

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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HOUSE DRH50147-LE-72 (1/29)

Short Title: Modify Charter School Law.

(Public)

Sponsors: Representatives Tillis and Wiley (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE BLUE RIBBON
3 COMMISSION ON CHARTER SCHOOLS.

4 Whereas, in June 2007, the State Board of Education convened a Blue Ribbon
5 Commission on Charter Schools; and

6 Whereas, the charge of the Commission was to (i) evaluate the current status of
7 charter schools including current and past legislation, current Board policies that affect charter
8 school functioning; (ii) determine where the charter school sector needs to improve and
9 develop goals for the future; (iii) identify how current legislation can enable achievement of
10 these goals or if legislation needs to be adjusted to allow the State's charter school program to
11 improve; and (iv) assess current Board policies to determine if they need to be adjusted or if
12 new ones are necessary; and

13 Whereas, the Commission recommended that the State Board of Education seek the
14 changes in the charter school law which are set out in this act; and

15 Whereas, Section 1 of this act amends the law to increase the charter school cap by
16 six schools per year and to exclude from counting toward the cap high performing charter
17 schools and the first charter school in a county that currently does not have one; and

18 Whereas, Section 2 of this act amends the law to strengthen the charter authorization
19 process by continuing to evaluate it and thereby identifying the characteristics of charter school
20 boards or academic programs that are predictive of later success of the charter school; and

21 Whereas, Section 3 of this act amends the law to direct the State Board of Education
22 to develop a more diagnostic process of oversight to enable timely response to poor-performing
23 schools ; and

24 Whereas, Section 4 of this act eliminates a contradiction in the student selection
25 process and permits charter schools to allow preferences for siblings in the student selection
26 process; and

27 Whereas, Section 5 of this act permits charter schools to receive and expend lottery
28 funds; Now, therefore,

29 The General Assembly of North Carolina enacts:

30 **SECTION 1.** G.S. 115C-238.29D reads as rewritten:

31 **"§ 115C-238.29D. Final approval of applications for charter schools.**

32 ...

33 (b) ~~The State Board shall authorize no more than five charter schools per year in one~~
34 ~~local school administrative unit. The State Board shall authorize no more than 100 charter~~
35 ~~schools statewide. If more than five charter schools in one local school administrative unit or~~



1 ~~more than 100 schools statewide meet the standards for final approval, the~~ Except as otherwise
2 provided in subsection (b1) of this section, the maximum number of charter schools operating
3 in the State each school year shall consist of:

- 4 (1) Six more than operated in the State during the prior school year plus:
- 5 (2) The number of the increase, if any, of high performing charter schools over
6 the prior school year.

7 The State Board shall give priority to applications that are most likely to further State education
8 policies and to strengthen the educational program offered in the local school administrative
9 units in which they are located.

10 (b1) Notwithstanding the maximum set out in subsection (b) of this section, the State
11 Board of Education may authorize:

- 12 (1) A charter school in any county that does not currently have a charter school;
13 and
- 14 (2) An additional charter school operated by the board of a high performing
15 charter school.

16"

17 **SECTION 2.** G.S. 115C-238.29C is amended by adding a new subsection to read:

18 "(a1) The chartering entity shall continuously evaluate its process for reviewing
19 applications in an effort to identify the characteristics of charter school founding members,
20 boards, and academic programs that are predictive of later success of charter schools."

21 **SECTION 3.** G.S. 115C-238.29G reads as rewritten:

22 **"§ 115C-238.29G. Causes for nonrenewal or termination; disputes.**

23 (a) The State Board of Education, or a chartering entity subject to the approval of the
24 State Board of Education, may terminate or not renew a charter upon any of the following
25 grounds:

- 26 (1) Failure to meet the requirements for student performance contained in the
27 charter;
- 28 (1a) Failure to meet the standards for academic growth and academic
29 performance developed by the State Board of Education in accordance with
30 subsection (a1) of this section.
- 31 (2) Failure to meet generally accepted standards of fiscal management;
- 32 (3) Violations of law;
- 33 (4) Material violation of any of the conditions, standards, or procedures set forth
34 in the charter;
- 35 (5) Two-thirds of the faculty and instructional support personnel at the school
36 request that the charter be terminated or not renewed; or
- 37 (6) Other good cause identified.

38 (a1) The State Board of Education shall develop a diagnostic process of oversight to
39 enable a timely response to poor-performing schools. Under this process developed by the State
40 Board, a school that demonstrates low growth in student performance and low student
41 performance shall be reviewed and the results of the review shall determine subsequent action
42 relative to the school. By the end of the second year of operation, the minimum standard for
43 academic growth for a charter school shall be a year's growth in student performance in a
44 school year.

45 If the State Board of Education finds that a charter school has failed to meet its projected
46 levels of improvement in student performance or had low levels of student performance for two
47 consecutive years, the State Board shall terminate or fail to renew that charter at the end of the
48 school year in which that finding is made.

49"

50 **SECTION 4.** G.S. 115C-238.29F(g)(5) and (6) read as rewritten:

51 **"§ 115C-238.29F. General requirements.**

1 ...
 2 (g) Admission Requirements. –

3 ...
 4 (5) A charter school shall not discriminate against any student on the basis of
 5 ethnicity, national origin, gender, or disability. Except as otherwise provided
 6 by law or the mission of the school as set out in the charter, the school shall
 7 not limit admission to students on the basis of intellectual ability, measures
 8 of achievement or aptitude, athletic ability, disability, race, creed, gender,
 9 national origin, religion, or ancestry. The charter school may give enrollment
 10 priority to siblings of currently enrolled students who were admitted to the
 11 charter school in a previous-year year, to siblings of students admitted to the
 12 charter school for the upcoming year, and to children of the school's
 13 principal, teachers, and teacher assistants. In addition, and only for its first
 14 year of operation, the charter school may give enrollment priority to children
 15 of the initial members of the charter school's board of directors, so long as (i)
 16 these children are limited to no more than ten percent (10%) of the school's
 17 total enrollment or to 20 students, whichever is less, and (ii) the charter
 18 school is not a former public or private school. Within one year after the
 19 charter school begins operation, the population of the school shall
 20 reasonably ~~reflect~~ reflect, to the extent practicable given the applicant
 21 pool, the racial and ethnic composition of the general population residing
 22 within the local school administrative unit in which the school is located or
 23 the racial and ethnic composition of the special population that the school
 24 seeks to serve residing within the local school administrative unit in which
 25 the school is located. The school shall be subject to any court-ordered
 26 desegregation plan in effect for the local school administrative unit.

27 (6) During each period of enrollment, the charter school shall enroll an eligible
 28 student who submits a timely application, unless the number of applications
 29 exceeds the capacity of a program, class, grade level, or building. In this
 30 case, students shall be accepted by lot. To assist a school in meeting the
 31 requirements of subdivision (5) of this subsection regarding the racial and
 32 ethnic composition of the school, the school may stratify the lottery by race
 33 and ethnicity.

34 Once enrolled, students are not required to reapply in subsequent
 35 enrollment periods."

36 **SECTION 5.(a)** G.S. 115C-546.2(d) reads as rewritten:

37 "(d) Monies transferred into the Fund in accordance with Chapter 18C of the General
 38 Statutes shall be allocated for capital projects for school construction projects as follows:

39 (1) A sum equal to sixty-five percent (65%) of those monies transferred in
 40 accordance with G.S. 18C-164 shall be allocated on a per average daily
 41 membership basis according to the average daily membership for the budget
 42 year as determined and certified by the State Board of Education. The State
 43 Board of Education shall include the average daily membership of each
 44 charter school located within a local school administrative unit in its
 45 computation of the average daily membership for that local school
 46 administrative unit.

47 (2) A sum equal to thirty-five percent (35%) of those monies transferred in
 48 accordance with G.S. 18C-164 shall be allocated to those local school
 49 administrative units located in whole or part in counties in which the
 50 effective county tax rate as a percentage of the State average effective tax

1 rate is greater than one hundred percent (100%), with the following
2 definitions applying to this subdivision:

3 a. "Effective county tax rate" means the actual county rate for the
4 previous fiscal year, including any countywide supplemental taxes
5 levied for the benefit of public schools, multiplied by a three-year
6 weighted average of the most recent annual sales assessment ratio
7 studies.

8 b. "State average effective tax rate" means the average effective county
9 tax rates for all counties.

10 c. "Sales assessment ratio studies" means sales assessment ratio studies
11 performed by the Department of Revenue under G.S. 105-289(h).

12 (3) No county shall have to provide matching funds required under subsection
13 (c) of this section.

14 (4) A county may use monies in this Fund to pay for school construction
15 projects in local school administrative units and to retire indebtedness
16 incurred for school construction projects incurred on or after January 1,
17 2003.

18 (5) A county may not use monies in this Fund to pay for school technology
19 needs.

20 (6) Of the funds that a local school administrative unit receives under this
21 subsection, a pro rata share shall be distributed to charter schools based on
22 the ratio that the charter school students in that school administrative unit
23 bear to the total average daily membership of the local school administrative
24 unit. These funds are not subject to a matching requirement and may be used
25 for capital expenses, operating expenses, or both. Expenditure of these funds
26 is subject to the provisions of G.S. 115C-238.29H."

27 **SECTION 5.(b)** G.S. 115C-238.29H(a1) reads as rewritten:

28 "(a1) ~~Funds allocated by the State Board of Education~~State funds may be used to enter
29 into operational and financing leases for real property or mobile classroom units for use as
30 school facilities for charter schools and may be used for payments on loans made to charter
31 schools for facilities or equipment. However, State funds shall not be used to obtain any other
32 interest in real property or mobile classroom units. No indebtedness of any kind incurred or
33 created by the charter school shall constitute an indebtedness of the State or its political
34 subdivisions, and no indebtedness of the charter school shall involve or be secured by the faith,
35 credit, ~~or taxing power~~power, or any funds of the State or its political subdivisions. Every
36 contract or lease into which a charter school enters shall include the previous sentence. The
37 school also may own land and buildings it obtains through non-State sources."

38 **SECTION 6.** This act becomes effective July 1, 2009.