

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1739 (Proposed Committee Substitute)

SHORT TITLE: Retirement/Charter Schools

SPONSOR(S):

	FISCAL IMPACT				
	Yes (x)	No ()	No Estimate Available ()		
	<u>FY 1998-99</u>	<u>FY 1999-00</u>	<u>FY 2000-01</u>	<u>FY 2001-02</u>	<u>FY 2002-03</u>
REVENUES					
Revenue loss to local schools of criminal fines and forfeitures	(\$462,765)	(\$811,647)	(\$1,120,978)	(\$1,450,217)	(\$1,800,641)
Revenue loss to local schools from the School Technology Fund of funds from fines and Forfeitures	(\$37,109)	(\$64,156)	(\$87,341)	(\$111,379)	(\$136,316)
Highway Fund Motor Fuels Tax	\$19,780	\$33,122	\$43,439	\$53,327	\$62,894
License Tags	Some revenue loss but no estimate available				
EXPENDITURES					
Additional administrative costs to the Department of Public Instruction and the Local Government Commission for additional charter schools.	\$491,209*	\$93,855	\$112,000	\$112,000	\$112,000

* Funds requested by the State Board of Education for FY1998-99

POSITIONS:

FY1998-99

Department of Public Instruction 4

Local Government Commission 2

Exact numbers of personnel for future years cannot be determined

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: State Board of Education, Department of Public Instruction , Department of Transportation, Local school systems, county governments, State Retirement System, and State Health Plan.

EFFECTIVE DATE: July 1, 1998

BILL SUMMARY:

SECTION 1 would amend G.S. 115C-238.29F(3)(4) to clarify that while all charter school employees are public employees, they will be eligible for participation in the State Retirement System, State Health Plan, or both, only if their charter school's board of directors elect to participate.

SECTION 2 would create a new G.S. 135-5.3 to require charter school boards of directors to elect, in writing, to join the State Retirement System. This would be an irrevocable election. The boards of directors of charter schools that received State Board of Education approval in 1997 or 1998 must make this election by September 1, 1998. The election would be effective on the date the election is made for current employees. For employees hired after that date, it would be effective on their date of entry into eligible service. The boards of directors of charter schools that receive State Board of Education approval after 1998 must make the election within 30 days after the State Board of Education and the charter school applicant sign the written charter agreement. This election would be effective for all employees on their date of entry into eligible service. The boards of directors must notify in writing their employees as to whether they elected to join, and the employees must acknowledge in writing that they received this notice.

SECTION 3 would amend G.S. 135-4 to allow charter school employees who subsequently return to a public school or State employment to "buy back" years of service for the time they were employed in a charter school whose board of directors did not elect to join the Retirement System. To be eligible for this "buy-back", the employee would be required to have at least five years of creditable service.

SECTIONS 4 and 5 would provide that only employees of charter schools whose boards of directors elect to join the State Health Plan are eligible for participation in that Plan. The election, and its applicability, is similar to the election to participate in the Retirement System.

SECTIONS 6 and 7 would exempt from the motor fuel tax any motor fuel sold to the nonprofit corporations that have charters to operate charter schools. Motor fuel sold to local boards of education is currently exempt from this tax.

SECTION 8 would amend G.S. 20-84 to allow nonprofit corporations that have charters to operate charter schools to pay a one-time fee of \$6.00 for each permanent vehicle registration plate for each vehicle they register. Currently, local boards of education may purchase these permanent plates.

SECTION 9 would repeal G.S. 115C-238.29B(d), which allows local boards of education to offer information concerning an application for a charter school. This subsection also requires the State Board, when determining whether to approve an application, to consider this information and the impact of the charter school on the local school administrative unit's ability to provide a sound basic education to its students.

SECTION 10 would repeal G.S. 115C-238.29D(b), which limits the number of charter schools to a total of 100 in the State and to no more than five per year per local school administrative unit.

SECTION 11 would amend G.S. 115C-238.29F(b) to allow charter schools to charge fees, so long as they are not application or admission fees.

SECTION 12 would amend G.S. 115C-238.29G(c) to provide for a mediation process between charter schools and local boards of education.

SECTIONS 13 and 14 would amend G.S. 115C-238.29H. Currently, the local school administrative unit where a child resides must transfer the per pupil local current expense appropriation to the charter school. Section 13 would define this appropriation to include revenue from all sources of funds, including any supplemental taxes, that go into a county's appropriation to the local school administrative unit's local current expense fund. This section also would require a local school administrative unit to remit the funds at times as agreed upon by the unit and the charter school or on the same timeline as they receive the funds from the county. In most cases, this would be on a monthly basis, but it could be on a quarterly or yearly basis. Section 13 also would allow local school administrative units to request an invoice with the child's name, address, and SIMS identification number in order to determine the number of students for whom this appropriation is to be made. If an invoice is required, the local school administrative unit must use the number of students as the basis for the appropriation to the charter school. Failure to remit these funds in a timely manner could result in the State Board's withholding of funds used to pay the salaries of the superintendent and school finance officer. Section 14 would allow county commissioners to allocate to a charter school funds to be used for capital outlay purposes.

SECTIONS 15 and 16 would amend G.S. 115C-452 and G.S. 115C-457.3 to require proceeds from fines, forfeitures, and penalties to be apportioned to charter schools. Section 7 of Article IX of the North Carolina Constitution states, "All moneys, stocks, bonds, and other property belonging to a county school fund, and the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of the penal laws of the State, shall belong to and remain in the several counties, and shall be faithfully appropriated and used exclusively for maintaining free public schools." The committee substitute would provide that the first 25% of these funds would continue to be apportioned only among local school administrative units. The

remainder of the funds would be apportioned among local school administrative units and charter schools. Funds from the Civil Penalty and Forfeiture Fund, which are transferred first to the State School Technology Fund, must be used for school technology, but the charter schools are not required to develop and implement school technology plans.

SECTION 17 would amend G.S. 115C-238.29E to require the State Board to issue a written charter within 30 days following the date it grants final approval for a charter. The charter incorporates the information in the application, as modified during the approval process, and any terms and conditions applicable to all charter schools. Currently, these terms and conditions are not required to be applicable on a uniform basis. **Subsection (b)** of this section would amend G.S. 115C-238.29E(f) to require the State Board to go through rulemaking before any rule, policy, procedure, requirement, standard, term, condition or regulation is applicable to charter schools. These "rules" must apply to all charter schools and must be authorized specifically by the Charter School Act. **Subsection (c)** would amend G.S. 150B-2(8a) to include any State Board of Education or Department of Public Instruction rule, policy, procedure, requirement, standard, term, condition, or regulation that is authorized under the Charter School Act in the definition of a "rule" for the purpose of the Administrative Procedure Act. **Subsection (d)** adds a new Part 6, Rules Affecting Charter Schools, to the Administrative Procedure Act. G.S. 150B-21.30 would allow the State Board to use a streamlined procedure for adopting rules specifically authorized by the Charter School Act. The Board may publish the text of any proposed rule as the first step in the rulemaking procedure; a rule may take effect without waiting for submission to the General Assembly; and no fiscal note is required unless the rule affects the expenditures or revenues of a unit of local government. The State Board must indicate on its notice that the rule is authorized specifically by the Charter School Act. G.S. 150B-21.31 would require the State Board to submit to the Rules Review Commission the standard written charter agreement that the Board has approved and issued to charter schools to date. The Commission must review each portion of the charter agreement, and each subsequent modification to that charter agreement, as if it is a rule. The Commission may approve only the portions and modifications that are authorized specifically under the Charter School Act. If they are approved, then they are binding on the charter schools. If they are not approved, then they are void and will apply only if a charter school's board of directors agrees to its applicability.

SECTION 18 would require the State Board of Education, in collaboration with the Charter School Professional Association, to evaluate whether the Uniform Education Reporting System (UERS) is the best way for charter schools to report information or whether there is a mutually functional alternative that could be implemented. The Board must report the results of this evaluation to the Joint Legislative Commission on Governmental Operations by December 1, 1998. SECTION 18 also would require the State Board to consider the adoption of an alternative reporting system that a majority of charter schools present to the Board if is the functional equivalent of the UERS and if it has been benchmarked.

The bill would take effect July 1, 1998.

ASSUMPTIONS AND METHODOLOGY:

1. Projected loss of criminal fines and forfeiture funds to local school systems based on no limit on the number of charter schools as set out in the committee substitute. Projected enrollment growth is based on the addition of 30 charter schools each year for the next four years, plus

enrollment growth of 10% per year in existing charter schools. These enrollment projects are set out in the table below.

2. Additional administrative costs in the Department of Public Instruction are based on FY1998-99 requested by the State Board of Education, plus the removal of the limit on the number of charter schools contained in the committee substitute.
3. There will be some minor loss to the Highway Fund as charter schools receive permanent vehicle licenses, but the losses cannot be calculated.
4. Highway Fund losses will also include loss of motor vehicle tax.
5. Projected loss of administrative fines and forfeiture funds to local school systems through the School Technology Fund are based on a growth of 3.5% percent in administrative penalties, and the enrollment growth assumptions in 1 and 2.
6. The projection of the loss to local school systems of administrative fines and forfeitures is based on the Attorney General's Office interpretation of current court decisions. There is still in excess of \$40 million in state funds that are still in dispute. The largest of the disputed amounts are taxes levied for failure to file or pay taxes, parking fees in the university system, and fees levied by various departments and licensing boards. If the Court determines in a later case that schools are entitled to these funds then the amounts received by charter schools through the technology fund would greatly increase.
7. All costs to the retirement system and the state health plan are reported in separate actuarial notes.

Projected Public School ADM Versus Projected Charter Schools						
	FY97-98	FY98-99	FY99-00	FY00-01	FY01-02	FY02-03
Total ADM	1,227,015	1,251,287	1,274,766	1,291,552	1,307,563	1,325,042
Charter ADM	6,587	12,588	21,421	28,548	35,610	42,672

TECHNICAL CONSIDERATIONS:

**FISCAL RESEARCH DIVISION
733-4910**

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DATE: June 22, 1998



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