

GENERAL ASSEMBLY OF NORTH CAROLINA
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SENATE BILL 456
Education/Higher Education Committee Substitute Adopted 4/28/15
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Short Title: Charter School Modifications.

(Public)

Sponsors:

Referred to:

March 26, 2015

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO THE CHARTER SCHOOL STATUTES AND TO
DIRECT THE STATE BOARD OF EDUCATION TO ADOPT RULES REGARDING
REPLICATION OF CERTAIN CHARTER SCHOOLS.

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

"(13) The number of students to be served, which number shall be at least ~~65~~80, and the minimum number of teachers to be employed at the school, which number shall be at least three. However, the charter school may serve fewer than ~~65~~80 students or employ fewer than three teachers if the application



1 contains a compelling reason, such as the school would serve a
2 geographically remote and small student population."

3 **SECTION 3.5.** G.S. 115C-218.1 is amended by adding a new subsection to read:

4 "(d) As part of the application review process, the State Board of Education and the
5 North Carolina Charter Schools Advisory Board shall evaluate charter school applications for
6 approval or rejection based upon the content and substance of the applications. Format issues
7 with an application shall not impact the substantive review of the content of an application. The
8 State Board of Education and the Advisory Board shall provide timely notification to an
9 applicant of any format issues or incomplete information regarding the application and provide
10 the applicant at least five business days to correct those issues in the application. The Advisory
11 Board shall permit an applicant to address the Advisory Board regarding the application for at
12 least 10 minutes immediately prior to any final vote on an application."

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

14 "**§ 115C-218.5. Final approval of applications for charter schools.**

15 (a) The State Board may grant final approval of an application if it finds the following:

- 16 (1) The application meets the requirements set out in this Article and such other
17 requirements as may be adopted by the State Board of Education.
18 (2) The applicant has the ability to operate the school and would be likely to
19 operate the school in an educationally and economically sound manner.
20 (3) Granting the application would achieve one or more of the purposes set out
21 in G.S. 115C-269.1.

22 In reviewing applications for the establishment of charter schools within a local school
23 administrative unit, the State Board is encouraged to give preference to applications that
24 demonstrate the capability to provide comprehensive learning experiences to students identified
25 by the applicants as at risk of academic failure. The State Board of Education shall give equal
26 consideration to all applications that were previously denied for being incomplete.

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

32 (c) The State Board of Education may authorize a school before the applicant has
33 secured its space, equipment, facilities, and personnel if the applicant indicates the authority is
34 necessary for it to raise working capital. The State Board shall not allocate any funds to the
35 school until the school has obtained space.

36 (d) The State Board of Education may grant the initial charter for a period not to exceed
37 10 years. The State Board of Education ~~may~~ shall renew the charter upon the request of the
38 chartering entity for subsequent periods of 10 ~~years~~ each. ~~The renewal may be for less than 10~~
39 ~~years if any years, unless~~ one of the following applies:

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

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

1 (e) A material revision of the provisions of a charter application shall be made only
2 upon the approval of the State Board of Education.

3 Except as provided in subsection (f) of this section, enrollment growth shall be considered a
4 material revision of the charter application, and the State Board may approve such additional
5 enrollment growth of greater than twenty percent (20%) only if the State Board finds all of the
6 following:

- 7 (1) The actual enrollment of the charter school is within ten percent (10%) of its
8 maximum authorized enrollment.
- 9 (2) The charter school has commitments for ninety percent (90%) of the
10 requested maximum growth.
- 11 (3) The charter school is not currently identified as low-performing.
- 12 (4) The charter school meets generally accepted standards of fiscal management.
- 13 (5) It is otherwise appropriate to approve the enrollment growth.

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

- 18 (1) The charter school has been notified by the State Board in the previous year
19 of failure to meet requirements for student performance contained in the
20 charter or failure to meet generally accepted standards of fiscal management.
- 21 (2) The charter school is not in compliance with State law, federal law, the
22 school's own bylaws, or the provisions set forth in its charter granted by the
23 State Board.

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

- 26 (1) ~~Increase its enrollment during the charter school's second year of operation~~
27 ~~and annually thereafter by up to twenty percent (20%) of the school's~~
28 ~~previous year's enrollment.~~
- 29 (2) Increase its enrollment during the charter school's second year of operation
30 and annually thereafter in accordance with planned growth as authorized in
31 its charter.
- 32 (3) Expand to offer one grade higher than the charter school currently offers if
33 the charter school has operated for at least three years and has not been
34 identified as having inadequate performance as provided in
35 G.S. 115C-218.95(b).G.S.115C-218.95(b) and has been in financial
36 compliance as required by the State Board of Education.
- 37 (4) Expand to offer one grade higher or lower than the charter school currently
38 offers if the charter school meets all of the following criteria:
 - 39 a. The charter school's student academic outcomes for the year prior to
40 the expansion must have been at least comparable to the academic
41 outcomes of students in the local school administrative unit in which
42 the charter school is located.
 - 43 b. The charter school has provided financially sound audits for the year
44 prior to the expansion.
 - 45 c. The charter school is in compliance with State law, federal law, the
46 school's own bylaws, or the provisions set forth in its charter granted
47 by the State Board of Education.
 - 48 d. The charter school has been in operation for less than three years.

49 The charter school shall provide documentation of the requirements of
50 this subdivision to the State Board of Education. The charter school shall be
51 permitted to expand to offer the higher or lower grade unless the State Board

1 of Education finds that the charter school has failed to meet the requirements
2 of this subdivision or other exceptional circumstances exist which justify not
3 permitting the grade expansion."

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

5 **"§ 115C-218.15. Charter school operation.**

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

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

14 (1) The requirements of Chapter 55A of the General Statutes related to conflicts
15 of interest.

16 (2) A requirement that before any immediate family, as defined in
17 G.S. 115C-12.2, of any member of the board of directors or a charter school
18 employee with supervisory authority shall be employed or engaged as an
19 employee, independent contractor, or otherwise by the board of directors in
20 any capacity, such proposed employment or engagement shall be (i)
21 disclosed to the board of directors and (ii) approved by the board of directors
22 in a duly called open session meeting. The burden of disclosure of such a
23 conflict of interest shall be on the applicable board member or employee
24 with supervisory authority.

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

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

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

34 "(17a) To adopt anti-nepotism policies. – Local boards of education shall adopt
35 policies requiring that before any immediate family, as defined in
36 G.S. 115C-12.2, of any board of education member or central office staff
37 administrator, including directors, supervisors, specialists, staff officers,
38 assistant superintendents, area superintendents, superintendents, or
39 principals, shall be employed or engaged as an employee, independent
40 contractor, or otherwise by the board of education in any capacity, such
41 proposed employment or engagement shall be (i) disclosed to the board of
42 education and (ii) approved by the board of education in a duly called open
43 session meeting. The burden of disclosure of such a conflict of interest shall
44 be on the applicable board member or central office staff administrator."

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

46 **"§ 115C-426. Uniform budget format.**

47 ...

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

- 49 (1) The State Public School Fund.
50 (2) The local current expense fund.
51 (3) The capital outlay fund.

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

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

12 **SECTION 7.** By September 15, 2015, upon written recommendations made by the
13 Charter Schools Advisory Board, the State Board of Education shall amend the process and
14 rules for replication of high-quality charter schools established in North Carolina State Board
15 of Education Policy TCS-U-016 (Fast Track Replication of High Quality Charter Schools) to
16 authorize consideration for fast track replication of a charter application from a board of
17 directors of a North Carolina nonprofit corporation who agrees to contract with an education
18 management organization or charter management organization currently operating a charter
19 school or schools in the State, regardless of whether the board of directors has previously
20 contracted with that education management organization or charter management organization.
21 The State Board of Education shall report to the Joint Legislative Education Oversight
22 Committee by November 15, 2015, on the amendment to the process and rules for charter
23 school replication as required by this section.

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