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SENATE BILL DRS35079-MK-67A (02/09)

Short Title: Charter Schools/Higher Ed. (Public)

Sponsors: Senators Lee, Barefoot, and Tillman (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW BOARDS OF TRUSTEES OF CONSTITUENT INSTITUTIONS AND
3 BOARDS OF TRUSTEES OF COMMUNITY COLLEGES TO OPERATE CHARTER
4 SCHOOLS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 115C-218 reads as rewritten:

7 "§ 115C-218. Purpose of charter schools; definitions; establishment of North Carolina
8 Charter Schools Advisory Board and North Carolina Office of Charter Schools.

9 ...

10 (a1) Definitions. – For the purposes of this Article, the terms "board of a charter school"
11 and "board of the charter school" include (i) the board of directors of a private nonprofit
12 corporation, (ii) the board of trustees of a constituent institution as defined in G.S. 116-2(4), or a
13 board appointed to operate a charter school by such board of trustees, and (iii) the board of trustees
14 of a community college as defined in G.S. 115D-2(2), or a board appointed to operate a charter
15 school by such board of trustees.

16 ...

17 (c) North Carolina Office of Charter Schools. –

18 (1) Establishment of the North Carolina Office of Charter Schools. – There is
19 established the North Carolina Office of Charter Schools, hereinafter referred to
20 in this Article as the Office of Charter Schools. The Office of Charter Schools
21 shall be administratively located in the Department of Public Instruction,
22 subject to the supervision, direction, and control of the State Board of
23 Education. The Office of Charter Schools shall consist of an executive director
24 appointed by the State Board of Education and such other professional,
25 administrative, technical, and clerical personnel as may be necessary to assist
26 the Office of Charter Schools in carrying out its powers and duties.

27 (2) Executive Director. – The Executive Director shall report to and serve at the
28 pleasure of the State Board of Education at a salary established by the State
29 Board within the funds appropriated for this purpose. The duties of the
30 Executive Director shall include presenting the recommendations of the
31 Advisory Board at meetings of the State Board upon the request of the State
32 Board.

33 (3) Powers and duties. – The Office of Charter Schools shall have the following
34 powers and duties:

35 a. Serve as staff to the Advisory Board and fulfill any task and duties
36 assigned to it by the Advisory Board.



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- 1 b. Provide technical assistance and guidance to charter schools operating
2 within the State.
- 3 c. Provide technical assistance and guidance to nonprofit ~~corporations~~
4 corporations, boards of trustees of constituent institutions, and boards of
5 trustees of community colleges seeking to operate charter schools within
6 the State.
- 7 d. Provide or arrange for training for charter schools that have received
8 preliminary approval from the State Board.
- 9 e. Assist approved charter schools and charter schools seeking approval
10 from the State Board in coordinating services with the Department of
11 Public Instruction.
- 12 f. Other duties as assigned by the State Board.
- 13 (4) Agency cooperation. – All State agencies and departments shall cooperate with
14 the Office of Charter Schools in carrying out its powers and duties as necessary
15 in accordance with this Article."

16 **SECTION 2.** G.S. 115C-218.1 reads as rewritten:

17 **"§ 115C-218.1. Eligible applicants; contents of applications; submission of applications for**
18 **approval.**

19 (a) Any nonprofit ~~corporation~~corporation, board of trustees of a constituent institution, or
20 board of trustees of a community college seeking to establish a charter school may apply to
21 establish a charter school. If the applicant seeks to convert a public school to a charter school, the
22 application shall include a statement signed by a majority of the teachers and instructional support
23 personnel currently employed at the school indicating that they favor the conversion and evidence
24 that a significant number of parents of children enrolled in the school favor conversion.

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

- 26 (1) A description of a program that implements one or more of the purposes in
27 G.S. 115C-218.
- 28 (2) A description of student achievement goals for the school's educational
29 program and the method of demonstrating that students have attained the skills
30 and knowledge specified for those student achievement goals.
- 31 (3) The governance structure of the school including the names of the initial
32 members of the board of directors of ~~the~~ nonprofit, tax-exempt ~~corporation~~
33 corporation, the names of the members of the board of trustees of a constituent
34 institution or the names of the members of the board appointed by the board of
35 trustees of a constituent institution, or the board of trustees of a community
36 college or the names of the members of the board appointed by the board of
37 trustees of a community college, as applicable, and the process to be followed
38 by the school to ensure parental involvement. A teacher employed by the board
39 of directors of a private nonprofit corporation to teach in the charter school may
40 serve as a nonvoting member of the board of directors for the charter school.
- 41 (4) The local school administrative unit in which the school will be located.
- 42 (5) Admission policies and procedures.
- 43 (6) A proposed budget for the school and evidence that the financial plan for the
44 school is economically sound.
- 45 (7) Requirements and procedures for program and financial audits.
- 46 (8) A description of how the school will comply with G.S. 115C-218.20,
47 115C-218.25, 115C-218.30, 115C-218.40, 115C-218.45, 115C-218.50,
48 115C-218.55, 115C-218.60, 115C-218.65, 115C-218.70, 115C-218.75,
49 115C-218.80, 115C-218.85, and 115C-218.90.
- 50 (9) Types and amounts of insurance coverage, including bonding insurance for the
51 principal officers of the school, to be obtained by the charter school.

- 1 (10) The term of the charter.
- 2 (11) The qualifications required for individuals employed by the school.
- 3 (12) The procedures by which students can be excluded from the charter school and
4 returned to a public school. Notwithstanding any law to the contrary, any local
5 board may refuse to admit any student who is suspended or expelled from a
6 charter school due to actions that would lead to suspension or expulsion from a
7 public school under G.S. 115C-390.5 through G.S. 115C-390.11 until the
8 period of suspension or expulsion has expired.
- 9 (13) The number of students to be served, which number shall be at least 80, and the
10 minimum number of teachers to be employed at the school, which number shall
11 be at least three. However, the charter school may serve fewer than 80 students
12 or employ fewer than three teachers if the application contains a compelling
13 reason, such as the school would serve a geographically remote and small
14 student population.
- 15 (14) Information regarding the facilities to be used by the school and the manner in
16 which administrative services of the school are to be provided.
- 17 (15) The process for conducting a weighted lottery that reflects the mission of the
18 school if the school desires to use a weighted lottery.

19 (c) The State Board shall establish reasonable fees of no less than five hundred dollars
20 (\$500.00) and no more than one thousand dollars (\$1,000) for initial and renewal charter
21 applications, in accordance with Article 2A of Chapter 150B of the General Statutes. No
22 application fee shall be refunded in the event the application is rejected or the charter is revoked."

23 **SECTION 3.** G.S. 115C-218.2(b) reads as rewritten:

24 "(b) Before taking action regarding a charter school or charter school applicant, including
25 recommendations on preliminary or final approval of charter applications, renewals of charters,
26 nonrenewals of charters, and revocations of charters, the Advisory Board or a committee of the
27 Advisory Board shall provide an opportunity for the applicant or ~~charter board~~the member of a
28 board of a charter school to address the Advisory Board or its committee, if present, at a meeting."

29 **SECTION 4.** G.S. 115C-218.15 reads as rewritten:

30 **"§ 115C-218.15. Charter school operation.**

31 (a) A charter school that is approved by the State shall be a public school within the local
32 school administrative unit in which it is located. All charter schools shall be accountable to the
33 State Board for ensuring compliance with applicable laws and the provisions of their charters.

34 (b) A charter school shall be operated by (i) a private nonprofit corporation that shall have
35 received federal tax-exempt status no later than 24 months following final approval of the
36 application-application, (ii) a board of trustees of a constituent institution or the board appointed
37 by such board of trustees, or (iii) a board of trustees of a community college or the board
38 appointed by such board of trustees.

39 (b1) The board of directors of ~~the a private nonprofit corporation operating a charter~~
40 school/school shall adopt a conflict of interest and anti-nepotism policy that includes, at a
41 minimum, the following:

- 42 (1) The requirements of Chapter 55A of the General Statutes related to conflicts of
43 interest.
- 44 (2) A requirement that before any immediate family, as defined in G.S. 115C-12.2,
45 of any member of the board of directors or a charter school employee with
46 supervisory authority shall be employed or engaged as an employee,
47 independent contractor, or otherwise by the board of directors in any capacity,
48 such proposed employment or engagement shall be (i) disclosed to the board of
49 directors and (ii) approved by the board of directors in a duly called
50 open-session meeting. The burden of disclosure of such a conflict of interest
51 shall be on the applicable board member or employee with supervisory

1 authority. If the requirements of this subsection are complied with, the charter
2 school may employ immediate family of any member of the board of directors
3 or a charter school employee with supervisory authority.

- 4 (3) A requirement that a person shall not be disqualified from serving as a member
5 of a charter school's board of directors because of the existence of a conflict of
6 interest, so long as the person's actions comply with the school's conflict of
7 interest policy established as provided in this subsection and applicable law.

8 (c) A charter school shall operate under the written charter signed by the State Board and
9 the applicant. A charter school is not required to enter into any other contract. The charter shall
10 incorporate the information provided in the application, as modified during the charter approval
11 process, and any terms and conditions imposed on the charter school by the State Board of
12 Education. No other terms may be imposed on the charter school as a condition for receipt of local
13 funds.

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

16 (e) The board of directors of the private nonprofit corporation operating the charter school
17 may have members who reside outside of the State. However, the State Board of Education may
18 require by policy that a majority of the board of directors and all officers of the board of directors
19 reside within the State."

20 **SECTION 5.** G.S. 115C-218.20(a) reads as rewritten:

21 "(a) The board of ~~directors of a~~ charter school may sue and be sued. The State Board of
22 Education shall adopt rules to establish reasonable amounts and types of liability insurance that
23 the board of ~~directors a~~ charter school shall be required by the charter to obtain. The board of
24 ~~directorsthe~~ charter school shall obtain at least the amount of and types of insurance required by
25 these rules to be included in the charter. Any sovereign immunity of the charter school, of the
26 organization that operates the charter school, or its members, officers, trustees, or directors, or of
27 the employees of the charter school or the organization that operates the charter school, is waived
28 to the extent of indemnification by insurance."

29 **SECTION 6.** G.S. 115C-218.25 reads as rewritten:

30 **"§ 115C-218.25. Open meetings and public records.**

31 The charter school and board of ~~directors of the private nonprofit corporation that operates the~~
32 charter school are subject to the Public Records Act, Chapter 132 of the General Statutes, and the
33 Open Meetings Law, Article 33C of Chapter 143 of the General Statutes. Notwithstanding the
34 requirements of Chapter 132 of the General Statutes, inspection of charter school personnel
35 records for those employees directly employed by the board of ~~directors of the~~ charter school shall
36 be subject to the requirements of Article 21A of this Chapter. The charter school and board of
37 ~~directors of the private nonprofit corporation that operates the~~ charter school shall use the same
38 schedule established by the Department of Natural and Cultural Resources for retention and
39 disposition of records of local school administrative units."

40 **SECTION 7.** G.S. 115C-218.45(f) reads as rewritten:

41 "(f) The charter school may give enrollment priority to any of the following:

- 42 (1) Siblings of currently enrolled students who were admitted to the charter school
43 in a previous year. For the purposes of this section, the term "siblings" includes
44 any of the following who reside in the same household: half siblings,
45 stepsiblings, and children residing in a family foster home.
- 46 (2) Siblings of students who have completed the highest grade level offered by that
47 school and who were enrolled in at least four grade levels offered by the charter
48 school or, if less than four grades are offered, in the maximum number of
49 grades offered by the charter school.
- 50 (3) Limited to no more than fifteen percent (15%) of the school's total enrollment,
51 unless granted a waiver by the State Board of Education, the following:

- 1 a. Children of the school's full-time employees.
 2 b. Children of the ~~charter school's board of directors~~ members of the board
 3 of the charter school.

- 4 (4) A student who was enrolled in the charter school within the two previous
 5 school years but left the school (i) to participate in an academic study abroad
 6 program or a competitive admission residential program or (ii) because of the
 7 vocational opportunities of the student's parent.
 8 (5) A student who was enrolled in another charter school in the State in the
 9 previous school year that does not offer the student's next grade level.
 10 (6) A student who was enrolled in another charter school in the State in the
 11 previous school year that does not offer the student's next grade level and both
 12 of the charter schools have an enrollment articulation agreement to accept
 13 students or are governed by the same board of ~~directors~~ a charter school."

14 **SECTION 8.** G.S. 115C-218.50(b)(2) reads as rewritten:

- 15 "(2) A charter school, upon approval by the board of ~~directors~~ of the charter school,
 16 may establish fees for extracurricular activities, except those fees shall not
 17 exceed the fees for the same extracurricular activities charged by a local school
 18 administrative unit in which forty percent (40%) or more of the students
 19 enrolled in the charter school reside."

20 **SECTION 9.** G.S. 115C-218.70 reads as rewritten:

21 **"§ 115C-218.70. Driving eligibility certificates.**

22 In accordance with rules adopted by the State Board of Education, the designee of the ~~school's~~
 23 board of ~~directors~~ the charter school shall do all of the following:

- 24 (1) Sign driving eligibility certificates that meet the conditions established in
 25 G.S. 20-11.
 26 (2) Obtain the necessary written, irrevocable consent from parents, guardians, or
 27 emancipated juveniles, as appropriate, in order to disclose information to the
 28 Division of Motor Vehicles.
 29 (3) Notify the Division of Motor Vehicles when a student who holds a driving
 30 eligibility certificate no longer meets its conditions."

31 **SECTION 10.** G.S. 115C-218.75(a) reads as rewritten:

32 "(a) Health and Safety Standards. – A charter school shall meet the same health and safety
 33 requirements required of a local school administrative unit. The Department of Public Instruction
 34 shall ensure that charter schools provide parents and guardians with information about
 35 meningococcal meningitis and influenza and their vaccines at the beginning of every school year.
 36 This information shall include the causes, symptoms, and how meningococcal meningitis and
 37 influenza are spread and the places where parents and guardians may obtain additional information
 38 and vaccinations for their children.

39 The Department of Public Instruction shall also ensure that charter schools provide parents and
 40 guardians with information about cervical cancer, cervical dysplasia, human papillomavirus, and
 41 the vaccines available to prevent these diseases. This information shall be provided at the
 42 beginning of the school year to parents of children entering grades five through 12. This
 43 information shall include the causes and symptoms of these diseases, how they are transmitted,
 44 how they may be prevented by vaccination, including the benefits and possible side effects of
 45 vaccination, and the places where parents and guardians may obtain additional information and
 46 vaccinations for their children.

47 The Department of Public Instruction shall also ensure that charter schools provide students in
 48 grades seven through 12 with information annually on the preventable risks for preterm birth in
 49 subsequent pregnancies, including induced abortion, smoking, alcohol consumption, the use of
 50 illicit drugs, and inadequate prenatal care.

1 The Department of Public Instruction shall also ensure that charter schools provide students in
2 grades nine through 12 with information annually on the manner in which a parent may lawfully
3 abandon a newborn baby with a responsible person, in accordance with G.S. 7B-500.

4 The Department of Public Instruction shall also ensure that the guidelines for individual
5 diabetes care plans adopted by the State Board of Education under G.S. 115C-12(31) are
6 implemented in charter schools in which students with diabetes are enrolled and that charter
7 schools otherwise comply with the provisions of G.S. 115C-375.3.

8 The Department of Public Instruction shall ensure that charter schools comply with
9 G.S. 115C-375.2A. The board of ~~directors~~ of a charter school shall provide the school with a
10 supply of emergency epinephrine auto-injectors necessary to carry out the provisions of
11 G.S. 115C-375.2A."

12 **SECTION 11.** G.S. 115C-218.90 reads as rewritten:

13 **"§ 115C-218.90. Employment requirements.**

14 (a) Employees. –

15 (1) An employee of a charter school is not an employee of the local school
16 administrative unit in which the charter school is located. The charter school's
17 board of ~~directors~~directors, the board of trustees of a constituent institution, or
18 board of trustees of a community college shall employ and contract with
19 necessary teachers to perform the particular service for which they are
20 employed in the school; at least fifty percent (50%) of these teachers shall hold
21 teacher licenses. All teachers who are teaching in the core subject areas of
22 mathematics, science, social studies, and language arts shall be college
23 graduates.

24 The ~~board~~charter school's board of directors, the board of trustees of a
25 constituent institution, or board of trustees of a community college also may
26 employ necessary employees who are not required to hold teacher licenses to
27 perform duties other than teaching and may contract for other services. The
28 ~~board~~charter school's board of directors, the board of trustees of a constituent
29 institution, or board of trustees of a community college may discharge teachers
30 and nonlicensed employees.

31 ...

32 (4) The employees of ~~the~~a charter school operated by a private nonprofit
33 corporation shall be deemed employees of the local school administrative unit
34 for purposes of providing certain State-funded employee benefits, including
35 membership in the Teachers' and State Employees' Retirement System and the
36 State Health Plan for Teachers and State Employees. The State Board of
37 Education provides funds to charter schools, approves the original members of
38 the boards of directors of the charter schools, has the authority to grant,
39 supervise, and revoke charters, and demands full accountability from charter
40 schools for school finances and student performance. Accordingly, it is the
41 determination of the General Assembly that charter schools are public schools
42 and that the employees of charter schools operated by a private nonprofit
43 corporation are public school employees. Employees of a charter school whose
44 board of directors elects to become a participating employer under G.S. 135-5.3
45 are "teachers" for the purpose of membership in the North Carolina Teachers'
46 and State Employees' Retirement System. In no event shall anything contained
47 in this Article require the North Carolina Teachers' and State Employees'
48 Retirement System to accept employees of a private employer as members or
49 participants of the System.

50 (4a) The employees of a charter school operated by a board of trustees of a
51 constituent institution or a board of trustees of a community college shall be

1 eligible for State-funded employee benefits, including membership in the
2 Teachers' and State Employees' Retirement System and the State Health Plan
3 for Teachers and State Employees as employees of that board of trustees.

4 (5) Education employee associations shall have equal access to charter school
5 employees as provided in G.S. 115C-335.9.

6 (b) Criminal History Checks. –

7 (1) If the local board of education of the local school administrative unit in which a
8 charter school is located has adopted a policy requiring criminal history checks
9 under G.S. 115C-332, then the board of ~~directors of~~ each charter school located
10 in that local school administrative unit shall adopt a policy mirroring the local
11 board of education policy that requires an applicant for employment to be
12 checked for a criminal history, as defined in G.S. 115C-332. Each ~~charter~~
13 ~~school board of directors~~ board of a charter school shall apply its policy
14 uniformly in requiring applicants for employment to be checked for a criminal
15 history before the applicant is given an unconditional job offer. A ~~charter~~
16 ~~school board of directors~~ board of a charter school may employ an applicant
17 conditionally while the board is checking the person's criminal history and
18 making a decision based on the results of the check.

19 (2) There shall be no liability for negligence on the part of the State Board of
20 Education or the board of ~~directors of~~ the charter school, or their employees,
21 arising from any act taken or omission by any of them in carrying out the
22 provisions of this subsection. The immunity established by this subsection shall
23 not extend to gross negligence, wanton conduct, or intentional wrongdoing that
24 would otherwise be actionable. The immunity established by this subsection
25 shall be deemed to have been waived to the extent of indemnification by
26 insurance, indemnification under Articles 31A and 31B of Chapter 143 of the
27 General Statutes, and to the extent sovereign immunity is waived under the Tort
28 Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes."

29 **SECTION 12.** G.S. 20-11(n)(4)d. reads as rewritten:

30 "d. The designee of the board of ~~directors of~~ the charter school in which the
31 person is enrolled."

32 **SECTION 13.** G.S. 20-84(b)(3a) reads as rewritten:

33 "(3a) A motor vehicle that is owned and exclusively operated by a ~~nonprofit~~
34 ~~corporation authorized~~ board of a charter school under G.S. 115C-218.5 to
35 operate a charter school and identified by a permanent decal or painted marking
36 disclosing the name of the ~~nonprofit corporation charter school~~. The motor
37 vehicle shall only be used for student transportation and official charter school
38 related activities."

39 **SECTION 14.** G.S. 105-228.90(b)(1) reads as rewritten:

40 "(1) Charter school. – ~~A nonprofit corporation~~ An entity that has a charter under
41 G.S. 115C-218.5 to operate a charter school."

42 **SECTION 15.** G.S. 115C-75.12(a)(4)a. reads as rewritten:

43 "a. Conversion to charter. – If, in the development of the transition plan, a
44 local board of education indicates by resolution to the State Board of
45 Education that the local board of education elects to not receive the
46 transfer of the achievement school back to the local school
47 administrative unit, the AS operator may apply to convert the school to
48 a charter school under Article 14A of this Chapter. If a charter is
49 awarded, the ~~charter~~ board of directors of the charter school may request
50 to use the facility as provided in G.S. 115C-218.35. If the AS operator
51 does not seek conversion to a charter school or fails to receive a charter,

1 the State Board of Education may close the school as provided in
2 subdivision (2) of this subsection."

3 **SECTION 16.** G.S. 115C-375.3 reads as rewritten:

4 **"§ 115C-375.3. Guidelines to support and assist students with diabetes.**

5 Local boards of education and boards of ~~directors of~~ charter schools shall ensure that the
6 guidelines adopted by the State Board of Education under G.S. 115C-12(31) are implemented in
7 schools in which students with diabetes are enrolled. In particular, the boards shall require the
8 implementation of the procedures set forth in those guidelines for the development and
9 implementation of individual diabetes care plans. The boards also shall make available necessary
10 information and staff development to teachers and school personnel in order to appropriately
11 support and assist students with diabetes in accordance with their individual diabetes care plans."

12 **SECTION 17.** This act is effective when it becomes law and applies to applications to
13 establish a charter school submitted on or after that date.