

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 337
Education/Higher Education Committee Substitute Adopted 4/3/13

Short Title: NC Public Charter School Board.

(Public)

Sponsors:

Referred to:

March 19, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE THE NORTH CAROLINA PUBLIC CHARTER SCHOOLS BOARD
3 AND MAKE OTHER CHANGES TO CHARTER SCHOOL LAWS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.(a)** Article 16 of Chapter 115C of the General Statutes is amended by
6 adding a new section to read:

7 **"§ 115C-238.29A1. North Carolina Public Charter Schools Board established.**

8 (a) Creation. – There is created the North Carolina Public Charter Schools Board,
9 hereinafter referred to in this Part as the Charter Board. The Charter Board shall be located
10 administratively within the Department of Public Instruction but shall exercise its powers and
11 duties independently of the State Board of Education and Department of Public Instruction,
12 except as provided in this section.

13 (b) Purpose. – The purpose of the Charter Board is to authorize and oversee
14 high-quality public charter schools throughout the State, consistent with the purposes of this
15 Part, and to exercise authority for approval of any charter applicant.

16 (c) Membership. – The State Superintendent of Public Instruction shall be the secretary
17 of the Charter Board and a nonvoting member. The Charter Board shall consist of the following
18 11 voting members:

19 (1) Three members appointed by the Governor.

20 (2) Three members appointed by the General Assembly upon the
21 recommendation of the President Pro Tempore of the Senate, in accordance
22 with G.S. 120-121.

23 (3) Three members appointed by the General Assembly upon the
24 recommendation of the Speaker of the House of Representatives, in
25 accordance with G.S. 120-121.

26 (4) The State Treasurer or the Treasurer's designee.

27 (5) The Lieutenant Governor or the Lieutenant Governor's designee.

28 (d) Qualifications of Members. – Members appointed to the Charter Board shall
29 collectively possess strong experience and expertise in public and nonprofit governance,
30 management and finance, public school leadership, assessment, curriculum and instruction,
31 public charter schools, and public education law. All appointed members of the Charter Board
32 shall have demonstrated an understanding of and a commitment to charter schools as a strategy
33 for strengthening public education.

34 (e) Terms of Office and Vacancy Appointments. – Appointed members shall serve
35 four-year terms of office beginning on July 1. No appointed member shall serve more than



1 eight consecutive years. Vacancy appointments shall be made by the appointing authority for
2 the remainder of the term of office.

3 (f) Officers. – The Charter Board shall annually elect a chair and a vice-chair from
4 among its membership. In the absence of the chair, the vice-chair shall preside over the Charter
5 Board's meetings. A majority of the Charter Board constitutes a quorum. The Charter Board
6 shall adopt rules to govern its proceedings.

7 (g) Meetings. – Meetings of the Charter Board shall be held upon the call of the chair or
8 the vice-chair with the approval of the chair.

9 (h) Expenses. – Members of the Charter Board shall be reimbursed for travel and
10 subsistence expenses at the rates allowed to State officers and employees by G.S. 138-6(a).

11 (i) Removal. – Any appointed member of the Charter Board may be removed by a vote
12 of at least two-thirds of the members of the Charter Board at any duly held meeting for any
13 cause that renders the member incapable or unfit to discharge the duties of the office.

14 (j) Office of Charter Schools. – The Office of Charter Schools shall be the principal
15 administrative unit under the direction of the Charter Board. The Department of Public
16 Instruction shall provide staff, offices, office equipment, and meeting space to the Charter
17 Board and Office of Charter Schools.

18 (k) Powers and Duties. – The Charter Board shall have the following duties:

19 (1) To provide technical assistance, through the Office of Charter Schools and
20 the Department of Public Instruction, to charter school applicants and to
21 charter schools that are approved under this Part.

22 (2) To adopt rules in accordance with Article 2A of Chapter 150B of the
23 General Statutes regarding all aspects of charter school operation, including
24 time lines, standards, and criteria for acceptance and approval of
25 applications, monitoring of charter schools, and grounds for revocation of
26 charters.

27 (3) To oversee the process for accepting and approving applications for charters
28 and to make final approval of charter applications.

29 (4) To oversee the process for monitoring the operation of charter schools with
30 the assistance and counsel of staff from the Department of Public
31 Instruction.

32 (5) To take any actions regarding a charter school, including renewals of
33 charters, nonrenewals of charters, and revocation of charters.

34 (6) To undertake any duties and responsibilities consistent with the above
35 powers and duties and incident thereto.

36 (l) The State Board shall have the authority to veto by a three-fourths vote any action
37 adopted by vote of the Charter Board if the State Board's veto vote is taken within 45 days of
38 the date the Charter Board voted to adopt the action."

39 **SECTION 1.(b)** G.S. 115C-238.29B reads as rewritten:

40 **"§ 115C-238.29B. Eligible applicants; contents of applications; submission of applications**
41 **for approval.**

42 (a) Any ~~person, group of persons, or~~ nonprofit corporation seeking to establish a charter
43 school may apply to the Charter Board to establish a charter school. If the applicant seeks to
44 convert a public school to a charter school, the application shall include a statement signed by a
45 majority of the teachers and instructional support personnel currently employed at the school
46 indicating that they favor the conversion and evidence that a significant number of parents of
47 children enrolled in the school favor conversion.

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

49 (1) A description of a program that implements one or more of the purposes in
50 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 the
- 3 skills and knowledge specified for those student achievement goals.
- 4 (3) The governance structure of the school including the names of the proposed
- 5 initial members of the board of directors of the nonprofit, tax-exempt
- 6 corporation and the process to be followed by the school to ensure parental
- 7 involvement.
- 8 (3a) The local school administrative unit in which the school will be located.
- 9 (4) Admission policies and procedures.
- 10 (5) A proposed budget for the school and evidence that the financial plan for the
- 11 school is economically sound.
- 12 (6) Requirements and procedures for program and financial audits.
- 13 (7) A description of how the school will comply with G.S. 115C-238.29F.
- 14 (8) Types and amounts of insurance coverage, including bonding insurance for
- 15 the principal officers of the school, to be obtained by the charter school.
- 16 (9) The term of the charter.
- 17 (10) The qualifications required for individuals employed by the school.
- 18 (11) The procedures by which students can be excluded from the charter school
- 19 and returned to a public school. Notwithstanding any law to the contrary,
- 20 any local board may refuse to admit any student who is suspended or
- 21 expelled from a charter school due to actions that would lead to suspension
- 22 or expulsion from a public school under G.S. 115C-390.5 through
- 23 G.S. 115C-390.11 until the period of suspension or expulsion has expired.
- 24 (12) The number of students to be served, which number shall be at least 65, and
- 25 the minimum number of teachers to be employed at the school, which
- 26 number shall be at least three. However, the charter school may serve fewer
- 27 than 65 students or employ fewer than three teachers if the application
- 28 contains a compelling reason, such as the school would serve a
- 29 geographically remote and small student population.
- 30 (13) Information regarding the facilities to be used by the school and the manner
- 31 in which administrative services of the school are to be provided.
- 32 (14) Repealed by Session Laws 1997-430, s. 1.

33 ~~(e) An applicant shall submit the application to a chartering entity for preliminary~~
34 ~~approval. A chartering entity may be:~~

- 35 ~~(1) The local board of education of the local school administrative unit in which~~
- 36 ~~the charter school will be located;~~
- 37 ~~(2) The board of trustees of a constituent institution of The University of North~~
- 38 ~~Carolina, so long as the constituent institution is involved in the planning,~~
- 39 ~~operation, or evaluation of the charter school; or~~
- 40 ~~(3) The State Board of Education.~~

41 ~~Regardless of which chartering entity receives the application for preliminary approval, the~~
42 ~~State Board of Education shall have final approval of the charter school.~~

43 ~~Notwithstanding the provisions of this subsection, if the State Board of Education finds that~~
44 ~~an applicant (i) submitted an application to a local board of education and received final~~
45 ~~approval from the State Board of Education, but (ii) is unable to find a suitable location within~~
46 ~~that local school administrative unit to operate, the State Board of Education may authorize the~~
47 ~~charter school to operate within an adjacent local school administrative unit for one year only.~~
48 ~~The charter school cannot operate for more than one year unless it reapplies, in accordance with~~
49 ~~subdivision (1), (2), or (3) of this subsection, and receives final approval from the State Board~~
50 ~~of Education.~~

1 (d) ~~Unless an applicant submits its application under subsection (c) of this section to the~~
2 ~~local board of education of the local school administrative unit in which the charter school will~~
3 ~~be located, the applicant shall submit a copy of its application to that local board within seven~~
4 ~~days of its submission under subsection (c) of this section. The local board may offer any~~
5 ~~information or comment concerning the application it considers appropriate to the chartering~~
6 ~~entity. The local board shall deliver this information to the chartering entity no later than~~
7 ~~January 1 of the next calendar year. The applicant shall not be required to obtain or deliver this~~
8 ~~information to the chartering entity on behalf of the local board. The State Board shall consider~~
9 ~~any information or comment it receives from a local board and shall consider the impact on the~~
10 ~~local school administrative unit's ability to provide a sound basic education to its students when~~
11 ~~determining whether to grant preliminary and final approval of the charter school.~~

12 (e) The Charter Board shall establish reasonable fees for initial and renewal charter
13 applications in accordance with Article 2A of Chapter 150B of the General Statutes. The fees
14 collected under this section shall be placed in a special fund to be designated the "Charter
15 Application Fund" and shall be used under the supervision and direction of the Charter Board
16 for the administration of this Part. No application fee shall be refunded in the event the
17 application is rejected or the charter is revoked."

18 **SECTION 1.(c)** G.S. 115C-238.29C is repealed.

19 **SECTION 1.(d)** G.S. 115C-238.29D reads as rewritten:

20 **"§ 115C-238.29D. Final approval of applications for charter schools.**

21 (a) ~~The State Charter Board may grant final approval of an application if it finds (i) that~~
22 ~~the application meets the requirements set out in this Part ~~or~~ and such other requirements as may~~
23 ~~be adopted by the State Board of Education Charter Board, (ii) that the applicant has the ability~~
24 ~~to operate the school and would be likely to operate the school in an educationally and~~
25 ~~economically sound manner, and (iii) that granting the application would achieve one or more~~
26 ~~of the purposes set out in G.S. 115C-238.29A. The State Board shall act by March 15 of a~~
27 ~~calendar year on all applications and appeals it receives prior to February 15 of that calendar~~
28 ~~year. In reviewing applications for the establishment of charter schools within a local school~~
29 ~~administrative unit, the Charter Board is encouraged to give preference to applications that~~
30 ~~demonstrate the capability to provide comprehensive learning experiences to students identified~~
31 ~~by the applicants as at risk of academic failure.~~

32 (b) Repealed by Session Laws 2011-164, s. 2(a), effective July 1, 2011.

33 (c) ~~The State Charter Board of Education may authorize a school before the applicant~~
34 ~~has secured its space, equipment, facilities, and personnel if the applicant indicates the~~
35 ~~authority is necessary for it to raise working capital. The State Board Funds shall not allocate~~
36 ~~any funds be allocated to the school until the school has obtained space.~~

37 (d) ~~The State Charter Board of Education may grant the initial charter for a period not~~
38 ~~to exceed 10 years and may renew the charter upon the request of the chartering entity charter~~
39 ~~school for subsequent periods not to exceed 10 years each. The State Charter Board of~~
40 ~~Education shall review the operations of each charter school at least once every five years to~~
41 ~~ensure that the school is meeting the expected academic, financial, and governance standards.~~

42 A material revision of the provisions of a charter application shall be made only upon the
43 approval of the ~~State Board of Education Charter Board.~~

44 It shall not be considered a material revision of a charter application and shall not require
45 the prior approval of the ~~State Charter Board~~ for a charter school to increase its enrollment
46 during the charter school's second year of operation and annually thereafter (i) by up to twenty
47 percent (20%) of the school's previous year's enrollment or (ii) in accordance with planned
48 growth as authorized in the charter. Other enrollment growth shall be considered a material
49 revision of the charter application, and the ~~State Charter Board~~ may approve such additional
50 enrollment growth of greater than twenty percent (20%) only if the ~~State Charter Board~~ finds
51 ~~that~~ all of the following:

- 1 (1) The actual enrollment of the charter school is within ten percent (10%) of its
2 maximum authorized ~~enrollment; enrollment.~~
- 3 (2) The charter school has commitments for ninety percent (90%) of the
4 requested maximum ~~growth; growth.~~
- 5 ~~(3) The board of education of the local school administrative unit in which the
6 charter school is located has had an opportunity to be heard by the State
7 Board of Education on any adverse impact the proposed growth would have
8 on the unit's ability to provide a sound basic education to its students;~~
- 9 (4) The charter school is not currently identified as
10 ~~low performing; low-performing.~~
- 11 (5) The charter school meets generally accepted standards of fiscal
12 ~~management; and management.~~
- 13 (6) It is otherwise appropriate to approve the enrollment growth."

14 **SECTION 1.(e)** G.S. 115C-238.29E reads as rewritten:

15 **"§ 115C-238.29E. Charter school operation.**

16 (a) A charter school that is approved by the State shall be a public school within the
17 local school administrative unit in which it is located. ~~It shall be accountable to the local board
18 of education if it applied for and received preliminary approval from that local board for
19 purposes of ensuring compliance with applicable laws and the provisions of its charter. All
20 other charter schools shall be accountable to the State Charter Board for ensuring compliance
21 with applicable laws and the provisions of their charters, except that any of these charter
22 schools may agree to be accountable to the local board of the school administrative unit in
23 which the charter school is located rather than to the State Board charters.~~

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

27 (c) A charter school shall operate under the written charter signed by the ~~entity to which
28 it is accountable under subsection (a) of this section Charter Board~~ and the applicant. A charter
29 school is not required to enter into any other contract. The charter shall incorporate the
30 information provided in the application, as modified during the charter approval process, and
31 any terms and conditions imposed on the charter school by the ~~State Charter Board of
32 Education~~. No other terms may be imposed on the charter school as a condition for receipt of
33 local funds.

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

36 (e) A charter school's specific location shall not be prescribed or limited by a local
37 board or other authority except a zoning authority. The school may lease space from a local
38 board of education or as is otherwise lawful in the local school administrative unit in which the
39 charter school is located. If a charter school leases space from a sectarian organization, the
40 charter school classes and students shall be physically separated from any parochial students,
41 and there shall be no religious artifacts, symbols, iconography, or materials on display in the
42 charter school's entrance, classrooms, or hallways. Furthermore, if a charter school leases space
43 from a sectarian organization, the charter school shall not use the name of that organization in
44 the name of the charter school.

45 ~~At Notwithstanding any other law, and at~~ the request of the charter school, the local board
46 of education of the local school administrative unit in which the charter school will be located
47 shall lease any available building or land to the charter school for one dollar (\$1.00) per year
48 unless the board demonstrates that the lease is not economically or practically feasible or that
49 the local board does not have adequate classroom space to meet its enrollment needs.
50 ~~Notwithstanding any other law, a local board of education may provide a school facility to a
51 charter school free of charge; however, If the local board of education provides the school~~

1 facility to a charter school for one dollar (\$1.00) per year, the charter school is responsible for
2 the maintenance of and insurance for the school facility.

3 (f) Except as provided in this Part and pursuant to the provisions of its charter, a charter
4 school is exempt from statutes and rules applicable to a local board of education or local school
5 administrative unit."

6 **SECTION 1.(f)** G.S. 115C-238.29F reads as rewritten:

7 "**§ 115C-238.29F. General requirements.**

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

15 The Department of Public Instruction shall also ensure that charter schools provide parents
16 and guardians with information about cervical cancer, cervical dysplasia, human
17 papillomavirus, and the vaccines available to prevent these diseases. This information shall be
18 provided at the beginning of the school year to parents of children entering grades five ~~through~~
19 through 12. This information shall include the causes and symptoms of these diseases, how
20 they are transmitted, how they may be prevented by vaccination, including the benefits and
21 possible side effects of vaccination, and the places where parents and guardians may obtain
22 additional information and vaccinations for their children.

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

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

30 (b) School Nonsectarian. – A charter school shall be nonsectarian in its programs,
31 admission policies, employment practices, and all other operations and shall not charge tuition
32 or fees, except that a charter school may charge any fees that are charged by the local school
33 administrative unit in which the charter school is located. A charter school shall not be
34 affiliated with a nonpublic sectarian school or a religious institution.

35 (c) Civil Liability and Insurance. –

36 (1) The board of directors of a charter school may sue and be sued. The ~~State~~
37 Charter Board of Education shall adopt rules to establish reasonable amounts
38 and types of liability insurance that the board of directors shall be required
39 by the charter to obtain. The board of directors shall obtain at least the
40 amount of and types of insurance required by these rules to be included in
41 the charter. Any sovereign immunity of the charter school, of the
42 organization that operates the charter school, or its members, officers, or
43 directors, or of the employees of the charter school or the organization that
44 operates the charter school, is waived to the extent of indemnification by
45 insurance.

46 (2) No civil liability shall attach to ~~any chartering entity,~~ the Charter Board, to
47 the State Board of Education, or to any of their members or employees,
48 individually or collectively, for any acts or omissions of the charter school.

49 (d) Instructional Program. –

50 (1) The school shall provide instruction each year for at least 185 days or 1,025
51 hours over nine calendar months.

- 1 (2) The school shall design its programs to at least meet the student performance
2 standards adopted by the State Board of Education and the student
3 performance standards contained in the charter.
4 (3) A charter school shall conduct the student assessments required ~~for charter~~
5 ~~schools~~ by the State Board of Education.
6 (4) The school is subject to and shall comply with Article 9 of Chapter 115C of
7 the General Statutes and The Individuals with Disabilities Education
8 Improvements Act, 20 U.S.C. § 1400, et seq., (2004), as amended.~~shall~~
9 ~~comply with policies adopted by the State Board of Education for charter~~
10 ~~schools relating to the education of children with disabilities.~~
11 (5) The school is subject to and shall comply with Article 27 of Chapter 115C of
12 the General Statutes, except that a charter school may also exclude a student
13 from the charter school and return that student to another school in the local
14 school administrative unit in accordance with the terms of its ~~charter.~~charter
15 after due process.
16 (d1) Reading Proficiency and Student Promotion. –
17 (1) Students in the third grade shall be retained if the student fails to
18 demonstrate reading proficiency by reading at or above the third grade level
19 as demonstrated by the results of the State-approved standardized test of
20 reading comprehension administered to third grade students. The charter
21 school shall provide reading interventions to retained students to remediate
22 reading deficiency, which may include 90 minutes of daily, uninterrupted,
23 evidence-based reading instruction, accelerated reading classes, transition
24 classes containing third and fourth grade students, and summer reading
25 camps.
26 (2) Students may be exempt from mandatory retention in third grade for good
27 cause but shall continue to receive instructional supports and services and
28 reading interventions appropriate for their age and reading level. Good cause
29 exemptions shall be limited to the following:
30 a. Limited English Proficient students with less than two years of
31 instruction in an English as a Second Language program.
32 b. Students with disabilities, as defined in G.S. 115C-106.3(1), whose
33 individualized education program indicates the use of alternative
34 assessments and reading interventions.
35 c. Students who demonstrate reading proficiency appropriate for third
36 grade students on an alternative assessment of reading
37 comprehension. The charter school shall notify the State Board of
38 Education of the alternative assessment used to demonstrate reading
39 proficiency.
40 d. Students who demonstrate, through a student reading portfolio,
41 reading proficiency appropriate for third grade students.
42 e. Students who have (i) received reading intervention and (ii)
43 previously been retained more than once in kindergarten, first,
44 second, or third grades.
45 (3) The charter school shall provide notice to parents and guardians when a
46 student is not reading at grade level. The notice shall state that if the
47 student's reading deficiency is not remediated by the end of third grade, the
48 student shall be retained unless he or she is exempt from mandatory
49 retention for good cause. Notice shall also be provided to parents and
50 guardians of any student who is to be retained under this subsection of the
51 reason the student is not eligible for a good cause exemption, as well as a

- 1 description of proposed reading interventions that will be provided to the
2 student to remediate identified areas of reading deficiency.
- 3 (4) The charter school shall annually publish on the charter school's Web site
4 and report in writing to the State Board of Education by September 1 of each
5 year the following information on the prior school year:
- 6 a. The number and percentage of third grade students demonstrating
7 and not demonstrating reading proficiency on the State-approved
8 standardized test of reading comprehension administered to third
9 grade students.
- 10 b. The number and percentage of third grade students not demonstrating
11 reading proficiency and who do not return to the charter school for
12 the following school year.
- 13 c. The number and percentage of third grade students who take and
14 pass the alternative assessment of reading comprehension.
- 15 d. The number and percentage of third grade students retained for not
16 demonstrating reading proficiency.
- 17 e. The number and percentage of third grade students exempt from
18 mandatory third grade retention by category of exemption as listed in
19 subdivision (2) of this subsection.
- 20 (e) 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 shall employ and contract with necessary teachers
24 to perform the particular service for which they are employed in the ~~school;~~
25 ~~at least seventy five percent (75%) of these teachers in grades kindergarten~~
26 ~~through five, at least fifty percent (50%) of these teachers in grades six~~
27 ~~through eight, and at least fifty percent (50%) of these teachers in grades~~
28 ~~nine through 12 shall hold teacher certificates. All teachers in grades six~~
29 ~~through 12 who are teaching in the core subject areas of mathematics,~~
30 ~~science, social studies, and language arts shall be college graduates.~~school.
31 The board also may employ necessary employees who are not required to
32 hold teacher ~~certificates~~ licenses to perform duties other than teaching and
33 may contract for other services. The board may discharge teachers and
34 noncertificated employees.
- 35 (2) No local board of education shall require any employee of the local school
36 administrative unit to be employed in a charter school.
- 37 (3) If a teacher employed by a local school administrative unit makes a written
38 request for a leave of absence to teach at a charter school, the local school
39 administrative unit shall grant the leave for one year. For the initial year of a
40 charter school's operation, the local school administrative unit may require
41 that the request for a leave of absence be made up to 45 days before the
42 teacher would otherwise have to report for duty. After the initial year of a
43 charter school's operation, the local school administrative unit may require
44 that the request for a leave of absence be made up to 90 days before the
45 teacher would otherwise have to report for duty. A local board of education
46 is not required to grant a request for a leave of absence or a request to extend
47 or renew a leave of absence for a teacher who previously has received a
48 leave of absence from that school board under this subdivision. A teacher
49 who has career status under G.S. 115C-325 prior to receiving a leave of
50 absence to teach at a charter school may return to a public school in the local
51 school administrative unit with career status at the end of the leave of

1 absence or upon the end of employment at the charter school if an
2 appropriate position is available. If an appropriate position is unavailable,
3 the teacher's name shall be placed on a list of available teachers and that
4 teacher shall have priority on all positions for which that teacher is qualified
5 in accordance with G.S. 115C-325(e)(2).

6 (4) The employees of the charter school shall be deemed employees of the local
7 school administrative unit for purposes of providing certain State-funded
8 employee benefits, including membership in the Teachers' and State
9 Employees' Retirement System and the State Health Plan for Teachers and
10 State Employees. The State Board of Education provides funds to charter
11 schools, and the Charter Board approves the original members of the boards
12 of directors of the charter schools, has the authority to grant, supervise, and
13 revoke charters, and demands full accountability from charter schools for
14 school finances and student performance. Accordingly, it is the
15 determination of the General Assembly that charter schools are public
16 schools and that the employees of charter schools are public school
17 employees. Employees of a charter school whose board of directors elects to
18 become a participating employer under G.S. 135-5.3 are "teachers" for the
19 purpose of membership in the North Carolina Teachers' and State
20 Employees' Retirement System. In no event shall anything contained in this
21 Part require the North Carolina Teachers' and State Employees' Retirement
22 System to accept employees of a private employer as members or
23 participants of the System.

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

26 (6) Each charter school board of directors shall adopt a policy on whether and
27 under what circumstances an applicant for employment shall be required to
28 be checked for a criminal history before the applicant is given an
29 unconditional job offer. Each charter school board of directors shall apply its
30 policy uniformly in requiring applicants for employment to be checked for a
31 criminal history. A charter school board of directors that requires a criminal
32 history check for an applicant may employ an applicant conditionally while
33 the board is checking the person's criminal history and making a decision
34 based on the results of the check.

35 (f) Accountability. –

36 (1) The school is subject to the financial audits, the audit procedures, and the
37 audit requirements adopted by the ~~State Charter Board of Education~~ for
38 charter schools. These audit requirements may include the requirements of
39 the School Budget and Fiscal Control Act.

40 (2) The school shall comply with the reporting requirements established by the
41 State Board of Education in the Uniform Education Reporting
42 ~~System~~ System, except that reports shall be made to the Charter Board as
43 well as the State Board of Education.

44 (3) The school shall report at least annually to the ~~chartering entity and the~~
45 ~~State Charter Board of Education~~ the information required by the ~~chartering~~
46 ~~entity or the State Charter~~ Board.

47 (g) Admission Requirements. –

48 (1) Any child who is qualified under the laws of this State for admission to a
49 public school is qualified for admission to a charter school.

50 (2) No local board of education shall require any student enrolled in the local
51 school administrative unit to attend a charter school.

- 1 (3) Admission to a charter school shall not be determined according to the
2 school attendance area in which a student resides, except that any local
3 school administrative unit in which a public school converts to a charter
4 school shall give admission preference to students who reside within the
5 former attendance area of that school.
- 6 (4) Admission to a charter school shall not be determined according to the local
7 school administrative unit in which a student resides.
- 8 (5) A charter school shall not discriminate against any student on the basis of
9 ethnicity, national origin, gender, or disability. Except as otherwise provided
10 by law or the mission of the school as set out in the charter, the school shall
11 not limit admission to students on the basis of intellectual ability, measures
12 of achievement or aptitude, athletic ability, disability, race, creed, gender,
13 national origin, religion, or ancestry. The charter school may give enrollment
14 priority to siblings of currently enrolled students who were admitted to the
15 charter school in a previous year and to children of the school's principal,
16 teachers, and teacher assistants. In addition, and only for its first year of
17 operation, the charter school may give enrollment priority to children of the
18 initial members of the charter school's board of directors, so long as (i) these
19 children are limited to no more than ten percent (10%) of the school's total
20 enrollment or to 20 students, whichever is less, and (ii) the charter school is
21 not a former public or private school. If multiple ~~birth~~-siblings apply for
22 admission to a charter school and a lottery is needed under
23 G.S. 115C-238.29F(g)(6), the charter school shall enter one surname into the
24 lottery to represent all of the multiple ~~birth~~-siblings. If that surname of the
25 multiple ~~birth~~-siblings is selected, then all of the multiple ~~birth~~-siblings shall
26 be admitted. Within one year after the charter school begins operation, the
27 population of the school shall make efforts to reasonably reflect the racial
28 and ethnic composition of the general population residing within the local
29 school administrative unit in which the school is located or the racial and
30 ethnic composition of the special population that the school seeks to serve
31 residing within the local school administrative unit in which the school is
32 located. The school shall be subject to any court-ordered desegregation plan
33 in effect for the local school administrative unit.
- 34 (6) During each period of enrollment, the charter school shall enroll an eligible
35 student who submits a timely application, unless the number of applications
36 exceeds the capacity of a program, class, grade level, or building. In this
37 case, students shall be accepted by lot. Once enrolled, students are not
38 required to reapply in subsequent enrollment periods.
- 39 (7) Notwithstanding any law to the contrary, a charter school may refuse
40 admission to any student who has been expelled or suspended from a public
41 school under G.S. 115C-390.5 through G.S. 115C-390.11 until the period of
42 suspension or expulsion has expired.
- 43 (h) Transportation. – The charter school may provide transportation for students
44 enrolled at the school. The charter school shall develop a transportation plan so that
45 transportation is not a barrier to any student who resides in the local school administrative unit
46 in which the school is located. The charter school is not required to provide transportation to
47 any student who lives within one and one-half miles of the school. At the request of the charter
48 school and if the local board of the local school administrative unit in which the charter school
49 is located operates a school bus system, then that local board may contract with the charter
50 school to provide transportation in accordance with the charter school's transportation plan to
51 students who reside in the local school administrative unit and who reside at least one and

1 one-half miles of the charter school. A local board may charge the charter school a reasonable
2 charge that is sufficient to cover the cost of providing this transportation. Furthermore, a local
3 board may refuse to provide transportation under this subsection if it demonstrates there is no
4 available space on buses it intends to operate during the term of the contract or it would not be
5 practically feasible to provide this transportation.

6 (i) Assets. – Upon dissolution of the charter school or upon the nonrenewal of the
7 charter, all net assets of the charter school purchased with public funds shall be deemed the
8 property of the ~~local school administrative unit in which the charter school is located.~~ State and
9 shall be returned to the General Fund.

10 (j) Driving Eligibility Certificates. – In accordance with rules adopted by the State
11 Board of Education, the designee of the school's board of directors shall do all of the following:

12 (1) Sign driving eligibility certificates that meet the conditions established in
13 G.S. 20-11.

14 (2) Obtain the necessary written, irrevocable consent from parents, guardians, or
15 emancipated juveniles, as appropriate, in order to disclose information to the
16 Division of Motor Vehicles.

17 (3) Notify the Division of Motor Vehicles when a student who holds a driving
18 eligibility certificate no longer meets its conditions.

19 (k) The Display of the United States and North Carolina Flags and the Recitation of the
20 Pledge of Allegiance. – A charter school shall (i) display the United States and North Carolina
21 flags in each classroom when available, (ii) require the recitation of the Pledge of Allegiance on
22 a daily basis, and (iii) provide age-appropriate instruction on the meaning and historical origins
23 of the flag and the Pledge of Allegiance. A charter school shall not compel any person to stand,
24 salute the flag, or recite the Pledge of Allegiance. If flags are donated or are otherwise
25 available, flags shall be displayed in each classroom.

26 (l) North Carolina School Report Cards. – A charter school shall ensure that the report
27 card issued for it by the State Board of Education receives wide distribution to the local press
28 or is otherwise provided to the public. A charter school shall ensure that the overall school
29 performance score and grade earned by the charter school for the current and previous four
30 school years is prominently displayed on the school Web site. If a charter school is awarded a
31 grade of D or F, the charter school shall provide notice of the grade in writing to the parent or
32 guardian of all students enrolled in that school."

33 **SECTION 1.(g)** G.S. 115C-238.29G reads as rewritten:

34 "**§ 115C-238.29G. Causes for nonrenewal or termination; disputes.**

35 (a) ~~The State Board of Education, or a chartering entity subject to the approval of the~~
36 ~~State Board of Education, Charter Board~~ may terminate or not renew a charter terminate, not
37 renew, or seek applicants to assume the charter through a competitive bid process established
38 by the Charter Board upon any of the following grounds:

39 (1) Failure to meet the requirements for student performance contained in the
40 charter;

41 (2) Failure to meet generally accepted standards of fiscal management;

42 (3) Violations of law;

43 (4) Material violation of any of the conditions, standards, or procedures set forth
44 in the charter;

45 (5) Two-thirds of the faculty and instructional support personnel at the school
46 request that the charter be terminated or not renewed; or

47 (6) Other good cause identified.

48 (a1) ~~The State Charter Board~~ shall adopt criteria for adequate performance by a charter
49 school and shall identify charter schools with inadequate performance. The criteria shall
50 include a requirement that a charter school which demonstrates no growth in student

1 performance and has annual performance composites below sixty percent (60%) in any two
2 years in a three-year period is inadequate.

3 (1) If a charter school is inadequate in the first five years of the charter, the
4 charter school shall develop a strategic plan to meet specific goals for
5 student performance that are consistent with ~~State-Charter~~ Board criteria and
6 the mission approved in the charter school. The strategic plan shall be
7 reviewed and approved by the ~~State-Charter~~ Board. The ~~State-Charter~~ Board
8 is authorized to terminate or not renew a charter for failure to demonstrate
9 improvement under the strategic plan.

10 (2) If a charter school is inadequate and has had a charter for more than five
11 years, the ~~State-Charter~~ Board is authorized to terminate, not renew, or seek
12 applicants to assume the charter through a competitive bid process
13 established by the Charter Board. ~~terminate or not renew the charter.~~ The
14 Charter Board shall develop rules on the assumption of a charter by a new
15 entity that include all aspects of the operations of the charter school,
16 including the status of the employees. Public assets would transfer to the
17 new entity and not revert to the General Fund pursuant to
18 G.S. 115C-238.29F(i).

19 (b) The ~~State-Charter~~ Board of ~~Education~~ shall develop and implement a process to
20 address contractual and other grievances between a charter school and its chartering entity or
21 the local board of education during the time of its charter.

22 (c) The ~~State-Charter~~ Board and the charter school are encouraged to make a good-faith
23 attempt to resolve the differences that may arise between them. They may agree to jointly select
24 a mediator. The mediator shall act as a neutral facilitator of disclosures of factual information,
25 statements of positions and contentions, and efforts to negotiate an agreement settling the
26 differences. The mediator shall, at the request of either the ~~State-Charter~~ Board or a charter
27 school, commence a mediation immediately or within a reasonable period of time. The
28 mediation shall be held in accordance with rules and standards of conduct adopted under
29 Chapter 7A of the General Statutes governing mediated settlement conferences but modified as
30 appropriate and suitable to the resolution of the particular issues in disagreement.

31 Notwithstanding Article 33C of Chapter 143 of the General Statutes, the mediation
32 proceedings shall be conducted in private. Evidence of statements made and conduct occurring
33 in a mediation are not subject to discovery and are inadmissible in any court action. However,
34 no evidence otherwise discoverable is inadmissible merely because it is presented or discussed
35 in a mediation. The mediator shall not be compelled to testify or produce evidence concerning
36 statements made and conduct occurring in a mediation in any civil proceeding for any purpose,
37 except disciplinary hearings before the State Bar or any agency established to enforce standards
38 of conduct for mediators. The mediator may determine that an impasse exists and discontinue
39 the mediation at any time. The mediator shall not make any recommendations or public
40 statement of findings or conclusions. The ~~State-Charter~~ Board and the charter school shall share
41 equally the mediator's compensation and expenses. The mediator's compensation shall be
42 determined according to rules adopted under Chapter 7A of the General Statutes."

43 **SECTION 1.(h)** G.S. 115C-238.29H reads as rewritten:

44 **"§ 115C-238.29H. State and local funds for a charter school.**

45 (a) The State Board of Education shall allocate to each charter school:

46 (1) An amount equal to the average per pupil allocation for average daily
47 membership from the local school administrative unit allotments in which
48 the charter school is located for each child attending the charter school
49 except for the allocation for children with disabilities and for the allocation
50 for children with limited English proficiency;

- 1 (2) An additional amount for each child attending the charter school who is a
2 child with disabilities; and
3 (3) An additional amount for children with limited English proficiency attending
4 the charter school, based on a formula adopted by the State Board.

5 ~~In accordance with G.S. 115C-238.29D(d), the~~The State Board shall allow for annual
6 adjustments to the amount allocated to a charter school based on its enrollment growth in
7 school years subsequent to the initial year of operation.

8 In the event a child with disabilities leaves the charter school and enrolls in a public school
9 during the first 60 school days in the school year, the charter school shall return a pro rata
10 amount of funds allocated for that child to the State Board, and the State Board shall reallocate
11 those funds to the local school administrative unit in which the public school is located. In the
12 event a child with disabilities enrolls in a charter school during the first 60 school days in the
13 school year, the State Board shall allocate to the charter school the pro rata amount of
14 additional funds for children with disabilities.

15 (a1) Funds allocated by the State Board of Education may be used to enter into
16 operational and financing leases for real property or mobile classroom units for use as school
17 facilities for charter schools and may be used for payments on loans made to charter schools for
18 facilities or equipment. However, State funds shall not be used to obtain any other interest in
19 real property or mobile classroom units. No indebtedness of any kind incurred or created by the
20 charter school shall constitute an indebtedness of the State or its political subdivisions, and no
21 indebtedness of the charter school shall involve or be secured by the faith, credit, or taxing
22 power of the State or its political subdivisions. Every contract or lease into which a charter
23 school enters shall include the previous sentence. The school also may own land and buildings
24 it obtains through non-State sources.

25 (b) If a student attends a charter school, the local school administrative unit in which
26 the child resides shall transfer to the charter school an amount equal to the per pupil share of
27 the local current expense appropriation to fund of the local school administrative unit for the
28 fiscal year. The amount transferred under this subsection that consists of revenue derived from
29 supplemental taxes shall be transferred only to a charter school located in the tax district for
30 which these taxes are levied and in which the student resides. The per pupil share of the local
31 current expense fund shall be transferred to the charter school within 30 days of the receipt of
32 monies into the local current expense fund.

33 (c) The local school administrative unit shall also provide each charter school to which
34 it transfers a per pupil share of its local current expense fund with all of the following
35 information within the 30-day time period provided in subsection (b) of this section:

- 36 (1) The total amount of monies the local school administrative unit has in each
37 of the funds listed in G.S. 115C-426(c).
38 (2) The student membership numbers used to calculate the per pupil share of the
39 local current expense fund.
40 (3) How the per pupil share of the local current expense fund was calculated.

41 (d) The court shall award the prevailing party in an action to enforce the provisions of
42 subsection (b) of this section its reasonable attorneys' fees and costs incurred in bringing such
43 an action, plus interest at the legal rate as provided in G.S. 24-1 from and after the date that any
44 such amounts should have otherwise been paid to the charter school for a fiscal year. The court
45 shall order any delinquent funds, costs, fees, and interest to be paid in full within three years
46 from the entry of any judgment."

47 **SECTION 1.(i) G.S. 115C-238.29I reads as rewritten:**

48 **"§ 115C-238.29I. Notice of the charter school process; review of charter schools; Charter**
49 **School Advisory Committee.schools.**

50 (a) ~~The State Charter Board of Education~~ shall distribute information announcing the
51 availability of the charter school process described in this Part to each local school

1 administrative unit and public postsecondary educational institution and, through press releases,
2 to each major newspaper in the State.

3 (b) Repealed by Session Laws 1997-18, s. 15(i).

4 (c) ~~The State Charter Board of Education shall review and evaluate the educational~~
5 ~~effectiveness of the charter school approaches~~ schools authorized under this Part and the effect of
6 charter schools on the public schools in the local school administrative unit in which the charter
7 schools are located. The Board shall report annually no later than January 1, 2002, 1 to the Joint
8 Legislative Education Oversight Committee ~~with recommendations to modify, expand, or~~
9 ~~terminate that approach. The Board shall base its recommendations predominantly on the~~
10 ~~following information:~~ on the following:

11 (1) The current and projected impact of charter schools on the delivery of
12 services by the public schools.

13 (2) Student academic progress in the charter schools as measured, where
14 available, against the academic year immediately preceding the first
15 academic year of the charter schools' operation.

16 (3) Best practices resulting from charter school operations.

17 (4) Other information the ~~State Charter~~ Board considers appropriate.

18 (d) ~~The State Board of Education may establish a Charter School Advisory Committee~~
19 ~~to assist with the implementation of this Part. The Charter School Advisory Committee may (i)~~
20 ~~provide technical assistance to chartering entities or to potential applicants, (ii) review~~
21 ~~applications for preliminary approval, (iii) make recommendations as to whether the State~~
22 ~~Board should approve applications for charter schools, (iv) make recommendations as to~~
23 ~~whether the State Board should terminate or not renew a charter, (v) make recommendations~~
24 ~~concerning grievances between a charter school and its chartering entity, the State Board, or a~~
25 ~~local board, (vi) assist with the review under subsection (c) of this section, and (vii) provide~~
26 ~~any other assistance as may be required by the State Board.~~

27 (e) ~~Notwithstanding the dates set forth in this Part, the State Board of Education may~~
28 ~~establish an alternative time line for the submission of applications, preliminary approvals,~~
29 ~~criminal record checks, appeals, and final approvals so long as the Board grants final approval~~
30 ~~by March 15 of each calendar year."~~

31 **SECTION 1.(j)** G.S. 115C-238.29J is repealed.

32 **SECTION 1.(k)** G.S. 115C-238.29K is repealed.

33 **SECTION 2.(a)** G.S. 115C-426(c) reads as rewritten:

34 "(c) The uniform budget format shall require the following funds:

35 (1) The State Public School Fund.

36 (2) The local current expense fund.

37 (3) The capital outlay fund.

38 In addition, other funds may be used to account for reimbursements, including indirect
39 costs, fees for actual costs, tuition, sales tax revenues distributed using the ad valorem method
40 pursuant to G.S. 105-472(b)(2), sales tax refunds, gifts and grants restricted as to use, trust
41 funds, federal appropriations made directly to local school administrative units, and funds
42 received for prekindergarten programs, and special programs. In addition, the
43 appropriation or use of fund balance or interest income by a local school administrative unit
44 shall not be construed as a local current expense appropriation.

45 Each local school administrative unit shall maintain those funds shown in the uniform
46 budget format that are applicable to its operations."

47 **SECTION 2.(b)** G.S. 115C-448 is amended by adding a new subsection to read:

48 "(d) Special funds of individual schools shall not be included as part of the local current
49 expense fund of a local school administrative unit for the purposes of determining the per pupil
50 share of the local current expense fund transferred to a charter school pursuant to
51 G.S. 115C-238.29H(b)."

1 **SECTION 3.** G.S. 105-278.4(a) reads as rewritten:

2 "(a) Buildings. – Buildings, the land they actually occupy, and additional land
3 reasonably necessary for the convenient use of any such building shall be exempted from
4 taxation if all of the following requirements are met:

- 5 ...
- 6 (4) Wholly and exclusively used for educational purposes by ~~the owner or~~
7 ~~occupied gratuitously by another nonprofit educational institution and~~
8 ~~wholly and exclusively used by the occupant for nonprofit educational~~
9 ~~purposes.~~any of the following:
- 10 a. The owner.
- 11 b. A nonprofit educational institution occupying the building
12 gratuitously.
- 13 c. A charter school even if the charter school is not the owner of the
14 building."

15 **SECTION 4.** G.S. 135-5.3(b) reads as rewritten:

16 "(b) No later than 30 days after both parties have signed the written charter under
17 G.S. 115C-238.29E, the board of directors of a charter school operated by a private nonprofit
18 corporation shall elect whether to become a participating employer in the Retirement System in
19 accordance with this Article. This election shall be in writing and filed with the Retirement
20 System and with the ~~State~~North Carolina Public Charter Schools Board of Education and is
21 effective for each charter school employee as of the date of that employee's entry into eligible
22 service. This subsection applies to charter schools that receive State Board of Education or
23 North Carolina Public Charter Schools Board approval under G.S. 115C-238.29D after 1998."

24 **SECTION 5.** G.S. 135-48.54(b) reads as rewritten:

25 "(b) No later than 30 days after both parties have signed the written charter under
26 G.S. 115C-238.29E, the board of directors of a charter school operated by a private nonprofit
27 corporation shall elect whether to become a participating employer in the Plan in accordance
28 with this Article. This election shall be in writing and filed with the Plan and the North
29 Carolina Public Charter Schools Board. ~~State Board of Education.~~ This election is effective for
30 each charter school employee as of the date of that employee's entry into eligible service. This
31 subsection applies to charter schools that receive State Board of Education or North Carolina
32 Public Charter Schools Board approval under G.S. 115C-238.29D after 1998."

33 **SECTION 6.** Notwithstanding G.S. 115C-238.29A1, as enacted by this act, initial
34 appointments to the Charter Board shall be made by the Governor and the General Assembly
35 no later than August 1, 2013. Initial terms of office to the Charter Board shall be as follows:

- 36 (1) Two members appointed by the Governor, as designated by the Governor,
37 shall be appointed to serve until June 30, 2015. One member appointed by
38 the Governor, as designated by the Governor, shall be appointed to serve
39 until June 30, 2017.
- 40 (2) One member appointed by the General Assembly upon the recommendation
41 of the Speaker of the House of Representatives, as designated by the
42 Speaker, shall be until June 30, 2015. Two members appointed by the
43 General Assembly upon the recommendation of the Speaker of the House of
44 Representatives, as designated by the Speaker, shall be until June 30, 2017.
- 45 (3) One member appointed by the General Assembly upon the recommendation
46 of the President Pro Tempore of the Senate, as designated by the President
47 Pro Tempore, shall be until June 30, 2015. Two members appointed by the
48 General Assembly upon the recommendation of the President Pro Tempore
49 of the Senate, as designated by the President Pro Tempore, shall be until
50 June 30, 2017.

1 **SECTION 7.** This act is effective when it becomes law. G.S. 115C-238.29H(d), as
2 enacted by this act, applies to proceedings commenced on or after the effective date of this act.