

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL 392
Education/Higher Education Committee Substitute Adopted 4/10/19
House Committee Substitute Favorable 6/18/19
House Committee Substitute #2 Favorable 7/10/19

Short Title: Various Charter School Changes.

(Public)

Sponsors:

Referred to:

March 28, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO THE LAWS AFFECTING CHARTER
3 SCHOOLS.

4 The General Assembly of North Carolina enacts:

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6 **PART I. DESIGNATE THE SUPERINTENDENT OF PUBLIC INSTRUCTION AS AN**
7 **APPLICABLE ELECTED REPRESENTATIVE WHO MAY APPROVE BONDS TO**
8 **FINANCE OR REFINANCE A CHARTER SCHOOL FACILITY**

9 **SECTION 1.** Article 14A of Chapter 115C of the General Statutes is amended by
10 adding a new section to read:

11 **"§ 115C-218.37. Public approval for private activity bonds.**

12 (a) For purposes of this section, the following definitions shall apply:

13 (1) Charter school facility. – Real property, personal property, or both that is used
14 or intended for use in connection with the operation of a charter school.

15 (2) Applicable elected representative. – An elected official of a governmental unit
16 having jurisdiction over the area in which a charter school facility is located,
17 as defined in Section 147(f)(2) of the Internal Revenue Code (26 U.S.C. §
18 147(f)(2)).

19 (b) The Superintendent of Public Instruction is hereby designated as an applicable elected
20 representative who may approve the issuance of one or more private activity bonds to finance or
21 refinance a charter school facility, after a public hearing following reasonable public notice, in
22 accordance with Section 147(f) of the Internal Revenue Code (26 U.S.C. § 147(f)) and applicable
23 State and federal laws and regulations. Procedures for the public hearing shall be determined by
24 the Superintendent of Public Instruction, and the public hearing shall be conducted by the
25 Superintendent or his or her designee."

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27 **PART II. CLARIFY CHARTER SCHOOL RENEWAL STANDARDS**

28 **SECTION 2.1.** G.S. 115C-218.6 reads as rewritten:

29 **"§ 115C-218.6. Review and renewal of charters.**

30 (a) The State Board of Education shall review the operations of each charter school at
31 least once prior to the expiration of its charter to ensure that the school is meeting the expected
32 academic, financial, and governance standards.

33 (b) The State Board of Education shall renew a charter upon the request of the chartering
34 entity for subsequent periods of 10 years, unless one of the following applies:



- 1 (1) The charter school has not provided financially sound audits for the
 2 immediately preceding three years.
- 3 (2) ~~The charter school's student academic outcomes for the immediately~~
 4 ~~preceding three years have not been comparable to the academic outcomes of~~
 5 ~~students in the local school administrative unit in which the charter school is~~
 6 ~~located.~~ The percent of students who scored at or above proficient for all
 7 end-of-grade and end-of-course tests taken in the previous school year, as
 8 required by G.S. 115C-174.11(c)(1), is at least five percentage points lower in
 9 the charter school than in the local school administrative unit where the charter
 10 school is located.
- 11 (3) The charter school is not, at the time of the request for renewal of the charter,
 12 substantially in compliance with State law, federal law, the school's own
 13 bylaws, or the provisions set forth in its charter granted by the State Board of
 14 Education.

15 If one of the conditions set forth in subdivisions (1) through (3) of this subsection applies,
 16 then the State Board may renew the charter for a period of less than 10 years or not renew the
 17 charter."

18 **SECTION 2.2.** This Part applies to applications for the renewal of the charter of a
 19 charter school submitted on or after the effective date of this act.

20 21 **PART III. REQUIRE BACKGROUND CHECKS FOR CHARTER BOARDS OF** 22 **DIRECTORS**

23 **SECTION 3.1.** G.S. 115C-218.1 reads as rewritten:

24 "**§ 115C-218.1. Eligible applicants; contents of applications; submission of applications for**
 25 **approval.**

26 (a) Any nonprofit corporation seeking to establish a charter school may apply to establish
 27 a charter school. If the applicant seeks to convert a public school to a charter school, the
 28 application shall include a statement signed by a majority of the teachers and instructional support
 29 personnel currently employed at the school indicating that they favor the conversion and evidence
 30 that a significant number of parents of children enrolled in the school favor conversion.

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

- 32 (1) A description of a program that implements one or more of the purposes in
 33 G.S. 115C-218.
- 34 (2) A description of student achievement goals for the school's educational
 35 program and the method of demonstrating that students have attained the skills
 36 and knowledge specified for those student achievement goals.
- 37 (3) The governance structure of the school including the names of the initial
 38 members of the board of directors of the nonprofit, tax-exempt corporation
 39 and the process to be followed by the school to ensure parental involvement.
 40 A teacher employed by the board of directors to teach in the charter school
 41 may serve as a nonvoting member of the board of directors for the charter
 42 school.
- 43 (4) The local school administrative unit in which the school will be located.
- 44 (5) Admission policies and procedures.
- 45 (6) A proposed budget for the school and evidence that the financial plan for the
 46 school is economically sound.
- 47 (7) Requirements and procedures for program and financial audits.
- 48 (8) A description of how the school will comply with G.S. 115C-218.20,
 49 115C-218.25, 115C-218.30, 115C-218.40, 115C-218.45, 115C-218.50,
 50 115C-218.55, 115C-218.60, 115C-218.65, 115C-218.70, 115C-218.75,
 51 115C-218.80, 115C-218.85, and 115C-218.90.

- 1 (9) Types and amounts of insurance coverage, including bonding insurance for
2 the principal officers of the school, to be obtained by the charter school.
3 (10) The term of the charter.
4 (11) The qualifications required for individuals employed by the school.
5 (12) The procedures by which students can be excluded from the charter school
6 and returned to a public school. Notwithstanding any law to the contrary, any
7 local board may refuse to admit any student who is suspended or expelled
8 from a charter school due to actions that would lead to suspension or expulsion
9 from a public school under G.S. 115C-390.5 through G.S. 115C-390.11 until
10 the period of suspension or expulsion has expired.
11 (13) The number of students to be served, which number shall be at least 80, and
12 the minimum number of teachers to be employed at the school, which number
13 shall be at least three. However, the charter school may serve fewer than 80
14 students or employ fewer than three teachers if the application contains a
15 compelling reason, such as the school would serve a geographically remote
16 and small student population.
17 (14) Information regarding the facilities to be used by the school and the manner
18 in which administrative services of the school are to be provided.
19 (15) The process for conducting a weighted lottery that reflects the mission of the
20 school if the school desires to use a weighted lottery.
21 (16) A nationwide criminal background check for each member of the board of
22 directors of the proposed charter school to ensure that the member has not
23 been convicted, at a minimum, of any crime listed in G.S. 115C-332 or a
24 substantially similar crime in another state. The criminal background check
25 shall include all of the following components:
26 a. A social security number trace, including locations returned on at least
27 a county-by-county basis.
28 b. Any known aliases.
29 (17) A certification from each member of the board of directors certifying whether
30 the board member has been convicted of any felony or misdemeanor. If the
31 board member has been convicted of a felony or misdemeanor, the
32 certification shall include a listing of the year of the charge, the charge, and
33 the disposition of the charge.

34 (c) The State Board shall establish reasonable fees of no less than five hundred dollars
35 (\$500.00) and no more than one thousand dollars (\$1,000) for initial and renewal charter
36 applications, in accordance with Article 2A of Chapter 150B of the General Statutes. No
37 application fee shall be refunded in the event the application is rejected or the charter is revoked."

38 **SECTION 3.2.** This Part applies to applications for initial charters received on or
39 after the effective date of this act.
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41 **PART IV. CHANGES TO THE CAP ON ENROLLMENT GROWTH OF VIRTUAL** 42 **CHARTER SCHOOLS PARTICIPATING IN THE VIRTUAL CHARTER SCHOOL** 43 **PILOT PROGRAM**

44 **SECTION 4.1.** Section 8.35(b) of S.L. 2014-100, as amended by Section 7.13 of
45 S.L. 2018-5, reads as rewritten:

46 "**SECTION 8.35.(b)** The virtual charter schools participating in the pilot program authorized
47 by this section shall be subject to the statutes and rules applicable to charter schools pursuant to
48 Article 14A of Chapter 115C of the General Statutes, except as follows:

- 49 (1) The maximum student enrollment in any participating school shall be no
50 greater than 1,500 in its first year of operation and may increase annually by
51 twenty percent (20%) for each participating school ~~up to a maximum student~~

1 ~~enrollment of 2,592 in the fourth year of the pilot school.~~ The State Board of
2 Education may ~~waive this maximum student enrollment threshold, beginning~~
3 ~~in the fourth year of the school's operation,~~ allow a participating school to
4 increase student enrollment by greater than twenty percent (20%) for any year
5 of the school's operation, if the State Board determines that doing so would be
6 in the best interest of North Carolina students. A participating school that has
7 been placed under monthly compliance monitoring by the Charter School
8 Advisory Board or the State Board as a result of a material change to its charter
9 shall be required to receive State Board approval for any enrollment increase.

10 (2) The maximum overall ratio of teachers to students for kindergarten through
11 eighth grade shall be 1:50, and for ninth through twelfth grade shall be 1:150.

12 (3) A student who regularly fails to participate in courses may be withdrawn from
13 enrollment pursuant to procedures adopted by the virtual charter school. The
14 procedures adopted by the virtual charter school shall ensure that (i) fair notice
15 is provided to the parent and student and (ii) an opportunity is provided, prior
16 to withdrawal of the student by the school, for the student and parent to
17 demonstrate that failure to participate in courses is due to a lawful absence
18 recognized under Part I of Article 26 of Chapter 115C of the General Statutes
19 and any applicable rules adopted by the State Board of Education."

20 **SECTION 4.2.** This Part applies beginning with the 2019-2020 school year.

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22 **PART V. EFFECTIVE DATE**

23 **SECTION 5.** This act is effective when it becomes law.