

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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SENATE BILL 793\*  
Education/Higher Education Committee Substitute Adopted 6/11/14  
Third Edition Engrossed 6/16/14  
House Committee Substitute Favorable 6/23/14  
Fifth Edition Engrossed 6/26/14  
Proposed Conference Committee Substitute S793-PCCS45224-RQ-3

Short Title: Charter School Modifications.

(Public)

Sponsors:

Referred to:

May 20, 2014

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE VARIOUS CHANGES TO THE CHARTER SCHOOL LAWS AND TO  
3 MAKE A TECHNICAL CORRECTION TO HOUSE BILL 712.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 115C-238.29B(b) reads as rewritten:

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

7 ...

8 (3) The governance structure of the school including the names of the initial  
9 members of the board of directors of the nonprofit, tax-exempt corporation  
10 and the process to be followed by the school to ensure parental involvement.  
11 A teacher employed by the board of directors to teach in the charter school  
12 may serve as a nonvoting member of the board of directors for the charter  
13 school.

14 ...."

15 **SECTION 1.5.** G.S. 115C-238.29D(a) reads as rewritten:

16 "(a) The State Board may grant final approval of an application if it finds the following:

17 ~~(i)(1) that the~~ The application meets the requirements set out in this Part and such  
18 other requirements as may be adopted by the State Board of  
19 Education, Education.

20 ~~(ii)(2) that the~~ The applicant has the ability to operate the school and would be  
21 likely to operate the school in an educationally and economically sound  
22 manner, and manner.

23 ~~(iii)(3) that granting~~ Granting the application would achieve one or more of the  
24 purposes set out in G.S. 115C-238.29A.

25 ~~The State Board shall act by January 15 of a calendar year on all applications and appeals it~~  
26 ~~receives prior to a date established by the Office of Charter Schools for receipt of applications~~  
27 ~~in the prior calendar year.~~ In reviewing applications for the establishment of charter schools  
28 within a local school administrative unit, the State Board is encouraged to give preference to



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1 applications that demonstrate the capability to provide comprehensive learning experiences to  
2 students identified by the applicants as at risk of academic failure.

3 (a1) The State Board shall make final decisions on the approval or denial of applications  
4 by August 15 of a calendar year on all applications it receives prior to a date established by the  
5 Office of Charter Schools for receipt of applications in that application cycle. The State Board  
6 may make the final decision for approval contingent upon the successful completion of a  
7 planning period prior to enrollment of students."

8 **SECTION 2.** G.S. 115C-238.29D(d) reads as rewritten:

9 "(d) The State Board of Education may grant the initial charter for a period not to exceed  
10 ~~10 years and years.~~ The State Board of Education may renew the charter upon the request of the  
11 chartering entity for subsequent periods ~~not to exceed of~~ 10 years each. The renewal may be for  
12 less than 10 years if any one of the following applies:

13 (1) The charter school has not provided financially sound audits for the prior  
14 three years.

15 (2) The charter school's student academic outcomes for the past three years have  
16 not been comparable to the academic outcomes of students in the local  
17 school administrative unit in which the charter school is located.

18 (3) The charter school is not in compliance with State law, federal law, the  
19 school's own bylaws, or the provisions set forth in its charter granted by the  
20 State Board of Education.

21 The State Board of Education shall review the operations of each charter school at least  
22 once every five years to ensure that the school is meeting the expected academic, financial, and  
23 governance standards."

24 **SECTION 2.5.(a)** G.S. 115C-238.29D(f) reads as rewritten:

25 "(f) It shall not be considered a material revision of a charter application and shall not  
26 require prior approval of the State Board for a charter school to do any of the following:

27 (1) Increase its enrollment during the charter school's second year of operation  
28 and annually thereafter by up to twenty percent (20%) of the school's  
29 previous year's enrollment.

30 (2) Increase its enrollment during the charter school's second year of operation  
31 and annually thereafter in accordance with planned growth as authorized in  
32 its charter.

33 (3) Expand to offer one grade higher than the charter school currently offers if  
34 the charter school has operated for at least three years and has not been  
35 identified as having inadequate performance as provided in  
36 G.S. 115C-238.29G(a1).

37 (4) Expand to offer one grade higher or lower than the charter school currently  
38 offers if the charter school meets all of the following criteria:

39 a. The charter school's student academic outcomes for the year prior to  
40 the expansion must have been at least comparable to the academic  
41 outcomes of students in the local school administrative unit in which  
42 the charter school is located.

43 b. The charter school has provided financially sound audits for the year  
44 prior to the expansion.

45 c. The charter school is in compliance with State law, federal law, the  
46 school's own bylaws, or the provisions set forth in its charter granted  
47 by the State Board of Education.

48 d. The charter school has been in operation for less than three years.  
49 The charter school shall provide documentation of the requirements of this  
50 subdivision to the State Board of Education. The charter school shall be  
51 permitted to expand to offer the higher or lower grade unless the State Board

1 of Education finds that the charter school has failed to meet the requirements  
2 of this subdivision or other exceptional circumstances exist which justify not  
3 permitting the grade expansion."

4 **SECTION 2.5.(b)** G.S. 115C-238.29D(f)(4), as enacted by this section, expires  
5 September 1, 2015.

6 **SECTION 3.** G.S. 115C-238.29F is amended by adding a new subsection to read:

7 "(b1) A charter school shall not discriminate against any student on the basis of ethnicity,  
8 national origin, gender, or disability."

9 **SECTION 4.** G.S. 115C-238.29F(g)(5) reads as rewritten:

10 ~~"(5) A charter school shall not discriminate against any student on the basis of~~  
11 ~~ethnicity, national origin, gender, or disability. Except as otherwise provided~~  
12 ~~by law or the mission of the school as set out in the charter, the school shall~~  
13 ~~not limit admission to students on the basis of intellectual ability, measures~~  
14 ~~of achievement or aptitude, athletic ability, disability, race, creed, gender,~~  
15 ~~national origin, religion, or ancestry. A charter school whose mission is~~  
16 ~~single-sex education may limit admission on the basis of sex. Within one~~  
17 ~~year after the charter school begins operation, the charter school shall make~~  
18 ~~efforts for the population of the school to reasonably reflect the racial and~~  
19 ~~ethnic composition of the general population residing within the local school~~  
20 ~~administrative unit in which the school is located or the racial and ethnic~~  
21 ~~composition of the special population that the school seeks to serve residing~~  
22 ~~within the local school administrative unit in which the school is located.~~  
23 ~~The school shall be subject to any court-ordered desegregation plan in effect~~  
24 ~~for the local school administrative unit."~~

25 **SECTION 4.5.** G.S. 115C-238.29F(g)(5a) reads as rewritten:

26 "(5a) The charter school may give enrollment priority to any of the following:

- 27 a. Siblings of currently enrolled students who were admitted to the  
28 charter school in a previous year. For the purposes of this subsection,  
29 the term "siblings" includes any of the following who reside in the  
30 same household: half siblings, stepsiblings, and children residing in a  
31 family foster home.
- 32 b. Siblings of students who have completed the highest grade level  
33 offered by that school and who were enrolled in at least four grade  
34 levels offered by the charter school or, if less than four grades are  
35 offered, in the maximum number of grades offered by the charter  
36 school.
- 37 c. Limited to no more than fifteen percent (15%) of the school's total  
38 enrollment, unless granted a waiver by the State Board of Education,  
39 the following:
- 40 1. Children of the school's full-time employees.
  - 41 2. ~~For its first year of operation, children of the initial members~~  
42 Children of the charter school's board of directors.
- 43 d. A student who was enrolled in the charter school within the two  
44 previous school years but left the school (i) to participate in an  
45 academic study abroad program or a competitive admission  
46 residential program or (ii) because of the vocational opportunities of  
47 the student's parent."

48 **SECTION 5.** G.S. 115C-238.29F is amended by adding a new subsection to read:

49 "(m) Open Meetings and Public Records. – The charter school and board of directors of  
50 the private nonprofit corporation that operates the charter school are subject to the Public  
51 Records Act, Chapter 132 of the General Statutes, and the Open Meetings Law, Article 33C of

1 Chapter 143 of the General Statutes. Notwithstanding the requirements of Chapter 132 of the  
2 General Statutes, inspection of charter school personnel records for those employees directly  
3 employed by the board of directors of the charter school shall be subject to the requirements of  
4 Article 21A of this Chapter.

5 The charter school and board of directors of the private nonprofit corporation that operates  
6 the charter school shall use the same schedule established by the Department of Cultural  
7 Resources for retention and disposition of records of local school administrative units."

8 **SECTION 5.2.** G.S. 115C-238.29H(c) reads as rewritten:

9 "(c) The local school administrative unit shall also provide each charter school to which  
10 it transfers a per pupil share of its local current expense fund with all of the following  
11 information within the 30-day time period provided in subsection (b) of this section:

- 12 (1) The total amount of monies the local school administrative unit has in each  
13 of the funds listed in G.S. 115C-426(c).
- 14 (2) The student membership numbers used to calculate the per pupil share of the  
15 local current expense fund.
- 16 (3) How the per pupil share of the local current expense fund was calculated.
- 17 (4) Any additional records requested by a charter school from the local school  
18 administrative unit in order for the charter school to audit and verify the  
19 calculation and transfer of the per pupil share of the local current expense  
20 fund."

21 **SECTION 5.6.** G.S. 115C-238.29H(d) reads as rewritten:

22 "(d) Prior to commencing an action under subsection (b) of this section, the complaining  
23 party shall give the other party 15 days' written notice of the alleged violation. The court shall  
24 award the prevailing party reasonable attorneys' fees and costs incurred in an action under  
25 subsection (b) of this section. The court shall order any delinquent funds, costs, fees, and  
26 interest to be paid in equal monthly installments and shall establish a time for payment in full  
27 that shall be no later than ~~three years~~ one year from the entry of any judgment."

28 **SECTION 6.** Upon recommendations by the Office of Charter Schools and the  
29 Charter Schools Advisory Board and pursuant to G.S. 115C-239.29G(a1)(2), the State Board of  
30 Education shall adopt a process and rules for the competitive bid process for the assumption of  
31 a charter school that has inadequate performance and could have its charter terminated or not  
32 renewed by the State Board of Education. At a minimum, the State Board shall require  
33 interested entities to meet the following criteria:

- 34 (1) Have operated another charter school in the State for three years.
- 35 (2) Can provide three years of financially sound audits for the charter school  
36 they are currently operating in the State.
- 37 (3) Have student academic outcomes that are comparable to the academic  
38 outcomes of students in the local school administrative unit in which the  
39 currently operating charter school is located.

40 The State Board of Education shall adopt rules and procedures required by this  
41 section by January 15, 2015, and report to the Joint Legislative Education Oversight Committee  
42 by February 1, 2015.

43 **SECTION 6.5.** Upon recommendations by the Office of Charter Schools and the  
44 Charter Schools Advisory Board, the State Board of Education shall adopt a process and rules  
45 for fast-track replication of high-quality charter schools currently operating in the State. The  
46 State Board of Education shall not require a planning year for applicants selected through the  
47 fast-track replication process. In addition to the requirements for charter applicants set forth in  
48 Part 6A of Article 16 of Chapter 115C of the General Statutes, the fast-track replication process  
49 adopted by the State Board of Education shall, at a minimum, require a board of directors of a  
50 charter school to demonstrate one of the following in order to qualify for fast-track replication:

1 (1) A charter school in this State governed by the board of directors has student  
2 academic outcomes that are comparable to the academic outcomes of  
3 students in the local school administrative unit in which the charter school is  
4 located and can provide three years of financially sound audits.

5 (2) The board of directors agrees to contract with an education management  
6 organization or charter management organization that can demonstrate that it  
7 can replicate high-quality charter schools in the State that have proven  
8 student academic success and financial soundness.

9 The State Board of Education shall ensure that the rules for a fast-track replication process  
10 provide that decisions by the State Board of Education on whether to grant a charter through  
11 the replication process are completed in less than 150 days. The State Board of Education shall  
12 adopt rules and procedures required by this section by December 15, 2014, and report to the  
13 Joint Legislative Education Oversight Committee by February 15, 2015.

14 **SECTION 6.6.(a)** G.S. 20-84(b) is amended by adding a new subdivision to read:

15 "(b) Permanent Registration Plates. – The Division may issue permanent plates for the  
16 following motor vehicles:

17 ...

18 (3a) A motor vehicle that is owned and exclusively operated by a nonprofit  
19 corporation authorized under G.S. 115C-238.29D to operate a charter school  
20 and identified by a permanent decal or painted marking disclosing the name  
21 of the nonprofit corporation. The motor vehicle shall only be used for  
22 student transportation and official charter school related activities.

23 ...."

24 **SECTION 6.6.(b)** This section is repealed July 1, 2015.

25 **SECTION 7.** The Revisor of Statutes is authorized to renumber and recodify Part  
26 6A of Article 16 of Chapter 115C of the General Statutes to a more suitable location.

27 **SECTION 7.3.** If House Bill 712, 2013 Regular Session, becomes law, the lead-in  
28 language for Section 7 of that bill is amended by deleting the citation "Article 9 of Chapter 115  
29 of the General Statutes" and replacing it with the citation "Article 9 of Chapter 115C of the  
30 General Statutes".

31 **SECTION 8.** Except as otherwise provided, this act is effective when it becomes  
32 law and applies beginning with the 2014-2015 school year. Section 5.6 of this act applies to  
33 actions filed on or after the effective date of this act.