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HOUSE BILL 514
Committee Substitute Favorable 4/24/17
Third Edition Engrossed 5/30/18
Senate Pensions and Retirement and Aging Committee Substitute Adopted 5/31/18

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

Sponsors:

Referred to:

March 29, 2017

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

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

5 "§ 115C-218. Purpose of charter schools; definitions; establishment of North Carolina
6 Charter Schools Advisory Board and North Carolina Office of Charter Schools.

7 ...

8 (a1) Definitions. – For the purposes of this Article, the following definitions apply:

9 (1) Board of directors or charter board. – Any of the following:

10 a. The board of directors of a nonprofit corporation.

11 b. The governing body of a municipality who serve ex officio as the
12 board of directors of a charter school granted to a municipality.

13 c. A board of directors appointed to govern a charter school granted to a
14 municipality by the governing body of that municipality.

15 (2) Nonprofit corporation. – A private nonprofit corporation that receives federal
16 tax exempt status no later than 24 months following final approval of the
17 charter.

18 ...

19 (c) North Carolina Office of Charter Schools. –

20 ...

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

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

25 b. Provide technical assistance and guidance to charter schools operating
26 within the State.

27 c. Provide technical assistance and guidance to nonprofit corporations or
28 municipalities seeking to operate charter schools within the State.

29 d. Provide or arrange for training for charter schools that have received
30 preliminary approval from the State Board.

31 e. Assist approved charter schools and charter schools seeking approval
32 from the State Board in coordinating services with the Department of
33 Public Instruction.

34 f. Other duties as assigned by the State Board.



1 "

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

3 "**§ 115C-218.1. Eligible applicants; contents of applications; submission of applications for**
4 **approval.**

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

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

12 ...

13 (3) The governance structure of the ~~school including the school~~ as follows:

14 a. For nonprofit corporation applicants. – The names of the initial
15 members of the board of directors of the ~~nonprofit, tax-exempt~~
16 nonprofit corporation and the process to be followed by the school to
17 ensure parental involvement. A teacher employed by the board of
18 directors of a nonprofit corporation to teach in the charter school may
19 serve as a nonvoting member of the board of directors for the charter
20 school.

21 b. For municipal applicants. – The names of the governing board of the
22 municipality, and if the members of the governing board will not serve
23 ex officio as the board of directors, the members of the board of
24 directors appointed to govern the charter school by the municipality.
25 The process to be followed by the school to ensure parental
26 involvement shall also be included.

27 "

28 **SECTION 3.** G.S. 115C-218.15 reads as rewritten:

29 "**§ 115C-218.15. Charter school operation.**

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

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

36 (1) A nonprofit corporation.

37 (2) A municipality.

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

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

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

1 school may employ immediate family of any member of the board of directors
 2 or a charter school employee with supervisory authority.

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

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

10"

11 **SECTION 4.** G.S. 115C-218.25 reads as rewritten:

12 **"§ 115C-218.25. Open meetings and public records.**

13 The charter school and board of directors ~~of the private nonprofit corporation~~ that operates
 14 the charter school are subject to the Public Records Act, Chapter 132 of the General Statutes, and
 15 the Open Meetings Law, Article 33C of Chapter 143 of the General Statutes. Notwithstanding
 16 the requirements of Chapter 132 of the General Statutes, inspection of charter school personnel
 17 records for those employees directly employed by the board of directors of the charter school
 18 shall be subject to the requirements of Article 21A of this Chapter. The charter school and board
 19 of directors ~~of the private nonprofit corporation~~ that operates the charter school shall use the same
 20 schedule established by the Department of Natural and Cultural Resources for retention and
 21 disposition of records of local school administrative units."

22 **SECTION 5.** G.S. 115C-218.45(f) reads as rewritten:

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

- 24 (1) Siblings of currently enrolled students who were admitted to the charter school
 25 in a previous year. For the purposes of this section, the term "siblings"
 26 includes any of the following who reside in the same household: half siblings,
 27 stepsiblings, and children residing in a family foster home.
 28 (2) Siblings of students who have completed the highest grade level offered by
 29 that school and who were enrolled in at least four grade levels offered by the
 30 charter school or, if less than four grades are offered, in the maximum number
 31 of grades offered by the charter school.
 32 (3) Limited to no more than fifteen percent (15%) of the school's total enrollment,
 33 unless granted a waiver by the State Board of Education, the following:
 34 a. Children of the school's full-time employees.
 35 b. Children of the charter school's board of directors.
 36 (4) A student who was enrolled in the charter school within the two previous
 37 school years but left the school (i) to participate in an academic study abroad
 38 program or a competitive admission residential program or (ii) because of the
 39 vocational opportunities of the student's parent.
 40 (5) A student who was enrolled in another charter school in the State in the
 41 previous school year that does not offer the student's next grade level.
 42 (6) A student who was enrolled in another charter school in the State in the
 43 previous school year that does not offer the student's next grade level and both
 44 of the charter schools have an enrollment articulation agreement to accept
 45 students or are governed by the same board of directors.
 46 (7) If the charter school is operated by a municipality, domiciliaries of the
 47 municipality."

48 **SECTION 6.** G.S. 115C-218.90 reads as rewritten:

49 **"§ 115C-218.90. Employment requirements.**

- 50 (a) Employees. –

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

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

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

(4a) The board of directors of a municipal charter school may elect to become a participating employer in the Teachers' and State Employees' Retirement System and the State Health Plan for Teachers and State Employees.

...."

SECTION 7. G.S. 135-4(cc) reads as rewritten:

"(cc) Credit for Employment in a Charter School Operated by a Private Nonprofit Corporation ~~Corporation~~ or a Charter School Operated by a Municipality. – Any member may purchase creditable service for any employment as an employee of a charter school operated by a private nonprofit corporation or a charter school operated by a municipality whose board of directors did not elect to participate in the Retirement System under G.S. 135-5.3 upon completion of five years of membership service by making a lump-sum payment into the Annuity Savings Fund. The payment by the member shall be equal to the full liability of the service credits calculated on the basis of the assumptions used for purposes of the actuarial valuation of the Retirement System's liabilities, taking into account the additional retirement allowance arising on account of the additional service credits commencing at the earliest age at which the member could retire with an unreduced retirement allowance, as determined by the Board of Trustees upon the advice of the actuary plus an administrative expense fee to be determined by the Board of Trustees. Creditable service purchased under this subsection shall not exceed a total of five

1 years. Notwithstanding the foregoing provisions of this subsection that provide for the purchase
2 of service credits, the terms "full cost", "full liability", and "full actuarial cost" include assumed
3 annual postretirement allowance increases, as determined by the Board of Trustees, from the
4 earliest age at which a member could retire on an unreduced service allowance."

5 **SECTION 8.** G.S. 135-5.3 reads as rewritten:

6 "**§ 135-5.3. Optional participation for charter schools operated by private nonprofit**
7 **corporations, corporations or municipalities.**

8 ...
9 (b1) The board of directors of a charter school operated by a private nonprofit corporation
10 ~~and~~ or a charter school operated by a municipality that has received State Board of Education
11 approval under G.S. 115C-218.5 may elect to become a participating employer in the Retirement
12 System in accordance with this Article.

13"

14 **SECTION 9.** G.S. 135-48.47 reads as rewritten:

15 "**§ 135-48.47. Participation in State Health Plan by local government employees and**
16 **dependents.**

17 (a) Eligibility. – The employees and dependents of employees of local government units
18 are eligible to participate in the State Health Plan, as provided in this section. This section does
19 not apply to employees of a charter school operated by a municipality, as provided in Article 14A
20 of Chapter 115C of the General Statutes.

21 Employees and dependents participating under this section are not guaranteed participation
22 in the Plan, and participation is contingent on their respective local government units (i) electing
23 to participate in the Plan and (ii) complying with the provisions of this section and this Article,
24 as well as any policies adopted by the Plan.

25"

26 **SECTION 10.** G.S. 135-48.54 reads as rewritten:

27 "**§ 135-48.54. Optional participation for charter schools operated by private nonprofit**
28 **corporations, corporations or municipalities.**

29 (a) The board of directors of each charter school operated by a private nonprofit
30 corporation or a charter school operated by a municipality shall elect whether to become a
31 participating employer in the Plan in accordance with this Article. This election shall be in
32 writing, shall be made no later than 30 days after October 28, 1998, and shall be filed with the
33 Plan and with the State Board of Education. For each charter school employee who is employed
34 on or before the date the board makes the election, membership in the Plan is effective as of the
35 date the board makes the election. For each charter school employee who is employed after the
36 date the board makes the election, membership in the Plan is effective as of the date of that
37 employee's entry into eligible service. This subsection applies only to charter schools that
38 received State Board of Education approval under former G.S. 115C-238.29D in 1997 or 1998.

39 (b) No later than 30 days after both parties have signed the written charter under
40 G.S. 115C-218.15, the board of directors of a charter school operated by a private nonprofit
41 corporation or a charter school operated by a municipality shall elect whether to become a
42 participating employer in the Plan in accordance with this Article. This election shall be in writing
43 and filed with the Plan and the State Board of Education. This election is effective for each charter
44 school employee as of the date of that employee's entry into eligible service. This subsection
45 applies to charter schools that receive State Board of Education approval under former
46 G.S. 115C-238.29D or G.S. 115C-218.5 after 1998.

47"

48 **SECTION 11.** This act applies only to the Town of Cornelius, the Town of
49 Huntersville, the Town of Matthews, and the Town of Mint Hill.

1 **SECTION 12.** If any section or provision of this act is declared unconstitutional or
2 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
3 the part declared to be unconstitutional or invalid.

4 **SECTION 13.** This act is effective when it becomes law and applies to applications
5 to establish a charter school submitted on or after that date.