

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 793*
Education/Higher Education Committee Substitute Adopted 6/11/14
Third Edition Engrossed 6/16/14
House Committee Substitute Favorable 6/23/14
Fifth Edition Engrossed 6/26/14

Short Title: Charter School Modifications.

(Public)

Sponsors:

Referred to:

May 20, 2014

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT A TEACHER EMPLOYED BY A CHARTER SCHOOL
2 MAY SERVE AS A NONVOTING MEMBER OF THE BOARD OF DIRECTORS FOR
3 THE CHARTER SCHOOL; TO AMEND THE DATE BY WHICH THE STATE BOARD
4 OF EDUCATION SHALL MAKE DECISIONS ON CHARTER SCHOOL
5 APPLICATIONS; TO ALLOW A CHARTER SCHOOL TO EXPAND ONE GRADE
6 HIGHER THAN THE CHARTER SCHOOL CURRENTLY OFFERS; TO REQUIRE
7 CHARTER RENEWALS TO BE FOR TEN YEARS; TO CLARIFY THAT CHARTERS
8 WITH THE MISSION OF SINGLE GENDER EDUCATION MAY LIMIT ADMISSION
9 ON THE BASIS OF GENDER; TO PROVIDE PRIORITY ENROLLMENT FOR THE
10 CHILDREN OF MEMBERS OF THE BOARD OF DIRECTORS OF CHARTER
11 SCHOOLS BEYOND THE INITIAL YEAR; TO MAKE CHARTER SCHOOLS
12 SUBJECT TO REQUIREMENTS OF THE OPEN MEETINGS AND PUBLIC RECORDS
13 LAWS; TO ALLOW CHARTER SCHOOLS TO ASK FOR ADDITIONAL RECORDS
14 REGARDING THE TRANSFER OF THE PER PUPIL SHARE OF THE LOCAL
15 CURRENT EXPENSE FUND; TO SHORTEN THE TIME PERIOD FOR PAYMENT OF
16 DELINQUENT FUNDS; TO CLARIFY THE BIDDING PROCESS FOR THE
17 ASSUMPTION OF CHARTER SCHOOLS; AND TO DIRECT THE STATE BOARD OF
18 EDUCATION TO DEVELOP A FAST-TRACK APPROVAL PROCESS; AND TO
19 ALLOW CHARTER SCHOOLS TO BE ELIGIBLE TO RECEIVE PERMANENT
20 REGISTRATION PLATES.
21

22 The General Assembly of North Carolina enacts:

23 **SECTION 1.** G.S. 115C-238.29B(b) reads as rewritten:

24 "(b) The application shall contain at least the following information:

25 ...

26 (3) The governance structure of the school including the names of the initial
27 members of the board of directors of the nonprofit, tax-exempt corporation
28 and the process to be followed by the school to ensure parental involvement.
29 A teacher employed by the board of directors to teach in the charter school
30 may serve as a nonvoting member of the board of directors for the charter
31 school.

32"

33 **SECTION 1.5.** G.S. 115C-238.29D(a) reads as rewritten:



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- "(a) The State Board may grant final approval of an application if it finds the following:
- ~~(i)(1) that the~~ The application meets the requirements set out in this Part and such other requirements as may be adopted by the State Board of Education, Education.
 - ~~(ii)(2) that the~~ The applicant has the ability to operate the school and would be likely to operate the school in an educationally and economically sound manner, and manner.
 - ~~(iii)(3) that granting~~ Granting the application would achieve one or more of the purposes set out in G.S. 115C-238.29A.

~~The State Board shall act by January 15 of a calendar year on all applications and appeals it receives prior to a date established by the Office of Charter Schools for receipt of applications in the prior calendar year. In reviewing applications for the establishment of charter schools within a local school administrative unit, the State Board is encouraged to give preference to applications that demonstrate the capability to provide comprehensive learning experiences to students identified by the applicants as at risk of academic failure.~~

(a1) The State Board shall make final decisions on the approval or denial of applications by August 15 of a calendar year on all applications it receives prior to a date established by the Office of Charter Schools for receipt of applications in that application cycle. The State Board may make the final decision for approval contingent upon the successful completion of a planning period prior to enrollment of students."

SECTION 2. G.S. 115C-238.29D(d) reads as rewritten:

"(d) The State Board of Education may grant the initial charter for a period not to exceed ~~10 years and years.~~ The State Board of Education may renew the charter upon the request of the chartering entity for subsequent periods not to exceed of 10 years each. The renewal may be for less than 10 years if one of the following applies:

- (1) The charter school has not provided financially sound audits for the prior three years.
- (2) The charter school's student academic outcomes for the past three years have not been comparable to the academic outcomes of students in the local school administrative unit in which the charter school is located.
- (3) The charter school is not in compliance with State law, federal law, the school's own bylaws, or the provisions set forth in its charter granted by the State Board of Education.

The State Board of Education shall review the operations of each charter school at least once every five years to ensure that the school is meeting the expected academic, financial, and governance standards."

SECTION 2.5.(a) G.S. 115C-238.29D(f) reads as rewritten:

"(f) It shall not be considered a material revision of a charter application and shall not require prior approval of the State Board for a charter school to do any of the following:

- (1) Increase its enrollment during the charter school's second year of operation and annually thereafter by up to twenty percent (20%) of the school's previous year's enrollment.
- (2) Increase its enrollment during the charter school's second year of operation and annually thereafter in accordance with planned growth as authorized in its charter.
- (3) Expand to offer one grade higher than the charter school currently offers if the charter school has operated for at least three years and has not been identified as having inadequate performance as provided in G.S. 115C-238.29G(a1).
- (4) Expand to offer one grade higher than the charter school currently offers if the charter school meets the following criteria:

- 1 a. The charter school's student academic outcomes for the year prior to
2 the expansion must have been at least comparable to the academic
3 outcomes of students in the local school administrative unit in which
4 the charter school is located.
- 5 b. The charter school has provided financially sound audits for the year
6 prior to the expansion.
- 7 c. The charter school is in compliance with State law, federal law, the
8 school's own bylaws, or the provisions set forth in its charter granted
9 by the State Board of Education.

10 The charter school shall provide documentation of the requirements of this
11 subdivision to the State Board of Education. The charter school shall be
12 permitted to expand to offer the higher grade unless the State Board of
13 Education finds that the charter school has failed to meet the requirements of
14 this subdivision or other exceptional circumstances exist which justify not
15 permitting the grade expansion."

16 **SECTION 2.5.(b)** G.S. 115C-238.29D(f)(4), as enacted by this section, expires
17 September 1, 2015.

18 **SECTION 3.** G.S. 115C-238.29F is amended by adding a new subsection to read:

19 "(b1) A charter school shall not discriminate against any student with respect to any
20 category protected under the United States Constitution or under federal law applicable to the
21 states."

22 **SECTION 4.** G.S. 115C-238.29F(g)(5) reads as rewritten:

23 ~~"(5) A charter school shall not discriminate against any student on the basis of~~
24 ~~ethnicity, national origin, gender, or disability.~~ Except as otherwise provided
25 by law or the mission of the school as set out in the charter, the school shall
26 not limit admission to students on the basis of intellectual ability, measures
27 of achievement or aptitude, athletic ability, disability, race, creed, ~~gender,~~
28 national origin, religion, or ancestry. A charter school whose mission is
29 single gender education may limit admission on the basis of gender. Within
30 one year after the charter school begins operation, the charter school shall
31 make efforts for the population of the school to reasonably reflect the racial
32 and ethnic composition of the general population residing within the local
33 school administrative unit in which the school is located or the racial and
34 ethnic composition of the special population that the school seeks to serve
35 residing within the local school administrative unit in which the school is
36 located. The school shall be subject to any court-ordered desegregation plan
37 in effect for the local school administrative unit."

38 **SECTION 4.5.** G.S. 115C-238.29F(g)(5a) reads as rewritten:

39 "(5a) The charter school may give enrollment priority to any of the following:
40 a. Siblings of currently enrolled students who were admitted to the
41 charter school in a previous year. For the purposes of this subsection,
42 the term "siblings" includes any of the following who reside in the
43 same household: half siblings, stepsiblings, and children residing in a
44 family foster home.
45 b. Siblings of students who have completed the highest grade level
46 offered by that school and who were enrolled in at least four grade
47 levels offered by the charter school or, if less than four grades are
48 offered, in the maximum number of grades offered by the charter
49 school.

- 1 c. Limited to no more than fifteen percent (15%) of the school's total
2 enrollment, unless granted a waiver by the State Board of Education,
3 the following:
4 1. Children of the school's full-time employees.
5 2. ~~For its first year of operation, children of the initial members~~
6 Children of the charter school's board of directors.
7 d. A student who was enrolled in the charter school within the two
8 previous school years but left the school (i) to participate in an
9 academic study abroad program or a competitive admission
10 residential program or (ii) because of the vocational opportunities of
11 the student's parent."

12 **SECTION 5.** G.S. 115C-238.29F is amended by adding a new subsection to read:

13 "(m) The charter school and board of directors of the private nonprofit corporation that
14 operates the charter school are subject to the Public Records Act, Chapter 132 of the General
15 Statutes, and the Open Meetings Law, Article 33C of Chapter 143 of the General Statutes.
16 Notwithstanding the requirements of Chapter 132 of the General Statutes, inspection of charter
17 school employee personnel records shall be subject to the requirements of Article 21A of this
18 Chapter. However, the information contained in G.S. 115C-320(a)(1) shall not be open to
19 inspection."

20 **SECTION 5.2.** G.S. 115C-238.29H(c) reads as rewritten:

21 "(c) The local school administrative unit shall also provide each charter school to which
22 it transfers a per pupil share of its local current expense fund with all of the following
23 information within the 30-day time period provided in subsection (b) of this section:

- 24 (1) The total amount of monies the local school administrative unit has in each
25 of the funds listed in G.S. 115C-426(c).
26 (2) The student membership numbers used to calculate the per pupil share of the
27 local current expense fund.
28 (3) How the per pupil share of the local current expense fund was calculated.
29 (4) Any additional records requested by a charter school from the local school
30 administrative unit in order for the charter school to audit and verify the
31 calculation and transfer of the per pupil share of the local current expense
32 fund."

33 **SECTION 5.6.** G.S. 115C-238.29H(d) reads as rewritten:

34 "(d) Prior to commencing an action under subsection (b) of this section, the complaining
35 party shall give the other party 15 days' written notice of the alleged violation. The court shall
36 award the prevailing party reasonable attorneys' fees and costs incurred in an action under
37 subsection (b) of this section. The court shall order any delinquent funds, costs, fees, and
38 interest to be paid in equal monthly installments and shall establish a time for payment in full
39 that shall be no later than ~~three years~~ one year from the entry of any judgment."

40 **SECTION 6.** Upon recommendations by the Office of Charter Schools and the
41 Charter Schools Advisory Board and pursuant to G.S. 115C-239.29G(a)(2), the State Board of
42 Education shall adopt a process and rules for the competitive bid process for the assumption of
43 a charter school that has inadequate performance and could have its charter terminated or not
44 renewed by the State Board of Education. At a minimum, the State Board shall require
45 interested entities to meet the following criteria:

- 46 (1) Have operated another charter school in the State for three years.
47 (2) Can provide three years of financially sound audits for the charter school
48 they are currently operating in the State.
49 (3) Have student academic outcomes that are comparable to the academic
50 outcomes of students in the local school administrative unit in which the
51 currently operating charter school is located.

1 The State Board of Education shall adopt rules and procedures required by this
2 section by January 15, 2015, and report to the Joint Legislative Education Oversight Committee
3 by February 1, 2015.

4 **SECTION 6.5.** Upon recommendations by the Office of Charter Schools and the
5 Charter Schools Advisory Board, the State Board of Education shall adopt a process and rules
6 for fast-track replication of high-quality charter schools currently operating in the State. The
7 State Board of Education shall not require a planning year for applicants selected through the
8 fast-track replication process. In addition to the requirements for charter applicants set forth in
9 Part 6A of Article 16 of Chapter 115C of the General Statutes, the fast-track replication process
10 adopted by the State Board of Education shall, at a minimum, require a board of directors of a
11 charter school to demonstrate one of the following in order to qualify for fast-track replication:

- 12 (1) A charter school in this State governed by the board of directors has student
13 academic outcomes that are comparable to the academic outcomes of
14 students in the local school administrative unit in which the charter school is
15 located and can provide three years of financially sound audits.
- 16 (2) The board of directors agrees to contract with an education management
17 organization or charter management organization that can demonstrate that it
18 can replicate high-quality charter schools in the State that have proven
19 student academic success and financial soundness.

20 The State Board of Education shall ensure that the rules for a fast-track replication process
21 provide that decisions by the State Board of Education on whether to grant a charter through
22 the replication process are completed in less than 150 days. The State Board of Education shall
23 adopt rules and procedures required by this section by December 15, 2014, and report to the
24 Joint Legislative Education Oversight Committee by February 15, 2015.

25 **SECTION 6.6.(a)** G.S. 20-84(b) is amended by adding a new subdivision to read:

26 "(b) Permanent Registration Plates. – The Division may issue permanent plates for the
27 following motor vehicles:

28 ...

- 29 (3a) A motor vehicle that is owned and exclusively operated by a nonprofit
30 corporation authorized under G.S. 115C-238.29D to operate a charter school
31 and identified by a permanent decal or painted marking disclosing the name
32 of the nonprofit corporation.

33"

34 **SECTION 6.6.(b)** This section is repealed July 1, 2015.

35 **SECTION 7.** The Revisor of Statutes is authorized to renumber and recodify Part
36 6A of Article 16 of Chapter 115C of the General Statutes to a more suitable location.

37 **SECTION 7.3.** If House Bill 712, 2013 Regular Session, becomes law, the lead-in
38 language for Section 7 of that bill is amended by deleting the citation "Article 9 of Chapter 115
39 of the General Statutes" and replacing it with the citation "Article 9 of Chapter 115C of the
40 General Statutes".

41 **SECTION 8.** Except as otherwise provided, this act is effective when it becomes
42 law and applies beginning with the 2014-2015 school year. Section 5.6 of this act applies to
43 actions filed on or after the effective date of this act.