

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 458
Committee Substitute Favorable 4/24/97

Short Title: Charter School Amendments/AB.

(Public)

Sponsors:

Referred to:

March 10, 1997

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER SCHOOL ACT OF 1996 TO ELIMINATE THE REQUIREMENT THAT CHARTER SCHOOLS BE OPERATED BY PRIVATE NONPROFIT CORPORATIONS AND TO MAKE THAT OPERATION OPTIONAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-238.29B reads as rewritten:

"§ 115C-238.29B. Eligible applicants; contents of applications; submission of applications for approval.

(a) Any person, group of persons, or nonprofit corporation seeking to establish a charter school within a local school administrative unit may apply to establish a charter school on behalf of a private nonprofit corporation school. If the applicant seeks to convert a public school to a charter school, the application shall include a statement signed by a majority of the teachers and instructional support personnel currently employed at the school indicating that they favor the conversion and evidence that a significant number of parents of children enrolled in the school favor conversion.

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

(1) A description of a program that implements one or more of the purposes in G.S. 115C-238.29A.

- 1 (2) A description of student achievement goals for the school's educational
2 program and the method of demonstrating that students have attained
3 the skills and knowledge specified for those student achievement goals.
- 4 (3) The governance structure of the school including the process to be
5 followed by the school to ensure parental involvement.
- 6 (4) Admission policies and procedures.
- 7 (5) A proposed budget for the school and evidence that the plan for the
8 school is economically sound.
- 9 (6) Requirements and procedures for program and financial audits.
- 10 (7) A description of how the school will comply with G.S. 115C-238.29F.
- 11 (8) Types and amounts of insurance coverage, including bonding insurance
12 for the principal officers of the school, to be obtained by the charter
13 school.
- 14 (9) The term of the contract.
- 15 (10) The qualifications required for individuals employed by the school.
- 16 (11) The procedures by which students can be excluded from the charter
17 school and returned to a public school. Notwithstanding any law to the
18 contrary, any local board may refuse to admit any student who is
19 suspended or expelled from a charter school due to actions that would
20 lead to suspension or expulsion from a public school under G.S. 115C-
21 391 until the period of suspension or expulsion has expired.
- 22 (12) The number of students to be served, which number shall be at least 65,
23 and the minimum number of teachers to be employed at the school,
24 which number shall be at least three. However, the charter school may
25 serve fewer than 65 students or employ fewer than three teachers if the
26 application contains a compelling reason, such as the school would
27 serve a geographically remote and small student population.
- 28 (13) Information regarding the facilities to be used by the school and the
29 manner in which administrative services of the school are to be
30 provided.
- 31 (14) A description of whether the school will ~~operate~~ be operated by a private
32 nonprofit corporation independently of the local board of education or
33 whether it ~~agrees to be subject to some supervision and control of its~~
34 ~~administrative operations by the local board of education.~~ will be operated
35 by a board of directors, the membership of which shall be approved by
36 the chartering entity. In the event the charter school elects to operate
37 independently of the local board of education, the application must
38 specify which employee benefits will be offered to its employees and
39 how the benefits will be funded.
- 40 (c) An applicant shall submit the application to a chartering entity for preliminary
41 approval. A chartering entity may be:
- 42 (1) The local board of education of the local school administrative unit in
43 which the charter school will be located;

1 (2) The board of trustees of a constituent institution of The University of
2 North Carolina, so long as the constituent institution is involved in the
3 planning, operation, or evaluation of the charter school; or

4 (3) The State Board of Education.

5 Regardless of which chartering entity receives the application for preliminary
6 approval, the State Board of Education shall have final approval of the charter school."

7 Section 2. G.S. 115C-238.29D(d) reads as rewritten:

8 "(d) The State Board of Education may grant a charter for a period not to exceed
9 five years and may renew the charter upon the request of the chartering entity for
10 subsequent periods not to exceed five years each. A material revision of the provisions of
11 a charter application shall be made only upon the approval of the State Board of
12 Education. Nonrenewal of a charter operated by a board of directors whose members are
13 approved by the chartering entity shall constitute a termination of that board of directors."

14 Section 3. G.S. 115C-238.29E(b) reads as rewritten:

15 "(b) A charter school shall be operated ~~by a private nonprofit corporation that shall~~
16 ~~have received federal tax exempt status no later than 24 months following final approval~~
17 ~~of the application.~~ in one of the following ways:

18 (1) By a private, nonprofit corporation that receives federal tax-exempt
19 status no later than 24 months after final approval of the application; or

20 (2) By a board of directors whose members are approved by the chartering
21 entity. The board of directors shall be composed of no more than 25
22 members. The initially proposed members shall serve terms no longer
23 than the length of the charter granted by the State Board. Subsequently
24 proposed members shall serve terms no longer than five years. No
25 member may serve more than two full terms. Appointments to the
26 board of directors, including those necessary to fill vacancies, shall be
27 recommended by the current board of directors and approved by the
28 chartering entity.

29 In the event a charter school receives final approval from the State Board of
30 Education by March 31, 1997, the State Board shall provide the opportunity for the
31 school to be operated by a board of directors whose members are approved by the
32 chartering entity."

33 Section 4. G.S. 115C-238.29F reads as rewritten:

34 "**§ 115C-238.29F. General requirements.**

35 (a) Health and Safety Standards. – A charter school shall meet the same health and
36 safety requirements required of a local school administrative unit.

37 (b) School Nonsectarian. – A charter school shall be nonsectarian in its programs,
38 admission policies, employment practices, and all other operations and shall not charge
39 tuition. A charter school shall not be affiliated with a nonpublic sectarian school or a
40 religious institution.

41 (c) Civil Liability and Insurance. –

- 1 (1) The board of directors of a charter school may sue and be sued. The
2 board of directors shall obtain at least the amount of and types of
3 insurance required by the contract.
- 4 (2) No civil liability shall attach to any chartering entity, to the State Board
5 of Education, or to any of their members or employees, individually or
6 collectively, for any acts or omissions of the charter school. In the event
7 a charter school ~~has not elected total independence from the local board of~~
8 ~~education under subsection (e) of this section,~~ is operated by a board of
9 directors approved by the chartering entity, the immunity established by
10 this subsection shall be deemed to have been waived to the extent of
11 indemnification by insurance, indemnification under Articles 31A and
12 31B of Chapter 143 of the General Statutes, and to the extent sovereign
13 immunity is waived under the Tort Claims Act, as set forth in Article 31
14 of Chapter 143 of the General Statutes.
- 15 (d) Instructional Program. –
- 16 (1) The school shall provide instruction each year for at least 180 days.
- 17 (2) The school shall design its programs to at least meet the student
18 performance standards adopted by the State Board of Education and the
19 student performance standards contained in the contract with the local
20 board of education.
- 21 (3) A charter school shall conduct the student assessments required for
22 charter schools by the State Board of Education.
- 23 (4) The school shall comply with policies adopted by the State Board of
24 Education for charter schools relating to the education of children with
25 special needs.
- 26 (5) The school is subject to and shall comply with Article 27 of Chapter
27 115C of the General Statutes; except that a charter school may also
28 exclude a student from the charter school and return that student to
29 another school in the local school administrative unit in accordance with
30 the terms of its contract.
- 31 (e) Employees. –
- 32 (1) An employee of a charter school is not an employee of the local school
33 administrative unit in which the charter school is located. The charter
34 school's board of directors shall employ and contract with necessary
35 teachers to perform the particular service for which they are employed
36 in the school; at least seventy-five percent (75%) of these teachers in
37 grades kindergarten through five, at least fifty percent (50%) of these
38 teachers in grades six through eight, and at least fifty percent (50%) of
39 these teachers in grades nine through 12 shall hold teacher certificates.
40 The board also may employ necessary employees who are not required
41 to hold teacher certificates to perform duties other than teaching and
42 may contract for other services. The board may discharge teachers and
43 noncertificated employees. In the event a charter school is operated by a

1 board of directors approved by the chartering entity, all employment
2 decisions, including hiring and firing of employees of the charter
3 school, shall be approved by the chartering entity upon the
4 recommendation of the board of directors.

5 (2) No local board of education shall require any employee of the local
6 school administrative unit to be employed in a charter school.

7 (3) If a teacher employed by a local school administrative unit makes a
8 written request for an extended leave of absence to teach at a charter
9 school, the local school administrative unit shall grant the leave. The
10 local school administrative unit shall grant a leave for any number of
11 years requested by the teacher, shall extend the leave for any number of
12 years requested by the teacher, and shall extend the leave at the teacher's
13 request. The local school administrative unit may require that the
14 request for a leave or extension of leave be made up to 90 days before
15 the teacher would otherwise have to report for duty. A teacher who has
16 career status under G.S. 115C-325 prior to receiving an extended leave
17 of absence to teach at a charter school may return to a public school in
18 the local school administrative unit with career status at the end of the
19 leave of absence or upon the end of employment at the charter school if
20 an appropriate position is available. If an appropriate position is
21 unavailable, the teacher's name shall be placed on a list of available
22 teachers and that teacher shall have priority on all positions for which
23 that teacher is qualified in accordance with G.S. 115C-325(e)(2).

24 (4) ~~In the event a charter school, in its application, elects total independence~~
25 ~~from the local board of education, school is operated by a private nonprofit~~
26 ~~corporation,~~ its employees shall not be deemed to be employees of the
27 local school administrative unit and shall not be entitled to any State-
28 funded employee benefits, including membership in the North Carolina
29 Teachers' and State Employees' Retirement System or the Teachers' and
30 State Employees' Comprehensive Major Medical Plan. In the event a
31 ~~charter school, in its application, agrees to be subject to some supervision and~~
32 ~~control of its administrative operations by the local board of education,~~
33 ~~school is operated by a board of directors approved by the chartering~~
34 ~~entity,~~ the employees of the charter school will be deemed employees of
35 the local school administrative unit for purposes of providing certain
36 State-funded employee benefits, including membership in the Teachers'
37 and State Employees' Retirement System and the Teachers' and State
38 Employees' Comprehensive Major Medical Plan. ~~The Board of Trustees~~
39 ~~of the Teachers' and State Employees' Retirement System, in consultation with~~
40 ~~the State Board of Education, shall determine the degree of supervision and~~
41 ~~control necessary to qualify the employees of the applicant for membership in~~
42 ~~the Retirement System.~~ In no event shall anything contained in this Part
43 require the North Carolina Teachers' and State Employees' Retirement

- 1 System to accept employees of a private employer as members or
2 participants of the System.
- 3 (f) Accountability. –
- 4 (1) The school is subject to the financial audits, the audit procedures, and
5 the audit requirements adopted by the State Board of Education for
6 charter schools.
- 7 (2) The school shall comply with the reporting requirements established by
8 the State Board of Education in the Uniform Education Reporting
9 System.
- 10 (3) The school shall report at least annually to the chartering entity and the
11 State Board of Education the information required by the chartering
12 entity or the State Board.
- 13 (g) Admission Requirements. –
- 14 (1) Any child who is qualified under the laws of this State for admission to
15 a public school is qualified for admission to a charter school.
- 16 (2) No local board of education shall require any student enrolled in the
17 local school administrative unit to attend a charter school.
- 18 (3) Admission to a charter school shall not be determined according to the
19 school attendance area in which a student resides, except that any local
20 school administrative unit in which a public school converts to a charter
21 school shall give admission preference to students who reside within the
22 former attendance area of that school.
- 23 (4) Admission to a charter school shall not be determined according to the
24 local school administrative unit in which a student resides, except that
25 the provisions of G.S. 115C-366(d) shall apply to a student who wishes
26 to attend a charter school in a county other than the county in which the
27 student resides.
- 28 (5) A charter school shall not discriminate against any student on the basis
29 of ethnicity, national origin, gender, or disability. Except as otherwise
30 provided by law or the mission of the school as set out in the contract,
31 the school shall not limit admission to students on the basis of
32 intellectual ability, measures of achievement or aptitude, athletic ability,
33 disability, race, creed, gender, national origin, religion, or ancestry.
34 Within one year after the charter school begins operation, the population
35 of the school shall reasonably reflect the racial and ethnic composition
36 of the general population residing within the local school administrative
37 unit in which the school is located or the racial and ethnic composition
38 of the special population that the school seeks to serve residing within
39 the local school administrative unit in which the school is located. The
40 school shall be subject to any court-ordered desegregation plan in effect
41 for the local school administrative unit.
- 42 (6) The school shall enroll an eligible student who submits a timely
43 application, unless the number of applications exceeds the capacity of a

1 program, class, grade level, or building. In this case, students shall be
2 accepted by lot.

3 (7) Notwithstanding any law to the contrary, a charter school may refuse
4 admission to any student who has been expelled or suspended from a
5 public school under G.S. 115C-391 until the period of suspension or
6 expulsion has expired.

7 (h) Transportation. – The charter school shall provide transportation for students
8 enrolled at the school who reside in the local school administrative unit in which the
9 school is located. The charter school may provide transportation for students enrolled at
10 the school who reside in different local school administrative units.

11 (i) Assets. – Upon dissolution of the charter school or upon the nonrenewal of the
12 charter, all assets of the charter school shall be deemed the property of the local school
13 administrative unit in which the charter school is located."

14 Section 5. This act is effective when it becomes law.