



SENATE BILL 8: No Cap on Number of Charter Schools

2011-2012 General Assembly

Committee:	House Finance	Date:	April 6, 2011
Introduced by:	Sen. Stevens	Prepared by:	Drupti Chauhan and Kara McCraw
Analysis of:	PCS to Fifth Edition S8-CSRQ-8		

SUMMARY: *Senate Bill 8 would make the following changes to laws related to charter schools, including:*

- *Remove the cap on charter schools and allow up to 50 new charters annually.*
- *Create a new Public Charter Schools Commission (Commission) to oversee charter schools..*
- *Add additional requirements for charter school applications.*
- *Allow State funds to be used to acquire real property for charter schools, allow counties to provide funds to the nonprofit, tax-exempt corporation that holds the charter of a charter school for specific purposes, and allow counties to allocate lottery monies to charter schools for capital needs.*

The Proposed Committee Substitute would make the following changes:

- *Change the governance of the Commission by requiring it to operate under the SBE and submit its recommendations as proposals to the SBE. If the SBE rejects a proposal, it must specify the reasons for the rejection. The SBE may not act in an arbitrary and capricious manner in withholding approval of proposals resubmitted by the Commission. The SBE's rejection of resubmitted proposals is subject to judicial review.*
- *Require, for charters granted after July 1, 2011, that those schools 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.*
- *Require charters to include the additional standard of post-secondary readiness and success for high schools.*
- *Delete the reinstatement of annual leave for teachers employed by a charter school who return to employment with a local school administrative unit without a break in service.*
- *Require counties that provide funds to charter schools to distribute those funds equitably and apportion according to the average daily membership of each charter school that requested funds.*
- *Delete the provision that required local boards of education to amend their 2010-2011 budget resolutions to comply with the Uniform Budget Format statute as amended by this bill.*

BILL ANALYSIS:

Section 2

Current Law: Part 6A of Article 16 of Chapter 115C establishes charter schools and provides that the SBE is the entity that oversees charter schools in the State by granting, monitoring, and revoking charters. A maximum of 100 charter schools may be authorized in the State at any given time. Charter schools are prohibited from receiving State monies for obtaining any interest in real property or mobile classroom units other than leases.

115C-238.29A – Adds language to encourage replication of successful charter schools.

115C-238.29A1 – Creates the Commission.

- Commission would operate under the SBE. It would have 13 members including the Superintendent of Public Instruction, and 4 members appointed by the Governor, 4 by the Speaker of the House, and 4 by the President Pro Tempore of the Senate.
- The Commission would have the following powers and duties: provide technical assistance, recommend policies to the SBE for charter school operations, oversee and make recommendations to the SBE regarding final approval of charter applications, oversee monitoring of charter schools, and make recommendations to the SBE on actions on charter renewals, nonrenewals, and revocations.
- The SBE would assign the Office of Charter Schools as staff to the Commission.

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- The Commission would submit recommendations to the SBE as proposals which the SBE must adopt or reject within 95 days of the submission or a proposal would be deemed as adopted. The SBE could not make any substantive changes to any proposal that it adopts. If the SBE rejects a proposal, it must state with specificity the reasons for rejection and allow the Commission to amend and resubmit that proposal. The SBE would not be able to act in an arbitrary and capricious manner in withholding approval of a proposal resubmitted by the Commission. Any such rejection of a resubmitted proposal is subject to judicial review.

115C-238.29B – Charter school applications

- Applications would be required to include new information including the following: an executive summary; targeted school population and community; instructional design; plans for identifying and serving special populations; proposed governing by-laws; proposed budget for first 5 years of operation; numbers of students to be served, with a minimum of 50 students, minimum number of teachers to be employed; organizational chart; plans for transportation and food services for certain low-income students; explanations of partnerships central to school mission; and a detailed start-up plan.
- For applicants seeking a charter for a virtual charter school, the application must include information showing that the school has a physical facility in the state, that the chief administrator of the school is located in the State, and that the teachers serving the virtual charter school are responsible for improving learning by planned instruction, diagnosing learning needs, prescribing content delivery through instructional activities, assessing learning, reporting outcomes to administrators and parents and guardians, and evaluating the effects of instruction.
- Local boards of education would be exempted from the requirement of having to form a nonprofit, tax-exempt corporation for converting a traditional school to a charter school if the local board of education serves as the board of directors of the charter school.
- The Commission would have the authority to recommend approval of a charter school to the SBE in accordance with the standards and criteria set forth in the charter schools statutes.
- Other entities such as local boards of education, and constituent institutions of The University of North Carolina would no longer be authorized to grant preliminary charters.

115C-238.29C – Application assessment

- The Commission, subject to the approval of the SBE, would be authorized to establish deadlines for applications and make determinations when applications were complete.
- The requirements governing preliminary approval of charters by other chartering entities would be eliminated.

115C-238.29D – Final approval of applications

- Upon recommendation of the Commission, the SBE would be authorized to grant approval of applications that met requirements.
- Eliminates State-wide charter school cap of 100 schools and provides that no more than 50 additional charter schools could be authorized in each calendar year, not including charter renewals.
- The Commission would be required to establish a timeline approved by the SBE to take final action on applications declared complete and make this information available to applicants. The decision on the application must be based on the evidence contained in the application or collected through an application review uniform across all applicants.
- Applicants would have the opportunity to request reconsideration of a denial of an application.
- Decisions to disapprove applications would be exempt from review under Chapter 150B.
- Standards must be included in the school's charter to measure academic proficiency and growth, achievement gaps between student subgroups, post-secondary readiness and success for high schools, attendance and recurrent enrollment, financial performance and stability, and compliance with laws, regulations and charter terms,
- Enrollment growth cap of 10% per year would be raised to 20%

115C-238.29E – Charter School Operation

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- The bill makes conforming changes.

115C-238.29F – General Requirements

- Charter schools would be allowed to charge any fees charged by the local LEA in which the charter school is located.
- The SBE would adopt rules as recommended by the Commission regarding liability insurance and set forth the student assessments required of charter schools.
- Charter schools would be prohibited from hiring teachers whose certification has been revoked by the State Board of Education.
- Teachers employed by charter schools who return to employment with a local school administrative unit without a break in service would be able to have unused sick leave from previous employment with a local school administrative unit reinstated and be given credit for the years of service for purposes of the salary schedule, longevity pay and rate of earned leave.
- Charter schools that have capacity would be able to enroll non-domiciled students and charge those students tuition that is equal at least to the per pupil allocation of the local appropriation for the county in which the charter school is located and the per pupil State appropriation for that school year. Non-domiciliaries of the State would be limited to 10% of the total number of students enrolled in the charter school.
- Public schools converted to charter schools would be required to give enrollment preference to students in the former attendance area for at least 2 years.
- Charter schools could give enrollment priority to the children of full-time employees of the charter school.
- The bill would clarify that the statutory admissions requirements would not preclude the formation of a charter school to serve special populations.
- 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.
- Charters granted after July 1, 2011 must provide food services for enrolled students residing in a household which has an income below 185% of the poverty level.
- Upon dissolution of a charter school, State or county funds used to purchase real property must be remitted back to the funding source after all liens on the property are satisfied.

115C-238.29G -- Causes for nonrenewal and termination

- Upon recommendation of the Commission, the SBE would have to adopt criteria for adequate performance by a charter school and identify charters with inadequate performance, including those with no growth in student performance and annual performance composites below 60% within a 3 year period. Identified charter schools must develop school improvement plans approved by the SBE upon recommendation by the Commission, and failure to demonstrate improvement under the plan is cause for termination or nonrenewal.
- Any decision to terminate or not renew a charter would be exempted from review under Chapter 150B of the General Statutes.

115C-238.29H – State and local funds for charters schools

- State funds would be allowed to be used to acquire equipment, real property, buildings, and mobile classrooms for school facilities, to enter into operational and financing leases for equipment, and for other purposes permitted for capital outlay fund appropriations, such as the acquisition of school buses.
- The funding to be transferred by an LEA for a student attending a charter school is clarified to mean the per pupil share of the local current expense fund established under the uniform budget format for LEAs.
- Per pupil share of the local current expense fund that consists of revenue derived from supplemental taxes would be transferred to a charter school for students residing within the tax district for which the taxes are levied.
- LEAs would 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 would be assessed a penalty for failure to comply with the deadlines.

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- Counties would be permitted to provide funds to charter schools by direct appropriations for any of the purposes for appropriations included in the capital outlay fund, such as acquisition of real property, building construction, furnishings and equipment, and school buses.
- Counties that provide funds to charter schools would be required to distribute those funds equitably and apportion according to the average daily membership of each charter school that requested funds.

115C-238.29I – Notice of charter school process and Charter School Advisory Committee

- The bill would repeal this section in order to make conforming changes.

115C-238.29J – Public and private assistance to charter schools

- The bill makes only conforming changes

115C-238.29K – Criminal History Checks

- The bill makes conforming changes

Section 3

Current Law: The Department of Justice is authorized to conduct criminal history checks of school personnel.

Analysis: The bill makes conforming changes to allow the Department of Justice to conduct criminal history checks of charter school employees.

Section 4

Current Law: G.S. 115C-105.37B authorizes the State Board of Education to approve LEA requests to reform low-performing schools.

Analysis: The bill makes conforming changes eliminating references to the charter schools cap.

Section 5

Current Law: G.S. 115C-426 established the uniform budget format for LEAs. LEAs are required to have the State Public School Fund, the local current expense fund, and the capital outlay fund. They are also authorized to have other funds for items such as indirect costs, fees, tuition costs restricted as to use, trust funds, federal appropriations made directly to LEAs, fund for prekindergarten programs, and special programs.

Analysis: The bill would eliminate the use of other funds to account for sales tax revenues distributed using the ad valorem method and sales tax refunds and would eliminate the exclusion of interest income from the local current expense appropriation.

Section 6

Current Law: G.S. 115C-448 allows the creation of special funds of individual schools to account for funds received from activities such as interscholastic athletic competition, school annual sales, and student organization dues.

Analysis: The bill would prohibit special funds of individual schools from being included in the local current expense fund amount transferred to charter schools.

Section 7

Current Law: Funds from the State lottery for school construction are not allocated to charter schools.

Analysis: The bill would permit counties to allocate a portion of the lottery funds for school construction to charter schools. Charter schools would be able to use the monies to pay for school construction projects or retire debt from school construction projects incurred after July 1, 2011.

Section 8

Analysis: The bill makes conforming changes in Chapter 150B allowing for the exemption from review for disapproval of applications and terminations and non-renewals of charters.

Section 9

Analysis: The bill would authorize counties to appropriate funds for capital needs for charter schools, lease real property to charter schools, and levy property taxes for these purposes.

Sections 10-11

Current Law: Section 7.17 of the 2010 Appropriations Act provided that LEAs that had not fully complied with local requirements for funding charter schools and who are subject to a judgment, court order, or settlement agreement may make payments over three years.

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Analysis: These sections of the bill would repeal the 2010 Budget provisions and would provide that if an LEA approves a budget resolution that fails to comply with the Uniform Budget Format and fails to include all monies required to be in the local current expense fund, it will have been deemed to do so by this bill.

Section 12

Analysis: The State Board of Education would be required to repeal all policies inconsistent with this Act.

Section 13

Analysis: The SBE in conjunction with the Commission must report annually to the Joint Legislative Education Oversight Committee on the strategic vision and plan for the charter schools, the status of the charter schools as well as composite annual data on the gender, race, ethnicity, and disability of students enrolled in charter schools. The report must also include suspension and expulsion data, the number of students receiving free or reduced meals, and the number of students receiving special education services.

Section 14

Analysis: The Department of Public Instruction must annually report to the Joint Legislative Education Oversight Committee on charter school programs and policies that could improve the public schools, and send a copy of that report to local boards of education.

EFFECTIVE DATE: Appointments required in in the Act must be made by August 1, 2011. Sections 5, 10, and 11 are effective when they become law. The remainder of this Act becomes effective July 1, 2011.

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