

SENATE
STATE OF MINNESOTA
NINETY-FOURTH SESSION

S.F. No. 2773

(SENATE AUTHORS: CWODZINSKI)

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Introduction and first reading
Referred to Education Policy

OFFICIAL STATUS

1.1A bill for an act

1.2relating to education; requiring a trustee to oversee all charter school closures;

1.3amending Minnesota Statutes 2024, sections 124E.05, subdivision 7; 124E.25,

1.4subdivision 1a; proposing coding for new law in Minnesota Statutes, chapter 124E.

1.5BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6Section 1. Minnesota Statutes 2024, section 124E.05, subdivision 7, is amended to read:

1.7Subd. 7. **Withdrawal.** If the governing board of an approved authorizer votes to withdraw

1.8as an approved authorizer for a reason unrelated to any cause under subdivision 6, the

1.9authorizer must notify all its chartered schools and the commissioner in writing by March

1.101 of its intent to withdraw as an authorizer on June 30 in the next calendar year. Upon

1.11notification of the schools and commissioner, the authorizer must provide a letter to the

1.12school for distribution to families of students enrolled in the school that explains the decision

1.13to withdraw as an authorizer. The commissioner may approve the transfer of a charter school

1.14to a new authorizer under section 124E.10, subdivision 5. When an authorizer withdraws,

1.15the authorizer must transfer to the commissioner as of the effective date of withdrawal any

1.16unexpended authorizer fees collected in accordance with section 124E.10, subdivision 3,

1.17paragraph (c). The commissioner must transfer the unexpended fees collected to the charter

1.18school closure fund established under section 124E.065, subdivision 4. If the charter school

1.19closure fund has reached its cap, the commissioner must transfer the unexpended fees

1.20collected to the state general fund.

1.21Sec. 2. [124E.065] CHARTER SCHOOL CLOSURES AND CLOSURE TRUSTEES.

1.22Subdivision 1. **School closures.** Upon the final decision to close a charter school, whether

1.23by voluntary action of the charter school's board of directors, nonrenewal or termination of

the charter contract by the authorizer, or termination of the charter contract by the commissioner, the authorizer must appoint a charter school closure trustee within five business days of the final decision. Before appointment of the trustee, the authorizer must negotiate the trustee's fee, must obtain state and federal background checks on the trustee, and may require the trustee to post a bond or maintain appropriate insurance in an amount reflective of the school's condition and situation.

Subd. 2. **Charter school closure trustee.** (a) A charter school closure trustee:

(1) must be a resident of the state of Minnesota;

(2) must possess a bachelor's or postgraduate degree in accounting, law, nonprofit management, educational administration, or other appropriate field, and have at least five years of work experience in the degree field;

(3) must not have been convicted of a felony or other crime involving moral turpitude, and must not have been found liable in a civil court for fraud, breach of fiduciary duty, civil theft, or similar misconduct;

(4) must not be under investigation or pending criminal prosecution for any crime;

(5) must not have a history of wage garnishment by the Internal Revenue Service or any state;

(6) must not have filed for bankruptcy;

(7) must not have been an employee, parent or legal guardian, board member, or contractor of the charter school or the charter school's authorizer during the previous three years;

(8) must not have an immediate family member who is, at the time of or subsequent to the final decision, an employee or contractor of the charter school or its authorizer or who serves on the charter school's board of directors at the time of or subsequent to the final decision to close the school; and

(9) must be independent and have no material interest adverse to the charter school or its authorizer.

(b) Paragraph (a) does not apply to a trustee who is a lawyer subject to the Minnesota Rules of Professional Conduct.

(c) Within five business days of appointment of the trustee by the authorizer, the charter school board of directors must issue a contract with the trustee for the services in subdivision

3.1 3 and provide a power of attorney to the trustee to act on behalf of the charter school in all
3.2 matters related to the charter school.

3.3 Subd. 3. **Trustee power, duties, and responsibilities.** (a) The charter school closure
3.4 trustee must:

3.5 (1) ensure that parents of enrolled students are provided with information and assistance
3.6 to enable a student to enroll in another school;

3.7 (2) facilitate the timely transfer of student records as required by section 124E.10,
3.8 subdivision 6, and maintain a database of essential data including the transferred location
3.9 and record of receipt for each student's record that is transferred;

3.10 (3) submit reporting of financial data, student data, and other reports requested by the
3.11 department in the form and manner specified by the commissioner;

3.12 (4) ensure the charter school obtains all external audits necessary for the school closure
3.13 process;

3.14 (5) ensure liability insurance for the school corporation is maintained during the closure
3.15 process;

3.16 (6) facilitate the statutory requirements of dissolution in accordance with sections
3.17 317A.701 to 317A.791, including but not limited to filing the notices of intent to dissolve
3.18 with the secretary of state and attorney general, providing notice to creditors and claimants,
3.19 evaluating claims against the charter school, collecting debts due or owed to the charter
3.20 school, and filing articles of dissolution;

3.21 (7) ensure essential financial dissolution-related services are maintained during the
3.22 closure process; and

3.23 (8) ensure school property is adequately managed in accordance with requirements of
3.24 this section.

3.25 (b) To the extent the school has available funds and to the extent any actions are not
3.26 otherwise completed under paragraph (a), the trustee must execute the closure plans as
3.27 required by the charter contract and the commissioner, including ensuring that the charter
3.28 school sells, transfers, or otherwise liquidates all or substantially all of the property and
3.29 assets of the charter school in a commercially reasonable manner and in compliance with
3.30 applicable laws and regulations.

3.31 (c) The trustee must approve all charter school expenditures before payment and must
3.32 be a required signatory on all charter school financial accounts. The trustee may void and

seek reimbursement of any and all extraordinary payments, as determined by the trustee, made by the charter school to individuals, contractors, or corporations made within 90 business days before the final decision to close.

(d) The trustee may maintain a trust account on behalf of the charter school to execute the trustee's powers, duties, and responsibilities under this section.

(e) If during the closure process the charter school's board of directors or the authorizer determines that the trustee is not performing the closure duties in an efficient and effective manner, the authorizer may terminate the trustee's appointment and appoint a new trustee.

(f) A trustee acting within the scope of the trustee's appointment may not be liable for acts for omissions under this section. A trustee is not exempt from liability stemming from a trustee's illegal or criminal act, or any trustee action that constitutes willful or reckless misconduct. The commissioner, an authorizer, members of the board of an authorizer acting in the authorizer's official capacity, and employees of an authorizer are immune from civil or criminal liability with respect to all activities of a trustee authorizer and employees of the authorizer approve or appoint under this section.

Subd. 4. Charter school closure fund. (a) A charter school closure fund must be established and managed by the department. The department may charge the charter school closure fund a management fee, commensurate with the fund's annual activity. The department must issue an annual report on the income and expenditures of the fund by September 30 to all authorizers and charter schools and publish the report on its website. The charter school closure fund must be financed by an annual appropriation of \$350,000 from the legislature until the fund reaches a cap of \$1,000,000.

(b) Money expended from the charter school closure fund must be authorized by the department and must be used only for the following purposes:

(1) the certification of the reporting of financial and student data to the department necessary for the release of final aid payments under section 124E.25, subdivision 1a;

(2) the cost of the external audits necessary for the school closure process;

(3) the cost of liability insurance for the school corporation during the closure process;

(4) legal costs for the dissolution of the school corporation;

(5) the cost of essential financial dissolution-related services;

(6) costs to manage school property;

(7) costs for the timely transfer of student records; and

5.1 (8) the trustee's fee.

5.2 (c) No more than ten times the formula allowance set forth in section 126C.10,
5.3 subdivision 2, in effect when the final decision to close the charter school is made, may be
5.4 expended from the fund for an individual school closure process. The trustee must request
5.5 funding on behalf of the school from the department to pay the expenditures authorized by
5.6 this paragraph, except for the trustee's fee, which must be requested by the authorizer.

5.7 Subd. 5. **Bankruptcy.** If a charter school files for bankruptcy concurrent with or
5.8 subsequent to the final decision to close the charter school, the bankruptcy trustee appointed
5.9 by the bankruptcy court may assume the powers and duties as applicable for a charter school
5.10 closure trustee as provided in this section.

5.11 Subd. 6. **Mergers.** This section does not apply to charter school mergers under section
5.12 124E.06, subdivision 7.

5.13 Sec. 3. Minnesota Statutes 2024, section 124E.25, subdivision 1a, is amended to read:

5.14 Subd. 1a. **School closures; payments.** (a) Notwithstanding subdivision 1 and section
5.15 127A.45, for a charter school ceasing operation on or before June 30, for the payment periods
5.16 occurring after the school ceases serving students, the commissioner shall withhold the
5.17 estimated state aid owed the school. The charter school board of directors and authorizer
5.18 must submit to the commissioner a closure plan under chapter 317A, and financial
5.19 information about the school's liabilities and assets. After receiving the closure plan, financial
5.20 information, an audit of pupil counts, and documented lease expenditures from the charter
5.21 school and monitoring special education expenditures, the commissioner may release cash
5.22 withheld and may continue regular payments up to the current year payment percentages
5.23 if further amounts are owed. If, based on audits and monitoring, the school received state
5.24 aid in excess of the amount owed, the commissioner shall retain aid withheld sufficient to
5.25 eliminate the aid overpayment.

5.26 (b) For a charter school ceasing operations before or at the end of a school year,
5.27 notwithstanding section 127A.45, subdivision 3, the commissioner may make preliminary
5.28 final payments after the school submits the closure plan, an audit of pupil counts, documented
5.29 lease expenditures, and Uniform Financial Accounting and Reporting Standards (UFARS)
5.30 financial data and the commissioner monitors special education expenditures for the final
5.31 year of operation. The commissioner may make the final payment after receiving audited
5.32 financial statements under section 123B.77, subdivision 3.

6.1 (c) Notwithstanding sections 317A.701 to 317A.791, after closing a charter school and
6.2 satisfying creditors, remaining cash and investment balances shall be returned by the
6.3 commissioner to the charter school closure fund established under section 124E.065,
6.4 subdivision 4. If the charter school closure fund has reached its cap, the commissioner must
6.5 return the surplus cash and investment balances to the state general fund.