

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 935

DATE: March 5, 2009

Version: First engrossment

Authors: Slocum and others

Subject: Amending charter school laws

Analyst: Lisa Larson

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd.

Overview

Incorporates changes to the charter school law proposed by the Minnesota Department of Education, the Minnesota Association of Charter Schools, charter school sponsors, and other charter school stakeholders.

Section

1 Charter schools.

Subd. 1. Purposes. Adds pupil achievement to the list of purposes for chartering a school.

Subd. 2a. Charter school advisory council. Strikes language establishing the charter school advisory council.

Subd. 3. Authorizer. (a) Defines “application” both in the context of an eligible authorizer receiving approval to charter a school and the form a school developer submits to an authorizer for approval to form a charter school. Defines “affidavit” to mean the written statement that an authorizer submits to the commissioner for approval before chartering a school.

(b) Lists the organizations that are eligible to authorize charter schools. Makes ineligible those charitable organizations under the federal tax code that are nonpublic sectarian or religious institutions or their affiliates, and any charitable organizations that for federal tax purposes describe activities indicating a religious purpose. Requires eligible charitable organizations to be incorporated in Minnesota, among other requirements.

(c) Establishes the process by which an eligible authorizer must apply to the commissioner for approval as an authorizer. Lists the criteria for approval that the commissioner must consider. Allows a disapproved applicant to resubmit an application during a future application period

- (d) Requires an authorizer to participate in ongoing department-approved training.
- (e) Establishes a June 30, 2012, deadline by which current authorizers must apply to the commissioner for approval to continue as an authorizer.
- (f), (g) Directs the commissioner to review an authorizer's performance at least once every five years and subject an authorizer that has not performed satisfactorily to corrective action that may include terminating an authorizer's eligibility to charter a school. Give an authorizer subject to corrective action 15 business days to request an informal hearing before the commissioner acts.

Subd. 4. Formation of school. (a) Allows an authorizer to charter a licensed teacher or a group of individuals that includes at least one licensed teacher to operate a charter school subject to approval by the commissioner.

Prohibits an authorizer from locating a newly chartered school or relocating an existing charter school within (i) a one-mile radius of a closed public school site, (ii) the boundaries of a newly consolidated school district, or (iii) the boundaries of a dissolved school district for at least 36 months from when a board acts to close the school, or consolidate or dissolve the school district unless the school board of the school district in which the charter school would be located gives its approval.

- (b) Requires an authorizer to file a separate affidavit with the commissioner for each school it intends to charter. Establishes a process for approving the affidavit. Makes the commissioner's disapproval of an affidavit final.
- (c) Allows an authorizer to prevent an approved charter school from opening under certain circumstances.
- (d) Requires at least five unrelated parties to serve as members of the initial and the ongoing boards of directors. Clarifies that charter school staff and parents and guardians are the voters eligible to elect the board of directors. Requires the charter school to notify eligible voters of an election.
- (e) Makes meeting records and financial information publicly available. Requires a charter school to post information on its official Web site information identifying and providing contact information on its authorizer.
- (f) Requires board members to attend department-approved training on specified topics and prevents untrained board members from continuing to serve on the board.
- (g) Requires an ongoing board to be elected by the end of the third year. Allows the board of directors to (1) be a teacher majority board or (2) have at least 20 percent licensed teachers. Makes the CFO and chief administrator nonvoting board members. Requires school bylaws to establish a process for changing the board's governance model, subject to approval from the authorizer and licensed teachers working at the school.
- (i) Prohibits an authorizer from acquiring unfair financial gain in its relationship with a charter school.
- (j) Prohibits a charter school from offering students or parents something of value to

induce a student to enroll.

(k) Clarifies the process by which an authorizer, after submitting a supplemental affidavit to the commissioner for approval, may permit a charter school to expand to additional sites or add grades. Requires the supplemental affidavit to show that the proposed expansion is needed based on projected enrollment and warranted by longitudinal data demonstrating improved student performance and growth on statewide assessments, and that the charter school has the financial and management capacity to implement the expansion.

(l) Establishes the process and time line by which the commissioner may approve or disapprove a supplemental application under paragraph (k). Makes the commissioner's approval or disapproval of an affidavit final.

Subd. 4a. Conflict of interest. (a) Prohibits an individual with a conflict of interest from serving as a member of a charter school board of directors. Makes a charter school contract voidable at the option of the commissioner or the charter school board of directors if a conflict of interest exists.

(b) Describes the circumstances where a conflict of interest exists.

(c) Makes an individual related to an authorizer who participates in an aspect of the charter school process ineligible to serve as a board member of a school chartered by the authorizer.

Strikes conflict of interest language addressed elsewhere.

Subd. 6. Charter contract. Establishes a contracting time line. Lists the substance of 12 terms related to establishing and administering a charter school that must be included in a charter school contract.

Subd. 6a. Audit report. (a) Allows the commissioner to withhold the state aid of a charter school that fails to submit a timely audit

(c) Strikes language on public access to board information addressed elsewhere in this section.

Subd. 7. Public status; exemption from statutes and rules. Exempts charter schools from all statutes and rules governing school districts unless made specifically applicable or contained in this section.

Subd. 8. State and local requirements. (b) Requires charter schools to comply with statewide education accountability requirements governing state standards and assessments and to work with the department to make available to the public valid and highly reliable comparisons of student academic growth and achievement across schools consistent with school performance report card information.

(d) Allows a charter school student to be released from school for religious instruction.

(j) Strikes conflict of interest sections addressed elsewhere in this section.

- (l) Makes charter schools subject to state data practices laws.
- (n) Makes charter schools subject to state employment laws.

Subd. 8a. Aid reduction. Allows the commissioner to reduce a charter school's state aid for certain violations of law.

Subd. 8b. Aid reductions for violations. Allows the commissioner to reduce a charter school's state aid by an amount not to exceed 60 percent of the charter school's basic revenue for the period of time that the violation occurs.

Subd. 9. Admissions requirements. Strikes language allowing a charter school to limit admission to residents of a specific geographic area identified by the relative percentage of the non-Caucasian population or to give preference to town residents in sparsely populated areas. Directs a charter school to develop and publish a lottery policy and process and to use the process when accepting pupils by lot. Allows a charter school to give preference to enrolling the children of school employees. Prohibits a charter school from establishing admission criteria that are inconsistent with this subdivision.

Subd. 11. Employment and other operating matters. Makes a charter school subject to Minnesota's whistle-blowing statute. Requires a charter school to provide a prospective school employee with a written description of the terms and conditions of employment and the school's personnel policies.

Subd. 14. Annual public reports. Requires a charter school to prepare and distribute an annual report approved by the charter school board of directors and to post the report on its official Web site.

Subd. 15. Review and comment. (a) Requires an authorizer to submit a formal charter school evaluation to the commissioner for review and comment before the authorizer charts a school or renews a charter school contract. Directs the department to review and comment upon an authorizer's evaluation process.

(b), (c), (d), (e) Establish a formula for calculating fees that an authorizer may charge a charter school for evaluating the fiscal and student performance of the charter school, including for the pre-operational planning period.

(f) Requires an authorizer annually to submit to the commissioner and its chartered schools a statement of expenditures related to activities as an authorizer.

Subd. 17. Leased space. (a) Allows a charter school to lease space from an independent school board eligible to be an authorizer, other public organization, private nonprofit sectarian organization, private property owner, or sectarian organization if the leased space is constructed as a school facility. Directs the department to review and approve or disapprove leases in a timely manner.

(b) With an authorizer's approval, allows a charter school that has operated for at least five consecutive years to form a separate affiliated nonprofit building corporation to provide a school facility. Requires an authorizer to submit a supplemental affidavit to the commissioner stating that the authorizer has reviewed information on leasing the facility. Prohibits a charter school from organizing the nonprofit building company

before the supplemental affidavit is filed.

Subd. 18. Authority to raise initial working capital. Strikes language allowing a sponsor to authorize a charter school before it secures resources if the authority is needed to raise working capital.

Subd. 20. Leave to teach in a charter school. Allows a school district to require that a request for a leave of absence to teach in a charter school be made before February 1 in the school year before the school year in which the teacher intends to leave, or February 1 of the calendar year in which the teacher's leave is scheduled to end. Strikes language directing a teacher on leave to pay both the employer and employee retirement contributions.

Subd. 23. Causes for nonrenewal or termination of charter school contract.

(a) Restates the timelines for not renewing or terminating a charter school contract in terms of business days.

(b) Strikes language allowing the commissioner to approve a different sponsor for a charter school where an existing sponsor elects to terminate or not renew the charter school contract.

(c) Allows a change in authorizers if an existing authorizer and a charter school board of directors mutually agree to voluntarily terminate or not renew a charter school contract, subject to approval by the commissioner.

(d) Allows the commissioner to terminate a charter school contract if the charter school fails to meet performance requirements, demonstrates financial mismanagement, or violates laws.

(e) Directs the commissioner to provide information to assist a charter school in finding a new authorizer if the commissioner terminates the authorizer's eligibility to charter a school.

Subd. 23a. Related party lease costs. (b) Defines terms related to establishing whether a conflict of interest exists.

Subd. 25. Extent of specific legal authority. Requires a charter school board of directors to submit to its authorizer in a timely manner a copy of its insurance policy and any changes to that policy.

Subd. 26. Definitions. Strikes conflict of interest definitions addressed elsewhere in the section.

2 Payment of aids to charter schools. (a) Strikes language establishing payment periods in the first year of a charter school's operation.

(b) Establishes requirements for paying and withholding state aid after a charter school ceases to operate.

(c) Allows the commissioner to withhold aid to satisfy a directive to return federal or state funds.

(d) Allows the commissioner to withhold aid if a charter school, after receiving an

undisputed invoice for goods or services, fails to pay within 75 business days the state of Minnesota, a school district, an intermediate school district, or a service cooperative.

3 **Effective date.** (a) Makes this act effective immediately and applicable beginning August 1, 2009, unless otherwise specified.

(b) Makes the “religious purpose” changes governing charitable organizations applicable to charitable organizations seeking approval as authorizers after August 1, 2009, but excepts sponsor/authorizers that have charter schools on that date. Subjects the existing sponsor/authorizers to the new requirement to incorporate in Minnesota beginning July 1, 2012.

(c) Makes the prohibition against locating a newly chartered school or relocating an existing charter school within (i) a one-mile radius of a closed public school site, (ii) the boundaries of a newly consolidated school district, or (iii) the boundaries of a dissolved school district for at least 36 months applicable to school board actions taken after the effective date of the act.