

partment for the deferment of taxable income for the first three tax years that the taxpayer business is in operation. If a deferment is approved by the department pursuant to subsection 4, the taxpayer shall pay taxes on the deferred taxable income in five equal annual installments during the five tax years following the three years of taxable income deferment. Section 422.26 shall apply if the taxpayer refuses or neglects to pay the taxes owed on the deferred taxable income in the manner provided in this section. A taxpayer receiving a deferment shall file a return for each tax year in which a deferment is approved. If the taxpayer has a net loss during a tax year during the three-year period in which taxable income is deferred, the loss may be applied to any deferred taxable income during that period.

4. Upon a determination that the criteria provided in subsection 2 have been met, the department shall approve a request for deferment of taxable income.

5. For purposes of assessing penalty and interest, the tax on any deferred taxable income is not due and payable until the tax years in which the annual installments as provided in subsection 3 are due and payable.

6. The department shall adopt rules pursuant to chapter 17A necessary for the administration of this section.

Sec. 2. **EFFECTIVE AND APPLICABILITY DATES.** This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to January 1, 2002.

Approved April 22, 2002

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## CHAPTER 1124

### CHARTER SCHOOLS

S.F. 348

**AN ACT** relating to the establishment of Iowa charter schools and providing for a conditional effective date.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. **NEW SECTION. 256F.1 AUTHORIZATION AND PURPOSE.**

1. Charter schools shall be part of the state's program of public education.
2. A charter school may be established by creating a new school within an existing public school or converting an existing public school to charter status.
3. The purpose of a charter school established pursuant to this chapter shall be to accomplish the following:
  - a. Improve student learning.
  - b. Increase learning opportunities for students.
  - c. Encourage the use of different and innovative methods of teaching.
  - d. Require the measurement of learning outcomes and create different and innovative forms of measuring outcomes.
  - e. Establish new forms of accountability for schools.
  - f. Create new professional opportunities for teachers and other educators, including the opportunity to be responsible for the learning program at the school site.

Sec. 2. **NEW SECTION. 256F.2 DEFINITIONS.**

1. "Advisory council" means a council appointed by the school board of directors of a charter school pursuant to section 256F.5, subsection 4.

2. "Attendance center" means a public school building that contains classrooms used for instructional purposes for elementary, middle, or secondary school students.
3. "Charter school" means a state public charter school operated as a pilot program.
4. "Department" means the department of education.
- 4A. "Pilot program" means a pilot program created under this chapter that creates a new school within an existing public school or converts an existing public school to charter status in accordance with this chapter.
5. "School board" means a board of directors regularly elected by the registered voters of a school district.
6. "State board" means the state board of education.

Sec. 3. NEW SECTION. 256F.3 PILOT PROGRAM — APPLICATION.

1. Commencing with the school year beginning July 1, 2002, the state board of education shall initiate a pilot program to test the effectiveness of charter schools.
2. To receive approval to establish a charter school in accordance with this chapter, the principal, teachers, or parents or guardians of students at an existing public school shall submit an application to the school board to convert an existing attendance center to a charter school. An attendance center shall not enter into a charter school contract with a school district under this chapter unless the attendance center is located within the school district. The application shall demonstrate the support of at least fifty percent of the teachers employed at the school on the date of the submission of the application and fifty percent of the parents or guardians voting whose children are enrolled at the school, provided that a majority of the parents or guardians eligible to vote participate in the ballot process, according to procedures established by rules of the state board. A parent or guardian voting in accordance with this subsection must be a resident of this state.
3. A school board shall receive and review all applications for converting an existing building or creating a new building for a charter school. Applications received on or before October 1 of a calendar year shall be considered for charter schools to be established at the beginning of the school district's next school year or at a time agreed to by the applicant and the school board. However, a school board may receive and consider applications after October 1 at its discretion.
4. A school board shall by a majority vote approve or deny an application no later than sixty calendar days after the application is received. An application approved by a school board and subsequently approved by the state board pursuant to subsection 6 shall constitute, at a minimum, an agreement between the school board and the charter school for the operation of the charter school. A school board that denies an application for a conversion to a charter school shall provide notice of denial to the applicant in writing within thirty days after board action. The notice shall specify the exact reasons for denial and provide documentation supporting those reasons.
5. An applicant may appeal school board denial of the applicant's charter school application to the state board in accordance with the procedures set forth in chapter 290. The state board shall affirm, modify, or reverse the school board's decision on the basis of the information provided in the application indicating the ability and willingness of the proposed charter school to meet the requirements of section 256F.1, subsection 3, and section 256F.4.
6. Upon approval of an application for the proposed establishment of a charter school, the school board shall submit an application for approval to establish the charter school to the state board in accordance with section 256F.5. The application shall set forth the manner in which the charter school will provide special instruction, in accordance with section 280.4, to students who are limited English proficient. The application shall set forth the manner in which the charter school will comply with federal and state laws and regulations relating to the federal National School Lunch Act and the federal Child Nutrition Act of 1966, 42 U.S.C. § 1751-1785, and chapter 283A. The state board shall approve only those applications that meet the requirements specified in section 256F.1, subsection 3, and sections 256F.4 and 256F.5. The state board may deny an application if the state board deems that approval of the

application is not in the best interest of the affected students. The state board shall approve not more than ten charter school applications. The state board shall approve not more than one charter school application per school district. However, if the state board receives ten or fewer applications as of June 30, 2003, and two or more of the applications received by the state board by that date are submitted by one school district, the state board may approve any or all of the applications submitted by the school district. The state board shall adopt rules in accordance with chapter 17A for the implementation of this chapter.

7. If federal rules or regulations relating to the distribution or utilization of federal funds allocated to the department pursuant to this section are adopted that are inconsistent with the provisions of this chapter, the state board shall adopt rules to comply with the requirements of the federal rules or regulations. The state board shall identify inconsistencies between federal and state rules and regulations as provided in this subsection and shall submit recommendations for legislative action to the chairpersons and ranking members of the senate and house standing committees on education at the next meeting of the general assembly.

Sec. 4. NEW SECTION. 256F.4 GENERAL OPERATING REQUIREMENTS.

1. Within fifteen days after approval of a charter school application submitted in accordance with section 256F.3, subsection 2, a school board shall report to the department the name of the charter school applicant entry,<sup>13</sup> the proposed charter school location, and its projected enrollment.

2. Although a charter school may elect to comply with one or more provisions of statute or administrative rule, a charter school is exempt from all statutes and rules applicable to a school, a school board, or a school district, except that the charter school shall do all of the following:

a. Meet all applicable federal, state, and local health and safety requirements and laws prohibiting discrimination on the basis of race, creed, color, sex, national origin, religion, ancestry, or disability. A charter school shall be subject to any court-ordered desegregation plan in effect for the school district at the time the school's charter application is approved.

b. Operate as a nonsectarian, nonreligious public school.

c. Be free of tuition and application fees to Iowa resident students between the ages of five and twenty-one years.

d. Be subject to and comply with chapters 216 and 216A relating to civil and human rights.

e. Provide special education services in accordance with chapter 256B.

f. Be subject to the same financial audits, audit procedures, and audit requirements as a school district. The audit shall be consistent with the requirements of sections 11.6, 11.14, 11.19, 256.9, subsection 19, and section 279.29, except to the extent deviations are necessary because of the program at the school. The department, the auditor of state, or the legislative fiscal bureau may conduct financial, program, or compliance audits.

g. Be subject to and comply with chapter 284 relating to the student achievement and teacher quality program. A charter school that complies with chapter 284 shall receive state moneys or be eligible to receive state moneys as provided in chapter 284 as if it did not operate under a charter.

h. Be subject to and comply with chapters 20 and 279 relating to contracts with and discharge of teachers and administrators.

i. Be subject to and comply with the provisions of chapter 285 relating to the transportation of students.

j. Meetings of the advisory council are subject to the provisions of chapters 21 and 22.

3. A charter school shall not discriminate in its student admissions policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, or status as a person with a disability. However, a charter school may limit admission to students who are within a particular range of age or grade level<sup>14</sup> or on any other basis that would be legal if initiated by a school district. Enrollment priority shall be given to the siblings of students enrolled in a charter school.

4. A charter school shall enroll an eligible resident student who submits a timely application

<sup>13</sup> See chapter 1175, §81 herein

<sup>14</sup> See chapter 1175, §81 herein

unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, students must be accepted by lot. A charter school may enroll an eligible nonresident student who submits a timely application in accordance with the student admission policy established pursuant to section 256F.5, subsection 1. If the charter school enrolls an eligible nonresident student, the charter school shall notify the school district and the sending district not later than March 1 of the preceding school year. Transportation for the student shall be in accordance with section 282.18, subsection 10. The sending district shall make payments to the charter school in the manner required under section 282.18, subsection 7.

5. A charter school shall provide instruction for at least the number of days required by section 279.10, subsection 1, or shall provide at least the equivalent number of total hours.

6. Notwithstanding subsection 2, a charter school shall meet the requirements of section 256.7, subsection 21.

7. A charter school shall be considered a part of the school district in which it is located for purposes of state school foundation aid pursuant to chapter 257.

8. A charter school may enter into contracts in accordance with chapter 73A.

Sec. 5. NEW SECTION. 256F.5 APPLICATION — DEFINITION.

An application to the state board for the approval of a charter school shall include, but shall not be limited to, a description of the following:

1. The method for admission to the charter school.
2. The mission, purpose, innovation, and specialized focus of the charter school.
3. Performance goals and objectives in addition to those required under section 256.7, subsection 21, by which the school's student achievement shall be judged, the measures to be used to assess progress, and the current baseline status with respect to the goals.
4. The method for appointing or forming an advisory council for the charter school. The membership of an advisory council appointed or formed in accordance with this chapter shall not include more than one member of the school board.
5. Procedures for teacher evaluation and professional development for teachers and administrators.
6. The charter school governance and bylaws.
7. The financial plan for the operation of the school including, at a minimum, a listing of the support services the school district will provide, and the charter school's revenues, budgets, and expenditures.
8. The educational program and curriculum, instructional methodology, and services to be offered to students.
9. The number and qualifications of teachers and administrators to be employed.
10. The organization of the school in terms of ages of students or grades to be taught along with an estimate of the total enrollment of the school.
11. The provision of school facilities.
12. A statement indicating how the charter school will meet the requirements of section 256F.1, subsection 3; section 256F.4, subsection 2, paragraph "a"; and section 256F.4, subsection 3.
13. Assurance of the assumption of liability by the charter school.
14. The types and amounts of insurance coverage to be obtained by the charter school.
15. A plan of operation to be implemented if the charter school revokes or fails to renew its contract.
16. The means, costs, and plan for providing transportation for students attending the charter school.
17. The specific statutes, administrative rules, and school board policies with which the charter school does not intend to comply.

Sec. 6. NEW SECTION. 256F.6 CONTRACT.

1. An approved charter school application shall constitute an agreement, the terms of which

shall, at a minimum, be the terms of a four-year enforceable, renewable contract between the school board and the state board. The contract shall include an operating agreement for the operation of the charter school. The terms of the contract may be revised at any time with the approval of both the state board and the school board, whether or not the stated provisions of the contract are being fulfilled. The charter school shall provide parents and guardians of students enrolled in the charter school with a copy of the charter school application approved pursuant to section 256F.5.

2. The contract shall outline the reasons for revocation or nonrenewal of the charter.

3. The state board of education shall provide by rule for the ongoing review of a school board's compliance with a contract entered into in accordance with this chapter.

Sec. 7. NEW SECTION. 256F.7 EMPLOYMENT AND RELATED MATTERS.

1. A charter school shall employ or contract with necessary teachers and administrators, as defined in section 272.1, who hold a valid license with an endorsement for the type of service for which the teacher or administrator is employed.

2. The school board, in consultation with the advisory council, shall decide matters related to the operation of the school, including budgeting, curriculum, and operating procedures.

3. Employees of a charter school shall be considered employees of the school district.

Sec. 8. NEW SECTION. 256F.8 PROCEDURES FOR REVOCATION OR NONRENEWAL OF CONTRACT.

1. A contract for the establishment of a charter school may be revoked by the state board or the school board that established the charter school if the appropriate board determines that one or more of the following occurred:

a. Failure of the charter school to abide by and meet the provisions set forth in the contract, including educational goals.

b. Failure of the charter school to comply with all applicable law.

c. Failure of the charter school to meet generally accepted public sector accounting principles.

d. The existence of one or more other grounds for revocation as specified in the contract.

2. The decision by a school board to revoke or to fail to take action to renew a charter school contract is subject to appeal under procedures set forth in chapter 290.

3. A school board considering revocation or nonrenewal of a charter school contract shall notify the advisory council, the parents or guardians of the students enrolled in the charter school, and the teachers and administrators employed by the charter school, sixty days prior to revoking or the date by which the contract must be renewed, but not later than the last day of classes in the school year.

4. If the state board determines that a charter school is in substantial violation of the terms of the contract, the state board shall notify the school board and the advisory council of its intention to revoke the contract at least sixty days prior to revoking a contract and the school board shall assume oversight authority, operational authority, or both oversight and operational authority. The notice shall state the grounds for the proposed action in writing and in reasonable detail. The school board may request in writing an informal hearing before the state board within fourteen days of receiving notice of revocation of the contract. Upon receiving a timely written request for a hearing, the state board shall give reasonable notice to the school board of the hearing date. The state board shall conduct an informal hearing before taking final action. Final action to revoke a contract shall be taken in a manner least disruptive to students enrolled in the charter school. The state board shall take final action to revoke or approve continuation of a contract by the last day of classes in the school year. If the final action to revoke a contract under this section occurs prior to the last day of classes in the school year, a charter school student may enroll in the resident district.

5. The decision of the state board to revoke a contract under this section is solely within the discretion of the state board and is final.

6. A school board revoking a contract or a school board or advisory council that fails to renew a contract under this chapter is not liable for that action to the charter school, a student enrolled in the charter school or the student's parent or guardian, or any other person.

7. In the case of a revocation or a nonrenewal of the charter, the school board is exempt from the state board's "Barker guidelines", as provided in 1 D.P.I. App. Dec. 145 (1977).

Sec. 9. NEW SECTION. 256F.9 PROCEDURES AFTER REVOCATION — STUDENT ENROLLMENT.

If a charter school contract is revoked in accordance with this chapter, a nonresident student who attended the school, and any siblings of the student, shall be determined to have shown good cause as provided in section 282.18, subsection 16, and may submit an application to another school district according to section 282.18 at any time. Applications and notices required by section 282.18 shall be processed and provided in a prompt manner. The application and notice deadlines in section 282.18 do not apply to a nonresident student application under these circumstances.

Sec. 10. NEW SECTION. 256F.10 REPORTS.

1. A charter school shall report at least annually to the school board, advisory council, and the state board the information required by the school board, advisory council, or the state board. The reports are public records subject to chapter 22.

2. Not later than December 1, 2003, and annually thereafter, the state board shall submit a comprehensive report, with findings and recommendations, to the senate and house standing committees on education. The report shall evaluate the state's charter school programs generally, including but not limited to, an evaluation of whether the pilot programs are fulfilling the purposes set forth in section 256F.4, subsection 2. The report also shall contain, for each charter school, a copy of the charter school's mission statement, attendance statistics and dropout rate, aggregate assessment test scores, projections of financial stability, the number and qualifications of teachers and administrators, and number of and comments on supervisory visits by the department of education.

Sec. 11. NEW SECTION. 256F.11 FUTURE REPEAL.

This chapter is repealed effective July 1, 2010.

Sec. 12. Section 257.31, subsection 5, paragraph d,<sup>15</sup> is amended to read as follows:

d. The closing of a nonpublic school, wholly or in part, or the opening or closing of a pilot charter school.

Sec. 13. Section 282.18, subsection 16, Code 2001, is amended to read as follows:

16. For purposes of this section, "good cause" means a change in a child's residence due to a change in family residence, a change in the state in which the family residence is located, a change in a child's parents' marital status, a guardianship proceeding, placement in foster care, adoption, participation in a foreign exchange program, or participation in a substance abuse or mental health treatment program, or a similar set of circumstances consistent with the definition of good cause; a change in the status of a child's resident district, such as removal of accreditation by the state board, surrender of accreditation, or permanent closure of a nonpublic school, revocation of a charter school contract as provided in section 256F.8, the failure of negotiations for a whole-grade sharing, reorganization, dissolution agreement or the rejection of a current whole-grade sharing agreement, or reorganization plan, or a similar set of circumstances consistent with the definition of good cause. If the good cause relates to a change in status of a child's school district of residence, however, action by a parent or guardian must be taken to file the notification within forty-five days of the last board action or within thirty days of the certification of the election, whichever is applicable to the circumstances.

Sec. 14. EXPEDITED APPLICATION PROCEDURE. The state board of education shall

<sup>15</sup> "Code 2001," probably intended

develop an expedited charter school application procedure for the fiscal year beginning July 1, 2003,<sup>16</sup> for purposes of receiving federal planning funds issued pursuant to the federal Elementary and Secondary Education Act of 1965, Title X, Part C, as codified in 20 U.S.C. §§ 8061-8067.

Sec. 15. EMERGENCY RULES. The state board of education may adopt emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph “b”, to implement this Act and the rules shall be effective immediately upon filing unless a later date is specified in the rules. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

Sec. 16. CONDITIONAL EFFECTIVENESS. This Act takes effect upon the department of education’s receipt of federal funds that are provided to the department under Pub. L. No. 107-110, cited as the federal No Child Left Behind Act of 2001 (Title V, Part B), for purposes of providing financial assistance for the planning, program design, and initial implementation of public charter schools. The department of education shall notify the Code editor upon receipt of such federal funds.

Approved April 23, 2002

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## CHAPTER 1125

### REHABILITATIVE TREATMENT SERVICES PROVIDER REGULATION

S.F. 2280

**AN ACT** relating to the requirements of the department of human services for certain child welfare services providers and providing an effective date.

*Be It Enacted by the General Assembly of the State of Iowa:*

#### Section 1. REHABILITATIVE TREATMENT CHILD WELFARE SERVICES PROVIDERS.

1. The department of human services may adopt rules utilizing the emergency procedures provided in subsection 4 as necessary to implement the high-priority recommendation items identified by the department’s rehabilitative treatment services provider regulation and quality improvement work group listed in this section. In order to implement a listed item, the department must determine that the item can be implemented without additional cost to the state and, if implementation of the item requires a state medical assistance program plan amendment, the item must be approved by the federal center for Medicare and Medicaid services.

2. Subject to the implementation conditions in subsection 1, the department shall adopt rules to take effect on or before April 1, 2003, or within sixty days after receiving the federal center’s approval, whichever is later, to implement all of the following:

a. Permitting deemed status for those providers of services that are certified, or accredited to be in compliance with relevant standards by the joint commission on the accreditation of health care organizations or the council on accreditation of services for families and children and that make accreditation reports and records available to the department.

b. Amending rules to maintain the group care standard for a weekly average number of hours of therapy and counseling, but determine compliance by averaging the hours per week over the course of a month. The recoupment for failure to comply shall be applied for a week

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<sup>16</sup> See chapter 1175, §96, 102 herein