

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 219

Short Title: Charter School Omnibus. (Public)

Sponsors: Representatives Torbett, Bradford, Willis, and Saine (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

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

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-105.37A, 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-105.37A. 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. CHARTER SCHOOLS MAY ADOPT A MICRO SCHOOL PROGRAM**

14 **SECTION 3.(a)** Article 14A of Chapter 115C of the General Statutes is amended by
15 adding a new section to read:

16 **"§ 115C-218.87. Micro school program.**

17 (a) For purposes of this section, a "micro school" is a group of students enrolled in a
18 charter school that have been assigned to attend the school in accordance with this section.

19 (b) A charter school may establish a micro school program by including the information
20 required by this section in the school's application submitted under G.S. 115C-218.1 or, for an
21 existing charter school that does not currently have a micro school program, by submitting a
22 revision to the school's charter containing the information required by this section.

23 (c) The State Board of Education shall adopt the rules necessary to delegate to the Office
24 of Charter Schools the authority to approve a revision of an existing school's charter that
25 establishes a micro school program.

26 (d) A charter school electing to establish a micro school program shall identify the
27 following in their charter:

28 (1) The number and grade level of students that will comprise a micro school,
29 which may combine students of varying grade levels.

30 (2) The method of instruction for the micro school which may be conducted in
31 any one or combination of the following methods:

32 a. On the charter school campus.

33 b. At a location other than the charter school campus.

34 c. Through virtual instruction.

35 (3) Any specialized curriculum or program to be provided to a micro school.

36 (4) The process by which students may be assigned to or withdrawn from a micro
37 school. At a minimum, the process shall include the following:

38 a. How a parent may request a student be assigned to a micro school.

39 b. The criteria the school will use to determine whether the parent's
40 request for assignment will be granted or denied.

41 c. How the school will make a recommendation to a parent that the
42 student be assigned to a micro school.

43 d. How a parent may consent to or reject the school's recommendation
44 that the student be assigned. No student shall be assigned to a micro
45 school without parental consent.

46 (e) Students and teachers assigned to micro schools are subject to all provisions of the
47 school's charter, except for those provisions which are in conflict with this section.

48 (f) No more than fifty percent (50%) of the charter school's total enrollment may be
49 assigned to micro schools."

50 **SECTION 3.(b)** G.S. 115C-84.3(a) is amended by adding a new subdivision to read:

51 **"(6) Instruction provided to a micro school under G.S. 115C-218.87."**

1 **SECTION 3.(c)** G.S. 115C-218.1(b) is amended by adding a new subdivision to
2 read:
3 "(13a) If the school intends to have a micro school program, the details of the
4 program as required by G.S. 115C-218.87."
5

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

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

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

15 ...

16 (8) A student whose parent or legal guardian is on active military duty."
17

18 **PART V. PROHIBIT DISCRIMINATION OF CHARTER SCHOOL STUDENTS**

19 **SECTION 5.** G.S. 115C-218.45 is amended by adding a new subsection to read:

20 "(b1) No local board of education shall discriminate against students applying for admission
21 to any school or special program operated by the local board of education based on the fact that
22 a student is currently attending, or has attended, a charter school."
23

24 **PART VI. AUTHORIZE COUNTIES TO PROVIDE CAPITAL FUNDS TO CHARTER**
25 **SCHOOLS**

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

27 "(b) Distribution of Assets. – Upon dissolution of a charter school, all net assets of the
28 charter school purchased with public funds shall be deemed the property of the local school
29 administrative unit in which the charter school is ~~located~~ located, except capital-sourced assets.
30 For purposes of this subsection, capital-sourced assets include (i) capital funds provided to a
31 charter school by one or more counties pursuant to G.S. 115C-218.105(b1) and (ii) net assets
32 purchased or improved with such funds, up to the total amount of the funds provided.
33 Capital-sourced assets shall be deemed the property of the county or counties providing the
34 funding and, if applicable, divided between the counties in proportion to the funds provided."
35

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

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

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

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

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

48 (b2) If a charter school uses funds provided in subsection (b1) of this section to acquire or
49 improve property, the amount provided by the county shall be evidenced by a promissory note
50 and secured by a deed of trust on the property acquired or improved by the funds. The county
51 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 (\$100.00) appraised value of property subject to taxation. Authorized purposes subject to the rate limitation are:

...

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

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

"§ 153A-461. Charter schools.

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

PART VII. COMPARABLE PER STUDENT FUNDING

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

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

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

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

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

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

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

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

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

...

(c) If a student attends a charter school, the local school administrative unit in which the child resides shall transfer to the charter school an amount equal to the per pupil share of the local current expense fund of the local school administrative unit for the fiscal year. The per pupil share of the local current expense fund shall be transferred to the charter school within 30 days of the receipt of monies into the local current expense fund. The local school administrative unit and charter school may use the process for mediation of differences between the State Board and a charter school provided in G.S. 115C-218.95(d) to resolve differences on calculation and transference of the per pupil share of the local current expense fund. ~~The amount transferred under this subsection that consists of revenue derived from supplemental taxes shall be transferred only to a charter school located in the tax district for which these taxes are levied and in which the student resides."~~

SECTION 7.(c) G.S. 115C-426(c) reads as rewritten:

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

- (1) The State Public School Fund.
- (2) The local current expense fund.
- (3) The capital outlay fund.

In addition, other funds may be used to account for ~~reimbursements, including indirect costs, fees for actual costs, tuition, sales tax revenues distributed using the ad valorem method pursuant to G.S. 105-472(b)(2), sales tax refunds, gifts and grants restricted as to use, trust funds, federal appropriations made directly to local school administrative units, municipal appropriations made directly to local school administrative units under G.S. 160A-700, and funds received for prekindergarten programs. In addition, the appropriation or use of fund balance or interest income by a local school administrative unit shall not be construed as a local current expense appropriation included as a part of the local current expense fund.~~ trust funds, federal grants restricted as to use, and special programs.

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

PART VIII. EFFECTIVE DATE

SECTION 8. This act is effective when it becomes law and applies beginning with the 2023-2024 school year.