

FIRST REGULAR SESSION

# HOUSE BILL NO. 914

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MONTECILLO.

1915L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 160.405, RSMo, and to enact in lieu thereof one new section relating to governing boards of charter schools.

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

Section A. Section 160.405, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 160.405, to read as follows:

- 160.405. 1. A person, group or organization seeking to establish a charter school shall submit the proposed charter, as provided in this section, to a sponsor. If the sponsor is not a school board, the applicant shall give a copy of its application to the school board of the district in which the charter school is to be located and to the state board of education, within five business days of the date the application is filed with the proposed sponsor. The school board may file objections with the proposed sponsor, and, if a charter is granted, the school board may file objections with the state board of education. The charter shall be a legally binding performance contract that describes the obligations and responsibilities of the school and the sponsor as outlined in sections 160.400 to 160.425 and section 167.349 and shall also include:
- (1) A mission and vision statement for the charter school;
  - (2) A description of the charter school's organizational structure and bylaws of the governing body, which will be responsible for the policy, financial management, and operational decisions of the charter school, including the nature and extent of parental, professional educator, and community involvement in the governance and operation of the charter school;
  - (3) A financial plan for the first three years of operation of the charter school including provisions for annual audits;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 17 (4) A description of the charter school's policy for securing personnel services, its  
18 personnel policies, personnel qualifications, and professional development plan;
- 19 (5) A description of the grades or ages of students being served;
- 20 (6) The school's calendar of operation, which shall include at least the equivalent of a  
21 full school term as defined in section 160.011;
- 22 (7) A description of the charter school's pupil performance standards and academic  
23 program performance standards, which shall meet the requirements of subdivision (6) of  
24 subsection 4 of this section. The charter school program shall be designed to enable each pupil  
25 to achieve such standards and shall contain a complete set of indicators, measures, metrics, and  
26 targets for academic program performance, including specific goals on graduation rates and  
27 standardized test performance and academic growth;
- 28 (8) A description of the charter school's educational program and curriculum;
- 29 (9) The term of the charter, which shall be five years and shall be renewable;
- 30 (10) Procedures, consistent with the Missouri financial accounting manual, for  
31 monitoring the financial accountability of the charter, which shall meet the requirements of  
32 subdivision (4) of subsection 4 of this section;
- 33 (11) Preopening requirements for applications that require that charter schools meet all  
34 health, safety, and other legal requirements prior to opening;
- 35 (12) A description of the charter school's policies on student discipline and student  
36 admission, which shall include a statement, where applicable, of the validity of attendance of  
37 students who do not reside in the district but who may be eligible to attend under the terms of  
38 judicial settlements and procedures that ensure admission of students with disabilities in a  
39 nondiscriminatory manner;
- 40 (13) A description of the charter school's grievance procedure for parents or guardians;
- 41 (14) A description of the agreement between the charter school and the sponsor as to  
42 when a sponsor shall intervene in a charter school, when a sponsor shall revoke a charter for  
43 failure to comply with subsection 8 of this section, and when a sponsor will not renew a charter  
44 under subsection 9 of this section;
- 45 (15) Procedures to be implemented if the charter school should close, as provided in  
46 subdivision (6) of subsection 16 of section 160.400 including:
- 47 (a) Orderly transition of student records to new schools and archival of student records;
- 48 (b) Archival of business operation and transfer or repository of personnel records;
- 49 (c) Submission of final financial reports;
- 50 (d) Resolution of any remaining financial obligations; and
- 51 (e) Disposition of the charter school's assets upon closure;

52 (f) A notification plan to inform parents or guardians of students, the local school  
53 district, the retirement system in which the charter school's employees participate, and the state  
54 board of education within thirty days of the decision to close;

55 (16) A description of the special education and related services that shall be available  
56 to meet the needs of students with disabilities; and

57 (17) For all new or revised charters, procedures to be used upon closure of the charter  
58 school requiring that unobligated assets of the charter school be returned to the department of  
59 elementary and secondary education for their disposition, which upon receipt of such assets shall  
60 return them to the local school district in which the school was located, the state, or any other  
61 entity to which they would belong. Charter schools operating on August 27, 2012, shall have  
62 until August 28, 2015, to meet the requirements of this subsection.

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

64 (1) A charter shall be submitted to the sponsor, and follow the sponsor's policies and  
65 procedures for review and granting of a charter approval, and be approved by the state board of  
66 education by December first of the year prior to the proposed opening date of the charter school;

67 (2) A charter may be approved when the sponsor determines that the requirements of this  
68 section are met, determines that the applicant is sufficiently qualified to operate a charter school,  
69 and that the proposed charter is consistent with the sponsor's charter sponsorship goals and  
70 capacity. The sponsor's decision of approval or denial shall be made within ninety days of the  
71 filing of the proposed charter;

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

75 (4) If a proposed charter is denied by a sponsor, the proposed charter may be submitted  
76 to the state board of education, along with the sponsor's written reasons for its denial. If the state  
77 board determines that the applicant meets the requirements of this section, that the applicant is  
78 sufficiently qualified to operate the charter school, and that granting a charter to the applicant  
79 would be likely to provide educational benefit to the children of the district, the state board may  
80 grant a charter and act as sponsor of the charter school. The state board shall review the  
81 proposed charter and make a determination of whether to deny or grant the proposed charter  
82 within sixty days of receipt of the proposed charter, provided that any charter to be considered  
83 by the state board of education under this subdivision shall be submitted no later than March first  
84 prior to the school year in which the charter school intends to begin operations. The state board  
85 of education shall notify the applicant in writing as the reasons for its denial, if applicable; and

86 (5) The sponsor of a charter school shall give priority to charter school applicants that  
87 propose a school oriented to high-risk students and to the reentry of dropouts into the school

88 system. If a sponsor grants three or more charters, at least one-third of the charters granted by  
89 the sponsor shall be to schools that actively recruit dropouts or high-risk students as their student  
90 body and address the needs of dropouts or high-risk students through their proposed mission,  
91 curriculum, teaching methods, and services. For purposes of this subsection, a "high-risk"  
92 student is one who is at least one year behind in satisfactory completion of course work or  
93 obtaining high school credits for graduation, has dropped out of school, is at risk of dropping out  
94 of school, needs drug and alcohol treatment, has severe behavioral problems, has been suspended  
95 from school three or more times, has a history of severe truancy, is a pregnant or parenting teen,  
96 has been referred for enrollment by the judicial system, is exiting incarceration, is a refugee, is  
97 homeless or has been homeless sometime within the preceding six months, has been referred by  
98 an area school district for enrollment in an alternative program, or qualifies as high risk under  
99 department of elementary and secondary education guidelines. "Dropout" shall be defined  
100 through the guidelines of the school core data report. The provisions of this subsection do not  
101 apply to charters sponsored by the state board of education.

102         3. If a charter is approved by a sponsor, the charter application shall be submitted to the  
103 state board of education, along with a statement of finding that the application meets the  
104 requirements of sections 160.400 to 160.425 and section 167.349 and a monitoring plan under  
105 which the charter sponsor shall evaluate the academic performance of students enrolled in the  
106 charter school. The state board of education may, within sixty days, disapprove the granting of  
107 the charter. The state board of education may disapprove a charter on grounds that the  
108 application fails to meet the requirements of sections 160.400 to 160.425 and section 167.349  
109 or that a charter sponsor previously failed to meet the statutory responsibilities of a charter  
110 sponsor.

111         4. A charter school shall, as provided in its charter:

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

114             (2) Comply with laws and regulations of the state, county, or city relating to health,  
115 safety, and state minimum educational standards, as specified by the state board of education,  
116 including the requirements relating to student discipline under sections 160.261, 167.161,  
117 167.164, and 167.171, notification of criminal conduct to law enforcement authorities under  
118 sections 167.115 to 167.117, academic assessment under section 160.518, transmittal of school  
119 records under section 167.020, the minimum number of school days and hours required under  
120 section 160.041, and the employee criminal history background check and the family care safety  
121 registry check under section 168.133;

122             (3) Except as provided in sections 160.400 to 160.425, be exempt from all laws and rules  
123 relating to schools, governing boards and school districts;

124 (4) Be financially accountable, use practices consistent with the Missouri financial  
125 accounting manual, provide for an annual audit by a certified public accountant, publish audit  
126 reports and annual financial reports as provided in chapter 165, provided that the annual financial  
127 report may be published on the department of elementary and secondary education's internet  
128 website in addition to other publishing requirements, and provide liability insurance to indemnify  
129 the school, its board, staff and teachers against tort claims. A charter school that receives local  
130 educational agency status under subsection 6 of this section shall meet the requirements imposed  
131 by the Elementary and Secondary Education Act for audits of such agencies and comply with all  
132 federal audit requirements for charters with local education agency status. For purposes of an  
133 audit by petition under section 29.230, a charter school shall be treated as a political subdivision  
134 on the same terms and conditions as the school district in which it is located. For the purposes  
135 of securing such insurance, a charter school shall be eligible for the Missouri public entity risk  
136 management fund pursuant to section 537.700. A charter school that incurs debt shall include  
137 a repayment plan in its financial plan;

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

141 (6) (a) Design a method to measure pupil progress toward the pupil academic standards  
142 adopted by the state board of education pursuant to section 160.514, establish baseline student  
143 performance in accordance with the performance contract during the first year of operation,  
144 collect student performance data as defined by the annual performance report throughout the  
145 duration of the charter to annually monitor student academic performance, and to the extent  
146 applicable based upon grade levels offered by the charter school, participate in the statewide  
147 system of assessments, comprised of the essential skills tests and the nationally standardized  
148 norm-referenced achievement tests, as designated by the state board pursuant to section 160.518,  
149 complete and distribute an annual report card as prescribed in section 160.522, which shall also  
150 include a statement that background checks have been completed on the charter school's board  
151 members, report to its sponsor, the local school district, and the state board of education as to  
152 its teaching methods and any educational innovations and the results thereof, and provide data  
153 required for the study of charter schools pursuant to subsection 4 of section 160.410. No charter  
154 school shall be considered in the Missouri school improvement program review of the district  
155 in which it is located for the resource or process standards of the program.

156 (b) For proposed high risk or alternative charter schools, sponsors shall approve  
157 performance measures based on mission, curriculum, teaching methods, and services. Sponsors  
158 shall also approve comprehensive academic and behavioral measures to determine whether  
159 students are meeting performance standards on a different time frame as specified in that school's

160 charter. Student performance shall be assessed comprehensively to determine whether a high  
161 risk or alternative charter school has documented adequate student progress. Student  
162 performance shall be based on sponsor-approved comprehensive measures as well as  
163 standardized public school measures. Annual presentation of charter school report card data to  
164 the department of elementary and secondary education, the state board, and the public shall  
165 include comprehensive measures of student progress.

166 (c) Nothing in this subdivision shall be construed as permitting a charter school to be  
167 held to lower performance standards than other public schools within a district; however, the  
168 charter of a charter school may permit students to meet performance standards on a different time  
169 frame as specified in its charter. The performance standards for alternative and special purpose  
170 charter schools that target high-risk students as defined in subdivision (5) of subsection 2 of this  
171 section shall be based on measures defined in the school's performance contract with its  
172 sponsors;

173 (7) Comply with all applicable federal and state laws and regulations regarding students  
174 with disabilities, including sections 162.670 to 162.710, the Individuals with Disabilities  
175 Education Act (20 U.S.C. Section 1400) and Section 504 of the Rehabilitation Act of 1973 (29  
176 U.S.C. Section 794) or successor legislation;

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

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

182 (b) A statement outlining the reasons for approval or disapproval by the sponsor,  
183 specifically addressing the requirements of sections 160.400 to 160.425 and 167.349.

184 5. (1) Proposed or existing high-risk or alternative charter schools may include  
185 alternative arrangements for students to obtain credit for satisfying graduation requirements in  
186 the school's charter application and charter. Alternative arrangements may include, but not be  
187 limited to, credit for off-campus instruction, embedded credit, work experience through an  
188 internship arranged through the school, and independent studies. When the state board of  
189 education approves the charter, any such alternative arrangements shall be approved at such time.

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

194 6. The charter of a charter school may be amended at the request of the governing body  
195 of the charter school and on the approval of the sponsor. The sponsor and the governing board

196 and staff of the charter school shall jointly review the school's performance, management and  
197 operations during the first year of operation and then every other year after the most recent  
198 review or at any point where the operation or management of the charter school is changed or  
199 transferred to another entity, either public or private. The governing board of a charter school  
200 may amend the charter, if the sponsor approves such amendment, or the sponsor and the  
201 governing board may reach an agreement in writing to reflect the charter school's decision to  
202 become a local educational agency. In such case the sponsor shall give the department of  
203 elementary and secondary education written notice no later than March first of any year, with the  
204 agreement to become effective July first. The department may waive the March first notice date  
205 in its discretion. The department shall identify and furnish a list of its regulations that pertain  
206 to local educational agencies to such schools within thirty days of receiving such notice.

207 7. Sponsors shall annually review the charter school's compliance with statutory  
208 standards including:

209 (1) Participation in the statewide system of assessments, as designated by the state board  
210 of education under section 160.518;

211 (2) Assurances for the completion and distribution of an annual report card as prescribed  
212 in section 160.522;

213 (3) The collection of baseline data during the first three years of operation to determine  
214 the longitudinal success of the charter school;

215 (4) A method to measure pupil progress toward the pupil academic standards adopted  
216 by the state board of education under section 160.514; and

217 (5) Publication of each charter school's annual performance report.

218 8. (1) (a) A sponsor's intervention policies shall give schools clear, adequate,  
219 evidence-based, and timely notice of contract violations or performance deficiencies and  
220 mandate intervention based upon findings of the state board of education of the following:

221 a. The charter school provides a high school program which fails to maintain a  
222 graduation rate of at least seventy percent in three of the last four school years unless the school  
223 has dropout recovery as its mission;

224 b. The charter school's annual performance report results are below the district's annual  
225 performance report results based on the performance standards that are applicable to the grade  
226 level configuration of both the charter school and the district in which the charter school is  
227 located in three of the last four school years; and

228 c. The charter school is identified as a persistently lowest achieving school by the  
229 department of elementary and secondary education.

230 (b) A sponsor shall have a policy to revoke a charter during the charter term if there is:

231 a. Clear evidence of underperformance as demonstrated in the charter school's annual  
232 performance report in three of the last four school years; or

233 b. A violation of the law or the public trust that imperils students or public funds.

234 (c) A sponsor shall revoke a charter or take other appropriate remedial action, which may  
235 include placing the charter school on probationary status for no more than twelve months,  
236 provided that no more than one designation of probationary status shall be allowed for the  
237 duration of the charter contract, at any time if the charter school commits a serious breach of one  
238 or more provisions of its charter or on any of the following grounds: failure to meet the  
239 performance contract as set forth in its charter, failure to meet generally accepted standards of  
240 fiscal management, failure to provide information necessary to confirm compliance with all  
241 provisions of the charter and sections 160.400 to 160.425 and 167.349 within forty-five days  
242 following receipt of written notice requesting such information, or violation of law.

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

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

250 (4) The sponsor of a charter school shall establish procedures to conduct administrative  
251 hearings upon determination by the sponsor that grounds exist to revoke a charter. Final  
252 decisions of a sponsor from hearings conducted pursuant to this subsection are subject to an  
253 appeal to the state board of education, which shall determine whether the charter shall be  
254 revoked.

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

258 (6) A charter sponsor shall make available the school accountability report card  
259 information as provided under section 160.522 and the results of the academic monitoring  
260 required under subsection 3 of this section.

261 9. (1) A sponsor shall take all reasonable steps necessary to confirm that each charter  
262 school sponsored by such sponsor is in material compliance and remains in material compliance  
263 with all material provisions of the charter and sections 160.400 to 160.425 and 167.349. Every  
264 charter school shall provide all information necessary to confirm ongoing compliance with all  
265 provisions of its charter and sections 160.400 to 160.425 and 167.349 in a timely manner to its  
266 sponsor.



267 (2) The sponsor's renewal process of the charter school shall be based on the thorough  
268 analysis of a comprehensive body of objective evidence and consider if:

269 (a) The charter school has maintained results on its annual performance report that meet  
270 or exceed the district in which the charter school is located based on the performance standards  
271 that are applicable to the grade-level configuration of both the charter school and the district in  
272 which the charter school is located in three of the last four school years;

273 (b) The charter school is organizationally and fiscally viable determining at a minimum  
274 that the school does not have:

275 a. A negative balance in its operating funds;

276 b. A combined balance of less than three percent of the amount expended for such funds  
277 during the previous fiscal year; or

278 c. Expenditures that exceed receipts for the most recently completed fiscal year;

279 (c) The charter is in compliance with its legally binding performance contract and  
280 sections 160.400 to 160.425 and section 167.349.

281 (3) (a) Beginning August first during the year in which a charter is considered for  
282 renewal, a charter school sponsor shall demonstrate to the state board of education that the  
283 charter school is in compliance with federal and state law as provided in sections 160.400 to  
284 160.425 and section 167.349 and the school's performance contract including but not limited to  
285 those requirements specific to academic performance.

286 (b) Along with data reflecting the academic performance standards indicated in  
287 paragraph (a) of this subdivision, the sponsor shall submit a revised charter application to the  
288 state board of education for review.

289 (c) Using the data requested and the revised charter application under paragraphs (a) and  
290 (b) of this subdivision, the state board of education shall determine if compliance with all  
291 standards enumerated in this subdivision has been achieved. The state board of education at its  
292 next regularly scheduled meeting shall vote on the revised charter application.

293 (d) If a charter school sponsor demonstrates the objectives identified in this subdivision,  
294 the state board of education shall renew the school's charter.

295 10. A school district may enter into a lease with a charter school for physical facilities.

296 11. **Notwithstanding any other provision of law, a member of a charter school**  
297 **governing board shall be a voter of the district who has resided in the state for one year**  
298 **next preceding his or her election or appointment.**

299 12. A governing board or a school district employee who has control over personnel  
300 actions shall not take unlawful reprisal against another employee at the school district because  
301 the employee is directly or indirectly involved in an application to establish a charter school. A  
302 governing board or a school district employee shall not take unlawful reprisal against an

303 educational program of the school or the school district because an application to establish a  
304 charter school proposes the conversion of all or a portion of the educational program to a charter  
305 school. As used in this subsection, "unlawful reprisal" means an action that is taken by a  
306 governing board or a school district employee as a direct result of a lawful application to  
307 establish a charter school and that is adverse to another employee or an educational program.

308 [12.] **13.** Charter school board members shall be subject to the same liability for acts  
309 while in office as if they were regularly and duly elected members of school boards in any other  
310 public school district in this state. The governing board of a charter school may participate, to  
311 the same extent as a school board, in the Missouri public entity risk management fund in the  
312 manner provided under sections 537.700 to 537.756.

313 [13.] **14.** Any entity, either public or private, operating, administering, or otherwise  
314 managing a charter school shall be considered a quasi-public governmental body and subject to  
315 the provisions of sections 610.010 to 610.035.

316 [14.] **15.** The chief financial officer of a charter school shall maintain:

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

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

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