

**SENATE
STATE OF MINNESOTA
NINETIETH SESSION**

S.F. No. 1171

(SENATE AUTHORS: PRATT and Wiger)

DATE
02/20/2017

D-PG
669 Introduction and first reading
Referred to E-12 Policy

OFFICIAL STATUS

1.1 A bill for an act

1.2 relating to education; making policy and technical changes for charter schools;

1.3 amending Minnesota Statutes 2016, sections 124E.05, subdivisions 4, 7, by adding

1.4 a subdivision; 124E.06, subdivision 7; 124E.07, subdivisions 3, 4, 7; 124E.10, by

1.5 adding a subdivision; 124E.11; 124E.16; 124E.17, subdivision 1; repealing

1.6 Minnesota Statutes 2016, sections 124E.05, subdivision 2; 124E.10, subdivision

1.7 5.

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

1.9 Section 1. Minnesota Statutes 2016, section 124E.05, is amended by adding a subdivision

1.10 to read:

1.11 Subd. 2a. **Role, responsibilities, and requirements of authorizers.** (a) The role of an

1.12 authorizer is to ensure that the schools it authorizes fulfill the purposes for chartered public

1.13 schools and the agreed upon terms of the charter contract in order to safeguard quality

1.14 educational opportunities for students and maintain public trust and confidence.

1.15 (b) An authorizer has the following responsibilities:

1.16 (1) to review applications for new schools and grade and site expansions of current

1.17 schools, and determine whether to approve or deny the applications based on sound criteria

1.18 and needs;

1.19 (2) to negotiate and execute performance charter contracts with the schools it authorizes;

1.20 (3) to conduct ongoing monitoring and oversight of the school's academic, operational,

1.21 and financial performance commensurate with the school's circumstances during the term

1.22 of charter contract; and

(4) to evaluate the academic, operational, and financial performance of the school as defined in the charter contract prior to the end of the contract to determine the renewal status or termination of the contract.

(c) The commissioner shall not require an authorizer to undertake any role or responsibility beyond those in statute or the charter contract, or perform any function which the department exercises in relation to any other public school.

(d) The authorizer shall document in the annual income and expenditure report under subdivision 8 the training its staff and consultants participated in during the previous school year relative to chartering and authorizer role and responsibilities.

Sec. 2. Minnesota Statutes 2016, section 124E.05, subdivision 4, is amended to read:

Subd. 4. **Application content.** (a) To be approved as an authorizer, an applicant must include in its application to the commissioner at least the following:

(1) how the organization carries out its mission by chartering schools;

(2) a description of the capacity of the organization to serve as an authorizer, including the positions allocated to authorizing duties, the qualifications for those positions, the full-time equivalencies of those positions, and the financial resources available to fund the positions;

(3) the application and review process the authorizer uses to decide whether to grant charters;

(4) the type of contract it arranges with the schools it charters to meet the provisions of section 124E.10;

(5) the process for overseeing the school, consistent with clause (4), to ensure that the schools chartered comply with applicable law and rules and the contract;

(6) the criteria and process the authorizer uses to approve applications adding grades or sites under section 124E.06, subdivision 5; and

(7) the process for renewing or terminating the school's charter based on evidence showing the academic, organizational, and financial competency of the school, including its success in increasing student achievement and meeting the goals of the charter school agreement; ~~and.~~

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

(b) Notwithstanding paragraph (a), an authorizer that is a school district may satisfy the requirements of paragraph (a), clauses (1) and (2), and any requirement governing a conflict of interest between an authorizer and its charter schools or ongoing evaluation or continuing education of an administrator or other professional support staff by submitting to the commissioner a written promise to comply with the requirements.

Sec. 3. Minnesota Statutes 2016, section 124E.05, subdivision 7, is amended to read:

Subd. 7. **Withdrawal.** If the governing board of an approved authorizer votes to withdraw as an approved authorizer for a reason unrelated to any cause under section 124E.10, subdivision 4, the authorizer must notify all its chartered schools and the commissioner in writing by March 1 of its intent to withdraw as an authorizer on June 30 in the next calendar year, regardless of when the authorizer's five-year term of approval ends. The commissioner may approve the transfer of a charter school to a new authorizer under section 124E.10, subdivision 5 5a.

Sec. 4. Minnesota Statutes 2016, section 124E.06, subdivision 7, is amended to read:

Subd. 7. **Merger.** (a) Two or more charter schools may merge under chapter 317A. The effective date of a merger must be July 1. The merged school must continue under the identity of one of the merging schools. The authorizer and the merged school must execute a new charter contract under section 124E.10, subdivision 1, by July 1. The authorizer must submit to the commissioner a copy of the new signed charter contract within ten business days of executing the contract.

(b) Each merging school must submit a separate year-end report for the previous fiscal year for that school only. After the final fiscal year of the premerger schools is closed out, each of those schools must transfer the fund balances and debts to the merged school.

(c) For its first year of operation, the merged school is eligible to receive aid from programs requiring approved applications equal to the sum of the aid of all of the merging schools. For aids based on prior year data, the merged school is eligible to receive aid for its first year of operation based on the combined data of all of the merging schools.

(d) A charter school notified that its contract is not being renewed or terminated under section 124E.10, subdivision 4, may merge with another school only if the school proposing to take over the school: (1) has a compatible academic or learning program; (2) had, as of June 30 of the previous year, a net positive unreserved general fund balance for at least three fiscal years; and (3) submits a plan for the assimilation of the schools into a merged school that is approved by the authorizers of the schools involved in the merger.

4.1 Sec. 5. Minnesota Statutes 2016, section 124E.07, subdivision 3, is amended to read:

4.2 Subd. 3. **Membership criteria.** (a) The ongoing charter school board of directors shall
4.3 have at least five nonrelated members and include: (1) at least one licensed teacher who is
4.4 employed as a teacher ~~at~~ by the school or provides instruction under contract between the
4.5 charter school and a cooperative; (2) at least one parent or legal guardian of a student enrolled
4.6 in the charter school who is not an employee of the charter school; and (3) at least one
4.7 interested community member who resides in Minnesota, is not employed by the charter
4.8 school, and does not have a child enrolled in the school. The board structure may include
4.9 a majority of teachers under this paragraph or parents or community members, or it may
4.10 have no clear majority. ~~The chief financial officer and the~~ chief administrator may only
4.11 serve as ex-officio nonvoting board members. No charter school employees shall serve on
4.12 the board other than teachers under clause (1). Contractors providing facilities, goods, or
4.13 services to a charter school shall not serve on the board of directors of the charter school.

4.14 (b) An individual is prohibited from serving as a member of the charter school board of
4.15 directors if: (1) the individual, an immediate family member, or the individual's partner is
4.16 a full or part owner or principal with a for-profit or nonprofit entity or independent contractor
4.17 with whom the charter school contracts, directly or indirectly, for professional services,
4.18 goods, or facilities; or (2) an immediate family member is an employee of the school. An
4.19 individual may serve as a member of the board of directors if no conflict of interest exists
4.20 under this paragraph, consistent with this section.

4.21 (c) A violation of paragraph (b) renders a contract voidable at the option of the
4.22 commissioner or the charter school board of directors. A member of a charter school board
4.23 of directors who violates paragraph (b) is individually liable to the charter school for any
4.24 damage caused by the violation.

4.25 (d) Any employee, agent, or board member of the authorizer who participates in initially
4.26 reviewing, approving, overseeing, evaluating, renewing, or not renewing the charter school
4.27 is ineligible to serve on the board of directors of a school chartered by that authorizer.

4.28 Sec. 6. Minnesota Statutes 2016, section 124E.07, subdivision 4, is amended to read:

4.29 Subd. 4. **Board structure.** Board bylaws shall outline the process and procedures for
4.30 changing the board's governance structure, consistent with chapter 317A. A board may
4.31 change its governance structure only:

4.32 (1) by a majority vote of the board of directors ~~and~~₂

(2) a majority vote of the licensed teachers employed by the school as teachers, including licensed teachers providing instruction under a contract between the school and a cooperative; and

~~(2)~~ (3) with the authorizer's approval.

Any change in board governance structure must conform with the board composition established under this section.

Sec. 7. Minnesota Statutes 2016, section 124E.07, subdivision 7, is amended to read:

Subd. 7. **Training.** Every charter school board member, including voting and nonvoting ex-officio members, shall attend annual training throughout the member's term. All new board members shall attend initial training on the board's role and responsibilities, employment policies and practices, and financial management. A new board member who does not begin the required initial training within ~~six~~ three months after being seated and complete that training within 12 months after being seated is automatically ineligible to continue to serve as a board member. The school shall include in its annual report the training each board member attended during the previous year.

Sec. 8. Minnesota Statutes 2016, section 124E.10, is amended by adding a subdivision to read:

Subd. 5a. **School transfer of authorizers.** (a) If the authorizer and the charter school board mutually agree to not renew the contract for a reason unrelated to any cause under subdivision 4, the authorizer and charter school must jointly submit to the commissioner a written and signed letter of their intent to mutually not renew the contract. The authorizer that is a party to the existing contract must inform the proposed authorizer about the fiscal, operational, and student performance status of the school, including unmet contract outcomes and other contractual obligations. The charter contract between the proposed authorizers and the school must identify and provide a plan to address any outstanding obligations. If the commissioner does not approve the transfer of authorizer, the current authorizer and the school may withdraw their letter of nonrenewal and enter into a new contract. If the commissioner does not approve the transfer and the authorizer and school enter into a new contract without withdrawing their letter of nonrenewal, the school must be dissolved according to applicable law and the terms of the contract.

(b) If, at the end of a contract, a charter school board votes to not renew its contract with the authorizer and is not subject to action of the authorizer under subdivision 4, the charter school board must notify the authorizer and commissioner that it does not plan to renew the

relationship with the authorizer. The authorizer that is party to the existing contract must inform the proposed authorizer about the fiscal, operational, and student performance status of the school. The charter contract between the proposed authorizer and the school must identify and provide a plan to address any performance issues identified by the current authorizer. If the commissioner does not approve the transfer, the school must be dissolved according to applicable law and the terms of the contract.

(c) If the governing board of an approved authorizer votes to withdraw as an authorizer under section 124E.05, subdivision 7, the proposed authorizer may submit a transfer request to the commissioner at any time after the withdrawing authorizer has given proper notice to the commissioner and the schools it authorizes. The commissioner shall have 20 business days to review the transfer request and notify the proposed authorizer and the school of the commissioner's decision. The proposed authorizer and the school have 15 business days to address any issues identified by the commissioner's review. The commissioner shall have 20 business days after the proposed authorizer and the school address any issues identified by the commissioner's initial review to make a final determination.

(d) If the commissioner withdraws the authority of the authorizer to authorize schools under section 124E.05, subdivision 6, the commissioner shall develop a transfer of authorizer plan with the authorizer, the charter school, and the proposed authorizer. This paragraph applies to schools not subject to nonrenewal for any cause under subdivision 4.

(e) Transfer requests with the proposed contracts under paragraphs (a) and (b) shall be submitted to the commissioner at least 100 business days before the end of an existing contract. The commissioner shall have 20 business days to review the transfer request and notify the proposed authorizer and the school of the commissioner's decision. The proposed authorizer and the school shall have 15 business days to address any issues identified by the commissioner's review. The commissioner shall make a final determination of the transfer request not later than 45 business days before the end of the current contract.

Sec. 9. Minnesota Statutes 2016, section 124E.11, is amended to read:

124E.11 ADMISSION REQUIREMENTS AND ENROLLMENT.

(a) A charter school may limit admission to:

(1) pupils within an age group or grade level;

(2) pupils who are eligible to participate in the graduation incentives program under section 124D.68; or

(3) residents of a specific geographic area in which the school is located when the majority of students served by the school are members of underserved populations.

(b) A charter school shall enroll an eligible pupil who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, pupils must be accepted by lot. The charter school must develop and publish, including on its Web site, a lottery policy and process that it must use when accepting pupils by lot.

(c) A charter school shall give enrollment preference to a sibling of an enrolled pupil and to a foster child of that pupil's parents and may give preference for enrolling children of the school's staff before accepting other pupils by lot. A charter school that is located in Duluth township in St. Louis County and admits students in kindergarten through grade 6 must give enrollment preference to students residing within a five-mile radius of the school and to the siblings of enrolled children. A charter school may give enrollment preference to children currently enrolled in the school's free preschool or prekindergarten program under section 124E.06, subdivision 3, paragraph (a), who are eligible to enroll in kindergarten in the next school year.

(d) A person shall not be admitted to a charter school (1) as a kindergarten pupil, unless the pupil is at least five years of age on September 1 of the calendar year in which the school year for which the pupil seeks admission commences; or (2) as a first grade student, unless the pupil is at least six years of age on September 1 of the calendar year in which the school year for which the pupil seeks admission commences or has completed kindergarten; except that a charter school may establish and publish on its Web site a policy for admission of selected pupils at an earlier age, consistent with the enrollment process in paragraphs (b) and (c).

(e) Except as permitted in paragraph (d), a charter school may not limit admission to pupils on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability and may not establish any criteria or requirements for admission that are inconsistent with this section.

(f) The charter school or any agent of the school shall not distribute any services ~~or~~, goods, payments, or other incentives of value to students, parents, or guardians as an inducement, term, or condition of enrolling a student in a charter school.

(g) Once a student is enrolled in the school, the student is considered enrolled in the school until the student formally withdraws or is expelled under the Pupil Fair Dismissal

Act in sections 121A.40 to 121A.56. A charter school is subject to and must comply with the Pupil Fair Dismissal Act, sections 121A.40 to 121A.56.

(h) A charter school with at least 90 percent of enrolled students who are eligible for special education services and have a primary disability of deaf or hard-of-hearing may enroll prekindergarten pupils with a disability under section 126C.05, subdivision 1, paragraph (a), and must comply with the federal Individuals with Disabilities Education Act under Code of Federal Regulations, title 34, section 300.324, subsection (2), clause (iv).

Sec. 10. Minnesota Statutes 2016, section 124E.16, is amended to read:

124E.16 REPORTS.

Subdivision 1. **Audit report.** (a) A charter school is subject to the same financial audits, audit procedures, and audit requirements as a district, except as required under this subdivision. Audits must be conducted in compliance with generally accepted governmental auditing standards, the federal Single Audit Act, if applicable, and section 6.65 governing auditing procedures. A charter school is subject to and must comply with sections 15.054; 118A.01; 118A.02; 118A.03; 118A.04; 118A.05; 118A.06 governing government property and financial investments; and sections 471.38; 471.391; 471.392; and 471.425 governing municipal contracting. The audit must comply with the requirements of sections 123B.75 to 123B.83 governing school district finance, except when the commissioner and authorizer approve a deviation made necessary because of school program finances. The commissioner, state auditor, legislative auditor, or authorizer may conduct financial, program, or compliance audits. A charter school in statutory operating debt under sections 123B.81 to 123B.83 must submit a plan under section 123B.81, subdivision 4.

(b) The charter school must submit an audit report to the commissioner and its authorizer annually by December 31.

(c) The charter school, with the assistance of the auditor conducting the audit, must include with the audit report, as supplemental information: ~~(1) a copy of management agreements with a charter management organization CMO or an educational management organization and (2) service agreements or contracts over the lesser of \$100,000 or ten percent of the school's most recent annual audited expenditures~~ online education service provider as defined in this section. The agreements must detail the terms of the agreement, including the services provided and the annual costs for those services. ~~If the entity that provides the professional services to the charter school is exempt from taxation under section 501 of the Internal Revenue Code of 1986, that entity must file with the commissioner by~~

9.1 ~~February 15 a copy of the annual return required under section 6033 of the Internal Revenue~~
9.2 ~~Code of 1986.~~

9.3 (d) A charter school independent audit report shall include audited financial data of an
9.4 affiliated building corporation under section 124E.13, subdivision 3, or other component
9.5 unit.

9.6 (e) If the audit report finds that a material weakness exists in the financial reporting
9.7 systems of a charter school, the charter school must submit a written report to the
9.8 commissioner explaining how the charter school will resolve that material weakness. An
9.9 auditor, as a condition of providing financial services to a charter school, must agree to
9.10 make available information about a charter school's financial audit to the commissioner and
9.11 authorizer upon request.

9.12 Subd. 2. **Annual public reports.** (a) A charter school must publish an annual report
9.13 approved by the board of directors. The annual report must at least include information on
9.14 school enrollment, student attrition, governance and management, staffing, finances,
9.15 management agreements with a CMO or online education service provider, academic
9.16 performance, innovative practices and implementation, and future plans. A charter school
9.17 may combine this report with the reporting required under section 120B.11 governing the
9.18 world's best workforce. A charter school must post the annual report on the school's official
9.19 Web site. A charter school also must distribute the annual report by publication, mail, or
9.20 electronic means to its authorizer, school employees, and parents and legal guardians of
9.21 students enrolled in the charter school. The reports are public data under chapter 13.

9.22 (b) An authorizer must submit an annual public report in a manner specified by the
9.23 commissioner by January 15 for the previous school year ending June 30 that shall at least
9.24 include key indicators of school academic, operational, and financial performance. The
9.25 report is part of the system to evaluate authorizer performance under section 124E.05,
9.26 subdivision 5.

9.27 Subd. 3. **Public accountability and reporting of education management and online**
9.28 **education service provider agreements.** (a) For the purposes of this section, "education
9.29 management provider" means a nonprofit charter management organization (CMO) or a
9.30 for-profit educational management organization (EMO) that contracts with a charter school
9.31 board of directors to provide educational design and implementation or school management
9.32 services. A charter school shall not enter into a contract or other agreement with an EMO.

10.1 (b) For the purposes of this section, "online education service provider" means an
10.2 organization that provides the online learning management system or virtual learning
10.3 environment or student management system.

10.4 (c) A charter school that enters into a management agreement with a CMO or an online
10.5 education service provider must:

10.6 (1) publish on its Web site for at least 20 business days the proposed final agreement
10.7 for public review and comment before the school board may adopt the contract or agreement.
10.8 Any changes made to the posted agreement during the public review period or any proposed
10.9 amendments to the agreement once adopted must be posted for 20 business days before the
10.10 board may adopt the amendments to the contract;

10.11 (2) annually publish on its Web site a statement of assurance that no member of the
10.12 school board, staff, or any agent of the school has been promised or received any form of
10.13 compensation or gifts from the CMO or online education service provider and that no person
10.14 involved as a board member, employee, or agent of the CMO or online education service
10.15 provider or any of the affiliates of these organizations or providers serve on the charter
10.16 school board; and

10.17 (3) conduct an independent review and evaluation of the services provided by the CMO
10.18 or online education service provider and publish the evaluation on the school's Web site at
10.19 least 60 business days before the end of the current contract.

10.20 (d) All management agreements with a CMO or online education service provider must
10.21 contain the following provisions:

10.22 (1) the term of the contract, which may not be longer than five years;

10.23 (2) the total dollar value of the contract, including the annual projected costs of services;

10.24 (3) the description and terms of the services to be provided during the term of the contract;

10.25 (4) a statement that if the charter school closes during the term of the contract by action
10.26 of the authorizer or the school's board, the balance of the current contract becomes null and
10.27 void;

10.28 (5) an annual statement of assurance to the school board that the CMO or online education
10.29 service provider provided no compensation or gifts to any school board member, staff
10.30 member, or agent of the school;

(6) an annual statement of assurance that no board member, employee, contractor, or agent of the CMO or online education service provider or any affiliated organization is a board member of the school;

(7) the policies and protocols that meet federal and state laws regarding student and personnel data collection, usage, access, retention, disclosure and destruction, and indemnification and warranty provisions in case of data breaches by the CMO or online education service provider; and

(8) the CMO or online education service provider must annually provide the school board a financial report that details income and expenses attributed to the contract by July 31 for the previous fiscal year that accounts for using the account categories in UFARS.

(e) Any agreement with a CMO or an online education service provider containing any of the following provisions is null and void:

(1) restrictions on the charter school's ability to operate a school upon termination of the agreement;

(2) restrictions on the annual or total amount of the school's operating surplus or fund balance;

(3) authorization to allow a CMO or online education service provider to withdraw funds from a charter school account; or

(4) authorization to allow a CMO or online education service provider to loan funds to the school.

Sec. 11. Minnesota Statutes 2016, section 124E.17, subdivision 1, is amended to read:

Subdivision 1. **Charter school information.** (a) Charter schools must disseminate information about how to use the charter school offerings to targeted groups, among others. Targeted groups include low-income families and communities, students of color, and students who are at risk of academic failure.

(b) Authorizers and the commissioner must disseminate information to the public on how to form and operate a charter school. Authorizers, operators, and the commissioner also may disseminate information to interested stakeholders about the successful best practices in teaching and learning demonstrated by charter schools.

(c) A charter school must document its dissemination efforts in its annual report.

- 12.1 Sec. 12. **REPEALER.**
- 12.2 Minnesota Statutes 2016, sections 124E.05, subdivision 2; and 124E.10, subdivision 5,
- 12.3 are repealed.

APPENDIX
Repealed Minnesota Statutes: 17-2742

124E.05 AUTHORIZERS.

Subd. 2. **Requirements for authorizers.** The authorizer must participate in department-approved training.

124E.10 CHARTER CONTRACT.

Subd. 5. **Mutual nonrenewal.** If the authorizer and the charter school board of directors mutually agree not to renew the contract, or if the governing board of an approved authorizer votes to withdraw as an approved authorizer for a reason unrelated to any cause under subdivision 4, a change in authorizers is allowed. The authorizer and the school board must jointly submit a written and signed letter of their intent to the commissioner to mutually not renew the contract. The authorizer that is a party to the existing contract must inform the proposed authorizer about the fiscal, operational, and student performance status of the school, including unmet contract outcomes and other outstanding contractual obligations. The charter contract between the proposed authorizer and the school must identify and provide a plan to address any outstanding obligations from the previous contract. The proposed authorizer must submit the proposed contract at least 105 business days before the end of the existing charter contract. The commissioner has 30 business days to review and make a determination on the change in authorizer. The proposed authorizer and the school have 15 business days to respond to the determination and address any issues identified by the commissioner. The commissioner must make a final determination no later than 45 business days before the end of the current charter contract. If the commissioner does not approve a change in authorizer, the school and the current authorizer may withdraw their letter of nonrenewal and enter into a new contract. If the commissioner does not approve a change in authorizer and the current authorizer and the school do not withdraw their letter and enter into a new contract, the school must be dissolved according to applicable law and the terms of the contract.