

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H

3

HOUSE BILL 219
Committee Substitute Favorable 5/2/23
Committee Substitute #2 Favorable 5/3/23

Short Title: Charter School Omnibus.

(Public)

Sponsors:

Referred to:

March 1, 2023

A BILL TO BE ENTITLED
AN ACT TO MAKE VARIOUS CHANGES TO THE LAWS AFFECTING CHARTER
SCHOOLS.

The General Assembly of North Carolina enacts:

PART I. CLARIFY REQUIREMENTS OF CHARTER APPLICATION AND RENEWAL

SECTION 1.(a) G.S. 115C-218.5(a) reads as rewritten:

"(a) The State Board may grant final approval of an application if it finds the following:

- (1) The application meets the requirements set out in this Article and such other requirements as may be adopted by the State Board of Education.
- (2) The applicant has the ability to operate the school and would be likely to operate the school in an educationally and economically sound manner.
- (3) Granting the application would achieve one or more of the purposes set out in G.S. 115C-218.

In reviewing applications for the establishment of charter schools within a local school administrative unit, the State Board is encouraged to give preference to applications that demonstrate the capability to provide comprehensive learning experiences to students identified by the applicants as at risk of academic failure. The Board shall not consider any alleged impact on the local school administrative unit or units in the area served by a charter school when deciding whether to grant, renew, amend, or terminate a charter."

SECTION 1.(b) G.S. 115C-218.6(b)(2) reads as rewritten:

"(2) The charter school's student academic outcomes for the immediately preceding three years have not been comparable to the academic outcomes of students in the local school administrative unit in which the charter school is located. For purposes of this section, if a school's charter results in it providing services to certain targeted subgroups, the school's academic performance shall be judged in comparison to the academic outcomes of students in the same subgroups in the local school administrative unit where the school is located."

PART II. LIMIT ENROLLMENT CAPS TO LOW-PERFORMING SCHOOLS

SECTION 2.(a) G.S. 115C-218.7 reads as rewritten:

"§ 115C-218.7. Material revisions of charters.

(a) A material revision of the provisions of a charter shall be made only upon the approval of the State Board of Education.



(b) ~~Enrollment growth of greater than twenty percent (20%) shall be considered a material revision of the charter if the charter is currently identified as low performing. The State Board shall not approve a material revision for enrollment growth of greater than twenty percent (20%) for a charter that is currently identified as low performing. Enrollment growth of greater than thirty percent (30%) shall be considered a material revision of the charter for any charter school that is not identified as low performing. The State Board may approve such additional enrollment growth of greater than thirty percent (30%) only if it finds all of the following: If a charter school has been identified as low-performing under G.S. 115C-218.94, then it shall be considered a material revision of the school's charter to increase its maximum authorized enrollment by more than twenty percent (20%) of the previous year's maximum authorized enrollment. For the purposes of this section, maximum authorized enrollment is as defined in G.S. 115C-218.8.~~

- ~~(1) The actual enrollment of the charter school is within ten percent (10%) of its maximum authorized enrollment.~~
- ~~(2) The charter school has commitments for ninety percent (90%) of the requested maximum growth.~~
- ~~(3) The charter school is not currently identified as low performing.~~
- ~~(4) The charter school meets generally accepted standards of fiscal management.~~
- ~~(5) The charter school is, at the time of the request for the enrollment increase, substantially in compliance with State law, federal law, the charter school's own bylaws, and the provisions set forth in its charter granted by the State Board.~~

~~(c) For the purposes of calculating actual enrollment and maximum authorized enrollment under subdivision (1) of subsection (b) of this section, if a charter school is pursuing a material revision of enrollment growth based on a proposed capital expansion of the charter school, but fails to meet the requirements of subdivision (1) of subsection (b) of this section, the State Board shall have the discretion to investigate and determine whether subdivision (1) of subsection (b) of this section may be waived to grant the school's material revision request to allow the capital expansion to move forward. In making such a determination, the charter school shall provide the State Board with documentation to show evidence that demonstrates sufficiently in the State Board's discretion all of the following:~~

- ~~(1) The requested increase in enrollment growth is within a reasonable margin of the threshold necessary to support the requested material revision.~~
- ~~(2) The charter school has secured financing for its proposed capital expansion conditioned on its obtaining the requested material revision of enrollment growth.~~

~~(d) If a charter school presents evidence of a proposed capital expansion as part of a request for a material revision of enrollment growth under this section that is granted by the State Board, and the charter school is not able to realize that capital expansion within two years of the grant of the material revision, the charter shall reflect the maximum authorized enrollment immediately preceding that material revision."~~

SECTION 2.(b) G.S. 115C-218.8 reads as rewritten:

"§ 115C-218.8. Nonmaterial revisions of charters.

It shall not be considered a material revision of a charter and shall not require prior approval of the State Board for a charter school to do any of the following:

- (1) Increase its maximum authorized enrollment during the charter school's second year of operation and annually ~~thereafter in accordance with G.S. 115C 218.7(b).~~ thereafter, provided the school is not identified as low-performing under G.S. 115C-218.94. The maximum authorized enrollment is the target enrollment number identified in a school's charter. The

- 1 maximum authorized enrollment may only be updated once per year and shall
2 not decrease based on actual enrollment.
3 (2) ~~Increase~~ If a school is low-performing under G.S. 115C-105.37A and has
4 planned growth authorized in its charter, increase its maximum authorized
5 enrollment during the charter school's second year of operation and annually
6 thereafter in accordance with planned growth as authorized in its charter.
7 (3) Expand to offer one grade higher or lower than the charter school currently
8 offers if the charter school has (i) operated for at least three years, (ii) has not
9 been identified as continually low-performing as provided in
10 G.S. 115C-218.94, and (iii) has been in financial compliance as required by
11 the State Board."
12

13 **PART III. ALLOW CHARTER SCHOOLS TO ADMIT OUT-OF-STATE STUDENTS**
14 **AND FOREIGN EXCHANGE STUDENTS**

15 **SECTION 3.(a)** G.S. 115C-218.45 is amended by adding the following new
16 subsections to read:

17 "(h1) Any charter school that is unable to fill its current enrollment with students qualified
18 under the laws of this State for admission to a public school may enroll out-of-state students who
19 are domiciliaries of other states. The charter school shall charge the out-of-state students a tuition
20 amount of at least fifty percent (50%) of the total of the per pupil allocation of the local
21 appropriation for the county in which the charter school is located and the per pupil State
22 appropriation for that school year but no more than one hundred percent (100%) of the total of
23 the per pupil allocation of the local appropriation for the county in which the charter school is
24 located and the per pupil State appropriation for that school year. The number of out-of-state
25 students who are domiciliaries of other states who are enrolled in a charter school may not exceed
26 ten percent (10%) of the total number of students enrolled in the charter school.

27 (h2) For the purposes of this subsection, a foreign exchange student is a student who is
28 domiciled in a foreign country and has come to the United States on a valid student or exchange
29 visa pursuant to the Immigration and Nationality Act, 8 U.S.C. § 1101, et seq. A charter school
30 may enroll foreign exchange students as follows:

- 31 (1) No more than two foreign exchange students per high school grades nine
32 through 12 shall be enrolled in any given school year at the charter school.
33 (2) The charter school may charge the foreign exchange students a tuition amount
34 of at least fifty percent (50%) of the total of the per pupil allocation of the
35 local appropriation for the county in which the charter school is located and
36 the per pupil State appropriation for that school year but no more than one
37 hundred percent (100%) of the total of the per pupil allocation of the local
38 appropriation for the county in which the charter school is located and the per
39 pupil State appropriation for that school year.
40 (3) Foreign exchange students shall not count toward the enrollment capacity or
41 cap for any program, class, building, or grade levels for grades nine through
42 12 and shall not be subject to any lottery process used by the charter school
43 for enrollment."

44 **SECTION 3.(b)** This section is effective when it becomes law and applies beginning
45 with the admissions process for the 2024-2025 school year.
46

47 **PART IV. ADD ADMISSIONS PREFERENCES FOR GRADUATES OF CERTAIN**
48 **PRE-K PROGRAMS AND FOR CHILDREN OF MILITARY FAMILIES**

49 **SECTION 4.** G.S. 115C-218.45(f) is amended by adding two new subdivisions to
50 read:

"(2b) Limited to no more than ten percent (10%) of the school's total enrollment, a student who was enrolled for at least 75 consecutive days in the prior semester in a preschool program operated by an entity other than the charter school and the charter school has a written enrollment articulation agreement with the program operator to give the program's students enrollment priority.

...

(8) A student whose parent or legal guardian is on active military duty."

PART V. PROHIBIT DISCRIMINATION OF CHARTER SCHOOL STUDENTS

SECTION 5. G.S. 115C-47 is amended by adding a new subdivision to read:

"(68) To Provide Equal Access to All Residents of the Local School Administrative Unit. – A local board of education shall not consider a student's current or prior enrollment in a charter school in any criteria used by the local board for determination of admissions or eligibility to any school or special program."

PART VI. AUTHORIZE COUNTIES TO PROVIDE CAPITAL FUNDS TO CHARTER SCHOOLS

SECTION 6.(a) G.S. 115C-218.100(b) reads as rewritten:

"(b) Distribution of Assets. – Upon dissolution of a charter school, all net assets of the charter school purchased with public funds shall be deemed the property of the local school administrative unit in which the charter school is ~~located~~ located, except capital-sourced assets. For purposes of this subsection, capital-sourced assets include (i) capital funds provided to a charter school by one or more counties pursuant to G.S. 115C-218.105(b1) and (ii) net assets purchased or improved with such funds, up to the total amount of the funds provided. Capital-sourced assets shall be deemed the property of the county or counties providing the funding and, if applicable, divided between the counties in proportion to the funds provided."

SECTION 6.(b) G.S. 115C-218.105 is amended by adding the following new subsections to read:

"(b1) Counties may provide funds to charter schools by direct appropriation as set forth in G.S. 153A-461. These funds shall be used only for the following purposes:

(1) The acquisition of real property for school purposes, including, but not limited to, school sites, playgrounds, and athletic fields.

(2) The acquisition, construction, reconstruction, enlargement, renovation, or replacement of buildings and other structures, including, but not limited to, buildings for classrooms and laboratories, physical and vocational educational purposes, libraries, auditoriums, and gymnasiums.

(3) The acquisition or replacement of furniture and furnishings, instructional apparatus, technology, data processing equipment, business machines, and similar items of furnishings and equipment.

(b2) If a charter school uses funds provided in subsection (b1) of this section to acquire or improve property, the amount provided by the county shall be evidenced by a promissory note and secured by a deed of trust on the property acquired or improved by the funds. The county may subordinate the deed of trust to other liens to facilitate the acquisition or improvement of the property secured by the deed of trust. In the event that a charter school repays the county in the amount of the capital funds provided, the county shall, for the property acquired or improved by the funds, execute and file a deed of release or other documentation of satisfaction showing the charter school repaid the county in the amount of the capital funds provided."

SECTION 6.(c) G.S. 153A-149(c) reads as rewritten:

"(c) Each county may levy property taxes for one or more of the purposes listed in this subsection up to a combined rate of one dollar and fifty cents (\$1.50) on the one hundred dollars

1 (\$100.00) appraised value of property subject to taxation. Authorized purposes subject to the rate
2 limitation are:

3 ...

4 (38) Charter Schools. – To provide capital funds for charter schools as authorized
5 by G.S. 153A-461."

6 **SECTION 6.(d)** Article 23 of Chapter 153A of the General Statutes is amended by
7 adding a new section to read:

8 **"§ 153A-461. Charter schools.**

9 Each county is authorized to appropriate funds and lease real property to schools chartered
10 under Article 14A of Chapter 115C of the General Statutes. Counties may provide funds only for
11 the purposes set forth in G.S. 115C-218.105(b1)."
12

13 **PART VII. COMPARABLE PER STUDENT FUNDING**

14 **SECTION 7.(a)** Article 14A of Chapter 115C of the General Statutes is amended by
15 adding a new section to read:

16 **"§ 115C-218.107. Charter school funding comparability.**

17 It is the intent of the General Assembly to ensure that State and local funds for students
18 attending charter schools shall be provided in a manner that results in per-pupil funding
19 approximately equal to that provided for students attending other public school units."

20 **SECTION 7.(b)** G.S. 115C-218.105 reads as rewritten:

21 **"§ 115C-218.105. State and local funds for a charter school.**

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

- 23 (1) An amount equal to the average per pupil allocation for average daily
24 membership from the local school administrative unit allotments in which the
25 charter school is located for ~~each child attending the charter school~~ the number
26 of students actually enrolled in the school, up to the maximum authorized
27 enrollment, except for the allocation for children with disabilities and for the
28 allocation for children with limited English proficiency;
29 (2) An additional amount for each child attending the charter school who is a child
30 with disabilities; and
31 (3) An additional amount for children with limited English proficiency attending
32 the charter school, based on a formula adopted by the State Board.

33 In accordance with G.S. 115C-218.7 and G.S. 115C-218.8, the State Board shall allow for
34 annual adjustments to the amount allocated to a charter school based on ~~its enrollment growth in~~
35 ~~school years subsequent to the initial year of operation.~~ actual enrollment, up to the maximum
36 authorized enrollment.

37 In the event a child with disabilities leaves the charter school and enrolls in a public school
38 during the first 60 school days in the school year, the charter school shall return a pro rata amount
39 of funds allocated for that child to the State Board, and the State Board shall reallocate those
40 funds to the local school administrative unit in which the public school is located. In the event a
41 child with disabilities enrolls in a charter school during the first 60 school days in the school year,
42 the State Board shall allocate to the charter school the pro rata amount of additional funds for
43 children with disabilities.

44"
45

46 **PART VIII. CLASSIFICATION OF CHARTER AND NONPUBLIC SCHOOLS FOR** 47 **INTERSCHOLASTIC ATHLETICS**

48 **SECTION 8.(a)** G.S. 115C-407.55 reads as rewritten:

49 **"§ 115C-407.55. Rules for high school interscholastic athletic activities.**

50 The State Board of Education shall adopt rules governing high school interscholastic athletic
51 activities conducted by public school units that include the following:

- ...
- (5) Administrative rules. – These rules shall govern classifications of schools into divisions and conferences, administration of games, and requirements for coaching, officiating, sportsmanship, and scheduling of seasons. The State Board may by rule delegate the authority to establish all or a portion of the administrative rules to an administering ~~organization~~-organization, however all rules shall be consistent with the requirements of this subdivision. The rules shall require that charter schools and nonpublic schools be classified as follows:
- a. The charter or nonpublic school shall determine, based on the address of the student, the school in the local school administrative unit the student would be assigned to attend by the local board of education. The charter or nonpublic school shall submit to the administering organization the following information:
1. The names of all schools to which the students would have been assigned.
2. The percentage of students who would have attended each of those schools.
- b. The charter or nonpublic school classification shall be based on the classification of the school or schools that the largest percentage of the student body of that school would have been assigned to attend in any local school administrative unit.
- c. A charter or nonpublic school may apply for a hardship waiver based on the school's classification made in accordance with this subdivision.

...."

SECTION 8.(b) The State Board of Education shall adopt emergency rules to implement the requirements of this section for the 2023-2024 school year.

PART IX. EFFECTIVE DATE

SECTION 9. Except as otherwise provided, this act is effective when it becomes law and applies beginning with the 2023-2024 school year.