

CHAPTER 102**(HB 520)**

AN ACT relating to charter schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 10 of this Act:

- (1) *"Achievement academy" has the same meaning as "public charter school";*
- (2) *"Achievement gap" means a disparity of outcomes on state standardized examinations and other academic performance measures between subgroups of students, especially groups defined by socioeconomic status, race, and ethnicity;*
- (3) *"Applicant" means an eligible person or persons, organization, or entity that seeks approval from a charter school authorizer to establish a public charter school;*
- (4) *"Charter application" means a proposal from an applicant to an authorizer to enter into a charter contract whereby the proposed school obtains public charter school status;*
- (5) *"Charter contract" or "contract" means a fixed-term, renewable contract between a charter school and an authorizer that identifies the roles, powers, responsibilities, and performance expectations for each party to the contract pursuant to Section 7 of this Act;*
- (6) *"Charter school board of directors" means the independent board of a public charter school that is party to the charter contract with the authorizer and whose members have been elected or selected pursuant to the school's application;*
- (7) *"Conversion public charter school" means a public charter school that existed as a noncharter public school prior to becoming a public charter school;*
- (8) *"Education service provider" means an education management organization, school design provider, or any other partner entity with which a public charter school contracts for educational design, implementation, or comprehensive management;*
- (9) *"Local school board" means a school board exercising management and control of a local school district;*
- (10) *"Local school district" means a county or independent school district as identified in KRS 160.010 and 160.020;*
- (11) *"Parent" means a parent, guardian, or other person or entity having legal custody of a child;*
- (12) *"Public charter school" means a public school that*
 - (a) *Is a public body corporate and politic, exercising public power, including the power in name to contract and be contracted with, sue and be sued, and adopt bylaws not inconsistent with this section;*
 - (b) *Has autonomy over decisions, including but not limited to matters concerning finance, personnel, scheduling, curriculum, and instruction;*
 - (c) *Is governed by an independent board of directors;*
 - (d) *Is established and operating under the terms of a charter contract between the public charter school's board of directors and its authorizer;*
 - (e) *Is a public school to which parents choose to send their children;*
 - (f) *Is a public school that admits students on the basis of a random and open lottery if more students apply for admission than can be accommodated;*
 - (g) *Offers a comprehensive instructional program within a public school district;*
 - (h) *Operates in pursuit of a specific set of educational objectives as defined in its charter contract; and*
 - (i) *Operates under the oversight of its authorizer in accordance with its charter contract;*

- (13) *"Public charter school authorizer" or "authorizer" means an entity or body that reviews, approves, or denies charter applications, enters into charter contracts with applicants, oversees public charter schools, and renews, does not renew, or revokes charter contracts. Authorizers include:*
- (a) *A local school board of a local school district in which a public charter school is located;*
 - (b) *A collaborative among local school boards that forms to set up a regional public charter school to be located within the area managed and controlled by those local school boards;*
 - (c) *The mayor of a consolidated local government who may only authorize public charter schools to be physically located within the county in which the city is located and who has submitted a written notice to the state board that he or she intends to serve as an authorizer; and*
 - (d) *The chief executive officer of an urban-county government who may only authorize public charter schools to be physically located within the county in which the city is located and who has submitted a written notice to the state board that he or she intends to serve as an authorizer;*
- (14) *"Qualified teacher" means a person certified by the Education Professional Standards Board pursuant to KRS 161.028, 161.030, 161.046, or 161.048;*
- (15) *"Regional achievement academy" means a public charter school that has been established to serve students across multiple school districts;*
- (16) *"Regional achievement zone" means one (1) county containing four (4) or more local school districts or two (2) or more contiguous counties, each containing four (4) or more local school districts;*
- (17) *"Start-up public charter school" means a public charter school that did not exist as a noncharter public school prior to becoming a public charter school;*
- (18) *"State board" means the Kentucky Board of Education;*
- (19) *"Student" means any child who is eligible for attendance in a public school in Kentucky; and*
- (20) *"Virtual public charter school" means a public charter school that offers educational services primarily or completely through an online program.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

- (1) *The General Assembly hereby finds and declares that:*
- (a) *Reducing achievement gaps in Kentucky is necessary for the state to realize its workforce and economic development potential;*
 - (b) *Past and current measures have been insufficient for making progress toward reducing the state's achievement gaps;*
 - (c) *Additional public school options are necessary to help reduce socioeconomic, racial, and ethnic achievement gaps; and*
 - (d) *The demand exists for high-quality public charter schools in the Commonwealth.*
- (2) *The General Assembly hereby establishes a public charter school project to benefit parents, teachers, and community members by creating new, innovative, and more flexible ways of educating all children within the public school system and by advancing a renewed commitment to the mission, goals, and diversity of public education. The purposes of the public charter school initiative are to:*
- (a) *Improve student learning outcomes by creating additional high-performing schools with high standards for student performance;*
 - (b) *Encourage the use of different, high-quality models of teaching, governing, scheduling, or other aspects of schooling that meet a variety of student needs;*
 - (c) *Close achievement gaps between high-performing and low-performing groups of public school students;*
 - (d) *Allow schools freedom and flexibility in exchange for exceptional levels of results-driven accountability;*
 - (e) *Increase high-quality educational opportunities within the public education system for all students, especially those at risk of academic failure; and*

- (f) *Provide students, parents, community members, and local entities with expanded opportunities for involvement in the public education system.*
- (3) *Beginning in academic year 2017-2018, any authorizer may authorize an unlimited number of public charter schools within the boundary of the local school district.*
- (4) *A public charter school shall not be a virtual public charter school.*
- (5) (a) *A public charter school authorized by a local school board or collaborative may enroll students who reside within the boundaries of the district or districts represented by the local school board or collaborative.*
- (b) *Enrollment preference for a conversion public charter school shall be given to students who attended the school the previous school year. If the number of students enrolled does not exceed the capacity of the school, secondary preference shall be given to students who reside within the district boundary in which the public charter school is located.*
- (c) *Enrollment preference for public charter schools shall be given to students enrolled in the public charter school the previous year and to siblings of students already enrolled in the school. An enrollment preference for returning students shall exclude those students from entering into a lottery, as identified in paragraph (f) of this subsection.*
- (d) *Enrollment preference may be given to the children of the public charter school's board of directors and full-time employees of the public charter school provided they constitute no more than ten percent (10%) of the total student population.*
- (e) *A public charter school may allow an enrollment preference for students who meet federal eligibility requirements for free or reduced-price meals and students who attend persistently low-achieving noncharter public schools.*
- (f) *If capacity is insufficient to enroll all students who wish to attend any specific grade level or program at a public charter school, the school shall select students through a randomized and transparent lottery.*
- (6) (a) *A public charter school established within the boundaries of a regional achievement zone shall be a regional achievement academy.*
- (b) 1. *A regional achievement academy may be authorized by a single local school board within the regional achievement zone or by a collaborative of local school boards within the regional achievement zone.*
2. *A regional achievement academy authorized by a single local school board shall be located within the boundaries of the authorizing local school district.*
3. *A regional achievement academy authorized by a collaborative of local school boards shall be located within the regional achievement zone.*
- (c) *A regional achievement academy may only enroll students who reside within the boundaries of its regional achievement zone.*
- (d) *Enrollment preference in a regional achievement academy may be given to students who reside within the boundaries of the local school district where the regional achievement academy is located.*
- (7) *Consistent with the requirements of Sections 1 to 10 and 11 of this Act, the state board shall promulgate administrative regulations to guide student application, lottery, and enrollment in public charter schools.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

- (1) *A public charter school shall be part of the state's system of public education but shall be exempt from all statutes and administrative regulations applicable to the state board, a local school district, or a school, except the public charter school shall adhere to the same health, safety, civil rights, and disability rights requirements as are applied to all public schools and to all requirements otherwise identified in Sections 1 to 10 and 11 of this Act.*
- (2) *A public charter school may elect to comply with any one (1) or more provisions of any state statute or administrative regulation.*

(3) *A public charter school shall:*

- (a) *Be governed by a board of directors;*
- (b) *Be established and operate in pursuit of a specific set of educational objectives as defined in the charter contract between the school's board of directors and its authorizer;*
- (c) *Ensure students meet compulsory attendance requirements under KRS 158.030 and 158.100;*
- (d) *Hire only qualified teachers to provide student instruction;*
- (e) *Ensure high school course offerings meet or exceed the minimum required under KRS 156.160 for high school graduation;*
- (f) *Design its education programs to meet or exceed the student performance standards adopted by the Kentucky Board of Education;*
- (g) *Ensure students' participation in required state assessment of student performance, as required under KRS 158.6453;*
- (h) *Adhere to all generally accepted accounting principles and adhere to the same financial audits, audit procedures, and audit requirements as are applied to other public schools under KRS 156.265;*
- (i) *Utilize the same system for reporting student information data and financial data as is utilized by other school districts across the state;*
- (j) *Require criminal background checks for staff and volunteers, including members of its governing board, as required of all public school employees and volunteers within the public schools specified in KRS 160.380 and 161.148;*
- (k) *Comply with open records and open meeting requirements under KRS Chapter 61;*
- (l) *Comply with purchasing requirements and limitations under KRS Chapter 45A and KRS 156.074 and 156.480, or provide to the public charter school board of directors a detailed monthly report of school purchases over ten thousand dollars (\$10,000), including but not limited to curriculum, furniture, and technology;*
- (m) *Provide instructional time that is at least equivalent to the student instructional year specified in KRS 158.070;*
- (n) *Provide data to the Kentucky Department of Education and the authorizer as required by the Kentucky Department of Education or authorizer to generate a school report card under KRS 158.6453;*
- (o) *Operate under the oversight of its authorizer in accordance with its charter contract and application;*
- (p) *As a public body corporate, have all the powers necessary for carrying out the terms of its charter contract, including the power to:*
 - 1. *Receive and disburse funds for school purposes;*
 - 2. *Secure appropriate insurance and enter into contracts and leases;*
 - 3. *Contract with an education service provider, provided the board of directors of the public charter school retains oversight and authority over the school;*
 - 4. *Incur debt in reasonable anticipation of the receipt of public or private funds;*
 - 5. *Pledge, assign, or encumber its assets to be used as collateral for loans or extensions of credit;*
 - 6. *Solicit and accept any gifts or grants for school purposes, subject to applicable laws and the terms of its charter;*
 - 7. *Acquire real property for use as its facility or facilities, from public or private sources; and*
 - 8. *Employ or contract with other entities for the provision of teaching, professional, and support staff, as needed; and*
- (q) *Conduct an admissions lottery if capacity is insufficient to enroll all students who wish to attend the school and ensure that every student has a fair opportunity to be considered in the lottery and that the lottery is competently conducted, equitable, randomized, transparent, impartial, and in*

accordance with targeted student population and service community as identified in Section 4(3) of this Act so that students are accepted in a public charter school without regard to ethnicity, national origin, religion, sex, income level, disabling condition, proficiency in the English language, or academic or athletic ability.

- (4) *For purposes of this subsection, a member of the board of directors of a public charter school shall be considered a board member under KRS 156.132 and an officer under KRS 61.040 and shall be removed from office under the provisions of those statutes.*
- (5) *A local school district shall provide or publicize to parents and the general public information about public charter school authorized by the local school district as an enrollment option within the district to the same extent and through the same means that the school district provides and publicizes information about noncharter public schools in the district.*
- (6) *A local school district shall not assign or require any student enrolled in the local school district to attend a public charter school.*
- (7)
 - (a) *For purposes of ensuring compliance with this section and the charter under which it operates, a public charter school shall be administered by a public charter school board of directors accountable to the authorizer in a manner agreed to in the charter contract, as negotiated between the public charter school applicant and the authorizer.*
 - (b) *The board of directors of a public charter school shall consist of a minimum of two (2) parents of students attending any public charter school operating under the direction of the board of directors.*
 - (c) *A member of the board of directors of a public charter school shall:*
 1. *Not be an employee of that school or of an education service provider that provides services to the school; and*
 2. *File full disclosure reports and identify any potential conflicts of interest, relationships with management organizations, and relationships with family members who are applying to or are employed by the public charter school or have other business dealings with the school, the management organization of the school, or any other public charter school and shall make these documents available online through the authorizer.*
- (8) *Collectively, members of the board of directors shall possess expertise in leadership, curriculum and instruction, law, and finance.*
- (9)
 - (a) *A board of directors may hold one (1) or more charter contracts.*
 - (b) *Each public charter school under contract with a board of directors shall be separate and distinct from any other public charter school under contract with the board of directors.*
- (10) *The board of directors shall be responsible for the operation of its public charter school, including but not limited to preparation of a budget, contracting for services, school curriculum, and personnel matters.*
- (11) *The board of directors shall:*
 - (a) *Ensure that all meetings of the board are publicized in advance according to the rules governing the authorizer and are open to the public at times convenient to parents; and*
 - (b) *Require any education service provider contracted with the board to provide a monthly detailed budget to the board.*
- (12)
 - (a) *A public charter school may negotiate and contract with its authorizer or any third party for the use, operation, and maintenance of a building and grounds, liability insurance, and the provision of any service, activity, or undertaking that the public charter school is required to perform in order to carry out the educational program described in its charter. Any services for which a public charter school contracts with a school district shall be provided by the district at cost and shall be negotiated as a separate agreement after final charter contract negotiations. The public charter school shall have standing to sue and be sued in its own name for the enforcement of any contract under color of authority granted by Sections 1 to 10 of this Act. A public charter school may own, rent, or lease its space.*

- (b) *Any entity contracted to provide educational services or goods to a public charter school in an amount exceeding ten thousand dollars (\$10,000) shall be subject to the Open Records Act under KRS Chapter 61 for all records associated with the public charter school contract.*
- (13) *A public charter school shall be exempt from administrative regulations governing public schools for purposes of zoning and local land use regulation. The Finance and Administration Cabinet shall annually publish a list of vacant and unused buildings and vacant and unused portions of buildings that are owned by the state and that may be suitable for the operation of a public charter school and shall provide the list to applicants for public charter schools and to existing public charter schools upon request.*
- (14) *A public charter school shall be nonsectarian in its programs, admissions policies, employment practices, partnerships, and all other operations and shall not have entrance requirements or charge tuition or fees, except that a public charter school may require the payment of fees on the same basis and to the same extent as other public schools.*
- (15) *A public charter school shall not discriminate against any student, employee, or any other person on the basis of ethnicity, religion, national origin, sex, disability, special needs, athletic ability, academic ability, or any other ground that would be unlawful if done by a public school.*
- (16) *A public charter school shall serve one (1) or more of grades kindergarten through twelve (12) and shall limit admission to students within the grade levels served.*
- (17) *A public charter school shall provide programs and services to a student with a disability in accordance with the student's individualized education program and all federal and state laws, rules, and regulations. A public charter school shall deliver the services directly or contract with another provider to deliver the services. A public charter school shall establish an admissions and release committee at the school and the committee shall:*
- (a) *Develop an individualized education program for each student with a disability; or*
- (b) *Review, revise, or utilize a student's individualized education program completed by the admissions and release committee of the student's former school. If needed, the committee shall work collaboratively with staff from the student's former school to review and revise a student's existing individualized education program.*
- (18) (a) *A public charter school shall be eligible to participate in state-sponsored or district-sponsored interscholastic athletics, academic programs, competitions, awards, scholarships, and recognition programs for students, educators, administrators, and schools to the same extent as noncharter public schools. Participants shall comply with eligibility requirements of students enrolled in noncharter public schools.*
- (b) *A public charter school has no obligation to provide extracurricular activities or access to facilities for students enrolled in the public charter school.*
- (c) *If a public charter school sponsors interscholastic athletic activities, students enrolled in the public charter school shall be considered eligible to participate in interscholastic competitions by the Kentucky Board of Education or the agency designated by the state board to manage interscholastic athletics, if other eligibility requirements are met. A student enrolled in a public charter school that sponsors an interscholastic athletic activity shall be ineligible to participate in that activity at any other school.*
- (d) *If a public charter school does not offer any interscholastic athletic activity sanctioned by the Kentucky Board of Education or the agency designated by the state board to manage interscholastic athletics, a student enrolled in the public charter school shall be eligible to participate at the school the student would attend based on the student's residence.*
- (e) *If a public charter school offers any interscholastic athletic activity sanctioned by the Kentucky Board of Education or the agency designated by the state board to manage interscholastic athletics, a student enrolled in the public charter school shall be ineligible to participate in any interscholastic athletic activity at any other school.*
- (19) *Nothing in this section shall be construed to prevent the establishment of a single-sex public charter school consistent with federal regulations or a public charter school designed to provide expanded learning opportunities for students at-risk of academic failure or for students with special needs.*

- (20) *The authorizer of a public charter school shall semiannually consider for approval a public charter school's proposed amendments to a charter contract. The authorizer may consider requests for amendments more frequently upon mutual agreement between the authorizer and the public charter school. The denial of an amendment request is appealable pursuant to Section 6 of this Act.*
- (21) *If a student who was previously enrolled in a public charter school enrolls in another public school located within the state, the new school shall accept any credits earned and grades received by the student in courses or instructional programs while enrolled in the public charter school in a uniform and consistent manner and according to the same criteria that is used to accept credits from other public schools.*
- (22) *A teacher employed by a local board of education under a continuing service contract and offered employment with a public charter school shall be granted a two (2) year leave of absence to teach in a public charter school. The leave of absence shall commence on the first day of service to the public charter school. During the first or second year of the leave of absence, the teacher may notify the local board of education that the teacher intends to return to a teaching position in the local school district. The teacher shall be allowed to return to a teaching position in the local school district at the appropriate salary for the teacher's years of experience and educational level. After two (2) years on leave, the relationship between the teacher and the local board of education shall be determined by the local board and the local board shall notify the teacher of the decision.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

- (1) *An application to establish a public charter school may be submitted to a public charter school authorizer by teachers, parents, school administrators, community residents, public organizations, nonprofit organizations, or a combination thereof.*
- (2) *An applicant shall submit an application for approval of a public charter school to an authorizer and simultaneously to the state board. Charter authorizers shall accept and document the date and time of receipt of all charter applications.*
- (3) *The information provided in the application shall be consistent with this section and shall include:*
- (a) *A mission statement and a vision statement for the public charter school, including the targeted student population and the community the school hopes to serve;*
 - (b) *A description of the school's proposed academic program that is aligned with state standards, and that implements one (1) or more of the purposes described in Section 2 of this Act, and the instructional methods that will support the implementation and success of the program;*
 - (c) *1. The student achievement goals for the public charter school's educational program and the chosen methods of evaluating whether students have attained the skills and knowledge specified for those goals; and*
2. An explanation of how the school's proposed educational program is likely to improve the achievement of traditionally underperforming students in the local school district;
 - (d) *The school's plan for using external, internal, and state-required assessments to measure student progress on the performance framework as identified in Section 7 of this Act, and how the school will use data to drive instruction and continued school improvement;*
 - (e) *The proposed governance structure of the school, including a list of members of the initial board of directors, a draft of bylaws that include the description of the qualifications, terms, and methods of appointment or election of directors, and the organizational structure of the school that clearly presents lines of authority and reporting between the board of directors, school administrators, staff, any related bodies such as advisory bodies or parent and teacher councils, and any external organizations that will play a role in managing the school;*
 - (f) *1. Plans and timelines for student recruitment and enrollment, including policies and procedures for conducting transparent and random admission lotteries that are open to the public, and that are consistent with Sections 2 and 3 of this Act.*
2. An application shall demonstrate a plan to recruit at least one hundred (100) students, unless the application is focused on serving special needs or at-risk students;

- (g) *A proposed five (5) year budget, including the start-up year and projections for four (4) additional years with clearly stated assumptions;*
 - (h) *Draft fiscal and internal control policies for the public charter school;*
 - (i) *Requirements and procedures for programmatic audits and assessments at least once annually, with audits and assessments being comparable in scope to those required of noncharter public schools;*
 - (j) *A draft handbook that outlines the personnel policies of the public charter school, including the criteria to be used in the hiring of qualified teachers, school administrators, and other school employees, a description of staff responsibilities, and the school's plan to evaluate personnel on an annual basis;*
 - (k) *A draft of the policies and procedures by which students may be disciplined, including students with disabilities, which shall be consistent with the requirements of due process and with state and federal laws and regulations governing the placement of students with disabilities;*
 - (l) *A description of the facilities to be used by the public charter school, including the location of the school, if known, and how the facility supports the implementation of the school's academic program. If the facilities to be used by the proposed school are not known at the time the application is submitted, the applicant shall notify the authorizer within ten (10) business days of acquiring facilities for the school. The school shall obtain certification of occupancy for the facilities at least thirty (30) days prior to the first student instructional day;*
 - (m) *The proposed ages and grade levels to be served by the public charter school, including the planned, minimum, and maximum enrollment per grade per year;*
 - (n) *The school calendar and school day schedule, which shall total at least the equivalent to the student instructional year specified in KRS 158.070;*
 - (o) *Types and amounts of insurance coverage to be obtained by the public charter school, which shall include adequate insurance for liability, property loss, and the personal injury of students comparable to other schools within the local school district operated by the local school board;*
 - (p) *A description of the health and food services to be provided to students attending the school;*
 - (q) *Procedures to be followed in the case of the closure or dissolution of the public charter school, including provisions for the transfer of students and student records to the local school district in which the public charter school is located or to another charter school located within the local school district and an assurance and agreement to payment of net assets or equity, after payment of debts as specified in Section 9 of this Act;*
 - (r) *A code of ethics for the school setting forth the standards of conduct expected of its board of directors, officers, and employees;*
 - (s) *Plans for recruiting and developing staff;*
 - (t) *A staffing chart for the school's first year and a staffing chart for the term of the charter;*
 - (u) *A plan for parental and community involvement in the school, including the role of parents in the administration and governance of the school;*
 - (v) *The public charter school's plan for identifying and successfully serving students with disabilities, students who are English language learners, bilingual students, and students who are academically behind and gifted, including but not limited to the school's plan for compliance with all applicable federal and state laws and regulations;*
 - (w) *A description of cocurricular and extracurricular programs and how they will be funded and delivered;*
 - (x) *The process by which the school will resolve any disputes with the authorizer; and*
 - (y) *A detailed start-up plan, including financing, tasks, timelines, and individuals responsible for carrying out the plan.*
- (4) *If the public charter school applicant intends to contract with an education service provider for educational program implementation or comprehensive management, the application shall additionally require the applicant to:*

- (a) *Provide evidence of success in serving student populations similar to the targeted population, including demonstrated academic achievement as well as successful management of nonacademic school functions, if applicable;*
- (b) *Provide student performance data and financial audit reports for all current and past public charter schools;*
- (c) *Provide documentation of and explanation for any actions taken against any of its public charter schools for academic, financial, or ethical concerns;*
- (d) *Provide evidence of current capacity for growth;*
- (e) *Provide a term sheet setting forth:*
 - 1. *The proposed duration of the service contract;*
 - 2. *The annual proposed fees to be paid to the education service provider;*
 - 3. *The roles and responsibilities of the board of directors, the school staff, and the education service provider;*
 - 4. *The scope of services and resources to be provided by the education service provider;*
 - 5. *Performance evaluation measures and timelines;*
 - 6. *Compensation structure, including clear identification of all fees to be paid to the education service provider;*
 - 7. *Methods of contract oversight and enforcement;*
 - 8. *Investment disclosure; and*
 - 9. *Conditions for renewal and termination of the contract; and*
- (f) *Disclose and explain any existing or potential conflicts of interest between the board of directors and the proposed education service provider or any affiliated business entities.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

- (1) *A public charter school authorizer shall:*
 - (a) *Fulfill the expectations and intent of this section and Sections 1 to 10 and 11 of this Act;*
 - (b) *Demonstrate public accountability and transparency in all matters concerning its charter-authorizing practices, decisions, and expenditures;*
 - (c) *Solicit, invite, and evaluate applications from applicants;*
 - (d) *Approve new and renewal charter applications that meet the requirements of this section and Section 4 of this Act;*
 - (e) *Decline to approve charter applications that:*
 - 1. *Fail to meet the requirements of this section and Section 4 of this Act; or*
 - 2. *Are for a school that would be wholly or partly under the control or direction of any religious denomination;*
 - (f) *Negotiate and execute in good faith a charter contract with each public charter school it authorizes;*
 - (g) *Monitor the performance and compliance of public charter schools according to the terms of the charter contract;*
 - (h) *Determine whether each charter contract it authorizes merits renewal or revocation; and*
 - (i) *Establish and maintain policies and practices consistent with the principles and professional standards for authorizers of public charter schools, including standards relating to:*
 - 1. *Organizational capacity and infrastructure;*
 - 2. *Soliciting and evaluating applications;*

3. *Performance contracting;*
 4. *Ongoing public charter school oversight and evaluation; and*
 5. *Charter approval, renewal, and revocation decision making.*
- (2) *In reviewing applications, the public charter school authorizer is encouraged to give preference to applications that demonstrate the intent, capacity, and capability to provide comprehensive learning experiences to:*
- (a) *Students identified by the applicants as at risk of academic failure; and*
 - (b) *Students with special needs as identified in their individualized education program as defined in KRS 158.281.*
- (3) *After a charter applicant submits a written application to establish a public charter school, the authorizer shall:*
- (a) *Complete a thorough review process;*
 - (b) *Conduct an in-person interview with the applicant group;*
 - (c) *Provide an opportunity in a public forum for local residents to provide input and learn about the charter application;*
 - (d) *Provide a detailed analysis of the application to the applicant or applicants;*
 - (e) *Allow an applicant a reasonable time to provide additional materials and amendments to its application to address any identified deficiencies; and*
 - (f) *Approve or deny a charter application based on established objective criteria or request additional information.*
- (4) *In deciding to approve a charter application, the authorizer shall:*
- (a) *Grant charters only to applicants that possess competence in all elements of the application requirements identified in this section and Section 4 of this Act;*
 - (b) *Base decisions on documented evidence collected through the application review process; and*
 - (c) *Follow charter-granting policies and practices that are transparent, based on merit, and avoid conflicts of interest.*
- (5) *No later than sixty (60) days following the filing of the charter application, the authorizer shall approve or deny the charter application. The authorizer shall adopt by resolution all charter approval or denial decisions in an open meeting of the authorizer's board of directors.*
- (6) *Any failure to act on a charter application shall be deemed a denial by the authorizer.*
- (7) *An application shall be approved if the public charter school authorizer finds that:*
- (a) *The public charter school described in the application meets the requirements established by this section and Sections 1 and 3 of this Act;*
 - (b) *The applicant demonstrates the ability to operate the school in an educationally and fiscally sound manner; and*
 - (c) *Approving the application is likely to improve student learning and achievement and further the purposes established by Section 2 of this Act.*
- (8) *An authorizer shall provide a written explanation within five (5) days, for the public record, stating its reasons for approval or denial of a charter application, including a thorough explanation of how the charter application either meets or fails to meet established objective criteria for making charter application decisions, and the authorizing process by which the authorizer used to review, evaluate, and make its final decision.*
- (9) *An authorizer's charter application approval shall be submitted to the Kentucky Department of Education for final approval by the commissioner of education.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

- (1) *The state board, upon receipt of a notice of appeal or upon its own motion, shall review decisions of any authorizer concerning the approval or denial of a public charter school application, the nonrenewal or revocation of a public charter school's contract, the denial of a public charter school's request to consider a charter amendment, or the unilateral imposition of conditions, in accordance with the provisions of this section.*
- (2) *A charter applicant or approved public charter school who wishes to appeal a decision of an authorizer concerning a charter application, a charter amendment, or the nonrenewal or revocation of a charter, or the unilateral imposition of conditions, shall provide the state board and the authorizer with a notice of appeal within thirty (30) days after the authorizer's decision. The person bringing the appeal shall limit the grounds of the appeal to the grounds for the denial of or the nonrenewal or revocation of a charter, or the unilateral imposition of conditions, whichever is being appealed, specified by the authorizer. The notice shall include a brief statement of the reasons the public charter school applicant or public charter school contends the authorizer's denial of or nonrenewal or revocation of a charter, or imposition of conditions was in error.*
- (3) *If the notice of appeal, or the motion to review by the state board, relates to an authorizer's decision to deny, refuse to renew, or revoke a charter or to an authorizer's unilateral imposition of conditions that are unacceptable to the charter applicant or public charter school, the appeal and review process shall be as follows:*
 - (a) *Within forty-five (45) days after receipt of the notice of appeal or the making of a motion to review by the state board and after reasonable public notice, the state board, at a public hearing which may be held in the school district in which the proposed public charter school has applied for a charter, shall review the decision of the authorizer and make its findings. If the state board finds that the authorizer's decision was contrary to the best interest of the students or community, the state board shall remand such decision to the authorizer with written instructions for reconsideration thereof. The instructions shall include specific recommendations concerning the matters requiring reconsideration;*
 - (b) *Within thirty (30) days following the remand of a decision to the authorizer and after reasonable public notice, the authorizer, at a public hearing, shall reconsider its decision and make a final decision;*
 - (c) *If the authorizer's final decision is still to deny, refuse to renew, or revoke a charter or to unilaterally impose conditions unacceptable to the charter applicant, a second notice of appeal may be filed with the State Board of Education within thirty (30) days following such final decision;*
 - (d) *Within thirty (30) days following receipt of the second notice of appeal or the making of a motion for a second review by the State Board of Education and after reasonable public notice, the state board, at a public hearing shall determine if the final decision of the authorizer was contrary to the best interest of the students or community. If such a finding is made, the state board shall remand such final decision to the authorizer with instructions to approve the charter application or amendment, or to renew or reinstate the charter, or to approve or disapprove conditions imposed. The decision of the state board shall be a final action subject to judicial review in the Circuit Court encompassing the school district in which the public charter school is located; and*
 - (e) *Charters granted to applicants by authorizers after a successful appeal to the state board, as outlined in paragraph (d) of this subsection, shall be provided joint oversight by the authorizer and the state board for, at a minimum, the first five (5) years of the school's operation, and until the authorizer, state board, and public charter school agree that charter oversight may be provided solely by the authorizer. The state board shall be a formal participant in all authorizing decision making concerning the public charter school during that period, and shall be included in all communication between the public charter school and the authorizer.*
- (4)
 - (a) *Within ten (10) days of taking action to approve or deny a charter application that has been remanded back to the authorizer for reconsideration, the authorizer shall notify the state board of the action taken.*
 - (b) *The authorizer shall provide a report to the charter applicant, the state board, and the Education and Workforce Development Cabinet simultaneously and shall include a copy of the resolution adopted by the authorizer's board of directors identifying any action taken, the reason for the decision, and*

an assurance as to compliance with all of the procedural requirements and application elements found in this section and Sections 2 and 4 of this Act.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *For purposes of this section, a member of the board of directors of a public charter school shall be considered an officer under KRS 61.040 and shall, within sixty (60) days of final approval of an application, take an oath of office as required under KRS 62.010.*
- (b) *Within seventy-five (75) days of the final approval of an application, the board of directors and the authorizer shall enter into a binding charter contract that establishes the academic and operational performance expectations and measures by which the public charter school will be evaluated.*
- (c) *The executed charter contract shall become the final authorization for the public charter school. The charter contract shall include:*
1. *The term of the contract;*
 2. *The agreements relating to each item required under subsection (3) of Section 3 and subsection (3) of Section 4 of this Act, as modified or supplemented during the approval process;*
 3. *The rights and duties of each party;*
 4. *The administrative relationship between the authorizer and the public charter school;*
 5. *The allocation of state, local, and federal funds, and the schedule to disburse funds to the public charter school by the authorizer;*
 6. *The process the authorizer will use to provide ongoing oversight, including a process to conduct annual site visits;*
 7. *The specific commitments of the public charter school authorizer relating to its obligations to oversee, monitor the progress of, and supervise the public charter school;*
 8. *The process and criteria the authorizer will use to annually monitor and evaluate the overall academic, operating, and fiscal conditions of the public charter school, including the process the authorizer will use to oversee the correction of any deficiencies found in the annual review;*
 9. *The process for revision or amendment to the terms of the charter contract agreed to by the authorizer and the board of directors of the public charter school;*
 10. *The process agreed to by the authorizer and the board of directors of the public charter school that identifies how disputes between the authorizer and the board will be handled; and*
 11. *Any other terms and conditions agreed to by the authorizer and the board of directors, including pre-opening conditions. Reasonable conditions shall not include enrollment caps or operational requirements that place undue constraints on a public charter school or are contradictory to the provisions of Sections 1 to 10 and 11 of this Act. Such conditions, even when incorporated in a charter contract, shall be considered unilaterally imposed conditions.*
- (d) 1. *The performance provisions within a charter contract shall be based on a performance framework that sets forth the academic and operational performance indicators, measures, and metrics to be used by the authorizer to evaluate each public charter school. The performance framework shall include at a minimum indicators, measures, and metrics for:*
- a. *Student academic proficiency;*
 - b. *Student academic growth;*
 - c. *Achievement gaps in both student proficiency and student growth between student subgroups, including race, sex, socioeconomic status, and areas of exceptionality;*
 - d. *Student attendance;*
 - e. *Student suspensions;*
 - f. *Student withdrawals;*

- g. *Student exits;*
 - h. *Recurrent enrollment from year to year;*
 - i. *College or career readiness at the end of grade twelve (12);*
 - j. *Financial performance and sustainability; and*
 - k. *Board of directors' performance and stewardship, including compliance with all applicable statutes, administrative regulations, and terms of the charter contract.*
2. *The performance framework shall allow the inclusion of additional rigorous, valid, and reliable indicators proposed by a public charter school to augment external evaluations of its performance. The proposed indicators shall be consistent with the purposes of Sections 1 to 10 and 11 of this Act and shall be negotiated with the authorizer.*
 3. *The performance framework shall require the disaggregation of student performance data by subgroups, including race, sex, socioeconomic status, and areas of exceptionality.*
 4. *The authorizer shall be responsible for collecting, analyzing, and reporting to the state board all state-required assessment and achievement data for each public charter school it oversees.*
- (e) *Annual student achievement performance targets shall be set, in accordance with the state accountability system, by each public charter school in conjunction with its authorizer, and those measures shall be designed to help each school meet applicable federal, state, and authorizer goals.*
 - (f) *The charter contract shall be signed by the chair of the governing board of the authorizer and the chair of the board of directors of the public charter school. An approved charter application shall not serve as a charter contract for the public charter school.*
 - (g) *No public charter school may commence operations without a charter contract executed according to this section and approved in an open meeting of the governing board of the authorizer.*
- (2) *Within five (5) days after entering into a charter contract, a copy of the executed contract shall be submitted by the authorizer to the commissioner of education.*
 - (3) *The state board shall promulgate administrative regulations to establish the process to be used to evaluate the performance of a charter school authorizer, based upon the requirements of Sections 1 to 10 and 11 of this Act, and the actions to be taken in response to failures in performance.*
 - (4) *The commissioner of education shall apply for financial assistance through the federal government for the planning, program design, and initial implementation of public charter schools in the state within sixty (60) days after the effective date of this Act or at the first available grant application period. Federal grants include but are not limited to the Charter Schools Program administered by the United States Department of Education.*
 - (5) *By August 31, 2019, and annually thereafter, each public charter school authorizer shall submit to the commissioner of education, the secretary of the Education and Workforce Development Cabinet, and the Interim Joint Committee on Education a report to include:*
 - (a) *The names of each public charter school operating under contract with the authorizer during the previous academic year that:*
 1. *Closed during or after the academic year; or*
 2. *Had the contract nonrenewed or revoked;*
 - (b) *The names of each public charter school operating under contract with the authorizer during the previous academic year that have not yet begun to operate;*
 - (c) *The number of applications received, the number reviewed, and the number approved;*
 - (d) *A summary of the academic and financial performance of each public charter school operated under contract with the authorizer during the previous academic year; and*
 - (e) *The authorizing duties and functions performed by the authorizer during the previous academic year.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

- (1) *Upon the approval of a charter contract by a public charter school authorizer, the applicant shall be permitted to operate a public charter school for a term of five (5) years.*
- (2) *The board of directors of the public charter school shall negotiate and execute a charter contract with the governing body of the authorizer.*
- (3) *A public charter school shall have all corporate powers necessary and desirable for carrying out a public charter school program in accordance with this section and the terms of the charter contract, including all of the powers of a local board of education and of a local school district, except as otherwise provided in Sections 1 to 10 of this Act.*
- (4) *The powers granted to a public charter school under this section constitute the performance of essential public purposes and governmental purposes of this state. A public charter school shall be exempt to the same extent as other public schools from all taxation, fees, assessments, or special ad valorem levies on its earnings and its property. Instruments of conveyance to or from a public charter school and any bonds or notes issued by a public charter school, together with the income received, shall at all times be exempt from taxation.*
- (5) *A public charter school shall not have the power to levy taxes or to acquire property by eminent domain, but shall have police powers to the same extent and under the same requirements as a local school district.*
- (6) *The board of directors of the public charter school shall have final authority over policy and operational decisions of the public charter school, although the decision-making authority may be delegated to the administrators and staff of the school in accordance with the provisions of the charter contract.*
- (7) *Notwithstanding any other statute to the contrary, no civil liability shall attach to any public charter school authorizer or to any of its members or employees, individually or collectively, for any acts or omissions of the public charter school. Neither the local school district nor the Commonwealth shall be liable for the debts or financial obligations of a public charter school or any person or corporate entity who operates a public charter school.*

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

- (1) *A charter contract may be renewed by the authorizer for a term of duration of five (5) years, although the authorizer may vary the term to as few as three (3) years. Any variation in the public charter school's term must be solely based on the performance, demonstrated capacities, and particular circumstances of a public charter school. Authorizers may grant renewal with specific conditions for necessary improvements to a public charter school, but may not impose conditions inconsistent with Sections 1 to 10 of this Act.*
- (2)
 - (a) *No later than one (1) calendar year prior to the expiration date of a charter contract, an authorizer shall issue a public charter school performance report and charter renewal application guidance to the public charter school it authorized. The performance report shall summarize the school's performance record to date, based on the performance framework required under Section 7 of this Act and the charter contract, and shall provide notice of any weaknesses or concerns related to the school that may jeopardize its position in seeking renewal if not timely rectified and of any strengths or achievements that support its position in seeking renewal.*
 - (b) *The school shall have twenty (20) days to respond to the performance report and submit any corrections or clarification for the report to the authorizer.*
 - (c) *Within ten (10) days of receiving a school's response, the authorizer shall review the response and issue a final performance report to the school.*
- (3)
 - (a) *The renewal application guidance shall, at a minimum, provide an opportunity for the public charter school to:*
 1. *Present additional evidence beyond the data contained in the performance report supporting its case for charter renewal;*
 2. *Describe improvements undertaken or planned for the school; and*
 3. *Detail the school's plan for the next charter term.*
 - (b) *The renewal application guidance shall include or refer explicitly to the criteria that will guide the authorizer's renewal decisions, which shall be based on the performance framework as identified in the charter contract.*

- (4)
 - (a) *No later than six (6) months prior to the expiration date of a charter contract, the board of directors of a public charter school seeking charter contract renewal shall submit a renewal application to the authorizer pursuant to the renewal application guidance issued by the authorizer.*
 - (b) *The authorizer shall rule by resolution on the renewal application no later than thirty (30) days after receipt of the application.*
- (5) *In making charter application, renewal, or other appealable decisions, an authorizer shall:*
 - (a) *Make its decision within established timeframes. Any failure of the authorizer to act on a charter application, renewal, or other appealable decision shall be deemed a denial of the requested action and thereafter be subject to appeal;*
 - (b) *Base its decision on evidence of the public charter school's performance over the term of the charter contract in accordance with the performance framework required in the charter contract;*
 - (c) *Ensure that data used in making renewal decisions is available to the public charter school and the public; and*
 - (d) *Provide a public report summarizing the evidence basis for each decision.*
- (6) *A charter contract may not be renewed if the authorizer determines that the public charter school has:*
 - (a) *Committed a material violation of any of the terms, conditions, standards, or procedures required under Sections 1 to 10 and 11 of this Act or the charter contract, and has persistently failed to correct the violation after fair and specific notice from the authorizer;*
 - (b) *Failed to meet or make significant progress toward the performance expectations identified in the charter contract;*
 - (c) *Failed to meet generally accepted standards of fiscal management, and has failed to correct the violation after fair and specific notice from the authorizer; or*
 - (d) *Substantially violated any material provision of law from which the public charter school was not exempted and has failed to correct the violation after fair and specific notice from the authorizer.*
- (7) *An authorizer may take immediate action to revoke a charter contract if a violation threatens the health and safety of the students of the public charter school.*
- (8) *The State Board of Education shall promulgate administrative regulations establishing a revocation and nonrenewal process for charter authorizers that:*
 - (a) *Provides the charter holder with a timely notification of the prospect of revocation or nonrenewal and of the reasons for such possible closure;*
 - (b) *Allows a charter holder a reasonable time in which to prepare a response;*
 - (c) *Provides the charter holder with an opportunity to submit documentation and provide testimony challenging the rationale behind the closure and in support of the continuation of the school at an orderly proceeding held for that purpose;*
 - (d) *Allows the charter holder the right to representation by counsel and to call witnesses on behalf of the charter holder;*
 - (e) *Permits the recording of such proceedings; and*
 - (f) *After a reasonable period of deliberation, requires a final determination be made and conveyed in writing to the charter holder.*
- (9) *If an authorizer revokes or does not renew a contract, the authorizer shall clearly state, in a resolution of its governing board the reason for the revocation or nonrenewal.*
- (10) *Within ten (10) days of taking action to renew, not renew, or revoke a charter, the authorizer shall report to the state board the action taken, and shall provide a report to the public charter school at the same time the report is issued to the state board. The report shall include a copy of the resolution adopted by the authorizer's governing board describing the action taken and reasons for the decision and assurance as to compliance with all of the procedural requirements and application elements found in Section 4 of this Act.*

- (11) *An authorizer shall develop a public charter school closure protocol to ensure timely notification to parents, orderly transition of students and student records to new schools, and proper disposition of school funds, property, and assets. The protocol shall specify tasks, timelines, and responsible parties, including delineating the respective duties of the school and the authorizer. If a public charter school closes for any reason, the authorizer shall oversee and work with the closing school to ensure a smooth and orderly closure and transition for students and parents, as guided by the closure protocol. If a public charter school is subject to closure, following exhaustion of any appeal allowed under Section 6 of this Act, an authorizer may remove at will at any time any or all of the members of the board of directors of the public charter school in connection with ensuring a smooth and orderly closure. If the authorizer removes members of the board of directors such that the board of directors can no longer function, the authorizer shall be empowered to take any further necessary and proper acts connected with closure of the public charter school in the name and interest of the public charter school.*

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

- (1) *An existing public school not scheduled for closure may be converted into a public charter school and be identified as a conversion public charter school if an applicant indicates to a valid authorizer the intent to convert an existing public school into a conversion public charter school.*
- (2) *A conversion public charter school may only be established if:*
- (a) *A school has been identified by the Kentucky Department of Education as performing in the lowest five percent (5%) of its level and sixty percent (60%) of the parents or guardians of students who attend the school have signed a petition requesting the conversion, which shall be completed and submitted to a valid authorizer no later than ninety (90) days after the date of the first signature;*
- (b) *A school has been identified by the Kentucky Department of Education as not performing in the lowest five percent (5%) of its level and sixty percent (60%) of the parents or guardians of students who attend the school have signed a petition requesting the conversion, which is approved by a majority vote of the local school board. If approved the completed petition shall be submitted to a valid authorizer no later than ninety (90) days after the date of the first signature; or*
- (c) *The local school board votes to convert an existing public school over which it has authority.*
- (3) *For each conversion option identified in subsection (2) of this section, the Kentucky Board of Education shall promulgate administrative regulations to govern the processes and procedures for the petition, the conversion, and the operation of a conversion public charter school.*
- (4) *A conversion public charter school shall be governed by a board of directors constituted and empowered as provided in Section 3 of this Act.*
- (5) *A conversion public charter school shall continue to comply with all federal and state requirements concerning the treatment of children with special needs and accept all students who attended the school prior to its conversion who wish to attend.*
- (6) *A conversion public charter school shall hire its own employees.*
- (7) *An employee who works in a conversion public charter school shall be an employee of the public charter school.*
- (8) (a) *For any collective bargaining agreement entered into on or after the effective date of this Act, a governing board shall not be bound by its collective bargaining agreement for employees of a conversion public charter school.*
- (b) *Employees of a conversion public charter school may organize and collectively bargain only as a unit separate from other school employees.*
- (9) *A conversion public charter school shall continue to be housed in the same public school facility and shall have the option of using the existing assets of the school.*

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "public charter school," "local school board," and "local school district" have the same meanings as in Section 1 of this Act.*
- (2) (a) *Public charter school employees shall participate in the Teachers' Retirement System or the County Employees Retirement System, as determined by their eligibility for participation in the appropriate*

system and provided the public charter school satisfies the criteria set by the Internal Revenue Service to participate in a governmental retirement plan.

- (b) Teachers and other certified personnel shall make any required employee contributions to the Teachers' Retirement System under KRS 161.220 to 161.716.*
- (c) Classified employees shall make any required employee contributions to the County Employees Retirement System under KRS 78.510 to 78.852.*
- (3) (a) A public charter school employee shall not be required to be a member of any collective bargaining agreement.*
 - (b) A public charter school employee who enters into any collective bargaining unit must do so as a separate unit from the local school district.*
- (4) A local school board shall not require any employee of the local school district to be employed in a public charter school or any student enrolled in the school district to attend a public charter school.*
- (5) A local school board shall not harass, threaten, discipline, discharge, retaliate, or in any manner discriminate against any district employee involved directly or indirectly with an application to establish a public charter school.*

➔Section 12. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Signed by Governor March 21, 2017.