SENATE BILL 337:
NC Public Charter School Board

2013-2014 General Assembly

Committee:	Senate Re-ref to Finance. If fav, re-ref to Appropriations/Base Budget	**Date:**	April 10, 2013
Introduced by:	Sens. Tillman, Soucek	**Prepared by:**	Drupti Chauhan
Analysis of:	Second Edition		Committee Counsel

SUMMARY: Senate Bill 337 creates a new North Carolina Public Charter Schools Board to approve and monitor charter schools and makes other changes to the charter school laws.

BILL ANALYSIS:

Section 1

Current Law: Part 6A of Article 16 of Chapter 115C establishes charter schools and provides that the State Board of Education is the entity that oversees charter schools in the State by granting final approval of charter schools, monitoring the schools, and revoking charters. Charter schools are prohibited from receiving State monies for obtaining any interest in real property or mobile classroom units other than leases.

Analysis:

115C-238.29A1 – Creates North Carolina Public Charter Schools Board (Charter Board)

- The Charter Board would operate independent of the State Board of Education (SBE) but the SBE would have the authority to veto within 45 days, by a ¾ vote, any action adopted by vote of the Charter Board.
- The Charter Board would have 11 voting members. The Superintendent of Public Instruction would be a nonvoting member and secretary of the Charter Board. 9 members would be appointed by the Governor and the General Assembly. The Lieutenant Governor and State Treasurer would also serve as voting members.
- The Charter Board would have the following powers and duties: to provide technical assistance to charter schools and applicants; adopt rules under Chapter 150B of the General Statutes on all aspects of charter schools; oversee the charter application process and approve charter schools; monitor existing charter schools, and take any actions regarding charter schools including renewals, nonrenewals, and revocations of charters.

115C-238.29B – Eligible Applicants and Submission of Applications for Approval

- Only nonprofit corporations would be able to apply to the Charter Board to establish a charter school.
- The option to obtain preliminary approval from a chartering entity such as a local board of education or UNC constituent institution would be repealed.
- An applicant would no longer have to submit a copy of its charter school application to the local board of education of the local school administrative unit (LEA) in which the charter school would be located and the Charter Board would not have to consider any information received from the local board of education regarding the charter application.
- The Charter Board would establish reasonable fees for initial and renewal charter applications under Chapter 150B of the General Statutes. The fees would be placed in the "Charter Application Fund" and be used by the Charter Board for the administration of Part 6A of Article 16 of Chapter 115C.
- Application fees would not be refunded in the event the application is rejected or the charter is revoked.

115C-238.29C – Preliminary Approval of Applications for Charter Schools

- This section would be repealed.

115C-238.29D – Final Approval of Applications for Charter Schools

- Recodifies the requirement that in order to grant approval, the Charter Board must find that the applicant has the ability to operate the school and would do so in an educationally and economically sound manner.
- The Charter Board would be encouraged to give preference to applications that show the capacity to provide learning experiences for students identified at risk of academic failure.
- In approving enrollment growth for existing charter schools, the Charter Board would not have to find that the local board of education of the LEA in which the charter is located has had an opportunity to be heard on any adverse impact the proposed enrollment growth of the charter would have on the LEA's ability to provide a sound basic education to its students.

115C-238.29E – Charter School Operations

- Charter schools would not be able to agree to be accountable to the local board of education of the LEA in which the charter is located rather than the Charter Board.
- At the request of a charter school, the local board of education of the LEA in which the charter is located would be required to lease an available building or land to the charter school for $1.00 per year unless it can show the lease is not economically or practically feasible or that it needs the space for its own enrollment needs.

115C-238.29F – General Requirements

Employees

- The bill would remove the requirement that sets out that certain percentages of teachers employed in charter schools must hold teaching licenses.
- Each charter school board of directors would be required to adopt a policy on whether and under what circumstances an applicant for employment must be given a criminal background check before the person is given an unconditional job offer.

Admissions Requirements

- If a charter school must conduct a lottery for admission and multiple siblings apply, then the school would enter one surname for all of the siblings and admit them all of the surname is selected. Under current law, the one surname requirement applies only to multiple birth siblings.
- Charter schools must make efforts to reasonably reflect the racial and ethnic composition of the LEA in which it is located or the special population that the school seeks to serve that is residing in the LEA.

Assets

- If the charter school is dissolved or its charter is not renewed, all net assets purchased with public funds would become property of State and returned to the General Fund rather than the LEA in which the charter is located.

115C-238.29G – Nonrenewal or Termination of Charters

- The Charter Board would be able to terminate, not renew, or find applicants to assume the charter through a competitive bid process established by the Charter Board upon the grounds listed in the statute. The Charter Board would develop rules on the assumption of the charter that cover all aspects of the operation of the charter including the status of the employees. Public assets would transfer to the new entity.

115C-238.29H – Local Funds for Charter Schools

- The bill would provide that the per pupil share of the local current expense fund must be transferred to the charter school within 30 days of the receipt of monies into the local current expense fund.
- An LEA would be required to provide to each charter school it transfers a per pupil share of its local current expense fund the following information within the 30 day time period:
  - The total amount of monies the LEA has in each of the funds listed in G.S. 115C-426(c) such as reimbursements, fees for actual costs, tuition, sales tax refunds, etc.
  - The student membership numbers used to calculate the per pupil share of the local current expense fund.
  - How the per pupil share of the local current expense fund was calculated.
- In actions to enforce the provisions of the transfer of local funds, courts must award the prevailing party reasonable attorneys' fees and costs plus interest from and after the date that the monies should have been paid to the charter school. Monies would have to be paid in full within 3 years of the judgment.

115C-238.29H – Review of Charter Schools

- The bill would repeal language that provided that the SBE may establish a Charter School Advisory Committee and what the duties of that Advisory Committee could be.
- The bill would also repeal language that provides that final approval of charter schools must be granted by the SBE by March 15 of each calendar year.

115C-238.29J – Public and private assistance to charter schools

- The bill would repeal this section which provides that (i) local boards of education can provide support to charter schools within their LEAs; (ii) private persons and entities are encouraged to provide funds and help to charter schools; (iii) the SBE direct the Department of Public Instruction (DPI) to provide guidance and assistance to charter applicants; and (iv) the SBE direct DPI to notify the Department of Revenue when a charter is terminated, nonrenewed, or not granted.

115C-238.29K – Criminal History Checks conducted by the SBE

- This section would be repealed.

Section 2 – Uniform Budget Format

Current Law: The Uniform Budget Format allows LEAs to have other funds to account for reimbursements, fees for actual costs, tuition, sales tax revenues distributed through ad valorem taxes, sales tax refunds, gifts and grants restricted as to use, trust funds, federal appropriations made to LEAs and funds for prekindgarten programs and special programs.

Analysis:

- The bill would eliminate the fund for "special programs".
- The bill would add language that provides that special funds of individual schools would not be included as a part of the local current expense fund of an LEA for determining the per pupil share of the local current expense fund to be transferred to a charter school.

Section 3 – Property Taxes

Current Law: Certain real property is exempted from property taxes if all of the following are met:

1. It is owned by an educational institution or a nonprofit entity for the sole benefit of a constituent or affiliated institution of The University of North Carolina, certain nonprofit postsecondary educational institution, a North Carolina community college, or a combination of these.
2. The owner is not organized or operated for profit and no officer, shareholder, member, or employee of the owner or any other person is entitled to receive pecuniary profit from the owner's operations except reasonable compensation for services.
3. The use is of a kind commonly employed in the performance of those activities naturally and properly incident to the operation of an educational institution such as the owner.
4. The property is wholly and exclusively used for educational purposes by the owner or occupied gratuitously by another nonprofit educational institution and wholly and exclusively used by the occupant for nonprofit educational purposes.

Analysis: The bill would modify the 4th requirement for exemption from taxation by stating that the exemption would apply if it is wholly and exclusively used for educational purposes by a charter school even if the charter school is not the owner of the building.

Sections 4 and 5 – Conforming Changes in Retirement Statutes

Analysis: These sections would make conforming changes in the retirement statutes to ensure that the correct entity is referenced.

Section 6 – Initial Appointments the Charter Board

Analysis: Provides for the phase-in of members on the Charter Board.

EFFECTIVE DATE: The bill would become effective when it becomes law. The provision providing for attorneys fees in actions to enforce the transfer of monies in local current expense funds would apply to proceedings commenced on or after the effective date of the act.