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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1089

03/04/2013 Authored by Mariani; Woodard; Erickson, S.; Isaacson and Davnie
The bill was read for the first time and referred to the Committee on Education Policy

1.1 A bill for an act
1.2 relating to education; modifying charter school provisions; amending Minnesota
1.3 Statutes 2012, section 124D.10, subdivisions 4, 4a, 11, 23.

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

1.5 Section 1. Minnesota Statutes 2012, section 124D.10, subdivision 4, is amended to read:

1.6 Subd. 4. **Formation of school.** (a) An authorizer, after receiving an application from
1.7 a school developer, may charter a licensed teacher under section 122A.18, subdivision
1.8 1, or a group of individuals that includes one or more licensed teachers under section
1.9 122A.18, subdivision 1, to operate a school subject to the commissioner's approval of the
1.10 authorizer's affidavit under paragraph (b). The school must be organized and operated as a
1.11 nonprofit corporation under chapter 317A and the provisions under the applicable chapter
1.12 shall apply to the school except as provided in this section.

1.13 Notwithstanding sections 465.717 and 465.719, a school district, subject to this
1.14 section and section 124D.11, may create a corporation for the purpose of establishing a
1.15 charter school.

1.16 (b) Before the operators may establish and operate a school, the authorizer must file
1.17 an affidavit with the commissioner stating its intent to charter a school. An authorizer
1.18 must file a separate affidavit for each school it intends to charter. The affidavit must state
1.19 the terms and conditions under which the authorizer would charter a school and how the
1.20 authorizer intends to oversee the fiscal and student performance of the charter school and to
1.21 comply with the terms of the written contract between the authorizer and the charter school
1.22 board of directors under subdivision 6. The commissioner must approve or disapprove the
1.23 authorizer's affidavit within 60 business days of receipt of the affidavit. If the commissioner
1.24 disapproves the affidavit, the commissioner shall notify the authorizer of the deficiencies

2.1 in the affidavit and the authorizer then has 20 business days to address the deficiencies.

2.2 If the authorizer does not address deficiencies to the commissioner's satisfaction, the
2.3 commissioner's disapproval is final. Failure to obtain commissioner approval precludes an
2.4 authorizer from chartering the school that is the subject of this affidavit.

2.5 (c) The authorizer may prevent an approved charter school from opening for
2.6 operation if, among other grounds, the charter school violates this section or does not meet
2.7 the ready-to-open standards that are part of the authorizer's oversight and evaluation
2.8 process or are stipulated in the charter school contract.

2.9 (d) The operators authorized to organize and operate a school, before entering into a
2.10 contract or other agreement for professional or other services, goods, or facilities, must
2.11 incorporate as a nonprofit corporation under chapter 317A and must establish a board of
2.12 directors composed of at least five members who are not related parties until a timely
2.13 election for members of the ongoing charter school board of directors is held according to
2.14 the school's articles and bylaws under paragraph (f). A charter school board of directors
2.15 must be composed of at least five members who are not related parties. Staff members
2.16 employed at the school, including teachers providing instruction under a contract with a
2.17 cooperative, members of the board of directors, and all parents or legal guardians of
2.18 children enrolled in the school are the voters eligible to elect the members of the school's
2.19 board of directors. A charter school must notify eligible voters of the school board election
2.20 dates at least 30 days before the election. Board of director meetings and board committee
2.21 meetings must comply with chapter 13D.

2.22 (e) A charter school shall publish and maintain on the school's official Web site: (1)
2.23 the minutes of meetings of the board of directors, and of members and committees having
2.24 any board-delegated authority, for at least one calendar year from the date of publication;
2.25 (2) directory information for members of the board of directors and committees having
2.26 board-delegated authority; and (3) identifying and contact information for the school's
2.27 authorizer. Identifying and contact information for the school's authorizer must be
2.28 included in other school materials made available to the public. Upon request of an
2.29 individual, the charter school must also make available in a timely fashion financial
2.30 statements showing all operations and transactions affecting income, surplus, and deficit
2.31 during the school's last annual accounting period; and a balance sheet summarizing assets
2.32 and liabilities on the closing date of the accounting period. A charter school also must post
2.33 on its official Web site information identifying its authorizer and indicate how to contact
2.34 that authorizer and include that same information about its authorizer in other school
2.35 materials that it makes available to the public.

3.1 (f) Every charter school board member shall attend ~~ongoing~~ annual training
 3.2 throughout the member's term on the board governance, including. All new board
 3.3 members shall attend initial training on the board's role and responsibilities, employment
 3.4 policies and practices, and financial management. A new board member who does not
 3.5 begin the required initial training within six months after being seated and complete that
 3.6 training within 12 months of being seated on the board is automatically ineligible to
 3.7 continue to serve as a board member. The school shall include in its annual report the
 3.8 training attended by each board member during the previous year.

3.9 (g) The ongoing board must be elected before the school completes its third year of
 3.10 operation. Board elections must be held during the school year but may not be conducted
 3.11 on days when the school is closed for holidays or vacations. The charter school board of
 3.12 directors shall be composed of at least five nonrelated members and include: (i) at least
 3.13 one licensed teacher employed as a teacher at the school or a licensed teacher providing
 3.14 instruction under contract between the charter school and a cooperative; (ii) ~~the~~ at least one
 3.15 parent or legal guardian of a student enrolled in the charter school who is not an employee
 3.16 of the charter school; and (iii) ~~an~~ at least one interested community member who resides
 3.17 in Minnesota and is not employed by the charter school and does not have a child enrolled
 3.18 in the school. The board may ~~be a teacher majority board composed of~~ include a majority
 3.19 of teachers, parents, or community members as described in this paragraph or it may have
 3.20 no clear majority. The chief financial officer and the chief administrator may only serve
 3.21 as ex-officio nonvoting board members and may not serve as a voting member of the
 3.22 board. No charter school employees shall ~~not~~ serve on the board unless other than teachers
 3.23 under item (i) applies. Contractors providing facilities, goods, or services to a charter
 3.24 school shall not serve on the board of directors of the charter school. Board bylaws shall
 3.25 outline the process and procedures for changing the board's governance ~~model~~ structure,
 3.26 consistent with chapter 317A. A board may change its governance ~~model~~ structure only:

3.27 (1) by a majority vote of the board of directors and a majority vote of the licensed
 3.28 teachers employed by the school as teachers, including licensed teachers providing
 3.29 instruction under a contract between the school and a cooperative; and

3.30 (2) with the authorizer's approval.

3.31 Any change in board governance structure must conform with the ~~board structure~~
 3.32 composition of the board established under this paragraph.

3.33 (h) The granting or renewal of a charter by an authorizer must not be conditioned
 3.34 upon the bargaining unit status of the employees of the school.

3.35 (i) The granting or renewal of a charter school by an authorizer must not be
 3.36 contingent on the charter school being required to contract, lease, or purchase services

4.1 or facilities from the authorizer or to enter into a contract with a corporation, contractor,
 4.2 or individual with which the authorizer has a financial relationship or arrangement. Any
 4.3 potential contract, lease, or purchase of service from an authorizer must be disclosed to
 4.4 the commissioner, accepted through an open bidding process, and be a separate contract
 4.5 from the charter contract. The school must document the open bidding process it used in
 4.6 awarding the contract. The authorizer must document that the bid terms were competitive
 4.7 in relation to the market and that the authorizer makes the same terms available to
 4.8 schools that it does not authorize. An authorizer must not enter into a contract to provide
 4.9 management and financial services for a school that it authorizes, unless the school
 4.10 documents that it received at least two competitive bids.

4.11 (j) An authorizer may permit the board of directors of a charter school to expand
 4.12 the operation of the charter school to additional sites or to add additional grades at the
 4.13 school beyond those described in the authorizer's original affidavit as approved by
 4.14 the commissioner only after submitting a supplemental affidavit for approval to the
 4.15 commissioner in a form and manner prescribed by the commissioner. The supplemental
 4.16 affidavit must document that:

4.17 (1) the proposed expansion plan demonstrates need and projected enrollment;

4.18 (2) the expansion is warranted, at a minimum, by longitudinal data demonstrating
 4.19 students' improved academic performance and growth on statewide assessments under
 4.20 chapter 120B;

4.21 (3) the charter school is financially sound and the financing it needs to implement
 4.22 the proposed expansion exists; and

4.23 (4) the charter school has the governance structure and management capacity to
 4.24 carry out its expansion.

4.25 (k) The commissioner shall have 30 business days to review and comment on the
 4.26 supplemental affidavit. The commissioner shall notify the authorizer of any deficiencies in
 4.27 the supplemental affidavit and the authorizer then has 20 business days to address, to the
 4.28 commissioner's satisfaction, any deficiencies in the supplemental affidavit. The school
 4.29 may not expand grades or add sites until the commissioner has approved the supplemental
 4.30 affidavit. The commissioner's approval or disapproval of a supplemental affidavit is final.

4.31 Sec. 2. Minnesota Statutes 2012, section 124D.10, subdivision 4a, is amended to read:

4.32 Subd. 4a. **Conflict of interest.** (a) An individual is prohibited from serving as a
 4.33 member of the charter school board of directors if the individual, an immediate family
 4.34 member, or the individual's partner is an a full or part owner, employee or agent of, or
 4.35 a contractor principal with a for-profit or nonprofit entity or individual independent

5.1 contractor with whom the charter school contracts, directly or indirectly, for professional
 5.2 services, goods, or facilities. An individual is prohibited from serving as a board member
 5.3 if an immediate family member is an employee of the school or is an individual with
 5.4 whom the school contracts, directly or indirectly, through full or part ownership, for
 5.5 professional services, goods, or facilities. A violation of this prohibition renders a contract
 5.6 voidable at the option of the commissioner or the charter school board of directors. A
 5.7 member of a charter school board of directors who violates this prohibition is individually
 5.8 liable to the charter school for any damage caused by the violation.

5.9 (b) No member of the board of directors, employee, officer, or agent of a charter
 5.10 school shall participate in selecting, awarding, or administering a contract if a conflict
 5.11 of interest exists. A conflict exists when:

- 5.12 (1) the board member, employee, officer, or agent;
- 5.13 (2) the immediate family of the board member, employee, officer, or agent;
- 5.14 (3) the partner of the board member, employee, officer, or agent; or
- 5.15 (4) an organization that employs, or is about to employ any individual in clauses
 5.16 (1) to (3),

5.17 has a financial or other interest in the entity with which the charter school is contracting.
 5.18 A violation of this prohibition renders the contract void.

5.19 (c) Any employee, agent, or board member of the authorizer who participates
 5.20 in the initial review, approval, ongoing oversight, evaluation, or the charter renewal or
 5.21 nonrenewal process or decision is ineligible to serve on the board of directors of a school
 5.22 chartered by that authorizer.

5.23 (d) An individual may serve as a member of the board of directors if no conflict of
 5.24 interest under paragraph (a) exists.

5.25 (e) The conflict of interest provisions under this subdivision do not apply to
 5.26 compensation paid to a teacher employed by the charter school who also serves as a
 5.27 member of the board of directors.

5.28 (f) The conflict of interest provisions under this subdivision do not apply to a teacher
 5.29 who provides services to a charter school through a cooperative formed under chapter
 5.30 308A when the teacher also serves on the charter school board of directors.

5.31 Sec. 3. Minnesota Statutes 2012, section 124D.10, subdivision 11, is amended to read:

5.32 Subd. 11. **Employment and other operating matters.** (a) A charter school must
 5.33 employ or contract with necessary teachers, as defined by section 122A.15, subdivision 1,
 5.34 who hold valid licenses to perform the particular service for which they are employed in
 5.35 the school. The charter school's state aid may be reduced under section 127A.43 if the

6.1 school employs a teacher who is not appropriately licensed or approved by the board of
 6.2 teaching. The school may employ necessary employees who are not required to hold
 6.3 teaching licenses to perform duties other than teaching and may contract for other services.
 6.4 The school may discharge teachers and nonlicensed employees. The charter school board
 6.5 is subject to section 181.932. When offering employment to a prospective employee, a
 6.6 charter school must give that employee a written description of the terms and conditions
 6.7 of employment and the school's personnel policies.

6.8 (b) A person, without holding a valid administrator's license, may perform
 6.9 administrative, supervisory, or instructional leadership duties. The board of directors shall
 6.10 establish qualifications for persons that hold administrative, supervisory, or instructional
 6.11 leadership roles. The qualifications shall include at least the following areas: instruction
 6.12 and assessment; human resource and personnel management; financial management;
 6.13 legal and compliance management; effective communication; and board, authorizer, and
 6.14 community relationships. The board of directors shall use those qualifications as the basis
 6.15 for job descriptions, hiring, and performance evaluations of those who hold administrative,
 6.16 supervisory, or instructional leadership roles. The board of directors and an individual
 6.17 who does not hold a valid administrative license and who serves in an administrative,
 6.18 supervisory, or instructional leadership position shall develop a professional development
 6.19 plan. Documentation of the implementation of the professional development plan of these
 6.20 persons shall be included in the school's annual report.

6.21 (c) The board of directors also shall decide policy matters related to the operation
 6.22 of the school, including budgeting, curriculum, programming, personnel, and operating
 6.23 procedures. The board shall adopt a policy on nepotism in employment. The board shall
 6.24 adopt personnel evaluation policies and practices that, at a minimum:

6.25 (1) carry out the school's mission and goals;

6.26 (2) evaluate the execution of charter contract goals and commitments;

6.27 (3) evaluate student achievement, postsecondary and workforce readiness, and
 6.28 engagement goals; and

6.29 (4) provide professional development related to the individual's job responsibilities.

6.30 Sec. 4. Minnesota Statutes 2012, section 124D.10, subdivision 23, is amended to read:

6.31 Subd. 23. **Causes for nonrenewal or termination of charter school contract.** (a)
 6.32 The duration of the contract with an authorizer must be for the term contained in the
 6.33 contract according to subdivision 6. The authorizer may or may not renew a contract at
 6.34 the end of the term for any ground listed in paragraph (b). An authorizer may unilaterally
 6.35 terminate a contract during the term of the contract for any ground listed in paragraph (b).

7.1 At least 60 business days before not renewing or terminating a contract, the authorizer
7.2 shall notify the board of directors of the charter school of the proposed action in writing.
7.3 The notice shall state the grounds for the proposed action in reasonable detail and that the
7.4 charter school's board of directors may request in writing an informal hearing before the
7.5 authorizer within 15 business days of receiving notice of nonrenewal or termination of
7.6 the contract. Failure by the board of directors to make a written request for an informal
7.7 hearing within the 15-business-day period shall be treated as acquiescence to the proposed
7.8 action. Upon receiving a timely written request for a hearing, the authorizer shall give ten
7.9 business days' notice to the charter school's board of directors of the hearing date. The
7.10 authorizer shall conduct an informal hearing before taking final action. The authorizer
7.11 shall take final action to renew or not renew a contract no later than 20 business days
7.12 before the proposed date for terminating the contract or the end date of the contract.

7.13 (b) A contract may be terminated or not renewed upon any of the following grounds:

7.14 (1) failure to meet the requirements for pupil performance contained in the contract;

7.15 (2) failure to meet generally accepted standards of fiscal management;

7.16 (3) violations of law; or

7.17 (4) other good cause shown.

7.18 If a contract is terminated or not renewed under this paragraph, the school must be
7.19 dissolved according to the applicable provisions of chapter 317A.

7.20 ~~(e) If the authorizer and the charter school board of directors mutually agree to~~
7.21 ~~terminate or not renew the contract, a change in authorizers is allowed if the commissioner~~
7.22 ~~approves the change to a different eligible authorizer to authorize the charter school.~~

7.23 ~~Both parties must jointly submit their intent in writing to the commissioner to mutually~~
7.24 ~~terminate the contract. The authorizer that is a party to the existing contract must inform~~
7.25 ~~the proposed authorizer about the fiscal and operational status and student performance~~
7.26 ~~of the school. Before the commissioner determines whether to approve a change in~~
7.27 ~~authorizer, the proposed authorizer must identify any outstanding issues in the proposed~~
7.28 ~~charter contract that were unresolved in the previous charter contract and have the charter~~
7.29 ~~school agree to resolve those issues. If no change in authorizer is approved, the school~~
7.30 ~~must be dissolved according to applicable law and the terms of the contract.~~

7.31 (c) If the authorizer and the charter school board of directors mutually agree not to
7.32 renew the contract, a change in authorizers is allowed. The authorizer and the school
7.33 board must jointly submit a written and signed letter of their intent to the commissioner
7.34 to mutually not renew the contract. The authorizer that is a party to the existing contract
7.35 must inform the proposed authorizer about the fiscal, operational, and student performance
7.36 status of the school, as well as any outstanding contractual obligations that exist. The

8.1 charter contract between the proposed authorizer and the school must identify and provide
8.2 a plan to address any outstanding obligations from the previous contract. The proposed
8.3 contract must be submitted at least 90 business days before the end of the existing
8.4 charter contract. The commissioner shall have 15 business days to review and make a
8.5 determination. The proposed authorizer and the school shall have 15 business days to
8.6 respond to the determination and address any issues identified by the commissioner. A
8.7 final determination by the commissioner shall be made no later than 45 business days
8.8 before the end of the current charter contract. If no change in authorizer is approved, the
8.9 school and the current authorizer may withdraw their letter of nonrenewal and enter into a
8.10 new contract. If the transfer of authorizers is not approved and the current authorizer and
8.11 the school do not withdraw their letter and enter into a new contract, the school must be
8.12 dissolved according to applicable law and the terms of the contract.

8.13 (d) The commissioner, after providing reasonable notice to the board of directors of
8.14 a charter school and the existing authorizer, and after providing an opportunity for a public
8.15 hearing, may terminate the existing contract between the authorizer and the charter school
8.16 board if the charter school has a history of:

- 8.17 (1) failure to meet pupil performance requirements consistent with state law;
8.18 (2) financial mismanagement or failure to meet generally accepted standards of
8.19 fiscal management; or
8.20 (3) repeated or major violations of the law.