

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 940  
Education/Higher Education Committee Substitute Adopted 5/8/95  
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Short Title: Charter School Act of 1995.

(Public)

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Sponsors:

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Referred to:

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May 1, 1995

1 A BILL TO BE ENTITLED  
2 AN ACT TO ENACT THE CHARTER SCHOOLS ACT OF 1995.  
3 The General Assembly of North Carolina enacts:

4 Section 1. This act shall be known as the "Charter Schools 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 Part is to authorize a system of charter schools to provide  
10 opportunities for teachers, parents, pupils, and community members to establish and  
11 maintain schools that operate independently of existing schools, as a method to  
12 accomplish all of the following:

- 13 (1) Improve student learning;  
14 (2) Increase learning opportunities for all students, with special emphasis  
15 on expanded learning experiences for students who are identified as at  
16 risk of academic failure or academically gifted;  
17 (3) Encourage the use of different and innovative teaching methods;

- 1           (4) Create new professional opportunities for teachers, including the  
2 opportunities to be responsible for the learning program at the school  
3 site;
- 4           (5) Provide parents and students with expanded choices in the types of  
5 educational opportunities that are available within the public school  
6 system; and
- 7           (6) Hold the schools established under this Part accountable for meeting  
8 measurable student achievement results, and provide the schools with a  
9 method to change from rule-based to performance-based accountability  
10 systems.

11 **"§ 115C-238.29B. Eligible applicants; contents of applications; submission of**  
12 **applications for approval.**

13       (a) Any person, group of persons, or nonprofit corporation seeking to establish a  
14 charter school within a local school administrative unit may apply to establish a charter  
15 school. If the applicant seeks to convert a public school to a charter school, the  
16 application shall include a statement signed by a majority of the teachers and  
17 instructional support personnel currently employed at the school indicating that they  
18 favor the conversion and evidence that a significant number of parents of children  
19 enrolled in the school favor conversion.

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

- 21           (1) A description of a program that implements one or more of the purposes  
22 in G.S. 115C-238.29A;
- 23           (2) A description of student achievement goals for the school's educational  
24 program and the method of demonstrating that students have attained  
25 the skills and knowledge specified for those student achievement goals;
- 26           (3) The governance structure of the school including the process to be  
27 followed by the school to ensure parental involvement;
- 28           (4) Admission policies and procedures;
- 29           (5) A proposed budget for the school and evidence that the plan for the  
30 school is economically sound;
- 31           (6) Requirements and procedures for program and financial audits;
- 32           (7) A description of how the school will comply with G.S. 115C-238.29F;
- 33           (8) Types and amounts of insurance coverage to be obtained by the charter  
34 school;
- 35           (9) The term of the contract;
- 36           (10) The qualifications required for individuals employed by the school;
- 37           (11) The procedures by which students can be excluded from the charter  
38 school and returned to another school in the local school administrative  
39 unit;
- 40           (12) The number of students to be served, which number shall be at least  
41 100, and the number of certified teachers to be employed at the school,  
42 which number shall be at least three, unless the application contains a

1 compelling reason for the school serving fewer than 100 students or  
2 employing fewer than three certified teachers;

3 (13) Information regarding the facilities to be used by the school and the  
4 manner in which administrative services of the school are to be  
5 provided; and

6 (14) A description of whether the school will operate independently of the  
7 local board of education or whether it agrees to be subject to some  
8 supervision and control of its administrative operations by the local  
9 board of education. In the event the charter school elects to operate  
10 independently of the local board of education, the application must  
11 specify which employee benefits will be offered to its employees and  
12 how the benefits will be funded.

13 (c) An applicant may submit an application to either the local board of education  
14 of the local school administrative unit in which the school will be located or to the State  
15 Board of Education for preliminary approval of a charter school. Regardless of whether  
16 the applicant submits the application to the local board of education or to the State Board  
17 of Education for preliminary approval, the State Board of Education shall have final  
18 approval of the charter school.

19 **"§ 115C-238.29C. Preliminary approval of applications for charter schools.**

20 (a) The State Board of Education and each local board of education that receives a  
21 request for preliminary approval of a charter school shall act on each request received  
22 prior to December 1 of a calendar year by February 1 of the next calendar year.

23 (b) The State Board of Education or a local board of education shall give  
24 preliminary approval to an application if the State Board or the local board determines  
25 that (i) information contained in the application meets the requirements set out in this Part  
26 or adopted by the State Board of Education, (ii) the applicant has the ability to operate the  
27 school and would be likely to operate the school in an educationally and economically  
28 sound manner, and (iii) granting the application would improve student learning and  
29 would achieve one of the other purposes set out in G.S. 115C-238.29A. In reviewing  
30 applications for the establishment of charter schools within a local school administrative  
31 unit, the State Board or the local board of education is encouraged to give preference to  
32 applications that demonstrate the capability to provide comprehensive learning  
33 experiences to students identified by the applicants as at risk of academic failure. If the  
34 State Board or a local board approves more than one application for charter schools  
35 located in a local school administrative unit, the State Board or a local board may state its  
36 order of preference among the applications that it approves.

37 (c) If the local board disapproves an application, the applicant may appeal to the  
38 State Board of Education prior to February 15. The State Board shall consider the appeal  
39 at the same time it is considering final approval in accordance with G.S. 115C-238.29D.  
40 The State Board shall give preliminary approval of the application if it finds that the local  
41 board acted in an arbitrary or capricious manner in disapproving the application, failed to  
42 consider appropriately the application, or failed to act within the time set out in G.S.  
43 115C-238.29C.

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 subject to the  
3 application deadline contained in subsection (a) of this section.

4 **"§ 115C-238.29D. Final approval of applications for charter schools.**

5        (a) The State Board shall grant final approval of an application if it finds that the  
6 application meets the requirements set out in this Part or adopted by the State Board of  
7 Education and that granting the application would achieve one or more of the purposes  
8 set out in G.S. 115C-238.29. The State Board shall act by March 15 of a calendar year on  
9 all applications and appeals it receives prior to February 15 of that calendar year.

10        (b) The State Board shall authorize no more than three charter schools per year in  
11 one local school administrative unit. The State Board shall authorize not more than 100  
12 charter schools Statewide. If more than three charter schools in one local school  
13 administrative unit or more than 100 schools statewide meet the standards for final  
14 approval, the State Board shall give priority to applications that are most likely to further  
15 State education policies and to strengthen the educational program offered in the local  
16 school administrative units in which they are located.

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

21        (d) The State Board of Education may grant a charter for a period not to exceed  
22 five years and may renew the charter upon the request of the local board for subsequent  
23 periods not to exceed five years each. A material revision of the provisions of a charter  
24 application shall be made only upon the approval of the State Board of Education.

25 **"§ 115C-238.29E. Charter school operation.**

26        (a) A charter school that is approved by the State shall be a public school within  
27 the local school administrative unit in which it is located. It shall be accountable to the  
28 local board of education for purposes of ensuring compliance with applicable laws and  
29 the provisions of its charter.

30        (b) A charter school shall be operated by a private nonprofit corporation that shall  
31 have received federal tax-exempt status no later than twenty-four months following final  
32 approval of the application.

33        (c) A charter school shall operate under a written contract signed by the local  
34 board of education and the applicant. The contract shall incorporate at a minimum the  
35 information provided in the application, as modified during the charter approval process,  
36 and any terms and conditions imposed on the charter school by the State Board of  
37 Education.

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

40        (d) The board of directors of the charter school shall decide matters related to the  
41 operation of the school, including budgeting, curriculum, and operating procedures.

42        (e) A charter school shall be located in the local school administrative unit with  
43 which it signed the contract. Its specific location shall not be prescribed or limited by a

1 local board or other authority except a zoning authority. The school may lease space  
2 from a local board of education or other public or private nonprofit nonsectarian  
3 organization.

4 (f) Except as provided in this Part and pursuant to the provisions of its contract, a  
5 charter school is exempt from statutes and rules applicable to a local board of education  
6 or local school administrative unit.

7 **"§ 115C-238.29F. General requirements.**

8 (a) Health and Safety Standards. – A charter school shall meet the same health and  
9 safety requirements required of a local school administrative unit.

10 (b) School Nonsectarian. – A charter school shall be nonsectarian in its programs,  
11 admission policies, employment practices, and all other operations and shall not charge  
12 tuition except as provided in G.S. 115C-366.1. A charter school shall not be affiliated  
13 with a nonpublic sectarian school or a religious institution.

14 (c) Civil Liability and Insurance. –

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

18 (2) No civil liability shall attach to any board of education, individually or  
19 collectively, for any acts or omissions of the charter school. The  
20 immunity established by this subsection shall be deemed to have been  
21 waived to the extent of indemnification by insurance, indemnification  
22 under Articles 31A and 31B of Chapter 143 of the General Statutes, and  
23 to the extent sovereign immunity is waived under the Tort Claims Act,  
24 as set forth in Article 31 of Chapter 143 of the General Statutes.

25 (d) Instructional Program. –

26 (1) The school shall provide instruction each year for at least 180 days.

27 (2) The school shall design its programs to at least meet the student  
28 performance standards adopted by the State Board of Education and the  
29 student performance standards contained in the contract with the local  
30 board of education.

31 (3) A charter school shall conduct the student assessments required for  
32 charter schools by the State Board of Education.

33 (4) The school shall comply with policies adopted by the State Board of  
34 Education for charter schools relating to the education of children with  
35 special needs.

36 (5) The school is subject to and shall comply with Article 27 of Chapter  
37 115C of the General Statutes; except that a charter school may also  
38 exclude a student from the charter school and return that student to  
39 another school in the local school administrative unit in accordance with  
40 the terms of its contract.

41 (e) Employees. –

42 (1) An employee of a charter school is not an employee of the local school  
43 administrative unit in which the charter school is located. The charter

1 school's board of directors shall employ and contract with necessary  
2 teachers to perform the particular service for which they are employed  
3 in the school; at least seventy-five percent (75%) of these teachers in  
4 grades kindergarten through eight and at least fifty percent (50%) of  
5 these teachers in grades nine through 12 shall hold teacher certificates.  
6 The board also may employ necessary employees who are not required  
7 to hold teacher certificates to perform duties other than teaching and  
8 may contract for other services. The board may discharge teachers and  
9 noncertificated employees.

10 (2) No local board of education shall require any employee of the local  
11 school administrative unit to be employed in a charter school.

12 (3) If a teacher employed by a local school administrative unit makes a  
13 written request for an extended leave of absence to teach at a charter  
14 school, the local school administrative unit shall grant the leave. The  
15 local school administrative unit shall grant a leave for any number of  
16 years requested by the teacher, shall extend the leave for any number of  
17 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  
19 request for a leave or extension of leave be made up to 90 days before  
20 the teacher would otherwise have to report for duty. A teacher who has  
21 career status under G.S. 115C-325 prior to receiving an extended leave  
22 of absence to teach at a charter school may return to a public school in  
23 the local school administrative unit with career status at the end of the  
24 leave of absence if an appropriate position is available. If an  
25 appropriate position is unavailable, the teacher's name shall be placed  
26 on a list of available teachers and that teacher shall have priority on all  
27 positions for which that teacher is qualified in accordance with G.S.  
28 115C-325(e)(2).

29 (4) In the event a charter school, in its application, elects total independence  
30 from the local board of education, its employees shall not be deemed to  
31 be employees of the local school administrative unit and shall not be  
32 entitled to any State-funded employee benefits, including membership  
33 in the North Carolina Teachers' and State Employees' Retirement  
34 System or the Teachers' and State Employees' Comprehensive Major  
35 Medical Plan. In the event a charter school, in its application, agrees to  
36 be subject to some supervision and control of its administrative  
37 operations by the local board of education, the employees of the charter  
38 school will be deemed employees of the local school administrative unit  
39 for purposes of providing certain State-funded employee benefits,  
40 including membership in the Teachers' and State Employees' Retirement  
41 System and the Teachers' and State Employees' Comprehensive Major  
42 Medical Plan. The Board of Trustees of the Teachers' and State  
43 Employees' Retirement System, in consultation with the State Board of

1           Education, shall determine the degree of supervision and control  
2           necessary to qualify the employees of the applicant for membership in  
3           the Retirement System. In no event shall anything contained in this Part  
4           require the North Carolina Teachers' and State Employees' Retirement  
5           System to accept employees of a private employer as members or  
6           participants of the System.

7       (f)   Accountability. –

8           (1)   The school is subject to the financial audits, the audit procedures, and  
9           the audit requirements adopted by the State Board of Education for  
10           charter schools.

11           (2)   The school shall comply with the reporting requirements established by  
12           the State Board of Education in the Uniform Education Reporting  
13           System.

14           (3)   The school shall report at least annually to the local board of education  
15           and the State Board of Education the information required by the local  
16           board or the State Board.

17       (g)   Admission Requirements. –

18           (1)   No local board of education shall require any student enrolled in the  
19           local school administrative unit to attend a charter school.

20           (2)   Admission to a charter school shall not be determined according to the  
21           school attendance area in which a student resides, except that any local  
22           school administrative unit in which a public school converts to a charter  
23           school shall give admission preference to students who reside within the  
24           former attendance area of that school.

25           (3)   Admission to a charter school shall not be determined according to the  
26           local school administrative unit in which a student resides, except that  
27           the provisions of G.S. 115C-366(d) shall apply to a student who wishes  
28           to attend a charter school in a county other than the county in which the  
29           student resides.

30           (4)   A charter school shall not discriminate against any student on the basis  
31           of ethnicity, national origin, gender, or disability. Except as otherwise  
32           provided by law or the mission of the school as set out in the contract,  
33           the school shall not limit admission to students on the basis of  
34           intellectual ability, measures of achievement or aptitude, athletic ability,  
35           disability, race, creed, gender, national origin, religion, or ancestry.  
36           Within one year after the charter school begins operation, the population  
37           of the school shall reasonably reflect the racial and ethnic composition  
38           of the general population residing within the local school administrative  
39           unit in which the school is located or the racial and ethnic composition  
40           of the special population that the school seeks to serve residing within  
41           the local school administrative unit in which the school is located. The  
42           school shall be subject to any court-ordered desegregation plan in effect  
43           for the local school administrative unit.

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

5           (h) Transportation. – The charter school shall provide transportation for students  
6 enrolled at the school who reside in the local school administrative unit in which the  
7 school is located. The charter school may provide transportation for students enrolled at  
8 the school who reside in different local school administrative units.

9 **"§ 115C-238.29G. Causes for nonrenewal or termination.**

10 A contract may be terminated or not renewed upon any of the following grounds:

11           (1) Failure to meet the requirements for student performance contained in  
12 the contract;

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

14           (3) Violations of law;

15           (4) Material violation of any of the conditions, standards, or procedures set  
16 forth in the contract;

17           (5) Two-thirds of the faculty and instructional support personnel at the  
18 school request that the contract be terminated or not renewed; or

19           (6) Other good cause shown.

20 **"§ 115C-238.29H. State and local funds for a charter school.**

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

27           Funds allocated by the State Board of Education shall not be used to purchase land or  
28 buildings. The school may own land and buildings it obtained through non-State sources.

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

33 **"§ 115C-238.29I. Notice of the charter school process; review of charter schools.**

34           (a) The State Board of Education shall distribute information announcing the  
35 availability of the charter school process described in this Part to each local school  
36 administrative unit and public postsecondary educational institution and, through press  
37 releases, to each major newspaper in the State.

38           (b) The State Board of Education shall report annually to the Joint Legislative  
39 Education Oversight Committee and the Joint Legislative Commission on Governmental  
40 Operations the following information:

41           (1) The current and projected impact of charter schools on the delivery of  
42 services by the public schools;



1           (2) Student academic progress in the charter schools as measured, where  
2           available, against the academic year immediately preceding the first  
3           academic year of the charter schools' operation; and

4           (3) Best practices resulting from charter school operations.

5 The State Board of Education shall base its report in part upon the annual reports  
6 submitted by the charter schools under G.S. 115C-238.29F(f)(3). To the extent possible,  
7 the State Board of Education shall present the information in disaggregated form relative  
8 to the race, gender, grade level, and economic condition of the students.

9       (c) The State Board of Education shall review the educational effectiveness of the  
10 charter school approach authorized under this Part and the effect of charter schools on the  
11 public schools in the local school administrative unit in which the charter schools are  
12 located and, not later than January 1, 1999, shall report to the Joint Legislative Education  
13 Oversight Committee with recommendations to modify, expand, or terminate that  
14 approach. Analysis of the reports submitted under subsection (b) of this section shall be  
15 the predominant factor in determining whether the number of charter schools shall be  
16 increased and the conditions under which any increase or continued operation shall be  
17 allowed. If the analysis indicates demonstrable, substantial success, the General  
18 Assembly shall consider expanding the number of charter schools that may be  
19 established.

20 **"§ 115C-238.29J. Public and private assistance to charter schools.**

21       (a) Local boards of education are authorized and encouraged to provide  
22 administrative and evaluative support to charter schools located within their local school  
23 administrative units and to contract with those charter schools to provide student  
24 transportation.

25       (b) Private persons and organizations are encouraged to provide funding and other  
26 assistance to the establishment or operation of charter schools.

27       (c) The Department of Public Instruction shall provide guidance and technical  
28 assistance, upon request, to applicants and potential applicants for charters."

29       Sec. 3. G.S. 135-40.1(6) reads as rewritten:

30       "(6) Employing Unit. – A North Carolina School System; Community  
31 College; State Department, Agency or Institution; Administrative Office  
32 of the Courts; or Association or Examining Board whose employees are  
33 eligible for membership in a State-Supported Retirement System. An  
34 employing unit also shall mean a charter school in accordance with Part  
35 6A of Chapter 115C of the General Statutes whose employees are  
36 deemed to be public employees and members of a State-Supported  
37 Retirement System."

38       Sec. 4. This act becomes effective July 1, 1995.