

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H.B. 750
Apr 10, 2013
HOUSE PRINCIPAL CLERK

H

D

HOUSE DRH30398-MK-39B (02/05)

Short Title: Charter School Flexibility/Pilot. (Public)

Sponsors: Representatives Lambeth, Glazier, and Hanes (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE A PILOT PROGRAM FOR LOCAL BOARDS OF EDUCATION
3 TO ACT AS THE CHARTERING ENTITY FOR CHARTER SCHOOLS IN A LOCAL
4 SCHOOL ADMINISTRATIVE UNIT AND CONVERT EXISTING PUBLIC SCHOOLS
5 TO CHARTER SCHOOLS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** The State Board of Education shall implement a five-year Local
8 Board of Education Charter School Oversight Pilot Program in up to 10 local school
9 administrative units selected by the State Board of Education. The purpose of the pilot program
10 is to expand on the options for local boards of education to improve student learning and
11 provide parents and students with expanded choices in the types of educational opportunities
12 that are available within the public school system.

13 **SECTION 2.** The pilot program shall provide local boards of education in the local
14 administrative units selected by the State Board of Education the opportunity to (i) act as the
15 chartering entity of a charter school with the authority to approve and revoke a charter school's
16 charter and (ii) approve the conversion of an existing public school to a charter school as
17 follows:

18 (1) **Local charter schools.** –

19 a. **Application to a local board of education as the chartering entity.**

20 – An applicant may apply to the local board of education of the local
21 administrative unit in which the school will be located for approval
22 to establish a local charter school. An application submitted under
23 this section shall be in lieu of submitting a preliminary application to
24 a board of trustees of a constituent institution of The University of
25 North Carolina or an application to the State Board of Education to
26 establish a charter school pursuant to G.S. 115C-238.29B.

27 b. **Application contents.** – The application to the local board of
28 education shall contain at least the following information:

29 1. A description of a program that implements one or more of
30 the purposes in G.S. 115C-238.29A.

31 2. A description of the manner in which the local charter school
32 shall share resources and collaborate with the local school
33 board of education in the local school administrative unit in
34 which the local charter school will be located, including
35 allocation of costs.

36 3. A plan for the provision of food services to students.



* D R H 3 0 3 9 8 - M K - 3 9 B *

- 1 4. A description of student achievement goals for the local
2 charter school's educational program and the method of
3 demonstrating that students have attained the skills and
4 knowledge specified for those student achievement goals.
- 5 5. The governance structure of the local charter school,
6 including the names of the proposed initial members of the
7 board of directors of the nonprofit, tax-exempt corporation
8 and the process to be followed by the local charter school to
9 ensure parental involvement.
- 10 6. Admission policies and procedures.
- 11 7. A proposed budget for the local charter school and evidence
12 that the financial plan for the local charter school is
13 economically sound.
- 14 8. Requirements and procedures for program and financial
15 audits.
- 16 9. A description of how the local charter school shall comply
17 with G.S. 115C-238.29F.
- 18 10. Types and amounts of insurance coverage, including bonding
19 insurance for the principal officers of the school, to be
20 obtained by the local charter school.
- 21 11. The term of the charter.
- 22 12. The qualifications required for individuals employed by the
23 local charter school.
- 24 13. The procedures by which students can be excluded from the
25 local charter school and returned to another public school.
26 Notwithstanding any law to the contrary, any local board may
27 refuse to admit any student who is suspended or expelled
28 from a local charter school due to actions that would lead to
29 suspension or expulsion from a public school under
30 G.S. 115C-390.5 through G.S. 115C-390.11 until the period
31 of suspension or expulsion has expired.
- 32 14. The number of students to be served, which number shall be
33 at least 65, and the minimum number of teachers to be
34 employed at the local charter school, which number shall be
35 at least three. However, the local charter school may serve
36 fewer than 65 students or employ fewer than three teachers if
37 the application contains a compelling reason, such as the local
38 charter school would serve a geographically remote and small
39 student population.
- 40 15. Information regarding the facilities to be used by the local
41 charter school and the manner in which administrative
42 services of the local charter school are to be provided.
- 43 c. **Time for submission.** – The local charter school shall submit its
44 application to the local board of education to establish a local charter
45 school no later than six months prior to the beginning of the school
46 year in which the local charter school will first enroll students.
- 47 d. **Approval of a local charter school application.** – When a local
48 board of education receives an application to establish a local charter
49 school in the local school administrative unit, the superintendent or
50 designee shall review the local charter school application. Following
51 review of the application, the superintendent shall recommend to the

- 1 local board of education whether to approve or disapprove the
2 application. The local board of education may approve an application
3 to establish a local charter school if it finds that the application (i)
4 meets the requirements adopted by the local board of education that,
5 at a minimum, meet the standards adopted by the State Board of
6 Education and (ii) demonstrates the school would improve student
7 learning and achieve one or more of the purposes set out in
8 G.S. 115C-238.29A. The local board of education shall act within 45
9 days on all applications and appeals after receipt.
- 10 e. **Grant of initial charter.** – The local board of education may
11 authorize a local charter school before the applicant has secured its
12 space, equipment, facilities, and personnel if the applicant indicates
13 the authority is necessary for it to raise working capital. The State
14 Board of Education shall not allocate any funds to the local charter
15 school until the school has obtained space. The local board of
16 education may grant the initial charter for a period not to exceed five
17 years.
- 18 f. **Revisions to the local charter application and enrollment growth.**
19 – A material revision of the provisions of a charter application shall
20 be made only upon the approval of the local board of education. It
21 shall not be considered a material revision of a charter application
22 and shall not require the prior approval of the local board of
23 education for a local charter school to increase its enrollment during
24 the local charter school's second year of operation and annually
25 thereafter (i) by up to twenty percent (20%) of the local charter
26 school's previous year's enrollment or (ii) in accordance with planned
27 growth as authorized in the charter. Other enrollment growth shall be
28 considered a material revision of the charter application, and the
29 local board of education may approve such additional enrollment
30 growth of greater than twenty percent (20%) only if the local board
31 finds that:
- 32 1. The actual enrollment of the local charter school is within ten
33 percent (10%) of its maximum authorized enrollment;
 - 34 2. The local charter school has commitments for ninety percent
35 (90%) of the requested maximum growth;
 - 36 3. The local charter school is not currently identified as
37 low-performing;
 - 38 4. The local charter school meets generally accepted standards
39 of fiscal management; and
 - 40 5. It is otherwise appropriate to approve the enrollment growth.
- 41 g. **Disapproval of a local charter school application.** – The local
42 board of education's disapproval of an application is final and shall
43 not be subject to appeal. If a local board of education fails to act on
44 an application within the time frame set forth in sub-subdivision d. of
45 this subdivision or disapproves an applicant's charter application to
46 establish a local charter school in the local administrative district, the
47 applicant may apply to the State Board of Education to establish a
48 State charter school in accordance with G.S. 115C-238.29B.
- 49 h. **Notification to the State Board of Education of local charter
50 school approval.** – The local board of education shall submit
51 application materials from each local charter school it approves

1 under this section to the State Board of Education within 14 days
2 after the date of final approval by the local board. The local board of
3 education shall also notify the State Board of material revisions to
4 any applications of a local charter school approved under this section
5 within 14 days of the date of the approval of the revision by the local
6 board. If the local board of education fails to submit the information
7 required by this sub-subdivision to the State Board of Education
8 within 30 days of the approval of a local charter school, the State
9 Board is authorized to delay the establishment of the local charter
10 school until such time it receives the information.

11 i. **State and local funds for a local charter school. –**

12 1. Notwithstanding any other provision of law, the State Board
13 of Education shall allocate to each local charter school:

14 I. State allocations for school related staffing and
15 supplies, including teacher and principal allotments
16 calculated according to State funding formulas used
17 for local school administrative units allocations. If the
18 local charter school does not use the State salary
19 schedules for teachers and principals, the teacher and
20 principal allotments shall be converted to cash
21 allocations.

22 II. All other State allocations for the local school
23 administrative unit shall be allotted for the local
24 charter school on a per pupil basis, except for the
25 allocation for children with disabilities, the allocation
26 for children with limited English proficiency, and the
27 allocation for student transportation, if the local
28 charter school agreement requires the local school
29 administrative unit to provide transportation services
30 to the local charter school.

31 III. An additional amount for each child attending the
32 local charter school who is a child with disabilities.

33 IV. An additional amount for children with limited
34 English proficiency attending the local charter school,
35 based on a formula adopted by the State Board.

36 2. Notwithstanding the provisions of G.S. 115C-426, the
37 following funds shall be established for local charter schools
38 participating in the pilot program:

39 I. A local transportation expense fund to include local
40 appropriations for all transportation related expenses
41 for eligible school-age students in K-12 for travel to
42 and from school and between schools, such as
43 contract transportation, transportation personnel other
44 than school administrative personnel, bus drivers'
45 salaries, benefits, fuels, and other costs as defined in
46 the Uniform Chart of Accounts.

47 II. A local accountability services fund to include local
48 appropriations for the purpose of implementing the
49 requirements in Part 3 of Article 8B of Chapter 115C
50 of the General Statutes.

- 1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
- III. A local fund of supplemental monies provided to public schools based on the poverty level of students served in a particular public school to include local allocations provided to certain schools located within the local school administrative unit based on the poverty level of students served in the particular school.
3. The State Board shall allow for annual adjustments to the amount allocated to a local charter school based on its enrollment growth in school years subsequent to the initial year of operation.
4. In the event a child with disabilities leaves the local charter school and enrolls in another public school during the first 60 school days in the school year, the local charter school shall return a pro rata amount of funds allocated for that child to the State Board, and the State Board shall reallocate those funds to the local school administrative unit in which the other public school is located. In the event a child with disabilities enrolls in a local charter school during the first 60 school days in the school year, the State Board shall allocate to the local charter school the pro rata amount of additional funds for children with disabilities.
5. Funds allocated by the State Board of Education may be used to enter into operational and financing leases for real property or mobile classroom units for use as school facilities for local charter schools and may be used for payments on loans made to local charter schools for facilities or equipment. However, State funds shall not be used to obtain any other interest in real property or mobile classroom units. No indebtedness of any kind incurred or created by the local charter school shall constitute an indebtedness of the State or its political subdivisions, and no indebtedness of the local charter school shall involve or be secured by the faith, credit, or taxing power of the State or its political subdivisions. Every contract or lease into which a local charter school enters shall include the previous sentence. The school also may own land and buildings it obtains through non-State sources.
6. If a student attends a local charter school, the local school administrative unit in which the child resides shall transfer to the local charter school an amount equal to the per pupil local current expense appropriation to the local school administrative unit for the fiscal year, less the following amounts:
- I. Local allocations for transportation if the local charter agreement requires the local school administrative unit to provide transportation services to the local charter school.
- II. Local allocation for accountability services.
- III. Local allocations provided to certain schools located within the local school administrative unit based on the poverty level of students served in those particular

- 1 schools, unless the local charter school meets the
2 criteria established by the local school administrative
3 unit to be eligible to receive such funds.
- 4 7. If a student attends a local charter school, the local school
5 administrative unit in which the student resides shall also
6 transfer to the local charter school an amount equal to the per
7 pupil amount derived from any sales and use taxes used by
8 the county for public school capital outlay purposes under
9 G.S. 105-487 and G.S. 105-502.
- 10 8. The amount transferred to a local charter school that consists
11 of revenue derived from supplemental taxes shall be
12 transferred only to a local charter school located in the tax
13 district for which these taxes are levied and in which the
14 student resides.
- 15 j. **Nonrenewal or termination of a local charter school.** – A local
16 board of education that has approved a local charter school may
17 terminate or not renew a charter upon any of the following grounds:
18 1. Failure to meet the requirements for student performance
19 contained in the charter.
20 2. Failure to meet generally accepted standards of fiscal
21 management.
22 3. Violations of law.
23 4. Material violation of any of the conditions, standards, or
24 procedures set forth in the charter.
25 5. Two-thirds of the faculty and instructional support personnel
26 at the local charter school request that the charter be
27 terminated or not renewed.
28 6. Other good cause identified.
- 29 k. **Performance standards.** – The local board of education shall adopt
30 criteria for adequate performance by a local charter school that at a
31 minimum meets the performance standards adopted by the State
32 Board of Education and shall identify local charter schools with
33 inadequate performance. The criteria shall include a requirement that
34 a local charter school that demonstrates no growth in student
35 performance and has annual performance composites below sixty
36 percent (60%) in any two years in a three-year period is inadequate.
37 1. If a local charter school is inadequate in the first three years
38 of the charter, the local charter school shall develop a
39 strategic plan to meet specific goals for student performance
40 that are consistent with local board of education criteria and
41 the mission approved in the charter school. The strategic plan
42 shall be reviewed and approved by the local board of
43 education. The local board of education is authorized to
44 terminate or not renew a charter for failure to demonstrate
45 improvement under the strategic plan.
46 2. If a local charter school is inadequate and has had a charter
47 for more than four years, the local board of education is
48 authorized to terminate or not renew the charter.
- 49 l. **Accountability for local charter schools.** -
50 1. A local charter school is subject to the financial audits, the
51 audit procedures, and the audit requirements adopted by the

- 1 local board of education of the local school administrative
2 unit in which the local charter school is located. These audit
3 requirements may include the requirements of the School
4 Budget and Fiscal Control Act.
- 5 2. The local charter school shall comply with the reporting
6 requirements established by the State Board of Education in
7 the Uniform Education Reporting System.
- 8 3. The local charter school shall report at least annually to the
9 local board of education the information required by the local
10 board and the State Board of Education.
- 11 m. **Grievance process.** – The local board of education shall develop and
12 implement a process to address contractual and other grievances
13 between a local charter school and the local board during the time of
14 its charter.
- 15 n. **Revocation or nonrenewal of local charter school's charter.** – If a
16 local board of education revokes or does not renew a local charter
17 school's charter during the period of the pilot program, the local
18 board shall report the action to the State Board of Education. The
19 local board of education shall also annually report to the State Board
20 any local charter schools required to adopt a strategic plan under
21 sub-subdivision k. of this subdivision. The State Board is authorized
22 to intervene and revoke a local charter school's charter if it
23 determines that the local board of education has not addressed a
24 charter school's inadequate performance in a timely manner or for
25 any reason listed in sub-subdivision j. of this subdivision.
- 26 o. **Exemptions.** – Except as otherwise provided in this act and pursuant
27 to the provisions of its charter, a local charter school is (i) exempt
28 from statutes and rules applicable to public schools located in the
29 local school administrative unit and (ii) subject to the statutes and
30 rules applicable to charter schools.
- 31 (2) **District charter schools.** –
- 32 a. **Proposal to the superintendent.** – The superintendent of a local
33 school administrative unit shall consider a proposal submitted by a
34 principal of a public school in the local school administrative unit to
35 convert the public school into a district charter school. Upon the
36 superintendent's approval, the principal of the school shall
37 collaborate with school staff, parents of students enrolled in the
38 school, and community and business partners to develop an
39 application to submit to the local board to convert the public school
40 to a district charter school.
- 41 b. **Application contents.** – An application prepared by the principal of
42 the school shall contain at least the following information:
- 43 1. The composition of a school committee with five to nine
44 members to act as the advisory committee of the district
45 charter school.
- 46 2. A description of a program that implements one or more of
47 the purposes in G.S. 115C-238.29A, including the uniqueness
48 of the delivery model and likelihood of academic success for
49 students.
- 50 3. A description of student achievement goals for the district
51 charter school's educational program and the method of

- 1 demonstrating that students have attained the skills and
2 knowledge specified for those student achievement goals.
- 3 4. The process to be followed by the district charter school to
4 ensure parental involvement.
- 5 5. Admission policies and procedures.
- 6 6. A proposed budget for the district charter school, including
7 any proposed salary or benefit changes and staffing changes
8 involving current school employees, and evidence that the
9 financial plan for the district charter school is economically
10 sound.
- 11 7. Requirements and procedures for program and financial
12 audits.
- 13 8. A description of how the district charter school shall comply
14 with G.S. 115C-238.29F.
- 15 9. The proposed relationship between the advisory committee
16 and the local board of education for the governance of the
17 school.
- 18 10. The term of the charter.
- 19 11. The qualifications required for individuals employed by the
20 district charter school. School personnel of a district charter
21 school shall be subject to a criminal history check in
22 accordance with G.S. 115C-332.
- 23 12. The procedures by which students can be excluded from the
24 district charter school and returned to another public school
25 located in the local school administrative unit.
26 Notwithstanding any law to the contrary, any local board of
27 education may refuse to admit to another public school any
28 student who is suspended or expelled from a district charter
29 school due to actions that would lead to suspension or
30 expulsion from a public school under G.S. 115C-390.5
31 through G.S. 115C-390.11 until the period of suspension or
32 expulsion has expired.
- 33 13. The number of students to be served, which number shall be
34 at least 65, and the minimum number of teachers to be
35 employed at the district charter school, which number shall be
36 at least three. However, the district charter school may serve
37 fewer than 65 students or employ fewer than three teachers if
38 the application contains a compelling reason, such as the
39 district charter school would serve a geographically remote
40 and small student population.
- 41 14. Information regarding the facilities to be used by the district
42 charter school and the manner in which administrative
43 services of the district charter school are to be provided.
- 44 c. **Approval of the application at the school level.** – The final
45 application must be approved by a majority vote of the current school
46 personnel and must be signed by the district school advisory
47 committee, the principal, the president of the parent-teacher
48 organization, and the chair of the school improvement team.
- 49 d. **Approval of the application by the local board and charter**
50 **agreement.** – The superintendent shall review the application and
51 recommend to the local board of education whether the application

1 should be approved or disapproved. The local board of education
2 may approve an application to establish a local charter school if it
3 finds that the application (i) meets the requirements adopted by the
4 local board of education that, at a minimum, meet the standards
5 adopted by the State Board of Education and (ii) demonstrates the
6 school would improve student learning and achieve one or more of
7 the purposes set out in G.S. 115C-238.29A. A district charter school
8 shall operate under a charter that is a written agreement signed by the
9 local board of education and the advisory committee. The agreement
10 shall incorporate the information provided in the application and any
11 terms and conditions imposed on the district charter school by the
12 local board of education. The district charter school may open the
13 next school year or no later than the following second school year. If
14 the local board of education disapproves an application, the decision
15 is final and shall not be subject to appeal.

16 e. **Notification to the State Board of Education.** – If approved by the
17 local board of education, the board shall submit application materials
18 from the district charter school to the State Board of Education
19 within 14 days after the date of final approval by the local board. The
20 local board of education shall also notify the State Board of material
21 revisions to the agreement between the district charter school and the
22 local board within 14 days of the date of the approval of the revision
23 by the local board. If the local board of education fails to submit any
24 of the information required under this sub-subdivision to the State
25 Board of Education within 30 days of the approval of a district
26 charter school, the State Board is authorized to delay the conversion
27 to a district charter school until such time it receives the information.

28 f. **Enrollment preference.** – A district charter school shall give
29 preference for admission to any child who is qualified under the laws
30 of this State for admission to the local school administrative unit
31 before permitting enrollment of non-domiciled students.

32 g. **Funds for a district charter school.** – A district charter school shall
33 receive State and local funds in the same manner as a public school
34 in accordance with the provisions of Chapter 115C of the General
35 Statutes.

36 h. **Performance standards.** – The local board of education shall adopt
37 criteria for adequate performance by a district charter school that, at a
38 minimum, meets the performance standards adopted by the State
39 Board of Education and any standards set forth in the charter
40 agreement. The criteria shall include a requirement that a district
41 charter school that demonstrates no growth in student performance
42 and has annual performance composites below sixty percent (60%) in
43 any two years in a three-year period is inadequate.

44 1. If a district charter school is inadequate in the first three years
45 of the charter, the district charter school shall develop a
46 strategic plan to meet specific goals for student performance
47 that are consistent with local board of education criteria and
48 the mission approved in the district charter school. The
49 strategic plan shall be reviewed and approved by the local
50 board of education. The local board of education is authorized

- 1 to terminate or not renew the charter agreement for failure to
2 demonstrate improvement under the strategic plan.
- 3 2. If a district charter school is inadequate and has had a charter
4 for more than four years, the local board of education is
5 authorized to terminate or not renew the charter.
- 6 i. **Termination or nonrenewal of the district charter school charter**
7 **agreement.** – A local board of education that has approved a district
8 charter school under this subdivision may terminate or not renew a
9 charter agreement upon any of the following grounds:
- 10 1. Failure to meet the requirements for student performance
11 contained in the charter.
- 12 2. Failure to meet generally accepted standards of fiscal
13 management.
- 14 3. Violations of law.
- 15 4. Material violation of any of the conditions, standards, or
16 procedures set forth in the charter agreement.
- 17 5. Two-thirds of the faculty and instructional support personnel
18 at the district charter school request that the charter be
19 terminated or not renewed.
- 20 6. Other good cause identified.
- 21 j. **Grievance process.** – The local board of education shall develop and
22 implement a process to address contractual and other grievances
23 between a local charter school and the local board during the time of
24 its charter.
- 25 k. **Revocation or nonrenewal of local charter school's charter.** – If a
26 local board of education revokes or does not renew a district charter
27 school's charter during the period of the pilot program, the local
28 board shall report the action to the State Board of Education. The
29 local board of education shall also annually report to the State Board
30 any district charter schools required to adopt a strategic plan under
31 sub-subdivision h. of this subdivision. The State Board is authorized
32 to intervene and revoke a district charter school's charter agreement if
33 it determines that the local board of education has not addressed a
34 school's inadequate performance in a timely manner or for any reason
35 listed in sub-subdivision i. of this subdivision.
- 36 l. **Reversion to a public school.** – Upon termination of a school's
37 status as a district charter school, the local board of education shall
38 revert to operating the school as a public school in accordance with
39 applicable State laws and regulations. The local board of education
40 shall adopt rules for reversion of a district charter school to a public
41 school.
- 42 m. **Exemptions.** – Except as otherwise provided in this act and pursuant
43 to the provisions of its charter agreement, a district charter school is
44 (i) exempt from statutes and rules applicable to public schools
45 located in the local school administrative unit and (ii) subject to the
46 statutes and rules applicable to charter schools.

47 **SECTION 3.** A local charter school or district charter school participating in the
48 pilot program shall, at a minimum, submit to the local board of education an annual compliance
49 check of all Individual Education Programs for children with disabilities enrolled at the school.

50 **SECTION 4.** The State Board of Education shall make an interim report on or
51 before January 1, 2016, and a final report on or before March 15, 2018, to the Joint Legislative

1 Education Oversight Committee on the school performance of the participating schools in the
2 pilot program and recommendations on the implementation of the program statewide.
3 **SECTION 5.** This act becomes effective July 1, 2013, and applies beginning with
4 the 2013-2014 school year.