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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. **2034**

March 13, 2007

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The bill was read for the first time and referred to the Committee on E-12 Education

1.1 A bill for an act
1.2 relating to education; modifying certain provisions of charter school law;
1.3 amending Minnesota Statutes 2006, section 124D.10, subdivisions 3, 4, 4a, 6, 8,
1.4 9, 14, 16, 17, 20, 21, 23; repealing Minnesota Statutes 2006, section 124D.10,
1.5 subdivision 2a.

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

1.7 Section 1. Minnesota Statutes 2006, section 124D.10, subdivision 3, is amended to
1.8 read:

1.9 Subd. 3. **Sponsor.** (a) A school board; intermediate school district school board;
1.10 education district organized under sections 123A.15 to 123A.19; charitable organization
1.11 under section 501(c)(3) of the Internal Revenue Code of 1986 that is a member of the
1.12 Minnesota Council of Nonprofits or the Minnesota Council on Foundations, registered
1.13 with the attorney general's office, and reports an end-of-year fund balance of at least
1.14 \$2,000,000; Minnesota private college that grants two- or four-year degrees and is
1.15 registered with the Minnesota Office of Higher Education under chapter 136A; community
1.16 college, state university, or technical college, governed by the Board of Trustees of the
1.17 Minnesota State Colleges and Universities; or the University of Minnesota may sponsor
1.18 one or more charter schools. Notwithstanding any law to the contrary, a church may not
1.19 sponsor a charter school.

1.20 (b) A nonprofit corporation subject to chapter 317A, described in section 317A.905,
1.21 and exempt from federal income tax under section 501(c)(6) of the Internal Revenue Code
1.22 of 1986, may sponsor one or more charter schools if the charter school has operated for
1.23 at least three years under a different sponsor and if the nonprofit corporation has existed
1.24 for at least 25 years.

2.1 Sec. 2. Minnesota Statutes 2006, section 124D.10, subdivision 4, is amended to read:

2.2 Subd. 4. **Formation of school.** (a) A sponsor may authorize one or more licensed
 2.3 teachers under section 122A.18, subdivision 1, to operate a charter school subject to
 2.4 approval by the commissioner. ~~A board must vote on charter school application for~~
 2.5 ~~sponsorship no later than 90 days after receiving the application. After 90 days, the~~
 2.6 ~~applicant may apply to the commissioner. If a board elects not to sponsor a charter school,~~
 2.7 ~~the applicant may appeal the board's decision to the commissioner who may elect to assist~~
 2.8 ~~the applicant in finding an eligible sponsor.~~ The school must be organized and operated as
 2.9 a cooperative under chapter 308A or nonprofit corporation under chapter 317A and the
 2.10 provisions under the applicable chapter shall apply to the school except as provided in
 2.11 this section. A cooperative or a nonprofit corporation that operates a charter school may
 2.12 operate a maximum of three separate charter schools. Notwithstanding sections 465.717
 2.13 and 465.719, a school district may create a corporation for the purpose of creating a
 2.14 charter school.

2.15 (b) Before the operators may form and operate a school, the sponsor must file an
 2.16 affidavit with the commissioner stating its intent to authorize a charter school. The
 2.17 affidavit must state the terms and conditions under which the sponsor would authorize a
 2.18 charter school and how the sponsor intends to oversee the fiscal and student performance
 2.19 of the charter school and to comply with the terms of the written contract between the
 2.20 sponsor and the charter school board of directors under subdivision 6. The commissioner
 2.21 must approve or disapprove the sponsor's proposed authorization within ~~90~~ 45 days of
 2.22 receipt of the affidavit. Failure to obtain commissioner approval precludes a sponsor from
 2.23 authorizing the charter school that was the subject of the affidavit.

2.24 (c) The operators authorized to organize and operate a school, before entering into a
 2.25 contract or other agreement for professional or other services, goods, or facilities, must
 2.26 incorporate as a cooperative under chapter 308A or as a nonprofit corporation under
 2.27 chapter 317A and must establish ~~a~~ an initial board of directors composed of at least five
 2.28 nonrelated members until a timely election for members of the charter school board of
 2.29 directors is held according to the school's articles and bylaws.

2.30 (d) ~~A~~ The permanent charter school board of directors must be composed of at least
 2.31 five nonrelated members. An individual may be a member of only one charter school board
 2.32 at a time. Any staff members who are employed at the school, including teachers providing
 2.33 instruction under a contract with a cooperative, and all parents of children enrolled in the
 2.34 school ~~may~~ are eligible to participate in the election for members of the school's board of
 2.35 directors. The board shall establish and publish election procedures for members of the
 2.36 school's board of directors in compliance with chapter 13D. Licensed teachers employed

3.1 at the school, including teachers providing instruction under a contract with a cooperative,
 3.2 or equal numbers of teachers, parents of children enrolled in the school, and members of
 3.3 the community must be a majority of the members of the board of directors before the
 3.4 school completes its ~~third~~ second year of operation, unless the commissioner waives the
 3.5 requirement for a majority of licensed teachers on the board. The chief financial officer
 3.6 and chief administrator of a charter school may be only nonvoting members of a charter
 3.7 school board. Board of director meetings must comply with chapter 13D.

3.8 ~~(d)~~ (e) The granting or renewal of a charter by a sponsoring entity must not be
 3.9 conditioned upon the bargaining unit status of the employees of the school.

3.10 ~~(e)~~ (f) A sponsor may authorize the operators of a charter school to expand the
 3.11 operation of the charter school to additional sites or to add additional grades at the school
 3.12 beyond those described in the sponsor's ~~application~~ original affidavit as approved by
 3.13 the commissioner only after ~~submitting the sponsor~~ submits a supplemental ~~application~~
 3.14 affidavit to the commissioner in a form and manner prescribed by the commissioner. The
 3.15 supplemental ~~application~~ affidavit must provide evidence that:

- 3.16 (1) the expansion of the charter school is supported by need and projected enrollment;
 3.17 (2) the charter school is fiscally sound;
 3.18 (3) the sponsor supports the expansion; and
 3.19 (4) the building of the additional site meets all health and safety requirements to
 3.20 be eligible for lease aid.

3.21 ~~(f)~~ (g) The commissioner annually must provide timely ~~financial management~~
 3.22 training for financial management, financial record keeping, and public record keeping
 3.23 ~~to newly elected members of a charter school board of directors and ongoing training to~~
 3.24 ~~other members of a charter school board of directors.~~ Training must address ways to:

3.25 (1) proactively assess opportunities for a charter school to maximize all available
 3.26 revenue sources;

3.27 (2) establish and maintain complete, auditable records ~~for~~ of the charter school
 3.28 cooperative or nonprofit corporation;

3.29 (3) establish proper procedures for filing techniques ~~state required reports;~~

3.30 (4) document formal actions of the charter school, including meetings of the charter
 3.31 school board of directors;

3.32 (5) properly manage and retain charter school financial, personnel, and student
 3.33 records; and

3.34 (6) comply with state and federal payroll record-keeping requirements; ~~and~~

3.35 ~~(7) address other similar factors that facilitate establishing and maintaining complete~~
 3.36 ~~records on the charter school's operations.~~

4.1 Sec. 3. Minnesota Statutes 2006, section 124D.10, subdivision 4a, is amended to read:

4.2 Subd. 4a. **Conflict of interest.** (a) A member of a charter school board of directors
 4.3 is prohibited from serving as a member of the board of directors or as an employee
 4.4 or agent of or a contractor with a for-profit or nonprofit entity with whom the charter
 4.5 school contracts, directly or indirectly, for professional services, goods, or facilities. A
 4.6 violation of this prohibition renders a contract voidable ~~at the option of the commissioner.~~
 4.7 A member of a charter school board of directors who violates this prohibition shall be
 4.8 individually liable to the charter school for any damage caused by the violation.

4.9 (b) An individual may serve as a member of the board of directors if no conflict of
 4.10 interest under paragraph (a) exists.

4.11 ~~(c) A member of a charter school board of directors that serves as a member of the~~
 4.12 ~~board of directors or as an employee or agent of or a contractor with a nonprofit entity~~
 4.13 ~~with whom the charter school contracts, directly or indirectly, for professional services,~~
 4.14 ~~goods, or facilities, must disclose all potential conflicts to the commissioner. A sponsor is~~
 4.15 ~~prohibited from selling management or financial services to the charter school or schools it~~
 4.16 ~~sponsors. Other services of the sponsor may be purchased only through a bidding process.~~

4.17 ~~(d) Employees of the sponsor who are directly involved in the approval, oversight, or~~
 4.18 ~~renewal of the charter may not serve on the charter school board of directors.~~ The conflict
 4.19 of interest provisions under this subdivision do not apply to compensation paid to a teacher
 4.20 employed by the charter school who also serves as a member of the board of directors.

4.21 ~~(e)~~ (d) The conflict of interest provisions under this subdivision do not apply to a
 4.22 teacher who provides services to a charter school through a cooperative formed under
 4.23 chapter 308A when the teacher also serves on the charter school board of directors.

4.24 Sec. 4. Minnesota Statutes 2006, section 124D.10, subdivision 6, is amended to read:

4.25 Subd. 6. **Contract.** The sponsor's authorization for a charter school must be in the
 4.26 form of a written contract signed by the sponsor and the board of directors of the charter
 4.27 school. The contract must be completed within 90 days of the commissioner's approval
 4.28 of the sponsor's proposed authorization. The contract for a charter school must be in
 4.29 writing and contain at least the following:

4.30 (1) a description of a program that carries out one or more of the purposes in
 4.31 subdivision 1;

4.32 (2) specific outcomes pupils are to achieve under subdivision 10;

4.33 (3) admission policies and procedures;

4.34 (4) management and administration ~~of~~ plan for the school;

4.35 (5) requirements and procedures for program and financial audits;

- 5.1 (6) how the school will comply with subdivisions 8, 13, 16, and 23;
- 5.2 (7) assumption of liability by the charter school;
- 5.3 (8) types and amounts of insurance coverage to be obtained by the charter school;
- 5.4 (9) the term of the contract, which may be up to three years for the initial contract
- 5.5 and up to five years for a renewed contract;
- 5.6 (10) ~~if~~ how the board of directors or the operators of the charter school provide
- 5.7 special instruction and services for children with a disability under sections 125A.03
- 5.8 to 125A.24, and 125A.65, a description of the financial parameters within which the
- 5.9 charter school will operate to provide the special instruction and services to children
- 5.10 with a disability; ~~and~~
- 5.11 (11) the process and criteria the sponsor intends to use to monitor and evaluate the
- 5.12 fiscal and student performance of the charter school, consistent with subdivision 15;
- 5.13 (12) the process and criteria the sponsor will use to determine whether to renew
- 5.14 the charter; and
- 5.15 (13) upon a closing of the school, the process and criteria the board of directors will
- 5.16 use to end the business of the corporation, including such responsibilities as transferring,
- 5.17 as required, student records, personnel records, audits, and financial reports.

5.18 Sec. 5. Minnesota Statutes 2006, section 124D.10, subdivision 8, is amended to read:

5.19 Subd. 8. **State and local requirements.** (a) A charter school shall meet all

5.20 applicable state and local health and safety requirements.

5.21 (b) A school sponsored by a school board may be located in any district, unless the

5.22 school board of the district of the proposed location disapproves by written resolution.

5.23 (c) If requested by the charter school, a school board must lease available, unused

5.24 space to a charter school at market rate unless the school board disapproves locating the

5.25 school in the district under paragraph (b);

5.26 ~~(e)~~ (d) A charter school must be nonsectarian in its programs, admission policies,

5.27 employment practices, and all other operations. A sponsor may not authorize a charter

5.28 school or program that is affiliated with a nonpublic sectarian school or a religious

5.29 institution.

5.30 ~~(d)~~ (e) Charter schools must not be used as a method of providing education or

5.31 generating revenue for students who are being home-schooled.

5.32 ~~(e)~~ (f) The primary focus of a charter school must be to provide a comprehensive

5.33 program of instruction for at least one grade or age group from five through 18 years

5.34 of age. Instruction may be provided to people younger than five years and older than

5.35 18 years of age.

6.1 ~~(f)~~ (g) A charter school may not charge tuition.

6.2 ~~(g)~~ (h) A charter school is subject to and must comply with chapter 363A and
6.3 section 121A.04.

6.4 ~~(h)~~ (i) A charter school is subject to and must comply with the Pupil Fair Dismissal
6.5 Act, sections 121A.40 to 121A.56, and the Minnesota Public School Fee Law, sections
6.6 123B.34 to 123B.39.

6.7 ~~(i)~~ (j) A charter school is subject to the same financial audits, audit procedures, and
6.8 audit requirements as a district. Audits must be conducted in compliance with generally
6.9 accepted governmental auditing standards, the Federal Single Audit Act, if applicable,
6.10 and section 6.65. A charter school is subject to and must comply with sections 15.054;
6.11 118A.01; 118A.02; 118A.03; 118A.04; 118A.05; 118A.06; 123B.52, subdivision 5;
6.12 471.38; 471.391; 471.392; 471.425; 471.87; 471.88, subdivisions 1, 2, 3, 4, 5, 6, 12, 13,
6.13 and 15; 471.881; and 471.89. The audit must comply with the requirements of sections
6.14 123B.75 to 123B.83, except to the extent deviations are necessary because of the program
6.15 at the school. Deviations must be approved by the commissioner. The Department
6.16 of Education, state auditor, or legislative auditor may conduct financial, program, or
6.17 compliance audits. A charter school determined to be in statutory operating debt under
6.18 sections 123B.81 to 123B.83 must submit a plan under section 123B.81, subdivision 4.

6.19 ~~(j)~~ (k) A charter school is a district for the purposes of tort liability under chapter 466.

6.20 ~~(k)~~ (l) A charter school must comply with sections 13.32; 120A.22, subdivision 7;
6.21 121A.75; and 260B.171, subdivisions 3 and 5.

6.22 ~~(l)~~ (m) A charter school is subject to the Pledge of Allegiance requirement under
6.23 section 121A.11, subdivision 3.

6.24 Sec. 6. Minnesota Statutes 2006, section 124D.10, subdivision 9, is amended to read:

6.25 Subd. 9. **Admission requirements.** A charter school may limit admission to:

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

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

6.29 (3) residents of a specific geographic area where the percentage of the population
6.30 of non-Caucasian people of that area is greater than the percentage of the non-Caucasian
6.31 population in the congressional district in which the geographic area is located, and as
6.32 long as the school reflects the racial and ethnic diversity of the specific area.

6.33 A charter school shall enroll an eligible pupil who submits a timely application,
6.34 unless the number of applications exceeds the capacity of a program, class, grade level, or
6.35 building. In this case, pupils must be accepted by lot. The charter school must develop

7.1 and publish the lottery process. If a charter school is the only school located in a town
7.2 serving pupils within a particular grade level, then pupils that are residents of the town
7.3 must be given preference for enrollment before accepting pupils by lot. If a pupil lives
7.4 within two miles of a charter school and the next closest public school is more than five
7.5 miles away, the charter school must give those pupils preference for enrollment before
7.6 accepting other pupils by lot.

7.7 A charter school shall give preference for enrollment to a sibling of an enrolled pupil
7.8 and to a foster child of that pupil's parents and to children of the school's employees before
7.9 accepting other pupils by lot.

7.10 A charter school may not limit admission to pupils on the basis of intellectual ability,
7.11 measures of achievement or aptitude, or athletic ability.

7.12 Sec. 7. Minnesota Statutes 2006, section 124D.10, subdivision 14, is amended to read:

7.13 Subd. 14. **Annual public reports.** A charter school must publish an annual
7.14 report at least annually to its sponsor and the commissioner of the information required
7.15 by the sponsor or the commissioner and to the commissioner and the school's sponsor,
7.16 employees, and parents and guardians. The reports are public data under chapter 13.

7.17 Sec. 8. Minnesota Statutes 2006, section 124D.10, subdivision 16, is amended to read:

7.18 Subd. 16. **Transportation.** (a) A charter school after its first fiscal year of operation
7.19 by March 1 of each fiscal year and a charter school by July 1 of its first fiscal year of
7.20 operation must notify the district in which the school is located and the Department of
7.21 Education if it will provide its own transportation or use the transportation services of the
7.22 district in which it is located for the fiscal year.

7.23 (b) If a charter school elects to provide transportation for pupils, the transportation
7.24 must be provided by the charter school within the district in which the charter school is
7.25 located. The state must pay transportation aid to the charter school according to section
7.26 124D.11, subdivision 2.

7.27 For pupils who reside outside the district in which the charter school is located, the
7.28 charter school is not required to provide or pay for transportation between the pupil's
7.29 residence and the border of the district in which the charter school is located. A parent
7.30 may be reimbursed by the charter school for costs of transportation from the pupil's
7.31 residence to the border of the district in which the charter school is located if the pupil is
7.32 from a family whose income is at or below the poverty level, as determined by the federal
7.33 government. The reimbursement may not exceed the pupil's actual cost of transportation
7.34 or ~~15 cents per mile traveled~~ mileage at one-half the rate permitted by the Internal Revenue

8.1 Service under the federal income tax code, whichever is less. Reimbursement may not be
8.2 paid for more than 250 miles per week.

8.3 At the time a pupil enrolls in a charter school, the charter school must provide the
8.4 parent or guardian with information regarding the transportation.

8.5 (c) If a charter school does not elect to provide transportation, transportation for
8.6 pupils enrolled at the school must be provided by the district in which the school is
8.7 located, according to sections 123B.88, subdivision 6, and 124D.03, subdivision 8, for a
8.8 pupil residing in the same district in which the charter school is located. Transportation
8.9 may be provided by the district in which the school is located, according to sections
8.10 123B.88, subdivision 6, and 124D.03, subdivision 8, for a pupil residing in a different
8.11 district. If the district provides the transportation, the scheduling of routes, manner and
8.12 method of transportation, control and discipline of the pupils, and any other matter relating
8.13 to the transportation of pupils under this paragraph shall be within the sole discretion,
8.14 control, and management of the district.

8.15 Sec. 9. Minnesota Statutes 2006, section 124D.10, subdivision 17, is amended to read:

8.16 Subd. 17. **Leased space.** A charter school may lease space from a board eligible to
8.17 be a sponsor or other public or private nonprofit nonsectarian organization. ~~If a charter~~
8.18 ~~school is unable to lease appropriate space from an eligible board or other public or private~~
8.19 ~~nonprofit nonsectarian organization, the school may lease space from another nonsectarian~~
8.20 ~~organization if the Department of Education, in consultation with the Department of~~
8.21 ~~Administration, approves the lease.~~ If the school is unable to lease appropriate space from
8.22 public or private nonsectarian organizations, the school may lease space from a sectarian
8.23 organization if the leased space is constructed as a school facility and the Department of
8.24 Education, in consultation with the Department of Administration, approves the lease.

8.25 Sec. 10. Minnesota Statutes 2006, section 124D.10, subdivision 20, is amended to read:

8.26 Subd. 20. **Leave to teach in a charter school.** If a teacher or other licensed person
8.27 employed by a district makes a written request for an extended leave of absence to teach
8.28 or work within the parameters of the person's license at a charter school, the district must
8.29 grant the leave. The district must grant a leave not to exceed a total of five years. Any
8.30 request to extend the leave shall be granted only at the discretion of the school board. The
8.31 district may require that the request for a leave or extension of leave be made up to 90 days
8.32 before the teacher would otherwise have to report for duty. Except as otherwise provided
8.33 in this subdivision and except for section 122A.46, subdivision 7, the leave is governed by

9.1 section 122A.46, including, but not limited to, reinstatement, notice of intention to return,
 9.2 seniority, salary, and insurance.

9.3 During a leave, the teacher may continue to aggregate benefits and credits in the
 9.4 Teachers' Retirement Association account by paying both the employer and employee
 9.5 contributions based upon the annual salary of the teacher for the last full pay period before
 9.6 the leave began. The retirement association may impose reasonable requirements to
 9.7 efficiently administer this subdivision.

9.8 Sec. 11. Minnesota Statutes 2006, section 124D.10, subdivision 21, is amended to read:

9.9 Subd. 21. **Collective bargaining.** Employees of the board of directors of a charter
 9.10 school may, if otherwise eligible, organize under chapter 179A and comply with its
 9.11 provisions. The board of directors of a charter school is a public employer, for the
 9.12 purposes of chapter 179A, upon formation of one or more bargaining units at the school.
 9.13 Bargaining units at the school must be separate from any other units ~~within the sponsoring~~
 9.14 ~~district, except that bargaining units may remain part of the appropriate unit within the~~
 9.15 ~~sponsoring district, if the employees of the school, the board of directors of the school,~~
 9.16 ~~the exclusive representative of the appropriate unit in the sponsoring district, and the~~
 9.17 ~~board of the sponsoring district agree to include the employees in the appropriate unit~~
 9.18 ~~of the sponsoring district.~~

9.19 Sec. 12. Minnesota Statutes 2006, section 124D.10, subdivision 23, is amended to read:

9.20 Subd. 23. **Causes for nonrenewal or termination of charter school contract.** (a)
 9.21 The duration of the contract with a sponsor must be for the term contained in the contract
 9.22 according to subdivision 6. The sponsor may or may not renew a contract at the end of
 9.23 the term for any ground listed in paragraph (b). A sponsor may unilaterally terminate a
 9.24 contract during the term of the contract for any ground listed in paragraph (b). ~~At least~~
 9.25 ~~60 days~~ By the March 1 immediately before not renewing or terminating a contract, the
 9.26 sponsor shall notify the board of directors of the charter school of the proposed action in
 9.27 writing. The notice shall state the grounds for the proposed action in reasonable detail
 9.28 and that the charter school's board of directors may request in writing an informal hearing
 9.29 before the sponsor within 14 days of receiving notice of nonrenewal or termination of
 9.30 the contract. Failure by the board of directors to make a written request for a hearing
 9.31 within the 14-day period shall be treated as acquiescence to the proposed action. Upon
 9.32 receiving a timely written request for a hearing, the sponsor shall give reasonable notice
 9.33 to the charter school's board of directors of the hearing date. The sponsor shall conduct
 9.34 an informal hearing before taking final action. The sponsor shall take final action to

10.1 renew or not renew a contract by ~~the last day of classes in the school year. If the sponsor~~
10.2 ~~is a local board, the school's board of directors may appeal the sponsor's decision to the~~
10.3 ~~commissioner June 1 of that contract year.~~

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

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

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

10.7 (3) violations of law; or

10.8 (4) other good cause shown.

10.9 If a contract is terminated or not renewed under this paragraph, the school must be
10.10 dissolved according to the applicable provisions of chapter 308A or 317A, except when
10.11 the commissioner approves the decision of a different eligible sponsor to authorize the
10.12 charter school.

10.13 (c) If at the end of a contract term, either the sponsor or the charter school board of
10.14 directors wants to voluntarily terminate the contract, a change in sponsors is allowed if the
10.15 commissioner approves the decision of a different eligible sponsor to authorize the charter
10.16 school. The party intending to terminate the contract must notify the other party and the
10.17 commissioner of its intent ~~at least 90 days~~ by the March 1 immediately before the date on
10.18 which the contract ends. The sponsor that is a party to the existing contract at least must
10.19 inform the approved different eligible sponsor about the fiscal and student performance
10.20 of the school. If no different eligible sponsor is approved, the school must be dissolved
10.21 according to applicable law and the terms of the contract.

10.22 (d) The commissioner, after providing reasonable notice to the board of directors
10.23 of a charter school and the existing sponsor, and after providing an opportunity for a
10.24 public hearing, may terminate the existing sponsorial relationship if the charter school
10.25 has a history of:

10.26 (1) financial mismanagement; or

10.27 (2) repeated violations of the law.

10.28 Sec. 13. **REPEALER.**

10.29 Minnesota Statutes 2006, section 124D.10, subdivision 2a, is repealed effective
10.30 July 1, 2007.