall be not less than five years, nor  
25 greater than ten years and shall be renewable;

26 (4) A description of the charter school's pupil performance standards,  
27 which must meet the requirements of subdivision (6) of subsection 5 of this  
28 section. The charter school program must be designed to enable each pupil to  
29 achieve such standards;

30 (5) A description of the governance and operation of the charter school,  
31 including the nature and extent of parental, professional educator, and  
32 community involvement in the governance and operation of the charter school;  
33 and

34 (6) A description of the charter school's policies on student discipline and  
35 student admission, which shall include a statement, where applicable, of the  
36 validity of attendance of students who do not reside in the district but who may  
37 be eligible to attend under the terms of judicial settlements.

38 2. Proposed charters shall be subject to the following requirements:

39 (1) A charter may be approved when the sponsor determines that the  
40 requirements of this section are met and determines that the applicant is  
41 sufficiently qualified to operate a charter school. The sponsor's decision of  
42 approval or denial shall be made within ninety days of the filing of the proposed  
43 charter;

44 (2) If the charter is denied, the proposed sponsor shall notify the applicant  
45 in writing as to the reasons for its denial and forward a copy to the state board  
46 of education within five business days following the denial;

47 (3) If a proposed charter is denied by a sponsor, the proposed charter may  
48 be submitted to the state board of education, along with the sponsor's written  
49 reasons for its denial. If the state board determines that the applicant meets the  
50 requirements of this section, that the applicant is sufficiently qualified to operate  
51 the charter school, and that granting a charter to the applicant would be likely  
52 to provide educational benefit to the children of the district, the state board may  
53 grant a charter and act as sponsor of the charter school. The state board shall

54 review the proposed charter and make a determination of whether to deny or  
55 grant the proposed charter within sixty days of receipt of the proposed charter,  
56 provided that any charter to be considered by the state board of education under  
57 this subdivision shall be submitted no later than March first prior to the school  
58 year in which the charter school intends to begin operations. The state board of  
59 education shall notify the applicant in writing as the reasons for its denial, if  
60 applicable; and

61 (4) The sponsor of a charter school shall give priority to charter school  
62 applicants that propose a school oriented to high-risk students and to the reentry  
63 of dropouts into the school system. If a sponsor grants three or more charters,  
64 at least one-third of the charters granted by the sponsor shall be to schools that  
65 actively recruit dropouts or high-risk students as their student body and address  
66 the needs of dropouts or high-risk students through their proposed mission,  
67 curriculum, teaching methods, and services. For purposes of this subsection, a  
68 "high-risk" student is one who is at least one year behind in satisfactory  
69 completion of course work or obtaining [credits for graduation, pregnant or a  
70 parent, homeless or has been homeless sometime within the preceding six  
71 months, has limited English proficiency, has been suspended from school three  
72 or more times, is eligible for free or reduced-price school lunch, or has been  
73 referred by the school district for enrollment in an alternative program] **high**  
74 **school credits for graduation, has dropped out of school, is at risk of**  
75 **dropping out of school, needs drug and alcohol treatment, has severe**  
76 **behavioral problems, has been suspended from school three or more**  
77 **times, has a history of severe truancy, is a pregnant or parenting teen,**  
78 **has been referred for enrollment by the judicial system, is exiting**  
79 **incarceration, is a refugee, is homeless or has been homeless sometime**  
80 **within the preceding six months, has been referred by an area school**  
81 **district for enrollment in an alternative program, or qualifies as high**  
82 **risk under department of elementary and secondary education**  
83 **guidelines.** "Dropout" shall be defined through the guidelines of the school core  
84 data report. The provisions of this subsection do not apply to charters sponsored  
85 by the state board of education.

86 3. If a charter is approved by a sponsor, the charter application shall be  
87 submitted to the state board of education, along with a statement of finding that  
88 the application meets the requirements of sections 160.400 to 160.420 and section  
89 [167.439] **167.349** and a monitoring plan under which the charter sponsor will

90 evaluate the academic performance of students enrolled in the charter  
91 school. The state board of education may, within sixty days, disapprove the  
92 granting of the charter. The state board of education may disapprove a charter  
93 on grounds that the application fails to meet the requirements of sections 160.400  
94 to 160.420 and section 167.349 or that a charter sponsor previously failed to meet  
95 the statutory responsibilities of a charter sponsor.

96 4. Any disapproval of a charter pursuant to subsection 3 of this section  
97 shall be subject to judicial review pursuant to chapter 536.

98 5. A charter school shall, as provided in its charter:

99 (1) Be nonsectarian in its programs, admission policies, employment  
100 practices, and all other operations;

101 (2) Comply with laws and regulations of the state, county, or city relating  
102 to health, safety, and state minimum educational standards, as specified by the  
103 state board of education, including the requirements relating to student discipline  
104 under sections 160.261, 167.161, 167.164, and 167.171, notification of criminal  
105 conduct to law enforcement authorities under sections 167.115 to 167.117,  
106 academic assessment under section 160.518, transmittal of school records under  
107 section 167.020, and the minimum number of school days and hours required  
108 under section 160.041;

109 (3) Except as provided in sections 160.400 to 160.420, be exempt from all  
110 laws and rules relating to schools, governing boards and school districts;

111 (4) Be financially accountable, use practices consistent with the Missouri  
112 financial accounting manual, provide for an annual audit by a certified public  
113 accountant, publish audit reports and annual financial reports as provided in  
114 chapter 165, provided that the annual financial report may be published on the  
115 department of elementary and secondary education's Internet website in addition  
116 to other publishing requirements, and provide liability insurance to indemnify the  
117 school, its board, staff and teachers against tort claims. A charter school that  
118 receives local educational agency status under subsection [6] 7 of this section  
119 shall meet the requirements imposed by the Elementary and Secondary Education  
120 Act for audits of such agencies. For purposes of an audit by petition under  
121 section 29.230, a charter school shall be treated as a political subdivision on the  
122 same terms and conditions as the school district in which it is located. For the  
123 purposes of securing such insurance, a charter school shall be eligible for the  
124 Missouri public entity risk management fund pursuant to section 537.700. A  
125 charter school that incurs debt [must] shall include a repayment plan in its

126 financial plan;

127 (5) Provide a comprehensive program of instruction for at least one grade  
128 or age group from kindergarten through grade twelve, which may include early  
129 childhood education if funding for such programs is established by statute, as  
130 specified in its charter;

131 (6) (a) Design a method to measure pupil progress toward the pupil  
132 academic standards adopted by the state board of education pursuant to section  
133 160.514, collect baseline data during at least the first three years for determining  
134 how the charter school is performing and to the extent applicable, participate in  
135 the statewide system of assessments, comprised of the essential skills tests and  
136 the nationally standardized norm-referenced achievement tests, as designated by  
137 the state board pursuant to section 160.518, complete and distribute an annual  
138 report card as prescribed in section 160.522, which shall also include a statement  
139 that background checks have been completed on the charter school's board  
140 members, report to its sponsor, the local school district, and the state board of  
141 education as to its teaching methods and any educational innovations and the  
142 results thereof, and provide data required for the study of charter schools  
143 pursuant to subsection 4 of section 160.410. No charter school will be considered  
144 in the Missouri school improvement program review of the district in which it is  
145 located for the resource or process standards of the program.

146 (b) For proposed high risk or alternative charter schools, sponsors shall  
147 approve performance measures based on mission, curriculum, teaching methods,  
148 and services. Sponsors shall also approve comprehensive academic and  
149 behavioral measures to determine whether students are meeting performance  
150 standards on a different time frame as specified in that school's charter. Student  
151 performance shall be assessed comprehensively to determine whether a high risk  
152 or alternative charter school has documented adequate student progress. Student  
153 performance shall be based on sponsor-approved comprehensive measures as well  
154 as standardized public school measures. Annual presentation of charter school  
155 report card data to the department of elementary and secondary education, the  
156 state board, and the public shall include comprehensive measures of student  
157 progress.

158 (c) Nothing in this [paragraph] **subdivision** shall be construed as  
159 permitting a charter school to be held to lower performance standards than other  
160 public schools within a district; however, the charter of a charter school may  
161 permit students to meet performance standards on a different time frame as

162 specified in its charter. **The performance standards for alternative and**  
163 **special purpose charter schools that target high-risk students as**  
164 **defined in subdivision (4) of subsection 2 of this section shall be based**  
165 **on measures defined in the school's charter;**

166 (7) Assure that the needs of special education children are met in  
167 compliance with all applicable federal and state laws and regulations;

168 (8) Provide along with any request for review by the state board of  
169 education the following:

170 (a) Documentation that the applicant has provided a copy of the  
171 application to the school board of the district in which the charter school is to be  
172 located, except in those circumstances where the school district is the sponsor of  
173 the charter school; and

174 (b) A statement outlining the reasons for approval or disapproval by the  
175 sponsor, specifically addressing the requirements of sections 160.400 to 160.420  
176 and 167.349.

177 **6. (1) Proposed or existing high risk or alternative charter**  
178 **schools may include alternative arrangements for students to obtain**  
179 **credit for satisfying graduation requirements in the school's charter**  
180 **application and charter. Alternative arrangements may include, but**  
181 **not be limited to, credit for off-campus instruction, performance-based**  
182 **credit, embedded credit, work experience through a paid or unpaid**  
183 **internship arranged through the school, and independent**  
184 **studies. When the state board of education approves the charter, any**  
185 **such alternative arrangements shall be approved at such time.**

186 **(2) The department of elementary and secondary education shall**  
187 **conduct a study of any charter school granted alternative arrangements**  
188 **for students to obtain credit under this subsection after three years of**  
189 **operation to assess student performance, graduation rates, educational**  
190 **outcomes, and entry into the workforce or higher education.**

191 **7.** The charter of a charter school may be amended at the request of the  
192 governing body of the charter school and on the approval of the sponsor. The  
193 sponsor and the governing board and staff of the charter school shall jointly  
194 review the school's performance, management and operations at least once every  
195 two years or at any point where the operation or management of the charter  
196 school is changed or transferred to another entity, either public or private. The  
197 governing board of a charter school may amend the charter, if the sponsor

198 approves such amendment, or the sponsor and the governing board may reach an  
199 agreement in writing to reflect the charter school's decision to become a local  
200 educational agency for the sole purpose of seeking direct access to federal grants.  
201 In such case the sponsor shall give the department of elementary and secondary  
202 education written notice no later than March first of any year, with the  
203 agreement to become effective July first. The department may waive the March  
204 first notice date in its discretion. The department shall identify and furnish a list  
205 of its regulations that pertain to local educational agencies to such schools within  
206 thirty days of receiving such notice.

207 [7.] 8. (1) A sponsor shall revoke a charter or take other appropriate  
208 remedial action, which may include placing the charter school on probationary  
209 status, at any time if the charter school commits a serious breach of one or more  
210 provisions of its charter or on any of the following grounds: failure to meet  
211 academic performance standards as set forth in its charter, failure to meet  
212 generally accepted standards of fiscal management, failure to provide information  
213 necessary to confirm compliance with all provisions of the charter and sections  
214 160.400 to 160.420 and 167.349 within forty-five days following receipt of written  
215 notice requesting such information, or violation of law.

216 (2) The sponsor may place the charter school on probationary status to  
217 allow the implementation of a remedial plan, which may require a change of  
218 methodology, a change in leadership, or both, after which, if such plan is  
219 unsuccessful, the charter may be revoked.

220 (3) At least sixty days before acting to revoke a charter, the sponsor shall  
221 notify the governing board of the charter school of the proposed action in  
222 writing. The notice shall state the grounds for the proposed action. The school's  
223 governing board may request in writing a hearing before the sponsor within two  
224 weeks of receiving the notice.

225 (4) The sponsor of a charter school shall establish procedures to conduct  
226 administrative hearings upon determination by the sponsor that grounds exist to  
227 revoke a charter. Final decisions of a sponsor from hearings conducted pursuant  
228 to this subsection are subject to judicial review pursuant to chapter 536.

229 (5) A termination shall be effective only at the conclusion of the school  
230 year, unless the sponsor determines that continued operation of the school  
231 presents a clear and immediate threat to the health and safety of the children.

232 (6) A charter sponsor shall make available the school accountability report  
233 card information as provided under section 160.522 and the results of the

234 academic monitoring required under subsection 3 of this section.

235           **[8.] 9.** A sponsor shall take all reasonable steps necessary to confirm that  
236 each charter school sponsored by such sponsor is in material compliance and  
237 remains in material compliance with all material provisions of the charter and  
238 sections 160.400 to 160.420 and 167.349. Every charter school shall provide all  
239 information necessary to confirm ongoing compliance with all provisions of its  
240 charter and sections 160.400 to 160.420 and 167.349 in a timely manner to its  
241 sponsor.

242           **[9.] 10.** A school district may enter into a lease with a charter school for  
243 physical facilities.

244           **[10.] 11.** A governing board or a school district employee who has control  
245 over personnel actions shall not take unlawful reprisal against another employee  
246 at the school district because the employee is directly or indirectly involved in an  
247 application to establish a charter school. A governing board or a school district  
248 employee shall not take unlawful reprisal against an educational program of the  
249 school or the school district because an application to establish a charter school  
250 proposes the conversion of all or a portion of the educational program to a charter  
251 school. As used in this subsection, "unlawful reprisal" means an action that is  
252 taken by a governing board or a school district employee as a direct result of a  
253 lawful application to establish a charter school and that is adverse to another  
254 employee or an educational program.

255           **[11.] 12.** Charter school board members shall be subject to the same  
256 liability for acts while in office as if they were regularly and duly elected  
257 members of school boards in any other public school district in this state. The  
258 governing board of a charter school may participate, to the same extent as a  
259 school board, in the Missouri public entity risk management fund in the manner  
260 provided under sections 537.700 to 537.756.

261           **[12.] 13.** Any entity, either public or private, operating, administering,  
262 or otherwise managing a charter school shall be considered a quasi-public  
263 governmental body and subject to the provisions of sections 610.010 to 610.035.

264           **[13.] 14.** The chief financial officer of a charter school shall maintain:

265           (1) A surety bond in an amount determined by the sponsor to be adequate  
266 based on the cash flow of the school; or

267           (2) An insurance policy issued by an insurance company licensed to do  
268 business in Missouri on all employees in the amount of five hundred thousand  
269 dollars or more that provides coverage in the event of employee theft.



160.410. 1. A charter school shall enroll:

2 (1) All pupils resident in the district in which it operates;

3 (2) Nonresident pupils eligible to attend a district's school under an urban  
4 voluntary transfer program; [and]

5 (3) **In the case of a charter school whose mission includes student**  
6 **drop-out prevention or recovery, any nonresident pupil who is**  
7 **considered high risk or a dropout who resides in a residential care**  
8 **facility, a transitional living group home, or an independent living**  
9 **program and whose last school of enrollment is in the school district**  
10 **where the charter school is established, who submits a timely**  
11 **application; and**

12 (4) In the case of a workplace charter school, any student eligible to  
13 attend under subdivision (1) or (2) of this subsection whose parent is employed  
14 in the business district, who submits a timely application, unless the number of  
15 applications exceeds the capacity of a program, class, grade level or building. The  
16 configuration of a business district shall be set forth in the charter and shall not  
17 be construed to create an undue advantage for a single employer or small number  
18 of employers.

19 2. If capacity is insufficient to enroll all pupils who submit a timely  
20 application, the charter school shall have an admissions process that assures all  
21 applicants of an equal chance of gaining admission except that:

22 (1) A charter school may establish a geographical area around the school  
23 whose residents will receive a preference for enrolling in the school, provided that  
24 such preferences do not result in the establishment of racially or  
25 socioeconomically isolated schools and provided such preferences conform to  
26 policies and guidelines established by the state board of education; [and]

27 (2) A charter school may also give a preference for admission of children  
28 whose siblings attend the school or whose parents are employed at the school or  
29 in the case of a workplace charter school, a child whose parent is employed in the  
30 business district or at the business site of such school; **and**

31 (3) **A charter school whose mission includes student dropout**  
32 **prevention or recovery as described in subdivision (3) of subsection 1**  
33 **of this section shall give preference for admission to resident pupils**  
34 **over nonresident pupils.**

35 3. A charter school shall not limit admission based on race, ethnicity,  
36 national origin, disability, gender, income level, proficiency in the English

37 language or athletic ability, but may limit admission to pupils within a given age  
38 group or grade level. **A charter school may give a preference for**  
39 **admission to high-risk students and dropouts, as defined in subdivision**  
40 **(4) of subsection 2 of section 160.405.**

41 4. The department of elementary and secondary education shall  
42 commission a study of the performance of students at each charter school in  
43 comparison with an equivalent group of district students representing an  
44 equivalent demographic and geographic population and a study of the impact of  
45 charter schools upon the constituents they serve in the districts in which they are  
46 located, to be conducted by the joint committee on education. The charter school  
47 study shall include analysis of the administrative and instructional practices of  
48 each charter school and shall include findings on innovative programs that  
49 illustrate best practices and lend themselves to replication or incorporation in  
50 other schools. The joint committee on education shall coordinate with individuals  
51 representing charter [public] schools and the districts in which charter schools  
52 are located in conducting the study. The study of a charter school's student  
53 performance in relation to a comparable group shall be designed to provide  
54 information that would allow parents and educators to make valid comparisons  
55 of academic performance between the charter school's students and an equivalent  
56 group of district students representing an equivalent demographic and geographic  
57 population. The student performance assessment and comparison shall include,  
58 but may not be limited to:

59 (1) Missouri assessment program test performance and aggregate growth  
60 over several years;

61 (2) Student reenrollment rates;

62 (3) Educator, parent, and student satisfaction data;

63 (4) Graduation rates in secondary programs; and

64 (5) Performance of students enrolled in the same public school for three  
65 or more consecutive years. The impact study shall be undertaken every two years  
66 to determine the impact of charter schools on the constituents they serve in the  
67 districts where charter schools are operated. The impact study shall include, but  
68 is not limited to, determining if changes have been made in district policy or  
69 procedures attributable to the charter school and to perceived changes in  
70 attitudes and expectations on the part of district personnel, school board  
71 members, parents, students, the business community and other education  
72 stakeholders. The department of elementary and secondary education shall make

73 the results of the studies public and shall deliver copies to the governing boards  
74 of the charter schools, the sponsors of the charter schools, the school board and  
75 superintendent of the districts in which the charter schools are operated.

76 5. A charter school shall make available for public inspection, and provide  
77 upon request, to the parent, guardian, or other custodian of any school-age pupil  
78 resident in the district in which the school is located the following information:

79 (1) The school's charter;

80 (2) The school's most recent annual report card published according to  
81 section 160.522; and

82 (3) The results of background checks on the charter school's board  
83 members. The charter school may charge reasonable fees, not to exceed the rate  
84 specified in section 610.026, for furnishing copies of documents under this  
85 subsection.

160.539. 1. The "School Flex Program" is established to allow eligible  
2 students to pursue a timely graduation from high school. The term "eligible  
3 students" includes students in grades eleven or twelve, **or those ages**  
4 **seventeen to twenty-one who have still not obtained a high school**  
5 **degree**, who have been identified by the student's principal and the student's  
6 parent or guardian to benefit by participating in the school flex program.

7 2. An eligible student who participates in a school flex program shall:

8 (1) Attend school a minimum of two instructional hours per school day  
9 within the district of residence;

10 (2) Pursue a timely graduation;

11 (3) Provide evidence of college or technical career education enrollment  
12 and attendance, or proof of employment and labor that is aligned with the  
13 student's career academic plan which has been developed by the school district  
14 **or charter school, or if an eligible student is unable to obtain**  
15 **employment, provide evidence, as determined by the department, that**  
16 **he or she has been seeking employment;**

17 (4) Refrain from being expelled or suspended while participating in a  
18 school flex program;

19 (5) Pursue course and credit requirements for a diploma; and

20 (6) Maintain a ninety-five percent attendance rate.

21 3. Eligible students participating in the school flex program shall be  
22 considered full-time students of the school district **or charter school** and shall  
23 be counted in the school's average daily attendance for state basic aid purposes.

24           4. School districts **or charter schools** participating in the school flex  
25 program shall submit, on forms provided by the department of elementary and  
26 secondary education, an annual report to the department which shall include  
27 information required by the department, including but not limited to student  
28 participation, drop-out, and graduation rates for students participating in the  
29 program. The department shall annually report to the joint committee on  
30 education under section 160.254 on the effectiveness of the program.

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