

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1696

Short Title: Charter Applications/Public Schools.

(Public)

Sponsors: Representatives Shubert; Allred, Arnold, Gardner, Grady, Howard, McCombs, Preston, Russell, Sexton, Watson, and Wood.

Referred to: Rules, Calendar and Operations of the House.

June 1, 1998

A BILL TO BE ENTITLED

1 AN ACT TO PERMIT A LOCAL BOARD OF EDUCATION TO APPLY FOR
2 CHARTER STATUS FOR ONE OR MORE OF ITS PUBLIC SCHOOLS AND TO
3 DIRECT THE STATE BOARD OF EDUCATION TO USE THE ADDITIONAL
4 APPLICATION FEES TO OFFSET THE COST OF ADMINISTERING THE LAW
5 REGARDING CHARTER SCHOOLS.
6

7 The General Assembly of North Carolina enacts:

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

9 **"§ 115C-238.29B. Eligible applicants; contents of applications; submission of**
10 **applications for approval.**

11 (a) Any person, group of persons, ~~or nonprofit corporation~~corporation, or local
12 board of education seeking to establish a charter school may apply to establish a charter
13 school. ~~If the an applicant other than a local board of education~~ seeks to convert a public
14 school to a charter school, the application shall include a statement signed by a majority
15 of the teachers and instructional support personnel currently employed at the school
16 indicating that they favor the conversion and evidence that a significant number of
17 parents of children enrolled in the school favor conversion. If a local board of education
18 seeks a charter for a school, the application shall include a statement that the local board
19 understands that no employee shall be required to work at the charter school and no

1 student shall be assigned to the school except at the request of the student's parent or
2 guardian.

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

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

6 (2) A description of student achievement goals for the school's educational
7 program and the method of demonstrating that students have attained
8 the skills and knowledge specified for those student achievement goals.

9 (3) The governance structure of the ~~school-school~~, if the applicant is not a
10 local board of education, including the names of the proposed initial
11 members of the board of directors of the nonprofit, tax-exempt
12 corporation and the process to be followed by the school to ensure
13 parental involvement.

14 (3a) The local school administrative unit in which the school will be located.

15 (4) Admission policies and procedures.

16 (5) A proposed budget for the school and evidence that the financial plan
17 for the school is economically sound.

18 (6) Requirements and procedures for program and financial audits.

19 (7) A description of how the school will comply with G.S. 115C-238.29F.

20 (8) Types and amounts of insurance coverage, including bonding insurance
21 for the principal officers of the school, to be obtained by the charter
22 school.

23 (9) The term of the charter.

24 (10) The qualifications required for individuals employed by the school.

25 (11) The procedures by which students can be excluded from the charter
26 school and returned to a public ~~school-school~~ other than a charter
27 school. Notwithstanding any law to the contrary, any local board may
28 refuse to admit any student who is suspended or expelled from a charter
29 school due to actions that would lead to suspension or expulsion from a
30 public school under G.S. 115C-391 until the period of suspension or
31 expulsion has expired.

32 (12) The number of students to be served, which number shall be at least 65,
33 and the minimum number of teachers to be employed at the school,
34 which number shall be at least three. However, the charter school may
35 serve fewer than 65 students or employ fewer than three teachers if the
36 application contains a compelling reason, such as the school would
37 serve a geographically remote and small student population.

38 (13) Information regarding the facilities to be used by the school and the
39 manner in which administrative services of the school are to be
40 provided.

41 (14) Repealed by Session Laws 1997-430, s. 1.

42 (c) An applicant shall submit the application to a chartering entity for preliminary
43 approval. A chartering entity may be:

- 1 (1) The local board of education of the local school administrative unit in
2 which the charter school will be ~~located~~, located, unless the applicant is
3 a local board of education;
- 4 (2) The board of trustees of a constituent institution of The University of
5 North Carolina, so long as the constituent institution is involved in the
6 planning, operation, or evaluation of the charter school; or
- 7 (3) The State Board of Education.

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

10 Notwithstanding the provisions of this subsection, if the State Board of Education
11 finds that an applicant (i) submitted an application to a local board of education and
12 received final approval from the State Board of Education, but (ii) is unable to find a
13 suitable location within that local school administrative unit to operate, the State Board of
14 Education may authorize the charter school to operate within an adjacent local school
15 administrative unit for one year only. The charter school cannot operate for more than
16 one year unless it reapplies, in accordance with subdivision (1), (2), or (3) of this
17 subsection, and receives final approval from the State Board of Education.

18 (d) Unless an applicant submits its application under subsection (c) of this section
19 to the local board of education of the local school administrative unit in which the charter
20 school will be ~~located~~, located or the applicant is the local board of education, the
21 applicant shall submit a copy of its application to that local board within seven days of its
22 submission under subsection (c) of this section. The local board may offer any
23 information or comment concerning the application it considers appropriate to the
24 chartering entity. The local board shall deliver this information to the chartering entity no
25 later than January 1 of the next calendar year. The applicant shall not be required to
26 obtain or deliver this information to the chartering entity on behalf of the local board. The
27 State Board shall consider any information or comment it receives from a local board and
28 shall consider the impact on the local school administrative unit's ability to provide a
29 sound basic education to its students when determining whether to grant preliminary and
30 final approval of the charter school."

31 Section 2. G.S. 115C-238.29D reads as rewritten:

32 "**§ 115C-238.29D. Final approval of applications for charter schools.**

33 (a) The State Board shall grant final approval of an application if it finds that the
34 application meets the requirements set out in this Part or adopted by the State Board of
35 Education and that granting the application would achieve one or more of the purposes
36 set out in G.S. 115C-238.29A. The State Board shall act by March 15 of a calendar year
37 on all applications and appeals it receives prior to February 15 of that calendar year.

38 (b) The State Board shall authorize no more than five charter ~~schools~~ schools,
39 except for charter schools operated by a local board of education, per year in one local
40 school administrative unit. The State Board shall authorize no more than 100 charter
41 schools ~~statewide~~ statewide, except for charter schools operated by a local board of
42 education. If more than five charter schools in one local school administrative unit or
43 more than 100 schools statewide meet the standards for final approval, the State Board

1 shall give priority to applications that are most likely to further State education policies
2 and to strengthen the educational program offered in the local school administrative units
3 in which they are located.

4 The State Board may authorize as many charter schools operated by a local board of
5 education in a local school administrative unit or on a statewide-basis as it deems
6 appropriate.

7 (c) The State Board of Education may authorize a school before the applicant has
8 secured its space, equipment, facilities, and personnel if the applicant indicates the
9 authority is necessary for it to raise working capital. The State Board shall not allocate
10 any funds to the school until the school has obtained space.

11 (d) The State Board of Education may grant the initial charter for a period not to
12 exceed five years and may renew the charter upon the request of the chartering entity for
13 subsequent periods not to exceed five years each. A material revision of the provisions of
14 a charter application shall be made only upon the approval of the State Board of
15 Education. Beginning with the charter school's second year of operation and annually
16 thereafter, the State Board shall allow a charter school to increase its enrollment by ten
17 percent (10%) of the school's previous year's enrollment or as is otherwise provided in
18 the charter. This enrollment growth shall not be considered a material revision of the
19 charter application and shall not require the prior approval of the State Board."

20 Section 3. G.S. 115C-238.29E reads as rewritten:

21 "**§ 115C-238.29E. Charter school operation.**

22 (a) A charter school that is approved by the State shall be a public school within
23 the local school administrative unit in which it is located. It shall be accountable to the
24 local board of education if the applicant for the charter is the local board of education or
25 if it applied for and received preliminary approval from that local board for purposes of
26 ensuring compliance with applicable laws and the provisions of its charter. All other
27 charter schools shall be accountable to the State Board for ensuring compliance with
28 applicable laws and the provisions of their charters, except that any of these charter
29 schools may agree to be accountable to the local board of the school administrative unit
30 in which the charter school is located rather than to the State Board.

31 (b) A charter school other than a charter school for which the applicant is a local
32 board of education shall be operated by a private nonprofit corporation that shall have
33 received federal tax-exempt status no later than 24 months following final approval of the
34 application. A charter school for which the applicant is a local board of education shall
35 be operated by the local board of education.

36 (c) A charter school shall operate under the written charter signed by the entity to
37 which it is accountable under subsection (a) of this section and the applicant. A charter
38 school is not required to enter into any other contract. The charter shall incorporate the
39 information provided in the application, as modified during the charter approval process,
40 and any terms and conditions imposed on the charter school by the State Board of
41 Education. No other terms may be imposed on the charter school as a condition for
42 receipt of local funds.

1 (d) The board of directors of the charter school operated by a private nonprofit
2 corporation shall decide matters related to the operation of the school, including
3 budgeting, curriculum, and operating procedures. The local board of education shall
4 decide these matters for a charter school operated by a local board.

5 (e) ~~A charter school's specific location~~ The specific location of a charter school
6 operated by a private nonprofit corporation shall not be prescribed or limited by a local
7 board or other authority except a zoning authority. The school may lease space from a
8 local board of education or as is otherwise lawful in the local school administrative unit
9 in which the charter school is located. If a charter school leases space from a sectarian
10 organization, the charter school classes and students shall be physically separated from
11 any parochial students, and there shall be no religious artifacts, symbols, iconography, or
12 materials on display in the charter school's entrance, classrooms, or hallways.
13 Furthermore, if a charter school leases space from a sectarian organization, the charter
14 school shall not use the name of that organization in the name of the charter school.

15 At the request of the charter school, the local board of education of the local school
16 administrative unit in which the charter school will be located shall lease any available
17 building or land to the charter school unless the board demonstrates that the lease is not
18 economically or practically feasible or that the local board does not have adequate
19 classroom space to meet its enrollment needs. Notwithstanding any other law, a local
20 board of education may provide a school facility to a charter school free of charge;
21 however, the charter school is responsible for the maintenance of and insurance for the
22 school facility.

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

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

27 "**§ 115C-238.29F. General requirements.**

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

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
32 tuition or fees. A charter school shall not be affiliated with a nonpublic sectarian school
33 or a religious institution.

34 (c) Civil Liability and Insurance. –

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

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

- 1 (3) If a teacher employed by a local school administrative unit makes a
2 written request for an extended leave of absence to teach at a charter
3 ~~school, school operated by a private nonprofit corporation,~~ the local
4 school administrative unit shall grant the leave. The local school
5 administrative unit shall grant a leave for any number of years requested
6 by the teacher, shall extend the leave for any number of years requested
7 by the teacher, and shall extend the leave at the teacher's request. For
8 the initial year of a charter school's operation, the local school
9 administrative unit may require that the request for a leave or extension
10 of leave be made up to 45 days before the teacher would otherwise have
11 to report for duty. For subsequent years, the local school administrative
12 unit may require that the request for a leave or extension of leave be
13 made up to 90 days before the teacher would otherwise have to report
14 for duty. A teacher who has career status under G.S. 115C-325 prior to
15 receiving an extended leave of absence to teach at a charter school may
16 return to a public school in the local school administrative unit with
17 career status at the end of the leave of absence or upon the end of
18 employment at the charter school if an appropriate position is available.
19 If an appropriate position is unavailable, the teacher's name shall be
20 placed on a list of available teachers and that teacher shall have priority
21 on all positions for which that teacher is qualified in accordance with
22 G.S. 115C-325(e)(2).
- 23 (4) The employees of the charter school operated by a private nonprofit
24 corporation shall be deemed employees of the local school
25 administrative unit for purposes of providing certain State-funded
26 employee benefits, including membership in the Teachers' and State
27 Employees' Retirement System and the Teachers' and State Employees'
28 Comprehensive Major Medical Plan. The State Board of Education
29 provides funds to charter ~~schools, schools operated by private nonprofit~~
30 corporations, approves the original members of the boards of directors
31 of the charter schools, has the authority to grant, supervise, and revoke
32 charters, and demands full accountability from charter schools for
33 school finances and student performance. Accordingly, it is the
34 determination of the General Assembly that charter schools operated by
35 private nonprofit corporations are public schools and that the employees
36 of these charter schools are public school employees and are
37 "teachers" for purposes of membership in the North Carolina Teachers'
38 and State Employees' Retirement System and State Employees'
39 Comprehensive Major Medical Plan. In no event shall anything
40 contained in this Part require the North Carolina Teachers' and State
41 Employees' Retirement System to accept employees of a private
42 employer as members or participants of the System.
- 43 (f) Accountability. –

- 1 (1) The school is subject to the financial audits, the audit procedures, and
2 the audit requirements adopted by the State Board of Education for
3 charter schools. These audit requirements may include the requirements
4 of the School Budget and Fiscal Control Act.
- 5 (2) The school shall comply with the reporting requirements established by
6 the State Board of Education in the Uniform Education Reporting
7 System.
- 8 (3) The school shall report at least annually to the chartering entity and the
9 State Board of Education the information required by the chartering
10 entity or the State Board.
- 11 (g) Admission Requirements. –
- 12 (1) Any child who is qualified under the laws of this State for admission to
13 a public school is qualified for admission to a charter school.
- 14 (2) No local board of education shall require any student enrolled in the
15 local school administrative unit to attend a charter school.
- 16 (3) Admission to a charter school shall not be determined according to the
17 school attendance area in which a student resides, except that any local
18 school administrative unit in which a public school converts to a charter
19 school shall give admission preference to students who reside within the
20 former attendance area of that school.
- 21 (4) Admission to a charter school shall not be determined according to the
22 local school administrative unit in which a student resides.
- 23 (5) A charter school shall not discriminate against any student on the basis
24 of ethnicity, national origin, gender, or disability. Except as otherwise
25 provided by law or the mission of the school as set out in the charter, the
26 school shall not limit admission to students on the basis of intellectual
27 ability, measures of achievement or aptitude, athletic ability, disability,
28 race, creed, gender, national origin, religion, or ancestry. The charter
29 school may give enrollment priority to siblings of currently enrolled
30 students who were admitted to the charter school in a previous year and
31 to children of the school's principal, teachers, and teacher assistants. In
32 addition, and only for its first year of operation, the charter school may
33 give enrollment priority to children of the initial members of the charter
34 school's board of directors, so long as (i) these children are limited to no
35 more than ten percent (10%) of the school's total enrollment or to 20
36 students, whichever is less, and (ii) the charter school is not a former
37 public or private school. Within one year after the charter school begins
38 operation, the population of the school shall reasonably reflect the racial
39 and ethnic composition of the general population residing within the
40 local school administrative unit in which the school is located or the
41 racial and ethnic composition of the special population that the school
42 seeks to serve residing within the local school administrative unit in
43 which the school is located. The school shall be subject to any court-

1 ordered desegregation plan in effect for the local school administrative
2 unit.

3 (6) During each period of enrollment, the charter school shall enroll an
4 eligible student who submits a timely application, unless the number of
5 applications exceeds the capacity of a program, class, grade level, or
6 building. In this case, students shall be accepted by lot. Once enrolled,
7 students are not required to reapply in subsequent enrollment periods.

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

12 (h) Transportation. – The charter school may provide transportation for students
13 enrolled at the school. The charter school shall develop a transportation plan so that
14 transportation is not a barrier to any student who resides in the local school administrative
15 unit in which the school is located. The charter school is not required to provide
16 transportation to any student who lives within one and one-half miles of the school. At
17 the request of the charter school and if the local board of the local school administrative
18 unit in which the charter school is located operates a school bus system, then that local
19 board may contract with the charter school to provide transportation in accordance with
20 the charter school's transportation plan to students who reside in the local school
21 administrative unit and who reside at least one and one-half miles of the charter school. A
22 local board may charge the charter school a reasonable charge that is sufficient to cover
23 the cost of providing this transportation. Furthermore, a local board may refuse to provide
24 transportation under this subsection if it demonstrates there is no available space on buses
25 it intends to operate during the term of the contract or it would not be practically feasible
26 to provide this transportation.

27 A student who attends a charter school operated by a local board of education and
28 who resides within the local school administrative unit in which the school is located has
29 the same right to school transportation as students assigned to other public schools in the
30 local school administrative unit.

31 (i) Assets. – Upon dissolution of the charter school or upon the nonrenewal of the
32 charter, all net assets of the charter school purchased with public funds shall be deemed
33 the property of the local school administrative unit in which the charter school is
34 located."

35 Section 5. G.S. 115C-238.29H reads as rewritten:

36 "**§ 115C-238.29H. State and local funds for a charter school.**

37 (a) The State Board of Education shall allocate to each charter school (i) an
38 amount equal to the average per pupil allocation for average daily membership from the
39 local school administrative unit allotments in which the charter school is located for each
40 child attending the charter school except for the allocation for children with special needs
41 and (ii) an additional amount for each child attending the charter school who is a child
42 with special needs. In accordance with G.S. 115C-238.29D(d), the State Board shall

1 allow for annual adjustments to the amount allocated to a charter school based on its
2 enrollment growth in school years subsequent to the initial year of operation.

3 In the event a child with special needs leaves the charter school and enrolls in a public
4 school during the first 60 school days in the school year, the charter school shall return a
5 pro rata amount of funds allocated for that child to the State Board, and the State Board
6 shall reallocate those funds to the local school administrative unit in which the public
7 school is located. In the event a child with special needs enrolls in a charter school during
8 the first 60 school days in the school year, the State Board shall allocate to the charter
9 school the pro rata amount of additional funds for children with special needs.

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

22 (b) If a student attends a charter school, the local school administrative unit in
23 which the child resides shall transfer to the charter school an amount equal to the per
24 pupil local current expense appropriation to the local school administrative unit for the
25 fiscal year."

26 Section 6. The State Board of Education shall use the additional revenue
27 generated by charter school applications in accordance with this act to offset the cost of
28 administering the law regarding charter schools.

29 Section 7. Section 6 of this act becomes effective July 1, 1998. The remainder
30 of this act is effective when it becomes law.