

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 940

Short Title: Charter School Act of 1995.

(Public)

Sponsors: Senators Gulley, Winner, Little, McKoy, Plexico, and Hartsell.

Referred to: Rules Suspended; Education/Higher Education

May 1, 1995

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE CHARTER SCHOOL ACT OF 1995.

3 The General Assembly of North Carolina enacts:

4 Section 1. This act may be cited as the "Charter School Act of 1995".

5 Sec. 2. Article 16 of Chapter 115C of the General Statutes is amended by
6 adding a new Part to read:

7 **"PART 6A. CHARTER SCHOOLS.**

8 **"§ 115C-238.29A. Purpose.**

9 The purpose of this section is authorize a system of charter schools to:

- 10 (1) Improve student learning;
11 (2) Increase learning opportunities for students;
12 (3) Encourage the use of different and innovative teaching methods;
13 (4) Require the measurement of learning outcomes and create different and
14 innovative forms of measuring outcomes;
15 (5) Establish new forms of accountability for schools; or
16 (6) Create new professional opportunities for teachers, including the
17 opportunity to be responsible for the learning program at the school site.

18 **"§ 115C-238.29B. Applications to form charter schools.**

19 (a) An application to form a charter school shall be submitted to a local board of
20 education by a business or corporate entity, two or more certified teachers, 10 or more

1 parents of public school children, a public school that can demonstrate that it has the
2 support of at least sixty-five percent 65% of its teachers and a significant number of
3 parents, a school employee group, or an educational services contractor. A private school
4 shall not apply to form a charter school, and no application shall be granted that results in
5 a private school operating a charter school or converting to a charter school.

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

7 (1) A description of a program that carries out one or more of the purposes
8 in G.S. 115C-238.29A,

9 (2) Specific outcomes students are to achieve in the charter school ;

10 (3) The manner in which student performance will be measured, evaluated,
11 and reported to the local board of education and the State Board of
12 Education;

13 (4) Admission policies and procedures, including any plans to promote
14 diversity and inclusiveness representative of all children in the
15 community the school seeks to serve including children at risk of
16 academic failure and children with special needs;

17 (5) Management and administration of the school;

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

19 (7) A proposed budget for the school and evidence that the plan for the
20 school is economically sound;

21 (8) How the school will comply with G.S. 115C-238.29E and G.S. 115C-
22 238.29G;

23 (9) Assumption of liability by the charter school and applicable insurance
24 coverage;

25 (10) Types and amounts of insurance coverage to be obtained by the charter
26 school; and

27 (11) The term of the contract which may be up to four years.

28 (c) The local board of education may approve the application and submit it to the
29 State Board of Education for final approval if the local board finds that the application
30 meets the requirements set out in this Part or adopted by the State Board of Education,
31 the applicant has the ability to operate the school, and that granting the application would
32 achieve one or more of the purposes set out in G.S. 115C-238.29. The local board shall
33 act on the application within 30 days of receipt.

34 (d) If the local board disapproves the application or if the local board fails to act
35 on the application within 30 days of receipt, the applicant may appeal to the State Board
36 of Education. The State Board may consider final approval of the application if it finds
37 that (i) the local board acted in an arbitrary or capricious manner in disapproving the
38 application or that the local board failed to act on the application within 30 days of
39 receipt and (ii) the application meets the requirements set out in this Part or adopted by
40 the State Board of Education, the applicant has the ability to operate the school, and that
41 granting the application would achieve one or more of the purposes set out in G.S. 115C-
42 238.29.

1 If the local board of education, the State Board of Education, or both disapprove an
2 application, the applicant may modify the application and reapply.

3 (e) The Department of Public Instruction shall provide guidance and technical
4 assistance, upon request, to applicants and potential applicants for charters.

5 **"§ 115C-238.29C. Approval of charter schools.**

6 (a) The State Board of Education shall have final approval of all charter schools.
7 The State Board shall approve an application if it finds that granting the application
8 would achieve one or more of the purposes set out in G.S. 115C-238.29.

9 (b) The State Board shall authorize no more than three charter schools in one local
10 school administrative unit. The State Board shall authorize not more than 40 charter
11 schools statewide prior to July 1, 1998. Of the charter schools authorized prior to July 1,
12 1998, at least 15 shall be charter schools designed to increase educational opportunities
13 for students at risk of academic failure. The State Board of Education shall authorize
14 qualifying schools on a first-come, first-serve basis and shall advise local boards of
15 education when the maximum number of charter schools has been authorized.

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

20 (d) A charter school shall operate under a written contract signed by the local
21 board of education and the applicant. The contract shall incorporate at a minimum the
22 information provided in the application, as modified during the charter approval process,
23 and any terms and conditions imposed on the charter school by the State Board of
24 Education. The contract shall also contain all statutes and rules from which the charter
25 school is exempt.

26 If the local board of education does not sign the contract, the State Board may sign on
27 behalf of the local board.

28 **"§ 115C-238.29D. Authority; exemption from statutes and rules.**

29 (a) A charter school shall be a public school that is part of the local school
30 administrative unit in which it is located. It shall be accountable to the local board of
31 education for purposes of ensuring compliance with applicable laws and charter
32 provisions.

33 (b) Except as provided in this Part and pursuant to the provisions of its contract, a
34 charter school is exempt from statutes and rules applicable to a local board of education
35 or local school administrative unit. A charter school may elect to comply with one or
36 more provisions of statutes or rules from which it is exempt.

37 **"§ 115C-238.29E. General requirements.**

38 (a) A charter school shall meet the same health and safety requirements required
39 of a local school administrative unit.

40 (b) The school shall be located in the local school administrative unit to which it
41 applied to form a charter. Its specific location shall not be prescribed or limited by a
42 local board or other authority except a zoning authority.

1 (c) The school shall be nonsectarian and not home-based in its programs,
2 admission policies, employment practices, and all other operations. A local board shall
3 not authorize a charter school or program, that is affiliated with a nonpublic sectarian
4 school or a religious institution.

5 (d) The primary focus of the school shall be to provide a comprehensive program
6 of instruction for at least one grade or age group of children entitled to attend public
7 school.

8 (e) The school is subject to and shall comply with Article 27 of Chapter 115C of
9 the General Statutes.

10 (f) The school is subject to the same financial audits, audit procedures, and audit
11 requirements as a local school administrative unit. The State Board of Education or the
12 State Auditor may conduct financial, program, or compliance audits.

13 The school shall comply with the reporting requirements established by the State
14 Board of Education in the Uniform Education Reporting System.

15 (g) The school shall design its programs to at least meet the outcomes adopted by
16 the State Board of Education and the achievement levels of the outcomes contained in the
17 contract with the local board of education.

18 (h) The school shall comply with Article 9 of Chapter 115C of the General
19 Statutes and rules relating to the education of children with special needs.

20 (i) The school shall provide instruction each year for at least 180 days each year.

21 (j) The school shall report at least annually to the local board of education and the
22 State Board of Education the information required by the local board or the State Board.

23 (k) The school may lease space from a local board of education or other public or
24 private nonprofit nonsectarian organization.

25 **"§ 115C-238.29F. Admission requirements.**

26 (a) The school may limit admission to:

27 (1) Students within an age group or grade level;

28 (2) Students who have a specific affinity for the school's teaching methods,
29 the school's learning philosophy, or a subject such as mathematics,
30 science, fine arts, performing arts, or a foreign language; or

31 (3) Residents of a specific geographic area if the students assigned to the
32 school are reasonably reflective of the racial and socio-economic
33 composition of the local school administrative unit.

34 (b) If a public school is converted to a charter school, the school shall give
35 preference in admissions to students in the attendance area of the public school.

36 (c) The school shall enroll an eligible student who submits a timely application,
37 unless the number of applications exceeds the capacity of a program, class, grade level,
38 or building. In this case, students shall be accepted by lot.

39 (d) Except as otherwise provided by law, the school shall not limit admission to
40 students on the basis of intellectual ability, measures of achievement or aptitude, or
41 athletic ability, disability, race, creed, gender, national origin, religion, or ancestry. The
42 school shall be subject to any court-ordered desegregation plan in effect for the local
43 school administrative unit.

1 (e) Notwithstanding G.S. 115C-366 and G.S. 115C-366.1, children who reside in
2 other local school administrative units are eligible to attend a charter school without the
3 permission of the local boards of education involved and without the payment of tuition.
4 The local board of education in which the charter school is located may elect to provide
5 transportation for these children as provided in G.S. 115C-238.29K.

6 **"§ 115C-238.29G. Employment and other operating matters.**

7 (a) The charter school's board of directors shall employ and contract with
8 necessary teachers who hold certificates to perform the particular service for which they
9 are employed in the school. The board may employ necessary employees who are not
10 required to hold teaching certificates to perform duties other than teaching and may
11 contract for other services. The board may discharge teachers and uncertificated
12 employees.

13 (b) If a teacher employed by a local school administrative unit makes a written
14 request for an extended leave of absence to teach at a charter school, the local school
15 administrative unit shall grant the leave. The local school administrative unit shall grant
16 a leave for any number of years requested by the teacher, shall extend the leave for any
17 number of years requested by the teacher, and shall extend the leave at the teacher's
18 request. The local school administrative unit may require that the request for a leave or
19 extension of leave be made up to 90 days before the teacher would otherwise have to
20 report for duty. A teacher who has career status under G.S. 115C-325 prior to receiving
21 an extended leave of absence to teach at a charter school may return to a public school in
22 the local school administrative unit with career status at the end of the leave of absence.

23 During a leave, the teacher may continue to aggregate benefits and credits in the
24 teachers' retirement association account by paying both the employer and employee
25 contributions based upon the annual salary of the teacher for the last full pay period
26 before the leave began. The retirement association may impose reasonable requirements
27 to efficiently administer this subsection.

28 (c) The board of directors of the charter school shall decide matters related to the
29 operation of the school, including budgeting, curriculum, and operating procedures.

30 **"§ 115C-238.29H. Causes for nonrenewal or termination.**

31 (a) The local board may not renew a contract at the end of the term for any
32 grounds listed in subsection (b) of this section.

33 A local board or the State Board may unilaterally terminate a contract during the term
34 of the contract for any grounds listed in subsection (b) of this section. At least 60 days
35 before not renewing or terminating a contract, the local board, or the State Board if the
36 State Board is acting to terminate a contract, shall notify the board of directors of the
37 school of the proposed action in writing. The notice shall state the grounds for the
38 proposed action in reasonable detail and that the school's board of directors may request
39 in writing an informal hearing before the local board or the State Board within 14 days of
40 receiving notice of nonrenewal or termination of the contract. Failure by the board of
41 directors to make a written request for a hearing with the 14-day period shall be treated as
42 acquiescence to the proposed action. Upon receiving a timely written request for a
43 hearing, the local board or the State Board shall give reasonable notice to the school's

1 board of directors of the hearing date. The local board or the State Board shall conduct
2 an informal hearing before taking final action. The local board shall take final action to
3 renew or not renew a contract by the last day of classes in the school year.

4 (b) A contract may be terminated or not renewed upon any of the following
5 grounds:

6 (1) Failure to meet the requirements for student performance contained in
7 the contract;

8 (2) Failure to meet generally accepted standards of fiscal management;

9 (3) Violations of law;

10 (4) Two-thirds of the faculty and instructional support personnel at the
11 school request that the contract be terminated or not renewed; or

12 (5) Other good cause shown.

13 **"§ 115C-238.29I. Liability.**

14 The board of directors of a charter school may sue and be sued. The board of
15 directors shall obtain at least the amount of and types of insurance required by the
16 contract.

17 **"§ 115C-238.29J. State and local funds for a charter school.**

18 (a) The State Board of Education shall allocate to each charter school (i) an
19 amount equal to the average per pupil allocation for average daily membership for the
20 local school administrative unit in which the charter school is located for each child
21 attending the charter school except for the allocation for children with special needs and
22 for school transportation and (ii) an additional amount for each child attending the charter
23 school who is a child with special needs.

24 (b) Funds allocated by the State Board of Education shall not be used to purchase
25 land or buildings. The school may own land and buildings it obtained through non-State
26 sources.

27 (c) If a student attends a charter school, the local school administrative unit in
28 which the child resides shall transfer to the charter school an amount equal to the per
29 pupil local current expense appropriation to the local school administrative unit for the
30 fiscal year.

31 **"§ 115C-238.29K. Transportation.**

32 Transportation for students enrolled at a charter school shall be provided by the local
33 school administrative unit in which the school is located on the same terms and
34 conditions as transportation is provided to children attending other schools in the local
35 school administrative unit. Transportation may be provided by the local school
36 administrative unit in which the school is located for a student residing in a different local
37 school administrative unit."

38 Sec. 3. This act is effective upon ratification.