

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

Legislative Fiscal Note

BILL NUMBER: Senate Bill 8 (Fifth Edition)

SHORT TITLE: No Cap on Number of Charter Schools.

SPONSOR(S): Senator Stevens

FISCAL IMPACT

	Yes (x)	No ()	No Estimate Available ()		
	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>	<u>FY 2014-15</u>	<u>FY 2015-16</u>
REVENUES					
Local	*No impact on local revenues – expands allowable uses of property tax to include charter school capital funding*				
EXPENDITURES					
State	33,029	39,635	39,635	39,635	39,635
Local	(indeterminate increase in funding transferred from local school districts to local public charter schools)				
POSITIONS (cumulative):	None				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:	Department of Public Instruction, State Board of Education, Local School Administrative Units, County Governments, North Carolina Charter Schools				
EFFECTIVE DATE:	July 1, 2011, except for sections 5, 10, and 11 of the act which will be effective immediately				

BILL SUMMARY:

The bill makes several changes to the management, approval, and fiduciary treatment of North Carolina charter schools. It removes a 100 school limit on charter schools and makes other significant changes:

Public Charter Schools Commission—The bill creates a new Public Charter Schools Commission (Commission). The Commission will have within its duties and powers: (1) to oversee the application process for charter schools and to make recommendations to the State Board of Education (State Board) for approval of new charter applications; (2) to recommend policies to the State Board regarding all aspects of charter school operation; (3) to oversee the process of

monitoring the operation of charter schools with assistance from the Department of Public Instruction (DPI); (4) to make recommendations to the State Board regarding charter renewals, nonrenewals and revocations; and (5) to provide technical assistance to charter schools and charter school applicants. The State Board of Education is required to assign the Department of Public Instruction's Office of Charter Schools as staff to the Commission.

Modification of Certain Charter School Policies—The bill removes the overall cap on charter schools, allowing for authorization of up to 50 new charter schools each calendar year. The bill also modifies the cap on enrollment growth for charter schools from its prior limit of 10 percent growth to 20 percent growth. Charter schools will be permitted to have a minimum student enrollment of 50 students, 15 less than the current minimum of 65. Charters granted after July 1, 2011 must provide transportation for enrolled students residing in a household within 3 miles of the school which has an income below 185% of the poverty level and provide food services for all enrolled students residing in a household which has an income below 185% of the poverty level.

Changes to the Uses and Allocation of State and Local Funding to Charter Schools— The bill allows State and local funds to be used to acquire real property for charter schools. It also will permit counties to provide funds for specific purposes to the nonprofit, tax-exempt corporation that holds the charter of a charter school. Allocation of these funds must be apportioned based on the average daily membership of each charter school requesting funds should a county opt to provide funding. These funds may now include State lottery proceeds allocated to the counties for school capital needs and property tax revenues.

With respect to local funding, the bill clarifies the composition of the Uniform Budget Format for the purposes of determining the required per-pupil local current expense appropriation that must be transferred to a charter school from a local school administrative unit (LEA). Additionally, LEAs will be required to provide an accounting of the local current expense fund to be transferred to charter schools within 15 days of receipt of that appropriation. LEAs will be assessed a penalty for failure to comply with the deadlines.

ASSUMPTIONS AND METHODOLOGY:

There are several components of the bill which will impact the distribution of funds to charter schools, traditional public schools, the Public School Charter Commission, the North Carolina Department of Public Instruction and county governments. A more detailed analysis of each of these items follows:

Elimination of the 100 School Cap on Charter Schools

North Carolina charter schools receive State and local funding support as guaranteed by G.S. 115C-238.29H. State funding for an existing charter school is based on the dollars per student [as measured by Average Daily Membership (ADM)] of the Local Education Agency (LEA) in which the school is located, and is unchanged by this legislation. Funding for new charter schools is based on the dollars per ADM of the LEA in which the student is, or would be, currently enrolled. The total number of public school students attending a new charter school will reduce a LEA's

initial allotment. However, the redirection of funds from a LEA to a charter school has a net neutral impact on total State funding.

State Board of Education policy holds LEAs harmless for potential reductions in the Central Office Administration, School Building Administration and Staff Development allotments if there is a reduction in an LEA's ADM for students attending charter schools. The impact of the hold harmless for these three allotments is to maintain overall funding to the LEAs for these allotments. For the purposes of this memo, these potential costs are not currently identifiable given the uncertainty of the total number of charter schools that would be created in response to this bill. The estimated cost of the hold harmless in FY 2010-11 is \$465,910 based on additional charter school ADM growth of 1,553 students.

Establishment of the Public School Charter Commission

The Commission will be composed of 13 members, which must be appointed by August 1, 2011. It will be located administratively under the State Board of Education but operate independently of the Board.

Section 2 of the bill rewrites 115C-238.29A1 to direct the State Board of Education to assign personnel of the Department of Public Instruction's Office of Charter Schools (OCS) as staff to the Commission. There are currently eight staff at DPI directly working on charter schools issues, with six staff in OCS and two in the Financial and Business Services section that work exclusively on accounting and financial support matters. The impact of eliminating the cap on charter schools may increase the workload for existing OCS staff, but information from DPI on its initial staffing history indicates that the current staffing levels were sufficient to handle the workload associated with years in which more than fifteen new charter schools were approved and opened. Clearly, if the growth in newly approved charter schools is significant, then additional staffing in OCS may be justified. However, this analysis is unable to reliably estimate potential growth in charter schools, so justification for additional staffing is unknown.

Lastly, the Commission may hold meetings as it deems necessary, and its members shall be reimbursed for travel and subsistence expenses related to meeting participation. Assuming monthly meetings, the estimated annual cost of these expenses is \$39,635. Due to the August 1, 2011 deadline for the appointment of Commission members, this analysis assumes that only ten meetings will occur in fiscal year 2011-12. As such, first year Commission costs are estimated to be \$33,029. Attachment A of this Fiscal Memo contains detailed information about those estimates.

Local Per-Pupil Transfer

G.S. 115C-238.29H requires LEAs (in which a charter school student resides) to, "transfer to the charter school an amount equal to the per pupil local current expense appropriation to the local school administrative unit for the fiscal year." The definition of what sources comprise the local current expense appropriation is defined in G.S. 115C-426. This section requires LEAs to establish a State Public School Fund, local current expense fund, and a capital outlay fund in its standard budget format.

LEAs are also currently allowed, under G.S. 115C-426(c), to account for fund sources outside of these three categories. Prior to 2010, the explicit definition of those sources had been subject to dispute. The definition of those sources that may have been considered as “other funds” had been less explicitly defined by statute. However, three legal decisions (Delaney, Sugar Creek I and Sugar Creek II) had served to clarify those funds that should be budgeted in the local current expense appropriation.

Specifically, Sugar Creek I found that certain funds budgeted in the local current expense fund by Charlotte-Mecklenburg Public Schools were erroneously excluded from transfer to affected charter schools. These funds included monies for prekindergarten programs and high school reform efforts. Additionally, the ruling held that an LEA must transfer per-pupil funding to the charter school using the same methodology for determining student attendance at the district’s traditional public schools.

In 2009, the Sugar Creek II judgments essentially upheld all of the findings in Sugar Creek I except to omit Textbook funds from those funds included in the local current expense funds for per-capita transfer to charter schools. In total, the plaintiff schools in this case were found to be entitled to compensation based on the improper distribution of local current expense funding.

The Legislature took action in S.L. 2010-31 to further enumerate fund sources that may be budgeted in “other funds”. These sources are defined as: “reimbursements, including indirect costs, fees for actual costs, tuition, sales tax revenues distributed using the ad valorem method pursuant to G.S. 105-472(b)(2), sales tax refunds, gifts and grants restricted as to use, trust funds, federal appropriations made directly to local school administrative units, funds received for prekindergarten programs, and special programs.”

Clearly the language in S.L. 2010-31 has the effect of broadening the latitude over which LEAs could budget certain funds outside of the local current expense fund. This bill does not allow three of those sources to be budgeted as “other funds”:

1. “...sales tax revenues distributed using the ad valorem method pursuant to G.S. 105-472(b)(2)...”
2. “...sales tax refunds...”
3. “...interest income...”

In addition, Section 6 permits special funds of individual schools, such as school newspapers and student fees, to be excluded from the local current expense fund. The impact of Section 5 and 6 would cause some shift in local funds distribution from the LEA to existing charter schools in each instance that the LEA was including certain funds as “other funds” that would now be properly considered “local current expense” by this bill. There is no data available on the extent of this shift. All LEAs with students in charter schools have the latitude to include certain local, Federal and State funds in its local current expense fund.

The changes made in Sections 5 and 6 of the bill will have no material impact on State funding.

North Carolina Education Lottery Funds

Section 7 of the bill will allow counties to share a pro-rata amount of its Lottery school capital funding with charter schools. Currently, these funds are allocated to the counties on the basis of student headcount in the traditional public schools, as charter schools have been prohibited from receiving any State capital funding. To properly implement this section of the bill, DPI will have to distribute funding based on the total public school ADM in all counties and not just the traditional public school ADM. While this provision will not adjust the amount of State capital funding available to the counties, it will have the impact of sending slightly more Lottery capital funding to those counties with charter schools and slightly less funding to those counties without charter schools. Currently charter school students comprise about 3.3% of all North Carolina public school students.

Property Tax Revenues

Section 9 expands the purposes listed in G.S. 153A-149(c) for which counties may use property tax revenues to include capital funding for charter schools. Counties are not required to appropriate property tax revenues for this purpose, and the bill does not change the limitation of \$1.50 per \$100 valuation for the purposes included in the subsection.

SOURCES OF DATA: Department of Public Instruction and State Board of Education

Attachment A: Public Charter School Commission Costs

<table border="1"> <tr> <td>Number of legislative members:</td> </tr> <tr> <td align="center">0</td> </tr> </table> <table border="1"> <tr> <td>Number of non-legislative members:</td> </tr> <tr> <td align="center">13</td> </tr> </table> <table border="1"> <tr> <td>Number of meetings:</td> </tr> <tr> <td align="center">10</td> </tr> </table>	Number of legislative members:	0	Number of non-legislative members:	13	Number of meetings:	10	<table border="1"> <tr> <th align="center" colspan="2">FY 2011-12 Committee Budget Estimate</th> </tr> <tr> <td>1) Legislative Members Subsistence</td> <td align="right">\$0.00</td> </tr> <tr> <td> <div> <div>\$104.00</div> <div>Legislative Subsistence</div> </div> <div> <div>X 0</div> <div>Number of Legislative members</div> </div> <div> <div>X 1.5</div> <div>Half of Members using Two Days of Subsistence</div> </div> <div> <div>X 10</div> <div>Number of Meetings</div> </div> <div> <div>= \$0.00</div> <div>Total Legislative Members Subsistence</div> </div> 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Attachment A: Public Charter School Commission Costs

FY 2012-16 Committee Budget Estimate	
Number of legislative members:	0
Number of non-legislative members:	13
Number of meetings:	12
1) Legislative Members Subsistence \$0.00	
\$104.00	<i>Legislative Subsistence</i>
X 0	<i>Number of Legislative members</i>
X 1.5	<i>Half of Members using Two Days of Subsistence</i>
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\$116.05 *	<i>Non-Legislative Members Subsistence</i>
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X 1.5	<i>Half of Non-Legislative Members using Two Days Subsistence</i>
X 12	<i>Number of Meetings</i>
= \$27,155.70	Total Non-Legislative Members Subsistence
* \$101.05 Daily Per Diem Rate Plus \$15 Committee Per Diem Rate (GS138-5)	
3) Travel Expenses \$12,480.00	
a) Legislative Members	
\$70.00	<i>Round Trip Reimbursement (230 miles @ \$0.20/mile)</i>
X 0	<i>Number of Legislative Members</i>
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= \$0.00	Total Travel for Legislative Members
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\$0.00 *	<i>Average Salary with Benefits for 5 day work week</i>
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5) Professional Staff	\$0.00
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8) Supplies	\$0.00
9) Copying and Printing	\$0.00
10) Reserve	\$0.00
Total \$39,635.70	

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Rodney Bizzell

Brian Matteson

APPROVED BY: Marilyn Chism, Director
Fiscal Research Division

DATE: April 7, 2011



Signed Copy Located in the NCGA Principal Clerk's Offices