

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H

1

HOUSE BILL 1207

Short Title: LEA's Authorized To Create Charter Schools. (Public)

Sponsors: Representatives Shubert; Harrington, Morris, and Capps.

Referred to: Education.

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO PERMIT A LOCAL BOARD OF EDUCATION TO APPLY FOR
CHARTER STATUS FOR ONE OR MORE OF ITS PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-238.29B reads as rewritten:

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

(a) Any person, group of persons, ~~or nonprofit corporation~~ corporation, or local board of education seeking to establish a charter school may apply to establish a charter school. ~~If the applicant~~ an applicant other than a local board of education seeks to convert a public school to a charter school, the application shall include a statement signed by a majority of the teachers and instructional support personnel currently employed at the school indicating that they favor the conversion and evidence that a significant number of parents of children enrolled in the school favor conversion. If a local board of education seeks a charter for a school, the application shall include a statement that the local board understands that no employee shall be required to work at the charter school and no student shall be assigned to the school except at the request of the student's parent or guardian.

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

- (1) A description of a program that implements one or more of the purposes in G.S. 115C-238.29A.
- (2) A description of student achievement goals for the school's educational program and the method of demonstrating that students have attained the skills and knowledge specified for those student achievement goals.
- (3) The governance structure of the ~~school~~ school, if the applicant is not a local board of education, including the names of the proposed initial members of the board of directors of the nonprofit, tax-exempt

- 1 corporation and the process to be followed by the school to ensure
2 parental involvement.
- 3 (4) Admission policies and procedures.
- 4 (5) A proposed budget for the school and evidence that the financial plan
5 for the school is economically sound.
- 6 (6) Requirements and procedures for program and financial audits.
- 7 (7) A description of how the school will comply with G.S. 115C-238.29F.
- 8 (8) Types and amounts of insurance coverage, including bonding
9 insurance for the principal officers of the school, to be obtained by the
10 charter school.
- 11 (9) The term of the charter.
- 12 (10) The qualifications required for individuals employed by the school.
- 13 (11) The procedures by which students can be excluded from the charter
14 school and returned to a public school. school other than a charter
15 school. Notwithstanding any law to the contrary, any local board may
16 refuse to admit any student who is suspended or expelled from a
17 charter school due to actions that would lead to suspension or
18 expulsion from a public school under G.S. 115C-391 until the period
19 of suspension or expulsion has expired.
- 20 (12) The number of students to be served, which number shall be at least
21 65, and the minimum number of teachers to be employed at the school,
22 which number shall be at least three. However, the charter school may
23 serve fewer than 65 students or employ fewer than three teachers if the
24 application contains a compelling reason, such as the school would
25 serve a geographically remote and small student population.
- 26 (13) Information regarding the facilities to be used by the school and the
27 manner in which administrative services of the school are to be
28 provided.
- 29 (14) Repealed by Session Laws 1997-430, s. 1.
- 30 (c) An applicant shall submit the application to a chartering entity for
31 preliminary approval. A chartering entity may be:
- 32 (1) The local board of education of the local school administrative unit in
33 which the charter school will be ~~located~~; located, unless the applicant
34 is a local board of education;
- 35 (2) The board of trustees of a constituent institution of The University of
36 North Carolina, so long as the constituent institution is involved in the
37 planning, operation, or evaluation of the charter school; or
- 38 (3) The State Board of Education.
- 39 Regardless of which chartering entity receives the application for preliminary
40 approval, the State Board of Education shall have final approval of the charter school.
- 41 Notwithstanding the provisions of this subsection, if the State Board of Education
42 finds that an applicant (i) submitted an application to a local board of education and
43 received final approval from the State Board of Education, but (ii) is unable to find a
44 suitable location within that local school administrative unit to operate, the State Board

1 of Education may authorize the charter school to operate within an adjacent local school
2 administrative unit for one year only. The charter school cannot operate for more than
3 one year unless it reapplies, in accordance with subdivision (1), (2), or (3) of this
4 subsection, and receives final approval from the State Board of Education.

5 (d) ~~Unless an~~ the applicant is a local board of education or the applicant submits
6 its application under subsection (c) of this section to the local board of education of the
7 local school administrative unit in which the charter school will be located, the applicant
8 shall submit a copy of its application to that local board within seven days of its
9 submission under subsection (c) of this section. The local board may offer any
10 information or comment concerning the application it considers appropriate to the
11 chartering entity. The local board shall deliver this information to the chartering entity
12 no later than January 1 of the next calendar year. The applicant shall not be required to
13 obtain or deliver this information to the chartering entity on behalf of the local board.
14 The State Board shall consider any information or comment it receives from a local
15 board and shall consider the impact on the local school administrative unit's ability to
16 provide a sound basic education to its students when determining whether to grant
17 preliminary and final approval of the charter school."

18 **SECTION 2.** G.S. 115C-238.29D reads as rewritten:

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

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

25 (b) The State Board shall authorize no more than five charter ~~schools~~ schools,
26 except for charter schools operated by a local board of education, per year in one local
27 school administrative unit. The State Board shall authorize no more than 100 charter
28 schools ~~statewide.~~ statewide, except for charter schools operated by a local board of
29 education. If more than five charter schools in one local school administrative unit or
30 more than 100 schools statewide meet the standards for final approval, the State Board
31 shall give priority to applications that are most likely to further State education policies
32 and to strengthen the educational program offered in the local school administrative
33 units in which they are located.

34 The State Board may authorize as many charter schools operated by a local board of
35 education in one local school administrative unit or operated by local boards of
36 education on a statewide-basis, as it deems appropriate.

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

41 (d) The State Board of Education may grant the initial charter for a period not to
42 exceed five years and may renew the charter upon the request of the chartering entity
43 for subsequent periods not to exceed five years each. A material revision of the
44 provisions of a charter application shall be made only upon the approval of the State

1 Board of Education. Beginning with the charter school's second year of operation and
2 annually thereafter, the State Board shall allow a charter school to increase its
3 enrollment by ten percent (10%) of the school's previous year's enrollment or as is
4 otherwise provided in the charter. This enrollment growth shall not be considered a
5 material revision of the charter application and shall not require the prior approval of the
6 State Board.

7 An enrollment growth of greater than ten percent (10%) shall be considered a
8 material revision of the charter application. The State Board may approve an enrollment
9 growth of greater than ten percent (10%) only if the State Board finds that:

- 10 (1) The actual enrollment of the charter school is within ten percent (10%)
11 of its maximum authorized enrollment;
- 12 (2) The charter school has commitments for ninety percent (90%) of the
13 requested maximum growth;
- 14 (3) The board of education of the local school administrative unit in which
15 the charter school is located has had an opportunity to be heard by the
16 State Board of Education on any adverse impact the proposed growth
17 would have on the unit's ability to provide a sound basic education to
18 its students;
- 19 (4) The charter school is not currently identified as ~~low performing~~; low
20 performing;
- 21 (5) The charter school meets generally accepted standards of fiscal
22 management; and
- 23 (6) It is otherwise appropriate to approve the enrollment growth."

24 **SECTION 3.** G.S. 115C-238.29E reads as rewritten:

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 if the applicant for the charter is the local board of education or
29 if it applied for and received preliminary approval from that local board for purposes of
30 ensuring compliance with applicable laws and the provisions of its charter. All other
31 charter schools shall be accountable to the State Board for ensuring compliance with
32 applicable laws and the provisions of their charters, except that any of these charter
33 schools may agree to be accountable to the local board of the school administrative unit
34 in which the charter school is located rather than to the State Board.

35 (b) A charter school other than a charter school for which the applicant is a local
36 board of education shall be operated by a private nonprofit corporation that shall have
37 received federal tax-exempt status no later than 24 months following final approval of
38 the application. A charter school for which the applicant is a local board of education
39 shall be operated by the local board of education.

40 (c) A charter school shall operate under the written charter signed by the entity to
41 which it is accountable under subsection (a) of this section and the applicant. A charter
42 school is not required to enter into any other contract. The charter shall incorporate the
43 information provided in the application, as modified during the charter approval
44 process, and any terms and conditions imposed on the charter school by the State Board

1 of Education. No other terms may be imposed on the charter school as a condition for
2 receipt of local funds.

3 (d) The board of directors of the charter school operated by a nonprofit
4 corporation shall decide matters related to the operation of the school, including
5 budgeting, curriculum, and operating procedures. The local board of education shall
6 decide these matters for a charter school operated by the local board.

7 (e) ~~A charter school's specific location~~ The specific location of a charter school
8 operated by a private nonprofit corporation shall not be prescribed or limited by a local
9 board or other authority except a zoning authority. The school may lease space from a
10 local board of education or as is otherwise lawful in the local school administrative unit
11 in which the charter school is located. If a charter school leases space from a sectarian
12 organization, the charter school classes and students shall be physically separated from
13 any parochial students, and there shall be no religious artifacts, symbols, iconography,
14 or materials on display in the charter school's entrance, classrooms, or hallways.
15 Furthermore, if a charter school leases space from a sectarian organization, the charter
16 school shall not use the name of that organization in the name of the charter school.

17 At the request of the charter school, the local board of education of the local school
18 administrative unit in which the charter school will be located shall lease any available
19 building or land to the charter school unless the board demonstrates that the lease is not
20 economically or practically feasible or that the local board does not have adequate
21 classroom space to meet its enrollment needs. Notwithstanding any other law, a local
22 board of education may provide a school facility to a charter school free of charge;
23 however, the charter school is responsible for the maintenance of and insurance for the
24 school facility.

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

28 **SECTION 4.** G.S. 115C-238.29F reads as rewritten:

29 "**§ 115C-238.29F. General requirements.**

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

32 (b) School Nonsectarian. – A charter school shall be nonsectarian in its
33 programs, admission policies, employment practices, and all other operations and shall
34 not charge tuition or fees. A charter school shall not be affiliated with a nonpublic
35 sectarian school or a religious institution.

36 (c) Civil Liability and Insurance. –

37 (1) The board of directors of a charter school operated by a nonprofit
38 corporation may sue and be sued. The State Board of Education shall
39 adopt rules to establish reasonable amounts and types of liability
40 insurance that the board of directors shall be required by the charter to
41 obtain. The board of directors shall obtain at least the amount of and
42 types of insurance required by these rules to be included in the charter.
43 Any sovereign immunity of the charter school, of the organization that
44 operates the charter school, or its members, officers, or directors, or of

1 the employees of the charter school or the organization that operates
2 the charter school, is waived to the extent of indemnification by
3 insurance.

4 (2) No civil liability shall attach to any chartering entity, to the State
5 Board of Education, or to any of their members or employees,
6 individually or collectively, for any acts or omissions of ~~the~~ any
7 charter school-school operated by a nonprofit corporation.

8 (3) The civil liability for a charter school operated by a local school
9 administrative unit shall be the same as for any other school operated
10 by the unit.

11 (d) Instructional Program. –

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

13 (2) The school shall design its programs to at least meet the student
14 performance standards adopted by the State Board of Education and
15 the student performance standards contained in the charter.

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

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

21 (5) The school is subject to and shall comply with Article 27 of Chapter
22 115C of the General Statutes, except that a charter school operated by
23 a private nonprofit corporation or a charter school operated by a local
24 school administrative unit may also exclude a student from the charter
25 school and return that student to another school in the local school
26 administrative unit in accordance with the terms of its charter.

27 (e) Employees. –

28 (1) An employee of a charter school operated by a private nonprofit
29 corporation is not an employee of the local school administrative unit
30 in which the charter school is located. The charter school's board of
31 directors shall employ and contract with necessary teachers to perform
32 the particular service for which they are employed in the school; at
33 least seventy-five percent (75%) of these teachers in grades
34 kindergarten through five, at least fifty percent (50%) of these teachers
35 in grades six through eight, and at least fifty percent (50%) of these
36 teachers in grades nine through 12 shall hold teacher certificates. The
37 board also may employ necessary employees who are not required to
38 hold teacher certificates to perform duties other than teaching and may
39 contract for other services. The board may discharge teachers and
40 noncertificated employees.

41 An employee of a charter school operated by a local school
42 administrative unit is an employee of the local school administrative,
43 in which the charter school is located.

- 1 (2) No local board of education shall require any employee of the local
2 school administrative unit to be employed in a charter school.
- 3 (3) If a teacher employed by a local school administrative unit makes a
4 written request for an extended leave of absence to teach at a charter
5 ~~school~~, school operated by a private nonprofit corporation, the local
6 school administrative unit shall grant the leave. The local school
7 administrative unit shall grant a leave for any number of years
8 requested by the teacher, shall extend the leave for any number of
9 years requested by the teacher, and shall extend the leave at the
10 teacher's request. For the initial year of a charter school's operation, the
11 local school administrative unit may require that the request for a leave
12 or extension of leave be made up to 45 days before the teacher would
13 otherwise have to report for duty. For subsequent years, the local
14 school administrative unit may require that the request for a leave or
15 extension of leave be made up to 90 days before the teacher would
16 otherwise have to report for duty. A teacher who has career status
17 under G.S. 115C-325 prior to receiving an extended leave of absence
18 to teach at a charter school may return to a public school in the local
19 school administrative unit with career status at the end of the leave of
20 absence or upon the end of employment at the charter school if an
21 appropriate position is available. If an appropriate position is
22 unavailable, the teacher's name shall be placed on a list of available
23 teachers and that teacher shall have priority on all positions for which
24 that teacher is qualified in accordance with G.S. 115C-325(e)(2).
- 25 (4) The employees of the charter school operated by a private nonprofit
26 corporation shall be deemed employees of the local school
27 administrative unit for purposes of providing certain State-funded
28 employee benefits, including membership in the Teachers' and State
29 Employees' Retirement System and the Teachers' and State
30 Employees' Comprehensive Major Medical Plan. The State Board of
31 Education provides funds to charter ~~schools~~, schools operated by
32 private nonprofit corporations, approves the original members of the
33 boards of directors of the charter schools, has the authority to grant,
34 supervise, and revoke charters, and demands full accountability from
35 charter schools for school finances and student performance.
36 Accordingly, it is the determination of the General Assembly that
37 charter schools operated by private nonprofit corporations are public
38 schools and that the employees of charter schools are public school
39 employees. Employees of a charter school whose board of directors
40 elects to become a participating employer under G.S. 135-5.3 are
41 "teachers" for the purpose of membership in the North Carolina
42 Teachers' and State Employees' Retirement System. In no event shall
43 anything contained in this Part require the North Carolina Teachers'

1 and State Employees' Retirement System to accept employees of a
2 private employer as members or participants of the System.

3 (f) Accountability. –

4 (1) The school is subject to the financial audits, the audit procedures, and
5 the audit requirements adopted by the State Board of Education for
6 charter schools. These audit requirements may include the
7 requirements of the School Budget and Fiscal Control Act.

8 (2) The school shall comply with the reporting requirements established
9 by the State Board of Education in the Uniform Education Reporting
10 System.

11 (3) The school shall report at least annually to the chartering entity and the
12 State Board of Education the information required by the chartering
13 entity or the State Board.

14 (g) Admission Requirements. –

15 (1) Any child who is qualified under the laws of this State for admission
16 to a public school is qualified for admission to a charter school.

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

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

24 (4) Admission to a charter school shall not be determined according to the
25 local school administrative unit in which a student resides.

26 (5) A charter school shall not discriminate against any student on the basis
27 of ethnicity, national origin, gender, or disability. Except as otherwise
28 provided by law or the mission of the school as set out in the charter,
29 the school shall not limit admission to students on the basis of
30 intellectual ability, measures of achievement or aptitude, athletic
31 ability, disability, race, creed, gender, national origin, religion, or
32 ancestry. The charter school may give enrollment priority to siblings of
33 currently enrolled students who were admitted to the charter school in
34 a previous year and to children of the school's principal, teachers, and
35 teacher assistants. In addition, and only for its first year of operation,
36 the charter school may give enrollment priority to children of the
37 initial members of the charter school's board of directors, so long as (i)
38 these children are limited to no more than ten percent (10%) of the
39 school's total enrollment or to 20 students, whichever is less, and (ii)
40 the charter school is not a former public or private school. Within one
41 year after the charter school begins operation, the population of the
42 school shall reasonably reflect the racial and ethnic composition of the
43 general population residing within the local school administrative unit
44 in which the school is located or the racial and ethnic composition of

1 the special population that the school seeks to serve residing within the
2 local school administrative unit in which the school is located. The
3 school shall be subject to any court-ordered desegregation plan in
4 effect for the local school administrative unit.

5 (6) During each period of enrollment, the charter school shall enroll an
6 eligible student who submits a timely application, unless the number of
7 applications exceeds the capacity of a program, class, grade level, or
8 building. In this case, students shall be accepted by lot. Once enrolled,
9 students are not required to reapply in subsequent enrollment periods.

10 (7) Notwithstanding any law to the contrary, a charter school may refuse
11 admission to any student who has been expelled or suspended from a
12 public school under G.S. 115C-391 until the period of suspension or
13 expulsion has expired.

14 (h) ~~Transportation. – The charter school~~ A charter school operated by a local
15 board of education may provide transportation for students enrolled at the school. The
16 charter school shall develop a transportation plan so that transportation is not a barrier to
17 any student who resides in the local school administrative unit in which the school is
18 located. The charter school is not required to provide transportation to any student who
19 lives within one and one-half miles of the school. At the request of the charter school
20 and if the local board of the local school administrative unit in which the charter school
21 is located operates a school bus system, then that local board may contract with the
22 charter school to provide transportation in accordance with the charter school's
23 transportation plan to students who reside in the local school administrative unit and
24 who reside at least one and one-half miles of the charter school. A local board may
25 charge the charter school a reasonable charge that is sufficient to cover the cost of
26 providing this transportation. Furthermore, a local board may refuse to provide
27 transportation under this subsection if it demonstrates there is no available space on
28 buses it intends to operate during the term of the contract or it would not be practically
29 feasible to provide this transportation.

30 A student who attends a charter school operated by a local board of education and
31 who resides within the local school administrative unit in which the school is located
32 has the same right to school transportation as students assigned to other public schools
33 in the local school administrative unit.

34 (i) Assets. – Upon dissolution of the charter school or upon the nonrenewal of
35 the charter, all net assets of the charter school purchased with public funds shall be
36 deemed the property of the local school administrative unit in which the charter school
37 is located.

38 (j) Driving Eligibility Certificates. – In accordance with rules adopted by the
39 State Board of Education, the designee of the school's board of directors shall do all of
40 the following:

41 (1) Sign driving eligibility certificates that meet the conditions established
42 in G.S. 20-11.

- 1 (2) Obtain the necessary written, irrevocable consent from parents,
2 guardians, or emancipated juveniles, as appropriate, in order to
3 disclose information to the Division of Motor Vehicles.
4 (3) Notify the Division of Motor Vehicles when a student who holds a
5 driving eligibility certificate no longer meets its conditions."

6 **SECTION 5.** G.S. 115C-238.29H reads as rewritten:

7 **"§ 115C-238.29H. State and local funds for a charter school.**

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

- 9 (1) An amount equal to the average per pupil allocation for average daily
10 membership from the local school administrative unit allotments in
11 which the charter school is located for each child attending the charter
12 school except for the allocation for children with special needs and for
13 the allocation for children with limited English proficiency;
14 (2) An additional amount for each child attending the charter school who
15 is a child with special needs; and
16 (3) An additional amount for children with limited English proficiency
17 attending the charter school, based on a formula adopted by the State
18 Board.

19 In accordance with G.S. 115C-238.29D(d), the State Board shall allow for annual
20 adjustments to the amount allocated to a charter school based on its enrollment growth
21 in school years subsequent to the initial year of operation. In the event a child with
22 special needs leaves the charter school and enrolls in a public school during the first 60
23 school days in the school year, the charter school shall return a pro rata amount of funds
24 allocated for that child to the State Board, and the State Board shall reallocate those
25 funds to the local school administrative unit in which the public school is located. In the
26 event a child with special needs enrolls in a charter school during the first 60 school
27 days in the school year, the State Board shall allocate to the charter school the pro rata
28 amount of additional funds for children with special needs.

29 (a1) Funds allocated by the State Board of Education may be used to enter into
30 operational and financing leases for real property or mobile classroom units for use as
31 school facilities for charter schools and may be used for payments on loans made to
32 charter schools for facilities or equipment. However, State funds shall not be used to
33 obtain any other interest in real property or mobile classroom units. No indebtedness of
34 any kind incurred or created by the charter school shall constitute an indebtedness of the
35 State or its political subdivisions, and no indebtedness of the charter school shall
36 involve or be secured by the faith, credit, or taxing power of the State or its political
37 ~~subdivisions.~~ subdivisions, unless the charter school is operated by a local board of
38 education. Every contract or lease into which a charter school enters shall include the
39 previous sentence. The school also may own land and buildings it obtains through
40 non-State sources.

41 (b) If a student attends a charter school, the local school administrative unit in which
42 the child resides shall transfer to the charter school an amount equal to the per pupil
43 local current expense appropriation to the local school administrative unit for the fiscal
44 year."

1 **SECTION 6.** This act is effective when it becomes law.