

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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SENATE BILL 456  
Education/Higher Education Committee Substitute Adopted 4/28/15

Short Title: Charter School Modifications.

(Public)

Sponsors:

Referred to:

March 26, 2015

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE CHANGES TO THE CHARTER SCHOOL STATUTES AND TO  
3 DIRECT THE STATE BOARD OF EDUCATION TO ADOPT RULES REGARDING  
4 REPLICATION OF CERTAIN CHARTER SCHOOLS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 115C-218(b)(10) reads as rewritten:

7 "(10) Powers and duties. – The Advisory Board shall have the following duties:

- 8 a. To make recommendations to the State Board of Education on the  
9 adoption of rules regarding all aspects of charter school operation,  
10 including time lines, standards, and criteria for acceptance and  
11 approval of applications, monitoring of charter schools, and grounds  
12 for revocation of charters. The State Board shall submit all proposed  
13 rules and other guidance related to charter schools to the Advisory  
14 Board, and the Advisory Board shall, within 45 days of receipt,  
15 provide written comments and recommendations to the State Board.  
16 The State Board shall not adopt any proposed rules and other  
17 guidance related to charter schools until comments and  
18 recommendations have been received from the Advisory Board,  
19 unless the Advisory Board fails to provide written comments and  
20 recommendations within 45 days of receipt of the proposals."

21 **SECTION 2.** G.S. 115C-218.1(b)(3) reads as rewritten:

22 "(3) The governance structure of the school including the names of the initial  
23 members of the board of directors of the nonprofit, tax-exempt corporation  
24 and the process to be followed by the school to ensure parental involvement.  
25 A teacher employed by the board of directors to teach in the charter school  
26 may serve as a nonvoting member of the board of directors for the charter  
27 school. The board of directors may include members who are not residents  
28 of the State, however, the State Board of Education may require by rule that  
29 a majority of the board of directors reside within the State."

30 **SECTION 3.** G.S. 115C-218.1(b)(13) reads as rewritten:

31 "(13) The number of students to be served, which number shall be at least ~~65~~80,  
32 and the minimum number of teachers to be employed at the school, which  
33 number shall be at least three. However, the charter school may serve fewer  
34 than ~~65~~80 students or employ fewer than three teachers if the application  
35 contains a compelling reason, such as the school would serve a  
36 geographically remote and small student population."



1           **SECTION 4.** G.S. 115C-218.5 reads as rewritten:

2   "**§ 115C-218.5. Final approval of applications for charter schools.**

- 3       (a)    The State Board may grant final approval of an application if it finds the following:
- 4           (1)   The application meets the requirements set out in this Article and such other
- 5               requirements as may be adopted by the State Board of Education.
- 6           (2)   The applicant has the ability to operate the school and would be likely to
- 7               operate the school in an educationally and economically sound manner.
- 8           (3)   Granting the application would achieve one or more of the purposes set out
- 9               in G.S. 115C-269.1.

10       In reviewing applications for the establishment of charter schools within a local school

11       administrative unit, the State Board is encouraged to give preference to applications that

12       demonstrate the capability to provide comprehensive learning experiences to students identified

13       by the applicants as at risk of academic failure.

14       (b)    The State Board shall make final decisions on the approval or denial of applications

15       by August 15 of a calendar year on all applications it receives prior to a date established by the

16       Office of Charter Schools for receipt of applications in that application cycle. The State Board

17       may make the final decision for approval contingent upon the successful completion of a

18       planning period prior to enrollment of students.

19       (c)    The State Board of Education may authorize a school before the applicant has

20       secured its space, equipment, facilities, and personnel if the applicant indicates the authority is

21       necessary for it to raise working capital. The State Board shall not allocate any funds to the

22       school until the school has obtained space.

23       (d)    The State Board of Education may grant the initial charter for a period not to exceed

24       10 years. The State Board of Education ~~may~~shall renew the charter upon the request of the

25       chartering entity for subsequent periods of ~~10 years each. The renewal may be for less than 10~~

26       ~~years if any years, unless~~ one of the following applies:

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

35       The State Board of Education shall review the operations of each charter school at least

36       once every five years to ensure that the school is meeting the expected academic, financial, and

37       governance standards.

38       (e)    A material revision of the provisions of a charter application shall be made only

39       upon the approval of the State Board of Education.

40       Except as provided in subsection (f) of this section, enrollment growth shall be considered a

41       material revision of the charter application, and the State Board may approve such additional

42       enrollment growth of greater than twenty percent (20%) only if the State Board finds all of the

43       following:

- 44           (1)   The actual enrollment of the charter school is within ten percent (10%) of its
- 45               maximum authorized enrollment.
- 46           (2)   The charter school has commitments for ninety percent (90%) of the
- 47               requested maximum growth.
- 48           (3)   The charter school is not currently identified as low-performing.
- 49           (4)   The charter school meets generally accepted standards of fiscal management.
- 50           (5)   It is otherwise appropriate to approve the enrollment growth.

1        (e1) The State Board shall grant approval for a material revision of a charter application  
2 for a charter school to increase its enrollment during the charter school's second year of  
3 operation and annually thereafter by up to twenty percent (20%) of the school's previous year's  
4 enrollment, unless one of the following applies:

5            (1) The charter school has been notified by the State Board in the previous year  
6 of failure to meet requirements for student performance contained in the  
7 charter or failure to meet generally accepted standards of fiscal management.

8            (2) The charter school is not in compliance with State law, federal law, the  
9 school's own bylaws, or the provisions set forth in its charter granted by the  
10 State Board.

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

13            ~~(1) Increase its enrollment during the charter school's second year of operation~~  
14 ~~and annually thereafter by up to twenty percent (20%) of the school's~~  
15 ~~previous year's enrollment.~~

16            (2) Increase its enrollment during the charter school's second year of operation  
17 and annually thereafter in accordance with planned growth as authorized in  
18 its charter.

19            (3) Expand to offer one grade higher than the charter school currently offers if  
20 the charter school has operated for at least three years and has not been  
21 identified as having inadequate performance as provided in  
22 G.S. 115C-218.95(b).

23            (4) Expand to offer one grade higher or lower than the charter school currently  
24 offers if the charter school meets all of the following criteria:

25            a. The charter school's student academic outcomes for the year prior to  
26 the expansion must have been at least comparable to the academic  
27 outcomes of students in the local school administrative unit in which  
28 the charter school is located.

29            b. The charter school has provided financially sound audits for the year  
30 prior to the expansion.

31            c. The charter school is in compliance with State law, federal law, the  
32 school's own bylaws, or the provisions set forth in its charter granted  
33 by the State Board of Education.

34            d. The charter school has been in operation for less than three years.

35            The charter school shall provide documentation of the requirements of  
36 this subdivision to the State Board of Education. The charter school shall be  
37 permitted to expand to offer the higher or lower grade unless the State Board  
38 of Education finds that the charter school has failed to meet the requirements  
39 of this subdivision or other exceptional circumstances exist which justify not  
40 permitting the grade expansion."

41        **SECTION 5.(a)** G.S. 115C-218.15 reads as rewritten:

42        "**§ 115C-218.15. Charter school operation.**

43            (a) A charter school that is approved by the State shall be a public school within the  
44 local school administrative unit in which it is located. All charter schools shall be accountable  
45 to the State Board for ensuring compliance with applicable laws and the provisions of their  
46 charters.

47            (b) A charter school shall be operated by a private nonprofit corporation that shall have  
48 received federal tax-exempt status no later than 24 months following final approval of the  
49 application. The board of directors of the charter schools shall adopt a conflict of interest and  
50 anti-nepotism policy that includes, at a minimum, the following:

- 1           (1)    The requirements of Chapter 55A of the General Statutes related to conflicts  
2           of interest.
- 3           (2)    A requirement that before any immediate family, as defined in  
4           G.S. 115C-12.2, of any member of the board of directors or a charter school  
5           employee with supervisory authority shall be employed or engaged as an  
6           employee, independent contractor, or otherwise by the board of directors in  
7           any capacity, such proposed employment or engagement shall be (i)  
8           disclosed to the board of directors and (ii) approved by the board of directors  
9           in a duly called open session meeting. The burden of disclosure of such a  
10           conflict of interest shall be on the applicable board member or employee  
11           with supervisory authority.

12           (c)    A charter school shall operate under the written charter signed by the State Board  
13           and the applicant. A charter school is not required to enter into any other contract. The charter  
14           shall incorporate the information provided in the application, as modified during the charter  
15           approval process, and any terms and conditions imposed on the charter school by the State  
16           Board of Education. No other terms may be imposed on the charter school as a condition for  
17           receipt of local funds.

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

20           **SECTION 5.(b)** G.S. 115C-47 is amended by adding a new subdivision to read:

21           "(17a) To adopt anti-nepotism policies. – Local boards of education shall adopt  
22           policies requiring that before any immediate family, as defined in  
23           G.S. 115C-12.2, of any board of education member or central office staff  
24           administrator, including directors, supervisors, specialists, staff officers,  
25           assistant superintendents, area superintendents, superintendents, or  
26           principals, shall be employed or engaged as an employee, independent  
27           contractor, or otherwise by the board of education in any capacity, such  
28           proposed employment or engagement shall be (i) disclosed to the board of  
29           education and (ii) approved by the board of education in a duly called open  
30           session meeting. The burden of disclosure of such a conflict of interest shall  
31           be on the applicable board member or central office staff administrator."

32           **SECTION 6.** G.S. 115C-426(c) reads as rewritten:

33           **"§ 115C-426. Uniform budget format.**

34           ...

35           (c)    The uniform budget format shall require the following funds:

- 36           (1)    The State Public School Fund.  
37           (2)    The local current expense fund.  
38           (3)    The capital outlay fund.

39           In addition, other funds may be used to account for reimbursements, including indirect  
40           costs, fees for actual costs, tuition, ~~sales tax revenues distributed using the ad valorem method~~  
41           ~~pursuant to G.S. 105-472(b)(2), sales tax refunds, gifts and grants restricted as to use, trust~~  
42           ~~funds, if necessary to comply with a requirement by a donor of a gift or grant that the local~~  
43           ~~school administrative unit use a separate fund to account for those funds, federal appropriations~~  
44           made directly to local school administrative units, and funds received for prekindergarten  
45           programs. In addition, the appropriation or use of fund balance or interest income by a local  
46           school administrative unit shall not be construed as a local current expense appropriation  
47           included as a part of the local current expense fund.

48           Each local school administrative unit shall maintain those funds shown in the uniform  
49           budget format that are applicable to its operations."

50           **SECTION 7.** By September 15, 2015, upon written recommendations made by the  
51           Charter Schools Advisory Board, the State Board of Education shall amend the process and

1 rules for replication of high-quality charter schools established in North Carolina State Board  
2 of Education Policy TCS-U-016 (Fast Track Replication of High Quality Charter Schools) to  
3 authorize consideration for fast track replication of a charter application from a board of  
4 directors of a North Carolina nonprofit corporation who agrees to contract with an education  
5 management organization or charter management organization currently operating a charter  
6 school or schools in the State, regardless of whether the board of directors has previously  
7 contracted with that education management organization or charter management organization.  
8 The State Board of Education shall report to the Joint Legislative Education Oversight  
9 Committee by November 15, 2015, on the amendment to the process and rules for charter  
10 school replication as required by this section.

11 **SECTION 8.** This act is effective when it becomes law. Sections 2, 3, 4, 5, and 6  
12 of this act apply beginning with the 2015-2016 school year.