

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H

5

HOUSE BILL 219
Committee Substitute Favorable 5/2/23
Committee Substitute #2 Favorable 5/3/23
Senate Education/Higher Education Committee Substitute Adopted 6/27/23
Fifth Edition Engrossed 6/29/23

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) If House Bill 618, 2023 Regular Session, does not become law,
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) If House Bill 618, 2023 Regular Session, becomes law,
G.S. 115C-218.5(a), as amended by House Bill 618, 2023 Regular Session, reads as rewritten:

"(a) The Review 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 Review Board is encouraged to give preference to applications that demonstrate the capability to provide comprehensive learning experiences to students identified



* H 2 1 9 - V - 5 *

by the applicants as at risk of academic failure. The Review 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.(c) 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) If House Bill 618, 2023 Regular Session, does not become law, 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) If House Bill 618, 2023 Regular Session, becomes law, G.S. 115C-218.7, as amended by House Bill 618, 2023 Regular Session, 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 Review Board.

(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 Review 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 Review Board may approve such additional enrollment growth of greater than thirty percent (30%) only if it finds all of the following:

- (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 Review Board.

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.

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

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

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

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

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

- (1) No more than two foreign exchange students per high school grades nine through 12 shall be enrolled in any given school year at the charter school.
- (2) The charter school may charge the foreign exchange students a tuition amount of at least fifty percent (50%) of the total of the per pupil allocation of the

1 local appropriation for the county in which the charter school is located and
2 the per pupil State appropriation for that school year but no more than one
3 hundred percent (100%) of the total of the per pupil allocation of the local
4 appropriation for the county in which the charter school is located and the per
5 pupil State appropriation for that school year.

6 (3) Foreign exchange students shall not count toward the enrollment capacity or
7 cap for any program, class, building, or grade levels for grades nine through
8 12 and shall not be subject to any lottery process used by the charter school
9 for enrollment."

10 **SECTION 3.(b)** This section is effective when it becomes law and applies beginning
11 with the admissions process for the 2024-2025 school year.
12

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

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

17 "(2b) Limited to no more than ten percent (10%) of the school's total enrollment, a
18 student who was enrolled for at least 75 consecutive days in the prior semester
19 in a preschool program operated by an entity other than the charter school and
20 the charter school has a written enrollment articulation agreement with the
21 program operator to give the program's students enrollment priority.

22 ...

23 (8) A student whose parent or legal guardian is on active military duty."
24

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

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

27 "(68) To Provide Equal Access to All Residents of the Local School Administrative
28 Unit. – A local board of education shall not consider a student's current or
29 prior enrollment in a charter school in any criteria used by the local board for
30 determination of admissions or eligibility to any school or special program."
31

32 **PART VI. AUTHORIZE COUNTIES TO PROVIDE CAPITAL FUNDS TO CHARTER**
33 **SCHOOLS**

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

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

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

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

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

49 (2) The acquisition, construction, reconstruction, enlargement, renovation, or
50 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 (\$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. ALLOW THE CENTRAL PARK SCHOOL FOR CHILDREN IN DURHAM COUNTY TO CONDUCT A WEIGHTED ADMISSIONS LOTTERY PILOT PROGRAM

SECTION 7.(a) The charter school Central Park School for Children in Durham County may establish a pilot program to expand the school's weighted lottery admission procedures for a period of up to four years. The pilot program shall preserve existing weighting factors but may add additional weighting factors that serve the goal of assisting educationally or economically disadvantaged students, including walk zones.

SECTION 7.(b) Notwithstanding G.S. 115C-218.7, an admissions lottery pilot program established under this act shall not be considered a material change of a school's charter.

SECTION 7.(c) By June 15 of each year in which a pilot program established under this act is being designed or conducted, the Central Park School for Children shall report to the Office of Charter Schools the following information:

- (1) A description of the pilot weighted lottery procedures, including the weighted factors considered and how those factors further the goals of the weighted lottery system.
- (2) How the pilot procedure differed from the existing procedure.
- (3) The number of students that were admitted under the pilot program that would not have otherwise been admitted.

SECTION 7.(d) This section is effective when it becomes law and applies to weighted lotteries conducted for the admissions process for the 2024-2025 school year.

PART VIII. TECHNICAL CORRECTION TO REVIEW BOARD STAGGER

SECTION 8.(a) If House Bill 618, 2023 Regular Session, becomes law, Section 2 of that act is repealed.

SECTION 8.(b) If House Bill 618, 2023 Regular Session, becomes law, the current members of the Charter Schools Advisory Board shall serve as initial members of the Charter Schools Review Board. Notwithstanding G.S. 115C-218(b), as amended by House Bill 618, 2023 Regular Session, upon the expiration of the current term of the Charter School Review Board members, (i) two terms expiring in 2025 shall be replaced with an appointment to a two-year term of office by the General Assembly upon the recommendation of the Speaker of the House of Representatives, in accordance with G.S. 120-121, and (ii) two terms expiring in 2025 shall be replaced with an appointment to a two-year term of office by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, in accordance with G.S. 120-121. As those terms expire in 2027 and thereafter, or as vacancies occur prior to the expiration of those terms, those members on the North Carolina Charter Schools Review Board shall be appointed in accordance with G.S. 115C-218.

SECTION 8.(c) This section is effective on the date House Bill 618, 2023 Regular Session, becomes law.

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.