

This Document can be made available in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2872

03/10/2014 Authored by Mariani

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; clarifying the definition of single purpose authorizer;
1.3 amending Minnesota Statutes 2013 Supplement, section 124D.10, subdivision 3.

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

1.5 Section 1. Minnesota Statutes 2013 Supplement, section 124D.10, subdivision 3,
1.6 is amended to read:

1.7 Subd. 3. **Authorizer.** (a) For purposes of this section, the terms defined in this
1.8 subdivision have the meanings given them.

1.9 "Application" to receive approval as an authorizer means the proposal an eligible
1.10 authorizer submits to the commissioner under paragraph (c) before that authorizer is able
1.11 to submit any affidavit to charter to a school.

1.12 "Application" under subdivision 4 means the charter school business plan a
1.13 school developer submits to an authorizer for approval to establish a charter school that
1.14 documents the school developer's mission statement, school purposes, program design,
1.15 financial plan, governance and management structure, and background and experience,
1.16 plus any other information the authorizer requests. The application also shall include a
1.17 "statement of assurances" of legal compliance prescribed by the commissioner.

1.18 "Affidavit" means a written statement the authorizer submits to the commissioner
1.19 for approval to establish a charter school under subdivision 4 attesting to its review and
1.20 approval process before chartering a school.

1.21 (b) The following organizations may authorize one or more charter schools:

1.22 (1) a school board, intermediate school district school board, or education district
1.23 organized under sections 123A.15 to 123A.19;

2.1 (2) a charitable organization under section 501(c)(3) of the Internal Revenue Code
2.2 of 1986, excluding a nonpublic sectarian or religious institution; any person other than a
2.3 natural person that directly or indirectly, through one or more intermediaries, controls,
2.4 is controlled by, or is under common control with the nonpublic sectarian or religious
2.5 institution; and any other charitable organization under this clause that in the federal IRS
2.6 Form 1023, Part IV, describes activities indicating a religious purpose, that:

2.7 (i) is a member of the Minnesota Council of Nonprofits or the Minnesota Council on
2.8 Foundations;

2.9 (ii) is registered with the attorney general's office; and

2.10 (iii) is incorporated in the state of Minnesota and has been operating continuously
2.11 for at least five years but does not operate a charter school;

2.12 (3) a Minnesota private college, notwithstanding clause (2), that grants two- or
2.13 four-year degrees and is registered with the Minnesota Office of Higher Education under
2.14 chapter 136A; community college, state university, or technical college governed by the
2.15 Board of Trustees of the Minnesota State Colleges and Universities; or the University
2.16 of Minnesota;

2.17 (4) a nonprofit corporation subject to chapter 317A, described in section 317A.905,
2.18 and exempt from federal income tax under section 501(c)(6) of the Internal Revenue Code
2.19 of 1986, may authorize one or more charter schools if the charter school has operated
2.20 for at least three years under a different authorizer and if the nonprofit corporation has
2.21 existed for at least 25 years; or

2.22 (5) single-purpose authorizers ~~that are~~ formed as charitable, nonsectarian
2.23 organizations ~~formed~~ under section 501(c)(3) of the Internal Revenue Code of 1986 and
2.24 incorporated in the state of Minnesota under chapter 317A as a corporation with no
2.25 members ~~whose~~ or under section 322B.975 as a nonprofit limited liability company for
2.26 the sole purpose is to charter of chartering schools. Eligible organizations interested
2.27 in being approved as an authorizer under this paragraph must submit a proposal to the
2.28 commissioner that includes the provisions of paragraph (c) and a five-year financial plan.
2.29 Such authorizers shall consider and approve charter school applications using the criteria
2.30 provided in subdivision 4 and shall not limit the applications it solicits, considers, or
2.31 approves to any single curriculum, learning program, or method.

2.32 (c) An eligible authorizer under this subdivision must apply to the commissioner for
2.33 approval as an authorizer before submitting any affidavit to the commissioner to charter
2.34 a school. The application for approval as a charter school authorizer must demonstrate
2.35 the applicant's ability to implement the procedures and satisfy the criteria for chartering a
2.36 school under this section. The commissioner must approve or disapprove an application

3.1 within 45 business days of the application deadline. If the commissioner disapproves
3.2 the application, the commissioner must notify the applicant of the specific deficiencies
3.3 in writing and the applicant then has 20 business days to address the deficiencies to the
3.4 commissioner's satisfaction. After the 20 business days expire, the commissioner has 15
3.5 business days to make a final decision to approve or disapprove the application. Failing to
3.6 address the deficiencies to the commissioner's satisfaction makes an applicant ineligible to
3.7 be an authorizer. The commissioner, in establishing criteria for approval, must consider
3.8 the applicant's:

3.9 (1) capacity and infrastructure;

3.10 (2) application criteria and process;

3.11 (3) contracting process;

3.12 (4) ongoing oversight and evaluation processes; and

3.13 (5) renewal criteria and processes.

3.14 (d) An applicant must include in its application to the commissioner to be an
3.15 approved authorizer at least the following:

3.16 (1) how chartering schools is a way for the organization to carry out its mission;

3.17 (2) a description of the capacity of the organization to serve as an authorizer,
3.18 including the personnel who will perform the authorizing duties, their qualifications, the
3.19 amount of time they will be assigned to this responsibility, and the financial resources
3.20 allocated by the organization to this responsibility;

3.21 (3) a description of the application and review process the authorizer will use to
3.22 make decisions regarding the granting of charters;

3.23 (4) a description of the type of contract it will arrange with the schools it charters
3.24 that meets the provisions of subdivision 6;

3.25 (5) the process to be used for providing ongoing oversight of the school consistent
3.26 with the contract expectations specified in clause (4) that assures that the schools chartered
3.27 are complying with both the provisions of applicable law and rules, and with the contract;

3.28 (6) a description of the criteria and process the authorizer will use to grant expanded
3.29 applications under subdivision 4, paragraph (j);

3.30 (7) the process for making decisions regarding the renewal or termination of
3.31 the school's charter based on evidence that demonstrates the academic, organizational,
3.32 and financial competency of the school, including its success in increasing student
3.33 achievement and meeting the goals of the charter school agreement; and

3.34 (8) an assurance specifying that the organization is committed to serving as an
3.35 authorizer for the full five-year term.

4.1 (e) A disapproved applicant under this section may resubmit an application during a
4.2 future application period.

4.3 (f) If the governing board of an approved authorizer votes to withdraw as an
4.4 approved authorizer for a reason unrelated to any cause under subdivision 23, the
4.5 authorizer must notify all its chartered schools and the commissioner in writing by July
4.6 15 of its intent to withdraw as an authorizer on June 30 in the next calendar year. The
4.7 commissioner may approve the transfer of a charter school to a new authorizer under this
4.8 paragraph after the new authorizer submits an affidavit to the commissioner.

4.9 (g) The authorizer must participate in department-approved training.

4.10 (h) The commissioner shall review an authorizer's performance every five years in
4.11 a manner and form determined by the commissioner and may review an authorizer's
4.12 performance more frequently at the commissioner's own initiative or at the request of a
4.13 charter school operator, charter school board member, or other interested party. The
4.14 commissioner, after completing the review, shall transmit a report with findings to the
4.15 authorizer. If, consistent with this section, the commissioner finds that an authorizer has
4.16 not fulfilled the requirements of this section, the commissioner may subject the authorizer
4.17 to corrective action, which may include terminating the contract with the charter school
4.18 board of directors of a school it chartered. The commissioner must notify the authorizer
4.19 in writing of any findings that may subject the authorizer to corrective action and
4.20 the authorizer then has 15 business days to request an informal hearing before the
4.21 commissioner takes corrective action. If the commissioner terminates a contract between
4.22 an authorizer and a charter school under this paragraph, the commissioner may assist the
4.23 charter school in acquiring a new authorizer.

4.24 (i) The commissioner may at any time take corrective action against an authorizer,
4.25 including terminating an authorizer's ability to charter a school for:

4.26 (1) failing to demonstrate the criteria under paragraph (c) under which the
4.27 commissioner approved the authorizer;

4.28 (2) violating a term of the chartering contract between the authorizer and the charter
4.29 school board of directors;

4.30 (3) unsatisfactory performance as an approved authorizer; or

4.31 (4) any good cause shown that provides the commissioner a legally sufficient reason
4.32 to take corrective action against an authorizer.

4.33 **EFFECTIVE DATE.** This section is effective the day following final enactment.