

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 514

Short Title: Permit Municipal Charter School/Certain Towns. (Local)

Sponsors: Representative Brawley.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Education - K-12, if favorable, State and Local Government II

March 29, 2017

A BILL TO BE ENTITLED
AN ACT TO PERMIT CERTAIN TOWNS TO OPERATE CHARTER SCHOOLS.
The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-218 reads as rewritten:

"§ 115C-218. Purpose of charter schools; definitions; establishment of North Carolina Charter Schools Advisory Board and North Carolina Office of Charter Schools.

...

(a1) Definitions. – For the purposes of this Article, the terms "board of a charter school" and "board of the charter school" include (i) the board of directors of a private nonprofit corporation and (ii) the governing body of a municipality, or a board appointed to operate a charter school by the governing body of a municipality.

...

(c) North Carolina Office of Charter Schools. –

(1) Establishment of the North Carolina Office of Charter Schools. – There is established the North Carolina Office of Charter Schools, hereinafter referred to in this Article as the Office of Charter Schools. The Office of Charter Schools shall be administratively located in the Department of Public Instruction, subject to the supervision, direction, and control of the State Board of Education. The Office of Charter Schools shall consist of an executive director appointed by the State Board of Education and such other professional, administrative, technical, and clerical personnel as may be necessary to assist the Office of Charter Schools in carrying out its powers and duties.

(2) Executive Director. – The Executive Director shall report to and serve at the pleasure of the State Board of Education at a salary established by the State Board within the funds appropriated for this purpose. The duties of the Executive Director shall include presenting the recommendations of the Advisory Board at meetings of the State Board upon the request of the State Board.

(3) Powers and duties. – The Office of Charter Schools shall have the following powers and duties:

a. Serve as staff to the Advisory Board and fulfill any task and duties assigned to it by the Advisory Board.



- 1 b. Provide technical assistance and guidance to charter schools
2 operating within the State.
- 3 c. Provide technical assistance and guidance to nonprofit corporations
4 or municipalities seeking to operate charter schools within the State.
- 5 d. Provide or arrange for training for charter schools that have received
6 preliminary approval from the State Board.
- 7 e. Assist approved charter schools and charter schools seeking approval
8 from the State Board in coordinating services with the Department of
9 Public Instruction.
- 10 f. Other duties as assigned by the State Board.
- 11 (4) Agency cooperation. – All State agencies and departments shall cooperate
12 with the Office of Charter Schools in carrying out its powers and duties as
13 necessary in accordance with this Article."

14 **SECTION 2.** G.S. 115C-218.1 reads as rewritten:

15 **"§ 115C-218.1. Eligible applicants; contents of applications; submission of applications**
16 **for approval.**

17 (a) Any nonprofit corporation or municipality seeking to establish a charter school may
18 apply to establish a charter school. If the applicant seeks to convert a public school to a charter
19 school, the application shall include a statement signed by a majority of the teachers and
20 instructional support personnel currently employed at the school indicating that they favor the
21 conversion and evidence that a significant number of parents of children enrolled in the school
22 favor conversion.

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

- 24 (1) A description of a program that implements one or more of the purposes in
25 G.S. 115C-218.
- 26 (2) A description of student achievement goals for the school's educational
27 program and the method of demonstrating that students have attained the
28 skills and knowledge specified for those student achievement goals.
- 29 (3) The governance structure of the school including the names of the initial
30 members of the board of directors of ~~the a nonprofit, tax-exempt corporation~~
31 corporation, the names of the members of the governing body of the
32 municipality, as applicable, and the process to be followed by the school to
33 ensure parental involvement. A teacher employed by the board of directors
34 of a private nonprofit corporation to teach in the charter school may serve as
35 a nonvoting member of the board of directors for the charter school.
- 36 (4) The local school administrative unit in which the school will be located.
- 37 (5) Admission policies and procedures.
- 38 (6) A proposed budget for the school and evidence that the financial plan for the
39 school is economically sound.
- 40 (7) Requirements and procedures for program and financial audits.
- 41 (8) A description of how the school will comply with G.S. 115C-218.20,
42 115C-218.25, 115C-218.30, 115C-218.40, 115C-218.45, 115C-218.50,
43 115C-218.55, 115C-218.60, 115C-218.65, 115C-218.70, 115C-218.75,
44 115C-218.80, 115C-218.85, and 115C-218.90.
- 45 (9) Types and amounts of insurance coverage, including bonding insurance for
46 the principal officers of the school, to be obtained by the charter school.
- 47 (10) The term of the charter.
- 48 (11) The qualifications required for individuals employed by the school.
- 49 (12) The procedures by which students can be excluded from the charter school
50 and returned to a public school. Notwithstanding any law to the contrary,
51 any local board may refuse to admit any student who is suspended or

1 expelled from a charter school due to actions that would lead to suspension
2 or expulsion from a public school under G.S. 115C-390.5 through
3 G.S. 115C-390.11 until the period of suspension or expulsion has expired.

4 (13) The number of students to be served, which number shall be at least 80, and
5 the minimum number of teachers to be employed at the school, which
6 number shall be at least three. However, the charter school may serve fewer
7 than 80 students or employ fewer than three teachers if the application
8 contains a compelling reason, such as the school would serve a
9 geographically remote and small student population.

10 (14) Information regarding the facilities to be used by the school and the manner
11 in which administrative services of the school are to be provided.

12 (15) The process for conducting a weighted lottery that reflects the mission of the
13 school if the school desires to use a weighted lottery.

14 (c) The State Board shall establish reasonable fees of no less than five hundred dollars
15 (\$500.00) and no more than one thousand dollars (\$1,000) for initial and renewal charter
16 applications, in accordance with Article 2A of Chapter 150B of the General Statutes. No
17 application fee shall be refunded in the event the application is rejected or the charter is
18 revoked."

19 **SECTION 3.** G.S. 115C-218.2(b) reads as rewritten:

20 "(b) Before taking action regarding a charter school or charter school applicant,
21 including recommendations on preliminary or final approval of charter applications, renewals
22 of charters, nonrenewals of charters, and revocations of charters, the Advisory Board or a
23 committee of the Advisory Board shall provide an opportunity for the applicant or ~~charter~~
24 ~~board~~ the member of a board of a charter school to address the Advisory Board or its
25 committee, if present, at a meeting."

26 **SECTION 4.** G.S. 115C-218.15 reads as rewritten:

27 **"§ 115C-218.15. Charter school operation.**

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

32 (b) A charter school shall be operated by (i) a private nonprofit corporation that shall
33 have received federal tax-exempt status no later than 24 months following final approval of the
34 ~~application~~ application or (ii) a governing body of a municipality.

35 (b1) The board of directors of ~~the~~ a private nonprofit corporation operating a charter
36 ~~schools~~ school shall adopt a conflict of interest and anti-nepotism policy that includes, at a
37 minimum, the following:

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

40 (2) A requirement that before any immediate family, as defined in
41 G.S. 115C-12.2, of any member of the board of directors or a charter school
42 employee with supervisory authority shall be employed or engaged as an
43 employee, independent contractor, or otherwise by the board of directors in
44 any capacity, such proposed employment or engagement shall be (i)
45 disclosed to the board of directors and (ii) approved by the board of directors
46 in a duly called open-session meeting. The burden of disclosure of such a
47 conflict of interest shall be on the applicable board member or employee
48 with supervisory authority. If the requirements of this subsection are
49 complied with, the charter school may employ immediate family of any
50 member of the board of directors or a charter school employee with
51 supervisory authority.

1 (3) A requirement that a person shall not be disqualified from serving as a
2 member of a charter school's board of directors because of the existence of a
3 conflict of interest, so long as the person's actions comply with the school's
4 conflict of interest policy established as provided in this subsection and
5 applicable law.

6 (b2) The governing body of a municipality operating a charter school shall adopt a
7 conflict of interest and anti-nepotism policy related to the charter school that includes, at a
8 minimum, the requirements of subdivisions (2) and (3) of subsection (b1) of this section.

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

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

17 (e) The board of directors of the private nonprofit corporation operating the charter
18 school may have members who reside outside of the State. However, the State Board of
19 Education may require by policy that a majority of the board of directors and all officers of the
20 board of directors reside within the State."

21 **SECTION 5.** G.S. 115C-218.20(a) reads as rewritten:

22 "(a) The board of ~~directors of a~~ charter school may sue and be sued. The State Board of
23 Education shall adopt rules to establish reasonable amounts and types of liability insurance that
24 the board of ~~directors a~~ charter school shall be required by the charter to obtain. The board of
25 ~~directors the~~ charter school shall obtain at least the amount of and types of insurance required
26 by these rules to be included in the charter. Any sovereign immunity of the charter school, of
27 the organization that operates the charter school, or its members, officers, or directors, or of the
28 employees of the charter school or the organization that operates the charter school, is waived
29 to the extent of indemnification by insurance."

30 **SECTION 6.** G.S. 115C-218.25 reads as rewritten:

31 **"§ 115C-218.25. Open meetings and public records.**

32 The charter school and board of ~~directors of the private nonprofit corporation that operates~~
33 the charter school are subject to the Public Records Act, Chapter 132 of the General Statutes,
34 and the Open Meetings Law, Article 33C of Chapter 143 of the General Statutes.
35 Notwithstanding the requirements of Chapter 132 of the General Statutes, inspection of charter
36 school personnel records for those employees directly employed by the board of ~~directors of the~~
37 charter school shall be subject to the requirements of Article 21A of this Chapter. The charter
38 school and board of ~~directors of the private nonprofit corporation that operates the~~ charter
39 school shall use the same schedule established by the Department of Natural and Cultural
40 Resources for retention and disposition of records of local school administrative units."

41 **SECTION 7.** G.S. 115C-218.45(f) reads as rewritten:

42 "(f) The charter school may give enrollment priority to any of the following:

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

- 1 (3) 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, the
3 following:
4 a. Children of the school's full-time employees.
5 b. Children of the ~~charter school's board of directors~~members of the
6 board of the charter school.
- 7 (4) A student who was enrolled in the charter school within the two previous
8 school years but left the school (i) to participate in an academic study abroad
9 program or a competitive admission residential program or (ii) because of
10 the vocational opportunities of the student's parent.
- 11 (5) A student who was enrolled in another charter school in the State in the
12 previous school year that does not offer the student's next grade level.
- 13 (6) A student who was enrolled in another charter school in the State in the
14 previous school year that does not offer the student's next grade level and
15 both of the charter schools have an enrollment articulation agreement to
16 accept students or are governed by the same board of ~~directors~~a charter
17 school.
- 18 (7) If the charter school is operated by a municipality, domiciliaries of the
19 municipality."

20 **SECTION 8.** G.S. 115C-218.50(b)(2) reads as rewritten:

- 21 "(2) A charter school, upon approval by the board ~~of directors~~ of the charter
22 school, may establish fees for extracurricular activities, except those fees
23 shall not exceed the fees for the same extracurricular activities charged by a
24 local school administrative unit in which forty percent (40%) or more of the
25 students enrolled in the charter school reside."

26 **SECTION 9.** G.S. 115C-218.70 reads as rewritten:

27 **"§ 115C-218.70. Driving eligibility certificates.**

28 In accordance with rules adopted by the State Board of Education, the designee of the
29 ~~school's board of directors~~the charter school shall do all of the following:

- 30 (1) Sign driving eligibility certificates that meet the conditions established in
31 G.S. 20-11.
- 32 (2) Obtain the necessary written, irrevocable consent from parents, guardians, or
33 emancipated juveniles, as appropriate, in order to disclose information to the
34 Division of Motor Vehicles.
- 35 (3) Notify the Division of Motor Vehicles when a student who holds a driving
36 eligibility certificate no longer meets its conditions."

37 **SECTION 10.** G.S. 115C-218.75(a) reads as rewritten:

38 "(a) Health and Safety Standards. – A charter school shall meet the same health and
39 safety requirements required of a local school administrative unit. The Department of Public
40 Instruction shall ensure that charter schools provide parents and guardians with information
41 about meningococcal meningitis and influenza and their vaccines at the beginning of every
42 school year. This information shall include the causes, symptoms, and how meningococcal
43 meningitis and influenza are spread and the places where parents and guardians may obtain
44 additional information and vaccinations for their children.

45 The Department of Public Instruction shall also ensure that charter schools provide parents
46 and guardians with information about cervical cancer, cervical dysplasia, human
47 papillomavirus, and the vaccines available to prevent these diseases. This information shall be
48 provided at the beginning of the school year to parents of children entering grades five through
49 12. This information shall include the causes and symptoms of these diseases, how they are
50 transmitted, how they may be prevented by vaccination, including the benefits and possible

1 side effects of vaccination, and the places where parents and guardians may obtain additional
2 information and vaccinations for their children.

3 The Department of Public Instruction shall also ensure that charter schools provide students
4 in grades seven through 12 with information annually on the preventable risks for preterm birth
5 in subsequent pregnancies, including induced abortion, smoking, alcohol consumption, the use
6 of illicit drugs, and inadequate prenatal care.

7 The Department of Public Instruction shall also ensure that charter schools provide students
8 in grades nine through 12 with information annually on the manner in which a parent may
9 lawfully abandon a newborn baby with a responsible person, in accordance with G.S. 7B-500.

10 The Department of Public Instruction shall also ensure that the guidelines for individual
11 diabetes care plans adopted by the State Board of Education under G.S. 115C-12(31) are
12 implemented in charter schools in which students with diabetes are enrolled and that charter
13 schools otherwise comply with the provisions of G.S. 115C-375.3.

14 The Department of Public Instruction shall ensure that charter schools comply with
15 G.S. 115C-375.2A. The board of ~~directors~~ of a charter school shall provide the school with a
16 supply of emergency epinephrine auto-injectors necessary to carry out the provisions of
17 G.S. 115C-375.2A."

18 **SECTION 11.** G.S. 115C-218.90 reads as rewritten:

19 **"§ 115C-218.90. Employment requirements.**

20 (a) Employees. –

21 (1) An employee of a charter school is not an employee of the local school
22 administrative unit in which the charter school is located. The charter
23 school's board of directors or the governing body of a municipality shall
24 employ and contract with necessary teachers to perform the particular
25 service for which they are employed in the school; at least fifty percent
26 (50%) of these teachers shall hold teacher licenses. All teachers who are
27 teaching in the core subject areas of mathematics, science, social studies, and
28 language arts shall be college graduates.

29 The ~~board~~ charter school's board of directors or the governing body of a
30 municipality also may employ necessary employees who are not required to
31 hold teacher licenses to perform duties other than teaching and may contract
32 for other services. The ~~board~~ charter school's board of directors or the
33 governing body of a municipality may discharge teachers and nonlicensed
34 employees.

35 ...
36 (4) The employees of ~~the~~ a charter school operated by a private nonprofit
37 corporation shall be deemed employees of the local school administrative
38 unit for purposes of providing certain State-funded employee benefits,
39 including membership in the Teachers' and State Employees' Retirement
40 System and the State Health Plan for Teachers and State Employees. The
41 State Board of Education provides funds to charter schools, approves the
42 original members of the boards of directors of the charter schools, has the
43 authority to grant, supervise, and revoke charters, and demands full
44 accountability from charter schools for school finances and student
45 performance. Accordingly, it is the determination of the General Assembly
46 that charter schools are public schools and that the employees of charter
47 schools operated by a private nonprofit corporation are public school
48 employees. Employees of a charter school whose board of directors elects to
49 become a participating employer under G.S. 135-5.3 are "teachers" for the
50 purpose of membership in the North Carolina Teachers' and State
51 Employees' Retirement System. In no event shall anything contained in this

1 Article require the North Carolina Teachers' and State Employees'
2 Retirement System to accept employees of a private employer as members
3 or participants of the System.

4 (4a) The employees of a charter school operated by a municipality shall be
5 deemed employees of that municipality and shall be eligible for any
6 employee benefits, including retirement benefits and health benefits,
7 provided to other employees of that municipality.

8 (5) Education employee associations shall have equal access to charter school
9 employees as provided in G.S. 115C-335.9.

10 (b) Criminal History Checks. –

11 (1) If the local board of education of the local school administrative unit in
12 which a charter school is located has adopted a policy requiring criminal
13 history checks under G.S. 115C-332, then the board of ~~directors of each~~
14 charter school located in that local school administrative unit shall adopt a
15 policy mirroring the local board of education policy that requires an
16 applicant for employment to be checked for a criminal history, as defined in
17 G.S. 115C-332. Each ~~charter school board of directors~~ board of a charter
18 school shall apply its policy uniformly in requiring applicants for
19 employment to be checked for a criminal history before the applicant is
20 given an unconditional job offer. A ~~charter school board of directors~~ board
21 of a charter school may employ an applicant conditionally while the board is
22 checking the person's criminal history and making a decision based on the
23 results of the check.

24 (2) There shall be no liability for negligence on the part of the State Board of
25 Education or the board of ~~directors of the~~ charter school, or their employees,
26 arising from any act taken or omission by any of them in carrying out the
27 provisions of this subsection. The immunity established by this subsection
28 shall not extend to gross negligence, wanton conduct, or intentional
29 wrongdoing that would otherwise be actionable. The immunity established
30 by this subsection shall be deemed to have been waived to the extent of
31 indemnification by insurance, indemnification under Articles 31A and 31B
32 of Chapter 143 of the General Statutes, and to the extent sovereign immunity
33 is waived under the Tort Claims Act, as set forth in Article 31 of Chapter
34 143 of the General Statutes."

35 **SECTION 12.** G.S. 20-11(n)(4)d. reads as rewritten:

36 "d. The designee of the board of ~~directors of the~~ charter school in which
37 the person is enrolled."

38 **SECTION 13.** G.S. 20-84(b)(3a) reads as rewritten:

39 "(3a) A motor vehicle that is owned and exclusively operated by a ~~nonprofit~~
40 ~~corporation~~ authorized board of a charter school under G.S. 115C-218.5 to
41 operate a charter school and identified by a permanent decal or painted
42 marking disclosing the name of the ~~nonprofit corporation~~ charter school. The
43 motor vehicle shall only be used for student transportation and official
44 charter school related activities."

45 **SECTION 14.** G.S. 105-228.90(b)(1) reads as rewritten:

46 "(1) Charter school. – ~~A nonprofit corporation~~ An entity that has a charter under
47 G.S. 115C-218.5 to operate a charter school."

48 **SECTION 15.** G.S. 115C-75.12(a)(4)a. reads as rewritten:

49 "a. Conversion to charter. – If, in the development of the transition plan,
50 a local board of education indicates by resolution to the State Board
51 of Education that the local board of education elects to not receive

1 the transfer of the achievement school back to the local school
2 administrative unit, the AS operator may apply to convert the school
3 to a charter school under Article 14A of this Chapter. If a charter is
4 awarded, the ~~charter~~ board of directors of the charter school may
5 request to use the facility as provided in G.S. 115C-218.35. If the AS
6 operator does not seek conversion to a charter school or fails to
7 receive a charter, the State Board of Education may close the school
8 as provided in subdivision (2) of this subsection."

9 **SECTION 16.** G.S. 115C-375.3 reads as rewritten:

10 **"§ 115C-375.3. Guidelines to support and assist students with diabetes.**

11 Local boards of education and boards of ~~directors of~~ charter schools shall ensure that the
12 guidelines adopted by the State Board of Education under G.S. 115C-12(31) are implemented
13 in schools in which students with diabetes are enrolled. In particular, the boards shall require
14 the implementation of the procedures set forth in those guidelines for the development and
15 implementation of individual diabetes care plans. The boards also shall make available
16 necessary information and staff development to teachers and school personnel in order to
17 appropriately support and assist students with diabetes in accordance with their individual
18 diabetes care plans."

19 **SECTION 17.** This act applies only to the Town of Matthews and the Town of
20 Mint Hill.

21 **SECTION 18.** This act is effective when it becomes law and applies to
22 applications to establish a charter school submitted on or after that date.