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SESSION 1997

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SENATE BILL 297*

Education/Higher Education Committee Substitute Adopted 4/3/97

Pensions & Retirement and Insurance Committee Substitute No. 2 Adopted 4/28/97

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Short Title: Amend Charter Sch. Laws.

(Public)

Sponsors:

Referred to:

March 5, 1997

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAWS GOVERNING CHARTER SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-238.29B reads as rewritten:

"§ 115C-238.29B. Eligible applicants; contents of applications; submission of applications for approval.

(a) Any person, group of persons, or nonprofit corporation seeking to establish a charter school within a local school administrative unit may apply to establish a charter school ~~on behalf of a private nonprofit corporation-school.~~ If the applicant seeks to convert a public school to a charter school, the application shall include a statement signed by a majority of the teachers and instructional support personnel currently employed at the school indicating that they favor the conversion and evidence that a significant number of parents of children enrolled in the school favor conversion.

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

- (1) A description of a program that implements one or more of the purposes in G.S. 115C-238.29A.

- 1 (2) A description of student achievement goals for the school's educational
2 program and the method of demonstrating that students have attained
3 the skills and knowledge specified for those student achievement goals.
- 4 (3) The governance structure of the school including the names of the
5 proposed initial members of the board of directors of the nonprofit, tax-
6 exempt corporation or of the board of directors whose members shall be
7 approved by the State Board and the process to be followed by the
8 school to ensure parental involvement.
- 9 (3a) The local school administrative unit in which the school will be located.
- 10 (4) Admission policies and procedures.
- 11 (5) A proposed budget for the school and evidence that the plan for the
12 school is economically sound.
- 13 (6) Requirements and procedures for program and financial audits.
- 14 (7) A description of how the school will comply with G.S. 115C-238.29F.
- 15 (8) Types and amounts of insurance coverage, including bonding insurance
16 for the principal officers of the school, to be obtained by the charter
17 school.
- 18 (9) The term of the contract.
- 19 (10) The qualifications required for individuals employed by the school.
- 20 (11) The procedures by which students can be excluded from the charter
21 school and returned to a public school. Notwithstanding any law to the
22 contrary, any local board may refuse to admit any student who is
23 suspended or expelled from a charter school due to actions that would
24 lead to suspension or expulsion from a public school under G.S. 115C-
25 391 until the period of suspension or expulsion has expired.
- 26 (12) The number of students to be served, which number shall be at least 65,
27 and the minimum number of teachers to be employed at the school,
28 which number shall be at least three. However, the charter school may
29 serve fewer than 65 students or employ fewer than three teachers if the
30 application contains a compelling reason, such as the school would
31 serve a geographically remote and small student population.
- 32 (13) Information regarding the facilities to be used by the school and the
33 manner in which administrative services of the school are to be
34 provided.
- 35 (14) ~~A description of whether the school will operate independently of the~~
36 ~~local board of education or whether it agrees to be subject to some~~
37 ~~supervision and control of its administrative operations by the local~~
38 ~~board of education. In the event the charter school elects to operate~~
39 ~~independently of the local board of education, A statement of whether~~
40 the charter school will be operated by the board of directors of a
41 nonprofit, tax-exempt corporation or by a board of directors whose
42 members are approved by the State Board of Education. In the event
43 the board of directors of a nonprofit, tax-exempt corporation will

1 operate the charter school, the application must specify which employee
2 benefits will be offered to its employees and how the benefits will be
3 funded.

4 (c) An applicant shall submit the application to a chartering entity for preliminary
5 approval. A chartering entity may be:

6 (1) The local board of education of the local school administrative unit in
7 which the charter school will be located;

8 (2) The board of trustees of a constituent institution of The University of
9 North Carolina, so long as the constituent institution is involved in the
10 planning, operation, or evaluation of the charter school; or

11 (3) The State Board of Education.

12 Regardless of which chartering entity receives the application for preliminary
13 approval, the State Board of Education shall have final approval of the charter school.

14 (c1) Unless an applicant submits its application under subsection (c) of this section
15 to the local board of education of the local school administrative unit in which the charter
16 school will be located, the applicant shall submit a copy of its application to that local
17 board by November 10. The local board may offer any information or comment
18 concerning the application it considers appropriate to the chartering entity. The local
19 board shall deliver this information to the chartering entity no later than January 1 of the
20 next calendar year. The applicant shall not be required to obtain or deliver this
21 information to the chartering entity on behalf of the local board."

22 Section 2. Part 6A of Article 16 of Chapter 115C of the General Statutes is
23 amended by adding the following new section to read:

24 **"§ 115C-238.29C1. Criminal history checks.**

25 (a) As used in this section:

26 (1) 'Criminal history' means a county, State, or federal criminal history of
27 conviction of a crime, whether a misdemeanor or a felony, that indicates
28 an individual (i) poses a threat to the physical safety of students or
29 personnel, or (ii) has demonstrated that he or she does not have the
30 integrity or honesty to fulfill his or her duties as school personnel.
31 These crimes include the following North Carolina crimes contained in
32 any of the following Articles of Chapter 14 of the General Statutes:
33 Article 5A, Endangering Executive and Legislative Officers; Article 6,
34 Homicide; Article 7A, Rape and Kindred Offenses; Article 8, Assaults;
35 Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or
36 Damage by Use of Explosive or Incendiary Device or Material; Article
37 14, Burglary and Other Housebreakings; Article 15, Arson and Other
38 Burnings; Article 16, Larceny; Article 17, Robbery; Article 18,
39 Embezzlement; Article 19, False Pretense and Cheats; Article 19A,
40 Obtaining Property or Services by False or Fraudulent Use of Credit
41 Device or Other Means; Article 20, Frauds; Article 21, Forgery; Article
42 26, Offenses Against Public Morality and Decency; Article 26A, Adult
43 Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29,

1 Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses
2 Against the Public Peace; Article 36A, Riots and Civil Disorders;
3 Article 39, Protection of Minors; and Article 60, Computer-Related
4 Crime. These crimes also include possession or sale of drugs in
5 violation of the North Carolina Controlled Substances Act, Article 5 of
6 Chapter 90 of the General Statutes, and alcohol-related offenses such as
7 sale to underage persons in violation of G.S. 18B-302 or driving while
8 impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In
9 addition to the North Carolina crimes listed in this subdivision, such
10 crimes also include similar crimes under federal law or under the laws
11 of other states.

12 (2) 'School personnel' means any:

- 13 a. Member of the board of directors of a charter school,
14 b. Employee of a charter school, or
15 c. Independent contractor or employee of an independent contractor
16 of a charter school if the independent contractor carries out duties
17 customarily performed by school personnel,
18 whether paid with federal, State, local, or other funds, who has
19 significant access to students or who has responsibility for the fiscal
20 management of a charter school.

21 (b) The State Board of Education shall adopt a policy on whether and under what
22 circumstances school personnel shall be required to be checked for a criminal history.
23 The policy shall not require school personnel to be checked for a criminal history check
24 before preliminary approval is granted under G.S. 115C-238.29B. The Board shall apply
25 its policy uniformly in requiring school personnel to be checked for a criminal history.
26 The Board may grant conditional approval of an application while the Board is checking
27 a person's criminal history and making a decision based on the results of the check.

28 The State Board shall not require school personnel to pay for the criminal history
29 check authorized under this section.

30 (c) The Board of Education shall require the person to be checked by the
31 Department of Justice to (i) be fingerprinted and to provide any additional information
32 required by the Department of Justice to a person designated by the State Board, or to the
33 local sheriff or the municipal police, whichever is more convenient for the person, and
34 (ii) sign a form consenting to the check of the criminal record and to the use of
35 fingerprints and other identifying information required by the repositories. The State
36 Board shall consider refusal to consent when deciding whether to grant final approval of
37 an application under G.S. 115C-238.29D and when making an employment
38 recommendation. The fingerprints of the individual shall be forwarded to the State
39 Bureau of Investigation for a search of the State criminal history record file, and the State
40 Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of
41 Investigation for a national criminal history record check. The Department of Justice
42 shall provide to the State Board of Education the criminal history from the State and

1 National Repositories of Criminal Histories of any school personnel for which the Board
2 requires a criminal history check.

3 The State Board shall not require school personnel to pay for the fingerprints
4 authorized under this section.

5 (d) The State Board shall review the criminal history it receives on an individual.
6 The State Board shall determine whether the results of the review indicate that the
7 individual (i) poses a threat to the physical safety of students or personnel, or (ii) has
8 demonstrated that he or she does not have the integrity or honesty to fulfill his or her
9 duties as school personnel and shall use the information when deciding whether to grant
10 final approval of an application for a charter school under G.S. 115C-238.29D and for
11 making an employment recommendation to the board of directors of a charter school.
12 The State Board shall make written findings with regard to how it used the information
13 when deciding whether to grant final approval under G.S. 115C-238.29D and when
14 making an employment recommendation.

15 (e) The State Board shall notify in writing the board of directors of the charter
16 school of the determination by the State Board as to whether the school personnel is
17 qualified to operate or be employed by a charter school based on the school personnel's
18 criminal history. At the same time, the State Board shall provide to the charter school's
19 board of directors the written findings the Board makes in subsection (d) of this section
20 and its employment recommendation. If the State Board recommends dismissal or
21 nonemployment of any person, the board of directors of the charter school shall dismiss
22 or refuse to employ that person. In accordance with the law regulating the dissemination
23 of the contents of the criminal history file furnished by the Federal Bureau of
24 Investigation, the State Board shall not release nor disclose any portion of the school
25 personnel's criminal history to the charter school's board of directors or employees. The
26 State Board also shall notify the school personnel of the procedure for completing or
27 challenging the accuracy of the criminal history and the personnel's right to contest the
28 State Board's determination in court.

29 (f) All the information received by the State Board of Education or the charter
30 school in accordance with subsection (e) of this section through the checking of the
31 criminal history is privileged information and is not a public record but is for the
32 exclusive use of the State Board of Education or the board of directors of the charter
33 school. The State Board of Education or the board of directors of the charter school may
34 destroy the information after it is used for the purposes authorized by this section after
35 one calendar year.

36 (g) There shall be no liability for negligence on the part of the State Board of
37 Education or the board of directors of the charter school, or their employees, arising from
38 any act taken or omission by any of them in carrying out the provisions of this section.
39 The immunity established by this subsection shall not extend to gross negligence, wanton
40 conduct, or intentional wrongdoing that would otherwise be actionable. The immunity
41 established by this subsection shall be deemed to have been waived to the extent of
42 indemnification by insurance, indemnification under Articles 31A and 31B of Chapter

1 143 of the General Statutes, and to the extent sovereign immunity is waived under the
2 Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes."

3 Section 3. G.S. 115C-238.29D(b) reads as rewritten:

4 "(b) The State Board shall authorize no more than five charter schools ~~per year~~ in
5 one local school administrative unit. The State Board shall authorize no more than 100
6 charter schools statewide. If more than five charter schools in one local school
7 administrative unit or more than 100 schools statewide meet the standards for final
8 approval, the State Board shall give priority to applications that are most likely to further
9 State education policies and to strengthen the educational program offered in the local
10 school administrative units in which they are located."

11 Section 4. G.S. 115C-238.29D(d) reads as rewritten:

12 "(d) The State Board of Education may grant ~~a~~ the initial charter for a period not to
13 exceed ~~five~~ 10 years and may renew the charter upon the request of the chartering entity
14 for subsequent periods not to exceed five years each. If the State Board grants the initial
15 charter for a period greater than five years, the Board shall review the status of the charter
16 school five years after it grants the initial charter. A material revision of the provisions of
17 a charter application shall be made only upon the approval of the State Board of
18 Education. The State Board shall establish a policy to enable a charter school to increase
19 the number of students to be served in years following the initial year of a charter
20 school's operation in a manner that would not be considered a material revision of a
21 charter application and would not require the Board's approval. Nonrenewal of a charter
22 operated by a board of directors whose members are approved by the State Board of
23 Education shall constitute a termination of that board of directors."

24 Section 5. G.S. 115C-238.29E reads as rewritten:

25 "(a) A charter school that is approved by the State shall be a public
26 school within the local school administrative unit in which it is located. It shall be
27 accountable to ~~the local board of education~~ its chartering entity, or to the State Board if the
28 chartering entity denied preliminary approval, for purposes of ensuring compliance with
29 applicable laws and the provisions of its charter.

30 (b) A charter school shall be operated ~~by a private nonprofit corporation that shall~~
31 ~~have received federal tax exempt status no later than 24 months following final approval~~
32 ~~of the application.~~ in one of the following ways:

33 (1) By a board of directors of a nonprofit corporation that receives federal
34 tax-exempt status no later than 24 months after final approval of the
35 application.

36 (2) By a board of directors whose members are approved by the State Board
37 of Education. The board of directors shall be composed of no more than
38 25 members. The initially proposed members shall serve terms no
39 longer than the length of the charter granted by the State Board.
40 Subsequently proposed members shall serve terms no longer than five
41 years. No member may serve more than two full terms. Appointments
42 to the board of directors, including those necessary to fill vacancies,

1 shall be recommended by the current board of directors and approved by
2 the State Board of Education.

3 In the event a charter school receives final approval from the State Board of
4 Education by March 31, 1997, the State Board shall provide the opportunity for the
5 school to be operated by a board of directors whose members are approved by the State
6 Board.

7 (c) A charter school shall operate under a written contract signed by the ~~local board~~
8 ~~of education~~ entity to which the charter school is accountable under subsection (a) of this
9 section and the applicant. The contract shall incorporate at a minimum the information
10 provided in the application, as modified during the charter approval process, and any
11 terms and conditions imposed on the charter school by the State Board of Education.

12 ~~If the local board of education does not sign the contract, the State Board may sign on~~
13 ~~behalf of the local board.~~

14 (d) The board of directors of the charter school shall decide matters related to the
15 operation of the school, including budgeting, curriculum, and operating procedures.

16 ~~(e) A charter school shall be located in the local school administrative unit with which it~~
17 ~~signed the contract. Its~~ A charter school's specific location shall not be prescribed or
18 limited by a local board or other authority except a zoning authority. The school may
19 lease space from a local board of education, from a public or private nonsectarian
20 organization, education or as is otherwise lawful in the local school administrative unit in
21 which the charter school is located. At the request of the charter school, the local board
22 of education of the local school administrative unit in which the charter school will be
23 located shall lease any available building or land to the charter school unless the board
24 demonstrates that the lease is not economically or practically feasible or that the local
25 board does not have adequate classroom space to meet its enrollment needs. In the event
26 that a public school converts to a charter school, the local board of education of the local
27 school administrative unit in which the school is located shall lease to the charter school
28 the school facilities that have been used by that public school unless the board
29 demonstrates that the lease is not economically or practically feasible or that the local
30 board does not have adequate classroom space to meet its enrollment needs.
31 Notwithstanding any other law, a local board of education may provide a school facility
32 to a charter school free of charge; however, the charter school shall be responsible for the
33 maintenance of and insurance for the school facility.

34 (f) Except as provided in this Part and pursuant to the provisions of its contract, a
35 charter school is exempt from statutes and rules applicable to a local board of education
36 or local school administrative unit."

37 Section 6. G.S. 115C-238.29F reads as rewritten:

38 **"§ 115C-238.29F. General requirements.**

39 (a) Health and Safety Standards. – A charter school shall meet the same health and
40 safety requirements required of a local school administrative unit.

41 (b) School Nonsectarian. – A charter school shall be nonsectarian in its programs,
42 admission policies, employment practices, and all other operations and shall not charge

1 ~~tuition.~~ tuition and fees. A charter school shall not be affiliated with a nonpublic sectarian
2 school or a religious institution.

3 (c) Civil Liability and Insurance. –

4 (1) The board of directors of a charter school may sue and be sued. The
5 State Board of Education shall adopt rules to establish reasonable
6 amounts and types of liability insurance that the board of directors shall
7 be required by the contract to obtain. The board of directors shall obtain
8 at least the amount of and types of insurance required by these rules to
9 be included in the contract. The liability in tort of the charter school,
10 the board of directors or organization that operates the charter school,
11 including any member, officer, or director of that board or organization,
12 and the charter school's employees shall not be covered under the Tort
13 Claims Act, as set out in Article 31 of Chapter 143 of the General
14 Statutes, and the State shall not provide for the defense of any civil or
15 criminal action or proceeding brought against any charter school, any
16 board of directors or organization that operates the charter school or any
17 of its members, officers, or directors, or any charter school employee.
18 Any sovereign immunity of the charter school, of the board of directors
19 or organization that operates the charter school or its members, officers,
20 or directors, or of the employees of the charter school or the board of
21 directors or organization that operates the charter school, is waived to
22 the extent of indemnification by insurance.

23 (2) No civil liability shall attach to any chartering entity, to the State Board
24 of Education, or to any of their members or employees, individually or
25 collectively, for any acts or omissions of the charter school. ~~In the event~~
26 ~~a charter school has not elected total independence from the local board of~~
27 ~~education under subsection (e) of this section, the immunity established by~~
28 ~~this subsection—~~The immunity established by this subdivision shall be
29 deemed to have been waived to the extent of indemnification by
30 insurance, indemnification under Articles 31A and 31B of Chapter 143
31 of the General Statutes, and to the extent sovereign immunity is waived
32 under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of
33 the General Statutes.

34 (d) Instructional Program. –

35 (1) The school shall provide instruction each year for at least 180 days.

36 (2) The school shall design its programs to at least meet the student
37 performance standards adopted by the State Board of Education and the
38 student performance standards contained in the ~~contract with the local~~
39 ~~board of education.~~ contract.

40 (3) A charter school shall conduct the student assessments required for
41 charter schools by the State Board of Education.

- 1 (4) The school shall comply with policies adopted by the State Board of
2 Education for charter schools relating to the education of children with
3 special needs.
- 4 (5) The school is subject to and shall comply with Article 27 of Chapter
5 115C of the General Statutes; ~~Statutes~~, except that a charter school may
6 also exclude a student from the charter school and return that student to
7 another school in the local school administrative unit in accordance with
8 the terms of its contract.
- 9 (e) Employees. –
- 10 (1) An employee of a charter school is not an employee of the local school
11 administrative unit in which the charter school is located. The charter
12 school's board of directors shall employ and contract with necessary
13 teachers to perform the particular service for which they are employed
14 in the school; at least seventy-five percent (75%) of these teachers in
15 grades kindergarten through five, at least fifty percent (50%) of these
16 teachers in grades six through eight, and at least fifty percent (50%) of
17 these teachers in grades nine through 12 shall hold teacher certificates.
18 The board also may employ necessary employees who are not required
19 to hold teacher certificates to perform duties other than teaching and
20 may contract for other services. The board may discharge teachers and
21 noncertificated employees.
- 22 (2) No local board of education shall require any employee of the local
23 school administrative unit to be employed in a charter school.
- 24 (3) If a teacher employed by a local school administrative unit makes a
25 written request for an extended leave of absence to teach at a charter
26 school, the local school administrative unit shall grant the leave. The
27 local school administrative unit shall grant a leave for any number of
28 years requested by the teacher, shall extend the leave for any number of
29 years requested by the teacher, and shall extend the leave at the teacher's
30 request. ~~The~~ For the initial year of a charter school's operation, the local
31 school administrative unit may require that the request for a leave or
32 extension of leave be made up to 45 days before the teacher would
33 otherwise have to report for duty. For subsequent years, the local
34 school administrative unit may require that the request for a leave or
35 extension of leave be made up to 90 days before the teacher would
36 otherwise have to report for duty. A teacher who has career status under
37 G.S. 115C-325 prior to receiving an extended leave of absence to teach
38 at a charter school may return to a public school in the local school
39 administrative unit with career status at the end of the leave of absence
40 or upon the end of employment at the charter school if an appropriate
41 position is available. If an appropriate position is unavailable, the
42 teacher's name shall be placed on a list of available teachers and that

1 teacher shall have priority on all positions for which that teacher is
2 qualified in accordance with G.S. 115C-325(e)(2).

- 3 (4) ~~In the event a charter school, in its application, elects total independence
4 from the local board of education, its employees shall not be deemed to
5 be employees of the local school administrative unit and shall not be
6 entitled to any State-funded employee benefits, including membership
7 in the North Carolina Teachers' and State Employees' Retirement
8 System or the Teachers' and State Employees' Comprehensive Major
9 Medical Plan. In the event a charter school, in its application, agrees to
10 be subject to some supervision and control of its administrative
11 operations by the local board of education, the employees of the charter
12 school will be deemed employees of the local school administrative unit
13 for purposes of providing certain State-funded employee benefits,
14 including membership in the Teachers' and State Employees' Retirement
15 System and the Teachers' and State Employees' Comprehensive Major
16 Medical Plan. The Board of Trustees of the Teachers' and State
17 Employees' Retirement System, in consultation with the State Board of
18 Education, shall determine the degree of supervision and control
19 necessary to qualify the employees of the applicant for membership in
20 the Retirement System. In no event shall anything contained in this Part
21 require the North Carolina Teachers' and State Employees' Retirement
22 System to accept employees of a private employer as members or
23 participants of the System.~~

24 The employees of a charter school operated by a board of directors
25 whose members are approved by the State Board are public employees
26 and are 'teachers' within the meaning of G.S. 135-1(25) to the same
27 extent as if they were employees of a local school administrative unit.
28 Employees of a charter school operated by a nonprofit, tax-exempt
29 corporation are not public employees and are not 'teachers' within the
30 meaning of G.S. 135-1(25).

31 (f) Accountability. –

- 32 (1) The school is subject to the financial audits, the audit procedures, and
33 the audit requirements adopted by the State Board of Education for
34 charter schools.
35 (2) The school shall comply with the reporting requirements established by
36 the State Board of Education in the Uniform Education Reporting
37 System.
38 (3) The school shall report at least annually to the chartering entity and the
39 State Board of Education the information required by the chartering
40 entity or the State Board.

41 (g) Admission Requirements. –

- 42 (1) Any child who is qualified under the laws of this State for admission to
43 a public school is qualified for admission to a charter school.

- 1 (2) No local board of education shall require any student enrolled in the
2 local school administrative unit to attend a charter school.
- 3 (3) Admission to a charter school shall not be determined according to the
4 school attendance area in which a student resides, except that any local
5 school administrative unit in which a public school converts to a charter
6 school shall give admission preference to students who reside within the
7 former attendance area of that school.
- 8 (4) Admission to a charter school shall not be determined according to the
9 local school administrative unit in which a student resides, ~~except that~~
10 ~~the provisions of G.S. 115C-366(d) shall apply to a student who wishes~~
11 ~~to attend a charter school in a county other than the county in which the~~
12 ~~student resides.~~
- 13 (5) A charter school shall not discriminate against any student on the basis
14 of ethnicity, national origin, gender, or disability. Except as otherwise
15 provided by law or the mission of the school as set out in the contract,
16 the school shall not limit admission to students on the basis of
17 intellectual ability, measures of achievement or aptitude, athletic ability,
18 disability, race, creed, gender, national origin, religion, or ancestry.
19 Within one year after the charter school begins operation, the population
20 of the school shall reasonably reflect the racial and ethnic composition
21 of the general population residing within the local school administrative
22 unit in which the school is located or the racial and ethnic composition
23 of the special population that the school seeks to serve residing within
24 the local school administrative unit in which the school is located. The
25 school shall be subject to any court-ordered desegregation plan in effect
26 for the local school administrative unit.
- 27 (6) The school shall enroll an eligible student who submits a timely
28 application, unless the number of applications exceeds the capacity of a
29 program, class, grade level, or building. In this case, students shall be
30 accepted by lot.
- 31 (7) Notwithstanding any law to the contrary, a charter school may refuse
32 admission to any student who has been expelled or suspended from a
33 public school under G.S. 115C-391 until the period of suspension or
34 expulsion has expired.
- 35 (h) ~~Transportation. – The charter school shall provide transportation for students~~
36 ~~enrolled at the school who reside in the local school administrative unit in which the~~
37 ~~school is located. The charter school may provide transportation for students enrolled at~~
38 ~~the school who reside in different local school administrative units. school. The charter~~
39 ~~school shall develop a transportation plan so that transportation is not a barrier to any~~
40 ~~student who resides in the local school administrative unit in which the school is located.~~
41 The charter school is not required to provide transportation to any student who lives
42 within one and one-half miles of the school. The local board of the local school
43 administrative unit in which the charter school is located is encouraged to contract with

1 the charter school for the provision of transportation if the board operates a school bus
2 transportation system.

3 (i) Assets. – Upon dissolution of the charter school or upon the nonrenewal of the
4 charter, all net assets of the charter school purchased with public funds shall be deemed
5 the property of the local school administrative unit in which the charter school is
6 located."

7 Section 7. Part 6A of Article 16 of Chapter 115C of the General Statutes is
8 amended by adding the following new section:

9 "**§ 115C-238.29F1. Powers of board of directors whose members are approved by**
10 **State Board.**

11 (a) In addition to the powers enumerated in this Part as well as the obligations and
12 duties imposed on it by the State Board, its contract, and its charter, the board of directors
13 whose members are approved by the State Board of Education shall have the following
14 powers:

- 15 (1) The powers of a corporate body, including the power to sue and be sued,
16 to make contracts, to adopt and use a common seal, and to alter the
17 adopted seal as needed.
- 18 (2) To enter into operational leases for real property or mobile classroom
19 units under G.S. 115C-238.29H.
- 20 (3) To purchase, acquire, own, maintain, or dispose of personal property.
- 21 (4) To purchase, acquire, or own real property, and to establish, construct,
22 or purchase any structure or facility necessary for the operation of the
23 charter school, so long as State funds are not used.
- 24 (5) To maintain, equip, and operate any structure or facility necessary for
25 the operation of a charter school.
- 26 (6) To pay all necessary costs and expenses in the formation, organization,
27 administration, and operation of the charter school.
- 28 (7) To apply for, accept, and administer loans and grants of money from
29 any federal agency, from the State or its political subdivisions, or from
30 any other public or private sources available, to expend the money in
31 accordance with the requirements imposed by the lender or donor, and
32 to give any evidences of indebtedness that are required. The charter
33 school shall not use State funds to secure any indebtedness under this
34 subdivision. No indebtedness of any kind incurred or created by the
35 board of directors shall constitute an indebtedness of the State or its
36 political subdivisions, and no indebtedness of the board of directors
37 shall involve or be secured by the faith, credit, or taxing power of the
38 State or its political subdivisions.
- 39 (8) To execute financing agreements, security documents, and other
40 instruments necessary in exercising its power under this Part, so long as
41 State funds are not used as security or to pay interest or other debt
42 service costs.

1 (9) To employ, elect, or appoint officers, employees, and agents of the
2 board of directors, define their duties, and fix their compensation.

3 (10) To receive and use allocations from the State Board and local board.

4 The board of directors shall not have the authority to levy taxes, issue bonds, or
5 acquire property by eminent domain.

6 (b) Leases, contracts, and other agreements entered into by a board of directors
7 whose members are approved by the State Board of Education shall be for terms no
8 longer than the length of the charter that the State Board of Education has granted or
9 renewed. They are subject to approval by the Local Government Commission under
10 Article 8 of Chapter 159 of the General Statutes if they meet the standards set out in G.S.
11 159-148(a)(1), 159-148(a)(2), and 159-148(a)(3). For the purpose of determining
12 whether the standards set out in G.S. 159-148(a)(3) have been met, only the five hundred
13 thousand dollar (\$500,000) threshold shall apply."

14 Section 8. G.S. 115C-238.29H(a) reads as rewritten:

15 "(a) The State Board of Education shall allocate to each charter school (i) an
16 amount equal to the average per pupil allocation for average daily membership from the
17 local school administrative unit allotments in which the charter school is located for each
18 child attending the charter school except for the allocation for children with special needs
19 and (ii) an additional amount for each child attending the charter school who is a child
20 with special needs. In accordance with its policy adopted under G.S. 115C-238.29D(d),
21 the State Board shall allow for annual adjustments to the amount allocated to a charter
22 school based on its enrollment growth in school years subsequent to the initial year of
23 operation.

24 In the event a child with special needs leaves the charter school and enrolls in a public
25 school during the first 60 school days in the school year, the charter school shall return
26 the additional State funds allocated for that child to the State Board, and the State Board
27 shall reallocate those funds to the local school administrative unit in which the public
28 school is located.

29 (a1) ~~Funds allocated by the State Board of Education shall not be used to purchase~~
30 ~~land or buildings. may be used to enter into operational leases for real property or mobile~~
31 ~~classroom units for use as school facilities for charter schools. State funds shall not be~~
32 ~~used to obtain any other interest in real property or mobile classroom units, to pay interest~~
33 ~~or other debt service costs, or to secure any indebtedness. As used in this subsection, the~~
34 ~~term 'operational leases' is defined according to generally accepted accounting principles.~~
35 ~~The school may own land and buildings it obtained-obtains through non-State sources."~~

36 Section 9. G.S. 115C-238.29J(a) reads as rewritten:

37 "(a) Local boards of education are authorized and encouraged to provide
38 administrative and evaluative support to charter schools located within their local school
39 administrative units ~~and to contract with those charter schools to provide student transportation~~
40 ~~units."~~

41 Section 10. G.S. 143-291 is amended by adding the following new subsection:

42 "(d) Charter schools as authorized under Part 6A of Article 16 of Chapter 115C of
43 the General Statutes and the boards of directors or organizations authorized to operate

1 these charter schools are not State agencies for purposes of this Article, and their liability
2 in tort is not subject to this Article."

3 Section 11. Article 31A of Chapter 143 of the General Statutes is amended by
4 adding the following new section:

5 **"§ 143-300.4A. Defense of charter school personnel.**

6 Notwithstanding any other provisions of this Article, the State shall not provide the
7 defense of any civil or criminal action or proceeding brought against any charter school
8 authorized under Part 6A of Article 16 of Chapter 115C of the General Statutes, any
9 board of directors or organization that operates a charter school or its members, officers,
10 or directors, or any charter school employee, individually or collectively."

11 Section 12. Article 31B of Chapter 143 of the General Statutes is amended by
12 adding the following new section:

13 **"§ 143-300.15A. Defense of charter school personnel.**

14 Notwithstanding any other provisions of this Article, the State shall not provide the
15 defense of any civil or criminal action or proceeding brought against any member,
16 director, or officer of a board of directors or an organization that operates a charter school
17 authorized under Part 6A of Article 16 of Chapter 115C of the General Statutes, or any
18 employee of a charter school, individually or collectively."

19 Section 13. This act is effective when it becomes law.