

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE

S.F. No. 2113

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DATE	D-PG	OFFICIAL STATUS
02/27/2012	3961	Introduction and first reading Referred to Education
03/19/2012		Comm report: To pass as amended and re-refer to Finance

1.1 A bill for an act
1.2 relating to education; modifying certain charter school provisions; amending
1.3 Minnesota Statutes 2011 Supplement, section 124D.10, subdivisions 3, 4, 6,
1.4 11, 15, 17a, 23, 25.

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

1.6 Section 1. Minnesota Statutes 2011 Supplement, section 124D.10, subdivision 3,
1.7 is amended to read:

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

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

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

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

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

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

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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 charitable, nonsectarian organizations formed
2.23 under section 501(c)(3) of the Internal Revenue Code of 1986 and incorporated in the state
2.24 of Minnesota whose sole purpose is to charter schools. Eligible organizations interested
2.25 in being approved as an authorizer under this paragraph must submit a proposal to the
2.26 commissioner that includes the provisions of paragraph (c) and a five-year financial plan.
2.27 Such authorizers shall consider and approve applications using the criteria provided in
2.28 subdivision 4 and shall not limit the applications it solicits, considers, or approves to any
2.29 single curriculum, learning program, or method.

2.30 (c) An eligible authorizer under this subdivision must apply to the commissioner for
2.31 approval as an authorizer before submitting any affidavit to the commissioner to charter
2.32 a school. The application for approval as a charter school authorizer must demonstrate
2.33 the applicant's ability to implement the procedures and satisfy the criteria for chartering a
2.34 school under this section. The commissioner must approve or disapprove an application
2.35 within 45 business days of the application deadline. If the commissioner disapproves
2.36 the application, the commissioner must notify the applicant of the specific deficiencies

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

- 3.7 (1) capacity and infrastructure;
- 3.8 (2) application criteria and process;
- 3.9 (3) contracting process;
- 3.10 (4) ongoing oversight and evaluation processes; and
- 3.11 (5) renewal criteria and processes.

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

- 3.14 (1) how chartering schools is a way for the organization to carry out its mission;
- 3.15 (2) a description of the capacity of the organization to serve as an authorizer,
3.16 including the personnel who will perform the authorizing duties, their qualifications, the
3.17 amount of time they will be assigned to this responsibility, and the financial resources
3.18 allocated by the organization to this responsibility;
- 3.19 (3) a description of the application and review process the authorizer will use to
3.20 make decisions regarding the granting of charters;
- 3.21 (4) a description of the type of contract it will arrange with the schools it charters
3.22 that meets the provisions of subdivision 6;
- 3.23 (5) the process to be used for providing ongoing oversight of the school consistent
3.24 with the contract expectations specified in clause (4) that assures that the schools chartered
3.25 are complying with both the provisions of applicable law and rules, and with the contract;
- 3.26 (6) a description of the criteria and process the authorizer will use to grant expanded
3.27 applications under subdivision 4, paragraph (j);
- 3.28 (7) the process for making decisions regarding the renewal or termination of
3.29 the school's charter based on evidence that demonstrates the academic, organizational,
3.30 and financial competency of the school, including its success in increasing student
3.31 achievement and meeting the goals of the charter school agreement; and
- 3.32 (8) an assurance specifying that the organization is committed to serving as an
3.33 authorizer for the full five-year term.

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

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

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

4.9 (h) An authorizer that chartered a school before August 1, 2009, must apply by
4.10 June 30, 2012, to the commissioner for approval, under paragraph (c), to continue as an
4.11 authorizer under this section. For purposes of this paragraph, an authorizer that fails to
4.12 submit a timely application is ineligible to charter a school.

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

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

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

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

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

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

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5.1 Sec. 2. Minnesota Statutes 2011 Supplement, section 124D.10, subdivision 4, is
5.2 amended to read:

5.3 Subd. 4. **Formation of school.** (a) An authorizer, after receiving an application from
5.4 a school developer, may charter a licensed teacher under section 122A.18, subdivision
5.5 1, or a group of individuals that includes one or more licensed teachers under section
5.6 122A.18, subdivision 1, to operate a school subject to the commissioner's approval of the
5.7 authorizer's affidavit under paragraph (b). The school must be organized and operated as a
5.8 nonprofit corporation under chapter 317A and the provisions under the applicable chapter
5.9 shall apply to the school except as provided in this section.

5.10 Notwithstanding sections 465.717 and 465.719, a school district, subject to this
5.11 section and section 124D.11, may create a corporation for the purpose of establishing a
5.12 charter school.

5.13 (b) Before the operators may establish and operate a school, the authorizer must file
5.14 an affidavit with the commissioner stating its intent to charter a school. An authorizer
5.15 must file a separate affidavit for each school it intends to charter. The affidavit must
5.16 state the terms and conditions under which the authorizer would charter a school and
5.17 how the authorizer intends to oversee the fiscal and student performance of the charter
5.18 school and to comply with the terms of the written contract between the authorizer
5.19 and the charter school board of directors under subdivision 6. The commissioner must
5.20 approve or disapprove the authorizer's affidavit within 60 business days of receipt of the
5.21 affidavit. If the commissioner disapproves the affidavit, the commissioner shall notify
5.22 the authorizer of the deficiencies in the affidavit and the authorizer then has 20 business
5.23 days to address the deficiencies. If the authorizer does not address deficiencies to the
5.24 commissioner's satisfaction, the commissioner's disapproval is final. Failure to obtain
5.25 commissioner approval precludes an authorizer from chartering the school that is the
5.26 subject of this affidavit.

5.27 (c) The authorizer may prevent an approved charter school from opening for
5.28 operation if, among other grounds, the charter school violates this section or does not meet
5.29 the ready-to-open standards that are part of the authorizer's oversight and evaluation
5.30 process or are stipulated in the charter school contract.

5.31 (d) The operators authorized to organize and operate a school, before entering into a
5.32 contract or other agreement for professional or other services, goods, or facilities, must
5.33 incorporate as a nonprofit corporation under chapter 317A and must establish a board of
5.34 directors composed of at least five members who are not related parties until a timely
5.35 election for members of the ongoing charter school board of directors is held according to
5.36 the school's articles and bylaws under paragraph (f). A charter school board of directors

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6.1 must be composed of at least five members who are not related parties. Staff members
6.2 employed at the school, including teachers providing instruction under a contract with a
6.3 cooperative, and all parents or legal guardians of children enrolled in the school are the
6.4 voters eligible to elect the members of the school's board of directors. A charter school
6.5 must notify eligible voters of the school board election dates at least 30 days before the
6.6 election. Board of director meetings must comply with chapter 13D.

6.7 (e) Upon the request of an individual, the charter school must make available in
6.8 a timely fashion the minutes of meetings of the board of directors, and of members
6.9 and committees having any board-delegated authority; financial statements showing all
6.10 operations and transactions affecting income, surplus, and deficit during the school's last
6.11 annual accounting period; and a balance sheet summarizing assets and liabilities on the
6.12 closing date of the accounting period. A charter school also must post on its official Web
6.13 site information identifying its authorizer and indicate how to contact that authorizer and
6.14 include that same information about its authorizer in other school materials that it makes
6.15 available to the public.

6.16 (f) Every charter school board member shall attend ~~department-approved~~ ongoing
6.17 training throughout the member's term on board governance, including training on
6.18 the board's role and responsibilities, employment policies and practices, and financial
6.19 management. A board member who does not begin the required initial training within six
6.20 months after being seated and complete that training within 12 months of being seated on
6.21 the board is ineligible to continue to serve as a board member. The school shall include in
6.22 its annual report the training attended by each board member during the previous year.

6.23 (g) The ongoing board must be elected before the school completes its third year of
6.24 operation. Board elections must be held during the school year but may not be conducted
6.25 on days when the school is closed for holidays or vacations. The charter school board of
6.26 directors shall be composed of at least five nonrelated members and include: (i) at least one
6.27 licensed teacher employed at the school or a licensed teacher providing instruction under
6.28 contract between the charter school and a cooperative; (ii) the parent or legal guardian
6.29 of a student enrolled in the charter school who is not an employee of the charter school;
6.30 and (iii) an interested community member who is not employed by the charter school and
6.31 does not have a child enrolled in the school. The board may be a teacher majority board
6.32 composed of teachers described in this paragraph. The chief financial officer and the chief
6.33 administrator may only serve as ex-officio nonvoting board members and may not serve
6.34 as a voting member of the board. Charter school employees shall not serve on the board
6.35 unless item (i) applies. Contractors providing facilities, goods, or services to a charter
6.36 school shall not serve on the board of directors of the charter school. Board bylaws shall

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7.1 outline the process and procedures for changing the board's governance model, consistent
7.2 with chapter 317A. A board may change its governance model only:

7.3 (1) by a majority vote of the board of directors and the licensed teachers employed
7.4 by the school, including licensed teachers providing instruction under a contract between
7.5 the school and a cooperative; and

7.6 (2) with the authorizer's approval.

7.7 Any change in board governance must conform with the board structure established
7.8 under this paragraph.

7.9 (h) The granting or renewal of a charter by an authorizer must not be conditioned
7.10 upon the bargaining unit status of the employees of the school.

7.11 (i) The granting or renewal of a charter school by an authorizer must not be
7.12 contingent on the charter school being required to contract, lease, or purchase services
7.13 from the authorizer. Any potential contract, lease, or purchase of service from an
7.14 authorizer must be disclosed to the commissioner, accepted through an open bidding
7.15 process, and be a separate contract from the charter contract. The school must document
7.16 the open bidding process. An authorizer must not enter into a contract to provide
7.17 management and financial services for a school that it authorizes, unless the school
7.18 documents that it received at least two competitive bids.

7.19 (j) An authorizer may permit the board of directors of a charter school to expand
7.20 the operation of the charter school to additional sites or to add additional grades at the
7.21 school beyond those described in the authorizer's original affidavit as approved by
7.22 the commissioner only after submitting a supplemental affidavit for approval to the
7.23 commissioner in a form and manner prescribed by the commissioner. The supplemental
7.24 affidavit must document that:

7.25 (1) the proposed expansion plan demonstrates need and projected enrollment;

7.26 (2) the expansion is warranted, at a minimum, by longitudinal data demonstrating
7.27 students' improved academic performance and growth on statewide assessments under
7.28 chapter 120B;

7.29 (3) the charter school is financially sound and the financing it needs to implement
7.30 the proposed expansion exists; and

7.31 (4) the charter school has the governance structure and management capacity to
7.32 carry out its expansion.

7.33 (k) The commissioner shall have 30 business days to review and comment on the
7.34 supplemental affidavit. ~~The commissioner shall notify the authorizer of any deficiencies in~~
7.35 ~~the supplemental affidavit and the authorizer then has 20 business days to address, to the~~
7.36 ~~commissioner's satisfaction, any deficiencies in the supplemental affidavit. The authorizer~~

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8.1 may not give final approval to the school ~~may not~~ to expand grades or add sites until the
8.2 commissioner ~~has approved the supplemental affidavit. The commissioner's approval or~~
8.3 ~~disapproval of a supplemental affidavit is final~~ completes the review and comment process.

8.4 (1) A charter school operating under this section may merge with another charter
8.5 school. The merger must comply with chapter 317A and section 124D.11, subdivision
8.6 9, paragraph (g). Upon a formal vote of the board of directors of each charter school
8.7 involved and written notice of intent to the authorizer of each school, the schools may
8.8 negotiate a merger plan that must include at least the following:

8.9 (1) a merger budget, a multiyear operating budget for the merged charter school, a
8.10 long-range financial plan, and a plan for the transfer of assets and liabilities to the merged
8.11 charter school;

8.12 (2) a process for transitioning responsibility of governance, administration, and all
8.13 operations to the merged charter school;

8.14 (3) a statement of academic, student engagement, and organizational operations
8.15 goals for the merged charter school; and

8.16 (4) an agreement between involved authorizers on the authorizing plan for the
8.17 merged charter school.

8.18 The approval of the boards of directors of the merging charter schools, the
8.19 authorizers of those schools, and the authorizer of the merged charter school is required
8.20 to adopt the merger plan. After the merger plan is adopted, the authorizer of the merged
8.21 charter school must submit the plan to the commissioner for review and comment. The
8.22 commissioner must complete the review and comment of the plan within 30 business days.
8.23 The merger may not take effect until the commissioner completes the review and comment.

8.24 Sec. 3. Minnesota Statutes 2011 Supplement, section 124D.10, subdivision 6, is
8.25 amended to read:

8.26 Subd. 6. **Charter contract.** The authorization for a charter school must be in the
8.27 form of a written contract signed by the authorizer and the board of directors of the charter
8.28 school. The contract must be completed within 45 business days of the commissioner's
8.29 approval of the authorizer's affidavit. The authorizer shall submit to the commissioner a
8.30 copy of the signed charter contract within ten business days of its execution. The contract
8.31 for a charter school must be in writing and contain at least the following:

8.32 (1) a declaration of the purposes in subdivision 1 that the school intends to carry out
8.33 and how the school will report its implementation of those purposes;

8.34 (2) a description of the school program and the specific academic and nonacademic
8.35 outcomes that pupils must achieve;

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- 9.1 (3) a statement of admission policies and procedures;
- 9.2 (4) a governance, management, and administration plan for the school;
- 9.3 (5) signed agreements from charter school board members to comply with all
9.4 federal and state laws governing organizational, programmatic, and financial requirements
9.5 applicable to charter schools;
- 9.6 (6) the criteria, processes, and procedures that the authorizer will use for ongoing
9.7 oversight of operational, financial, and academic performance;
- 9.8 (7) the performance evaluation that is a prerequisite for reviewing a charter contract
9.9 under subdivision 15;
- 9.10 (8) types and amounts of insurance liability coverage to be obtained by the charter
9.11 school;
- 9.12 (9) consistent with subdivision 25, paragraph (d), a provision to indemnify and hold
9.13 harmless the authorizer and its officers, agents, and employees from any suit, claim,
9.14 or liability arising from any operation of the charter school, and the commissioner and
9.15 department officers, agents, and employees notwithstanding section 3.736;
- 9.16 (10) the term of the initial contract, which may be up to three years plus an additional
9.17 preoperational planning year, and up to five years for a renewed contract or a contract with
9.18 a new authorizer after a transfer of authorizers, if warranted by the school's academic,
9.19 financial, and operational performance;
- 9.20 (11) how the board of directors or the operators of the charter school will provide
9.21 special instruction and services for children with a disability under sections 125A.03
9.22 to 125A.24, and 125A.65, a description of the financial parameters within which the
9.23 charter school will operate to provide the special instruction and services to children
9.24 with a disability;
- 9.25 (12) the process the authorizer will use for making decisions regarding the renewal
9.26 or termination of the school's charter based on evidence that demonstrates the academic,
9.27 organizational, and financial competency of the school, including its success in increasing
9.28 student achievement and meeting the goals of the charter school agreement;
- 9.29 (13) a dispute resolution process agreed upon by the authorizer and the charter
9.30 school that includes the following:
- 9.31 (i) a written notice process to invoke the dispute resolution process and a description
9.32 of the matter in dispute;
- 9.33 (ii) a time limit for response;
- 9.34 (iii) a procedure for selecting a neutral party to assist in resolution of the dispute;
- 9.35 (iv) a process for apportioning costs related to the process; and
- 9.36 (v) a process for final resolution of the issue in dispute;

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10.1 ~~(12)~~ (14) the process and criteria the authorizer intends to use to monitor and
10.2 evaluate the fiscal and student performance of the charter school, consistent with
10.3 subdivision 15; and

10.4 ~~(13)~~ (15) the plan for an orderly closing of the school under chapter 317A, if the
10.5 closure is a termination for cause, a voluntary termination, or a nonrenewal of the contract,
10.6 and that includes establishing the responsibilities of the school board of directors and the
10.7 authorizer and notifying the commissioner, authorizer, school district in which the charter
10.8 school is located, and parents of enrolled students about the closure, the transfer of student
10.9 records to students' resident districts, and procedures for closing financial operations.

10.10 Sec. 4. Minnesota Statutes 2011 Supplement, section 124D.10, subdivision 11, is
10.11 amended to read:

10.12 Subd. 11. **Employment and other operating matters.** (a) A charter school must
10.13 employ or contract with necessary teachers, as defined by section 122A.15, subdivision 1,
10.14 who hold valid licenses to perform the particular service for which they are employed in
10.15 the school. The charter school's state aid may be reduced under section 127A.43 if the
10.16 school employs a teacher who is not appropriately licensed or approved by the board of
10.17 teaching. The school may employ necessary employees who are not required to hold
10.18 teaching licenses to perform duties other than teaching and may contract for other services.
10.19 The school may discharge teachers and nonlicensed employees. The charter school board
10.20 is subject to section 181.932. When offering employment to a prospective employee, a
10.21 charter school must give that employee a written description of the terms and conditions
10.22 of employment and the school's personnel policies.

10.23 (b) A person, without holding a valid administrator's license, may perform
10.24 administrative, supervisory, or instructional leadership duties. The board of directors shall
10.25 establish qualifications for persons that hold administrative, supervisory, or instructional
10.26 leadership roles. The qualifications shall include at least the following areas: instruction
10.27 and assessment; human resource and personnel management; financial management;
10.28 legal and compliance management; effective communication; and board, authorizer, and
10.29 community relationships. The board of directors shall use those qualifications as the basis
10.30 for job descriptions, hiring, and performance evaluations of those who hold administrative,
10.31 supervisory, or instructional leadership roles. The board of directors and an individual
10.32 who does not hold a valid administrative license and who serves in an administrative,
10.33 supervisory, or instructional leadership position shall develop a professional development
10.34 plan. Documentation of the implementation of the professional development plan of these
10.35 persons shall be included in the school's annual report.

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11.1 (c) The board of directors also shall decide matters related to the operation of the
11.2 school, including budgeting, curriculum and operating procedures.

11.3 (d) The board of directors shall adopt and implement a performance evaluation
11.4 process for all employees of the school. The performance evaluation process for teachers
11.5 and administrators must be designed to support and improve pupil learning and student
11.6 achievement, instructional leadership, enhancing school outcomes, and be linked to
11.7 professional development.

11.8 Sec. 5. Minnesota Statutes 2011 Supplement, section 124D.10, subdivision 15, is
11.9 amended to read:

11.10 Subd. 15. **Review and comment.** (a) The authorizer shall provide a formal written
11.11 evaluation of the school's performance before the authorizer renews the charter contract.
11.12 The department must review and comment on the authorizer's evaluation process at the
11.13 time the authorizer submits its application for approval and each time the authorizer
11.14 undergoes its five-year review under subdivision 3, paragraph (e).

11.15 (b) An authorizer shall monitor and evaluate the fiscal, operational, and student
11.16 performance of the school, and may for this purpose annually assess a charter school
11.17 a fee according to paragraph (c). The agreed-upon fee structure must be stated in the
11.18 charter school contract.

11.19 (c) The fee that each charter school pays to an authorizer each year is the greater of:

11.20 (1) the basic formula allowance for that year; or

11.21 (2) the lesser of:

11.22 (i) the maximum fee factor times the basic formula allowance for that year; or

11.23 (ii) the fee factor times the basic formula allowance for that year times the charter
11.24 school's adjusted marginal cost pupil units for that year. The fee factor equals .005 in fiscal
11.25 year 2010, .01 in fiscal year 2011, .013 in fiscal year 2012, and .015 in fiscal years 2013
11.26 and later. The maximum fee factor equals 1.5 in fiscal year 2010, 2.0 in fiscal year 2011,
11.27 3.0 in fiscal year 2012, and 4.0 in fiscal years 2013 and later.

11.28 ~~(d) The department and any charter school it charters must not assess or pay a~~
11.29 ~~fee under paragraphs (b) and (c).~~ An authorizer may not assess a school a fee for the
11.30 consideration of an authorizer transfer.

11.31 (e) For the preoperational planning period, the authorizer may assess a charter school
11.32 a fee equal to the basic formula allowance.

11.33 (f) By September 30 of each year, an authorizer shall submit to the commissioner
11.34 a statement of expenditures related to chartering activities during the previous school

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12.1 year ending June 30. A copy of the statement shall be given to all schools chartered by
12.2 the authorizer.

12.3 Sec. 6. Minnesota Statutes 2011 Supplement, section 124D.10, subdivision 17a,
12.4 is amended to read:

12.5 Subd. 17a. **Affiliated nonprofit building corporation.** (a) Before a charter school
12.6 may organize an affiliated nonprofit building corporation (i) to renovate or purchase an
12.7 existing facility to serve as a school or (ii) to construct a new school facility, an authorizer
12.8 must submit an affidavit to the commissioner for approval in the form and manner the
12.9 commissioner prescribes, and consistent with paragraphs (b) and (c) or (d).

12.10 (b) An affiliated nonprofit building corporation under this subdivision must:

12.11 (1) be incorporated under section 317A ~~and comply with applicable Internal~~
12.12 ~~Revenue Service regulations;~~

12.13 (2) comply with applicable Internal Revenue Service regulations, including
12.14 regulations for "supporting organizations" as defined by the Internal Revenue Service;

12.15 ~~(2)~~ (3) submit to the commissioner each fiscal year a list of current board members
12.16 and a copy of its annual audit; and

12.17 ~~(3)~~ (4) comply with government data practices law under chapter 13.

12.18 An affiliated nonprofit building corporation must not serve as the leasing agent for
12.19 property or facilities it does not own. A charter school that leases a facility from an
12.20 affiliated nonprofit building corporation that does not own the leased facility is ineligible
12.21 to receive charter school lease aid. The state is immune from liability resulting from a
12.22 contract between a charter school and an affiliated nonprofit building corporation.

12.23 (c) A charter school may organize an affiliated nonprofit building corporation to
12.24 renovate or purchase an existing facility to serve as a school if the charter school:

12.25 (1) has been operating for at least five consecutive school years;

12.26 (2) has had a net positive unreserved general fund balance as of June 30 in the
12.27 preceding five fiscal years;

12.28 (3) has a long-range strategic and financial plan;

12.29 (4) completes a feasibility study of available buildings; and

12.30 (5) documents enrollment projections and the need to use an affiliated building
12.31 corporation to renovate or purchase an existing facility to serve as a school.

12.32 (d) A charter school may organize an affiliated nonprofit building corporation to
12.33 construct a new school facility if the charter school:

12.34 (1) demonstrates the lack of facilities available to serve as a school;

12.35 (2) has been operating for at least eight consecutive school years;

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13.1 (3) has had a net positive unreserved general fund balance as of June 30 in the
13.2 preceding ~~eight~~ five fiscal years;

13.3 (4) completes a feasibility study of facility options;

13.4 (5) has a long-range strategic and financial plan that includes enrollment projections
13.5 and demonstrates the need for constructing a new school facility; and

13.6 (6) has a positive review and comment from the commissioner under section
13.7 123B.71.

13.8 Sec. 7. Minnesota Statutes 2011 Supplement, section 124D.10, subdivision 23, is
13.9 amended to read:

13.10 Subd. 23. **Causes for nonrenewal or termination of charter school contract.** (a)

13.11 The duration of the contract with an authorizer must be for the term contained in the
13.12 contract according to subdivision 6. The authorizer may or may not renew a contract at
13.13 the end of the term for any ground listed in paragraph (b). An authorizer may unilaterally
13.14 terminate a contract during the term of the contract for any ground listed in paragraph (b).

13.15 At least 60 business days before not renewing or terminating a contract, the authorizer
13.16 shall notify the board of directors of the charter school of the proposed action in writing.

13.17 The notice shall state the grounds for the proposed action in reasonable detail and that the
13.18 charter school's board of directors may request in writing an informal hearing before the

13.19 authorizer within 15 business days of receiving notice of nonrenewal or termination of

13.20 the contract. Failure by the board of directors to make a written request for an informal

13.21 hearing within the 15-business-day period shall be treated as acquiescence to the proposed

13.22 action. Upon receiving a timely written request for a hearing, the authorizer shall give ten

13.23 business days' notice to the charter school's board of directors of the hearing date. The

13.24 authorizer shall conduct an informal hearing before taking final action. The authorizer

13.25 shall take final action to renew or not renew a contract no later than 20 business days

13.26 before the proposed date for terminating the contract or the end date of the contract.

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

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

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

13.30 (3) violations of law; or

13.31 (4) other good cause shown.

13.32 If a contract is terminated or not renewed under this paragraph, the school must be
13.33 dissolved according to the applicable provisions of chapter 317A.

13.34 (c) If the authorizer and the charter school board of directors mutually agree to
13.35 terminate or not renew the contract, for reasons other than paragraph (b), a change in

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14.1 ~~transfer of authorizers is allowed if the commissioner approves the change to a different~~
14.2 ~~eligible authorizer to authorize the charter school. Both parties~~ after review and comment
14.3 of the commissioner. The school and current authorizer must jointly submit their intent
14.4 in writing to the commissioner to mutually terminate the contract. The authorizer that is
14.5 a party to the existing contract must inform the proposed authorizer about the fiscal and
14.6 operational status and, student performance level, and any unresolved issues related to
14.7 the contract or oversight of the school. Before the commissioner determines whether to
14.8 ~~approve a change in authorizer, the proposed authorizer must identify any outstanding~~
14.9 ~~issues in the proposed charter contract that were unresolved in the previous charter~~
14.10 ~~contract and have the charter school agree to resolve those issues. If no change in~~
14.11 ~~authorizer is approved, the school must be dissolved according to applicable law and the~~
14.12 ~~terms of the contract. The proposed authorizer must submit to the commissioner a copy~~
14.13 of the proposed new contract for comment and review. The contract must identify all
14.14 unresolved contract or oversight issues that exist and include a plan that the charter school
14.15 and authorizer have agreed upon to resolve those issues. The commissioner shall have 20
14.16 business days to conduct the review and comment of the contract. The transfer may not go
14.17 into effect until the review and comment of the commissioner is completed.

14.18 (d) The commissioner, after providing reasonable notice to the board of directors of
14.19 a charter school and the existing authorizer, and after providing an opportunity for a public
14.20 hearing, may terminate the existing contract between the authorizer and the charter school
14.21 board if the charter school has a history of:

- 14.22 (1) failure to meet pupil performance requirements consistent with state law;
14.23 (2) financial mismanagement or failure to meet generally accepted standards of
14.24 fiscal management; or
14.25 (3) repeated or major violations of the law.

14.26 Sec. 8. Minnesota Statutes 2011 Supplement, section 124D.10, subdivision 25, is
14.27 amended to read:

14.28 Subd. 25. **Extent of specific legal authority.** (a) The board of directors of a charter
14.29 school may sue and be sued.

14.30 (b) The board may not levy taxes or issue bonds.

14.31 (c) The commissioner, an authorizer, members of the board of an authorizer in
14.32 their official capacity, and employees of an authorizer are immune from civil or criminal
14.33 liability with respect to all activities related to a charter school they approve or authorize.
14.34 The board of directors shall obtain at least the amount of and types of insurance up to the
14.35 applicable tort liability limits under chapter 466. The charter school board must submit

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15.1 a copy of the insurance policy to its authorizer and the commissioner before starting
15.2 operations. The charter school board must ~~submit~~ notify its authorizer of changes in its
15.3 insurance carrier or policy ~~to its authorizer and the commissioner~~ amount limits within
15.4 20 business days of the change.

15.5 (d) Notwithstanding section 3.736, the charter school shall assume full liability for
15.6 its activities and indemnify and hold harmless the authorizer and its officers, agents, and
15.7 employees from any suit, claim, or liability arising from any operation of the charter school
15.8 and the commissioner and department officers, agents, and employees. A charter school
15.9 is not required to indemnify or hold harmless a state employee if the state would not be
15.10 required to indemnify and hold the employee harmless under section 3.736, subdivision 9.