

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 137
101ST GENERAL ASSEMBLY

0081H.03C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 160.415, RSMo, and to enact in lieu thereof one new section relating to funding for charter schools.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 160.415, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 160.415, to read as follows:

160.415. 1. For the purposes of calculation and distribution of state school aid under section 163.031, pupils enrolled in a charter school shall be included in the pupil enrollment of the school district within which each pupil resides. Each charter school shall report the ~~names, addresses, and~~ eligibility for free and reduced price lunch, special education, or limited English proficiency status, as well as eligibility for categorical aid, of pupils resident in a school district who are enrolled in the charter school to the school district in which those pupils reside. The charter school shall report the average daily attendance data, free and reduced price lunch count, special education pupil count, and limited English proficiency pupil count to the state department of elementary and secondary education. Each charter school shall promptly notify the state department of elementary and secondary education and the pupil's school district when a student discontinues enrollment at a charter school.

2. **This subsection shall apply to all school years ending on or before June 30, 2022.** Except as provided in subsections 3 and 4 of this section, the aid payments for charter schools shall be as described in this subsection.

(1) A school district having one or more resident pupils attending a charter school shall pay to the charter school an annual amount equal to the product of the charter school's weighted average daily attendance and the state adequacy target, multiplied by the dollar value modifier for the district, plus local tax revenues per weighted average daily attendance from the incidental

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

19 and teachers' funds in excess of the performance levy as defined in section 163.011 plus all other
20 state aid attributable to such pupils.

21 (2) The district of residence of a pupil attending a charter school shall also pay to the
22 charter school any other federal or state aid that the district receives on account of such ~~child~~
23 **pupil**.

24 (3) If the department overpays or underpays the amount due to the charter school, such
25 overpayment or underpayment shall be repaid by the ~~public~~ charter school or credited to the
26 ~~public~~ charter school in twelve equal payments in the next fiscal year.

27 (4) The amounts provided pursuant to this subsection shall be prorated for partial year
28 enrollment for a pupil.

29 (5) A school district shall pay the amounts due pursuant to this subsection as the
30 disbursal agent and no later than twenty days following the receipt of any such funds. The
31 department of elementary and secondary education shall pay the amounts due when it acts as the
32 disbursal agent within five days of the required due date.

33 **3. This subsection shall apply to all school years ending on or before June 30, 2022.**
34 A workplace charter school shall receive payment for each eligible pupil as provided under
35 subsection 2 of this section, except that if the student is not a resident of the district and is
36 participating in a voluntary interdistrict transfer program, the payment for such pupils shall be
37 the same as provided under section 162.1060.

38 **4. This subsection shall apply to all school years ending on or before June 30, 2022.**
39 A charter school that has declared itself as a local educational agency shall receive from the
40 department of elementary and secondary education an annual amount equal to the product of the
41 charter school's weighted average daily attendance and the state adequacy target, multiplied by
42 the dollar value modifier for the district, plus local tax revenues per weighted average daily
43 attendance from the incidental and teachers funds in excess of the performance levy as defined
44 in section 163.011 plus all other state aid attributable to such pupils. If a charter school declares
45 itself as a local educational agency, the department of elementary and secondary education shall,
46 upon notice of the declaration, reduce the payment made to the school district by the amount
47 specified in this subsection and pay directly to the charter school the annual amount reduced
48 from the school district's payment.

49 **5. This subsection shall apply to all school years ending on or before June 30, 2022.**
50 If a school district fails to make timely payments of any amount for which it is the disbursal
51 agent, the state department of elementary and secondary education shall authorize payment to
52 the charter school of the amount due pursuant to subsection 2 of this section and shall deduct the
53 same amount from the next state school aid apportionment to the owing school district. If a
54 charter school is paid more or less than the amounts due pursuant to this section, the amount of

55 overpayment or underpayment shall be adjusted equally in the next twelve payments by the
56 school district or the department of elementary and secondary education, as appropriate. Any
57 dispute between the school district and a charter school as to the amount owing to the charter
58 school shall be resolved by the department of elementary and secondary education, and the
59 department's decision shall be the final administrative action for the purposes of review pursuant
60 to chapter 536. During the period of dispute, the department of elementary and secondary
61 education shall make every administrative and statutory effort to allow the continued education
62 of children in their current [public] charter school setting.

63 6. The charter school and a local school board may agree by contract for services to be
64 provided by the school district to the charter school. The charter school may contract with any
65 other entity for services. Such services may include but are not limited to food service, custodial
66 service, maintenance, management assistance, curriculum assistance, media services, and
67 libraries and shall be subject to negotiation between the charter school and the local school board
68 or other entity. Documented actual costs of such services shall be paid for by the charter school.

69 7. In the case of a proposed charter school that intends to contract with an education
70 service provider for substantial educational services or management services, the request for
71 proposals shall additionally require the charter school applicant to:

72 (1) Provide evidence of the education service provider's success in serving student
73 populations similar to the targeted population, including demonstrated academic achievement
74 as well as successful management of nonacademic school functions, if applicable;

75 (2) Provide a term sheet setting forth the proposed duration of the service contract; roles
76 and responsibilities of the governing board, the school staff, and the service provider; scope of
77 services and resources to be provided by the service provider; performance evaluation measures
78 and time lines; compensation structure, including clear identification of all fees to be paid to the
79 service provider; methods of contract oversight and enforcement; investment disclosure; and
80 conditions for renewal and termination of the contract;

81 (3) Disclose any known conflicts of interest between the school governing board and
82 proposed service provider or any affiliated business entities;

83 (4) Disclose and explain any termination or nonrenewal of contracts for equivalent
84 services for any other charter school in the United States within the past five years;

85 (5) Ensure that the legal counsel for the charter school shall report directly to the charter
86 school's governing board; and

87 (6) Provide a process to ensure that the expenditures that the education service provider
88 intends to bill to the charter school shall receive prior approval of the governing board or its
89 designee.

90 8. A charter school may enter into contracts with community partnerships and state
91 agencies acting in collaboration with such partnerships that provide services to children and their
92 families linked to the school.

93 9. A charter school shall be eligible for transportation state aid pursuant to section
94 163.161 and shall be free to contract with the local district, or any other entity, for the provision
95 of transportation to the students of the charter school.

96 10. (1) The proportionate share of state and federal resources generated by students with
97 disabilities or staff serving them shall be paid in full to charter schools enrolling those students
98 by their school district where such enrollment is through a contract for services described in this
99 section. The proportionate share of money generated under other federal or state categorical aid
100 programs shall be directed to charter schools serving such students eligible for that aid.

101 (2) A charter school shall provide the special services provided pursuant to section
102 162.705 and may provide the special services pursuant to a contract with a school district or any
103 provider of such services.

104 11. A charter school ~~may~~ **shall** not charge tuition or impose fees that a school district
105 is prohibited from charging or imposing, except that a charter school may receive tuition
106 payments from districts in the same or an adjoining county for nonresident students who transfer
107 to an approved charter school, as defined in section 167.895, from an unaccredited district.

108 12. A charter school is authorized to incur debt in anticipation of receipt of funds. A
109 charter school may also borrow to finance facilities and other capital items. A school district
110 may incur bonded indebtedness or take other measures to provide for physical facilities and other
111 capital items for charter schools that it sponsors or contracts with. Except as otherwise
112 specifically provided in sections 160.400 to 160.425, upon the dissolution of a charter school,
113 any liabilities of the corporation will be satisfied through the procedures of chapter 355. A
114 charter school shall satisfy all its financial obligations within twelve months of notice from the
115 sponsor of the charter school's closure under subsection 8 of section 160.405. After satisfaction
116 of all its financial obligations, a charter school shall return any remaining state and federal funds
117 to the department of elementary and secondary education for disposition as stated in subdivision
118 (17) of subsection 1 of section 160.405. The department of elementary and secondary education
119 may withhold funding at a level the department determines to be adequate during a school's last
120 year of operation until the department determines that school records, liabilities, and reporting
121 requirements, including a full audit, are satisfied.

122 13. Charter schools shall not have the power to acquire property by eminent domain.

123 14. The governing ~~body~~ **board** of a charter school is authorized to accept grants, gifts,
124 or donations of any kind and to expend or use such grants, gifts, or donations. A grant, gift, or
125 donation ~~may~~ **shall** not be accepted by the governing ~~body~~ **board** if it is subject to any

126 condition contrary to law applicable to the charter school or other public schools, or contrary to
127 the terms of the charter.

128 **15. (1) As used in this section, the following terms mean:**

129 **(a) "Department", the department of elementary and secondary education;**

130 **(b) "Local aid", all local and county revenue received by the school district and
131 charter schools within the school district. The term "local aid":**

132 **a. Includes, but is not limited to, the following:**

133 **(i) Property taxes and delinquent taxes;**

134 **(ii) Merchants' and manufacturers' tax revenues;**

135 **(iii) Financial institutions' tax revenues;**

136 **(iv) City sales tax revenue, including city sales tax collected in any city not within
137 a county;**

138 **(v) Payments in lieu of taxes;**

139 **(vi) Revenues from state-assessed railroad and utilities tax; and**

140 **(vii) Any future aid; and**

141 **b. Shall not be construed to include:**

142 **(i) Charitable contributions, gifts, and grants made to school districts and charter
143 schools;**

144 **(ii) Interest earnings of school districts and charter schools;**

145 **(iii) Student fees paid to school districts and charter schools;**

146 **(iv) Debt service authorized by a public vote for the purpose of making payments
147 on a bond issuance of a school district;**

148 **(v) Proposition C revenues received for school purposes from the school district
149 trust fund under section 163.087; or**

150 **(vi) Any other funding solely intended for a particular school district or charter
151 school and its respective employees, schools, foundations, or organizations.**

152 **(2) Each charter school and each school district responsible for distributing local
153 aid to charter schools under this subsection shall include as part of its annual independent
154 audit an audit of pupil residency, enrollment, and attendance in order to verify pupil
155 residency in the school district or local education agency.**

156 **(3) A school district having one or more resident pupils attending a charter school
157 shall pay to the charter school an annual amount equal to the product of the charter
158 school's weighted average daily attendance and the state adequacy target, multiplied by
159 the dollar value modifier for the district, less the charter school's share of local effort as
160 defined in section 163.011 plus all other state aid attributable to such pupils plus local aid
161 received by the school district divided by the total weighted average daily attendance of the**

162 school district and all charter schools within the school district per weighted average daily
163 attendance of the charter school.

164 (4) A charter school that has declared itself a local educational agency shall receive
165 all state aid calculated under this subsection from the department and all local aid
166 calculated under this subsection from the school district. A charter school shall receive an
167 annual amount equal to the product of the charter school's weighted average daily
168 attendance and the state adequacy target, multiplied by the dollar value modifier for the
169 district, less the charter school's share of local effort as defined in section 163.011 plus all
170 other state aid attributable to such pupils plus local aid received by the school district
171 divided by the total weighted average daily attendance of the school district and all charter
172 schools within the school district per weighted average daily attendance of the charter
173 school.

174 (5) (a) The school district shall withhold, from the total of all January local aid
175 payments owed to the charter schools in the district, an annual administrative fee in an
176 amount equal to two percent of the prior year's total funding of the school district,
177 calculated as the school district's state aid plus the school district's local effort, as defined
178 in section 163.011, and the prior year's total funding of the charter schools within the
179 district. As used in this subdivision, "state aid" means the product of the school district's
180 weighted average daily attendance and the state adequacy target, multiplied by the dollar
181 value modifier for the district, less the school district's share of local effort as defined in
182 section 163.011.

183 (b) On or before December thirty-first of each year, the school district shall
184 transmit to the department the total annual local aid calculation described in subdivision
185 (6) of this subsection. If the school district fails to transmit the annual local aid calculation
186 to the department, the school district shall not withhold the administrative fee.

187 (c) The department shall calculate the administrative fee under the formula in this
188 subdivision using data from the previous school year. On or before January fifteenth of
189 the following year, the department shall transmit to the school district the calculation of
190 the administrative fee and make such calculation publicly available on the department's
191 website.

192 (6) Each month the school district shall calculate the amount of local aid received
193 by the school district that is owed to the charter school by the school district under this
194 subsection. The school district shall pay to the charter school the amount of local aid owed
195 to the charter school, as calculated by the school district using the previous month's
196 weighted average daily attendance of the charter school. If any payment of local aid is due,

197 the school district shall make monthly payments on the twenty-first day of each month or
198 upon the closest business day beginning in July of each year.

199 (a) If the school district fails to make timely payment, the department shall impose
200 any penalty the department deems appropriate.

201 (b) The school district shall, as part of its annual audit as required by section
202 165.111, include a report converting the local aid received from an accrual basis to a cash
203 basis. Such report shall be made publicly available on its district website in a searchable
204 format or as a downloadable and searchable document.

205 (7) The department shall conduct an annual review of any payments made in the
206 previous fiscal year under subdivision (6) of this subsection to determine if there has been
207 any underpayment or overpayment. The annual review, to be conducted in January of
208 each year, shall include a calculation of the amount of local aid owed to charter schools
209 using the first preceding year's annual audit required by section 165.111. The school
210 district shall pay to the charter school the amount of local aid owed to the charter school
211 as calculated by the department. In the event of an underpayment, the school district shall
212 remit the underpayment amount to the charter school. In the event of an overpayment, the
213 charter school shall remit the overpayment amount to the school district.

214 (a) If the school district fails to remit any underpayment amount to the charter
215 school within thirty days of notification of the underpayment amount, the department shall
216 impose any penalty the department deems appropriate.

217 (b) If the charter school fails to remit any overpayment amount to the school
218 district within thirty days of notification of the overpayment amount, the department shall
219 impose any penalty the department deems appropriate.

220 (8) If a prior year correction of the amount of local aid is necessary, the school
221 district shall recalculate the amount owed to a charter school and either remit any
222 underpayment amount to the charter school or provide a bill to the charter school for any
223 overpayment amount. Any underpayment or overpayment amount shall be remitted under
224 the schedules in paragraphs (a) and (b) of subdivision (7) of this subsection.

225 (9) This subsection shall become effective on July 1, 2022.

226 16. The department may promulgate rules for the annual review of payments and
227 any penalties to be assessed under subsection 15 of this section. Any rule or portion of a
228 rule, as that term is defined in section 536.010, that is created under the authority
229 delegated in this section shall become effective only if it complies with and is subject to all
230 of the provisions of chapter 536 and, if applicable, section 536.028. This section and
231 chapter 536 are nonseverable, and if any of the powers vested with the general assembly
232 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul

233 a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
234 any rule proposed or adopted after August 28, 2021, shall be invalid and void.

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