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SESSION 2015

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HOUSE BILL 242
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Short Title: Various Charter School Law Changes.

(Public)

Sponsors:

Referred to:

March 17, 2015

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS CHANGES TO THE CHARTER SCHOOL STATUTES; TO INCLUDE CHARTER SCHOOLS IN THE DEFINITIONS OF LOW-PERFORMING AND CONTINUALLY LOW-PERFORMING SCHOOLS; TO ALLOW CHARTER SCHOOLS TO BE COOPERATIVE AND INNOVATIVE HIGH SCHOOLS; AND TO EXEMPT CHARTER DENIALS AND NON-RENEWALS FROM THE CONTESTED CASE PROVISIONS OF THE ADMINISTRATIVE PROCEDURE ACT.

The General Assembly of North Carolina enacts:

PART I. CHARTER SCHOOL LAW CHANGES

SECTION 1.1. G.S. 115C-218.5 reads as rewritten:

"§ 115C-218.5. Final approval of applications for charter schools.

- (a) The State Board may grant final approval of an application if it finds the following:
- (1) The application meets the requirements set out in this Article and such other requirements as may be adopted by the State Board of Education.
 - (2) The applicant has the ability to operate the school and would be likely to operate the school in an educationally and economically sound manner.
 - (3) Granting the application would achieve one or more of the purposes set out in G.S. 115C-218.

In reviewing applications for the establishment of charter schools within a local school administrative unit, the State Board is encouraged to give preference to applications that demonstrate the capability to provide comprehensive learning experiences to students identified by the applicants as at risk of academic failure.

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

(c) The State Board of Education may authorize a school before the applicant has secured its space, equipment, facilities, and personnel if the applicant indicates the authority is necessary for it to raise working capital. The State Board shall not allocate any funds to the school until the school has obtained space.



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1 (d) The State Board of Education may grant the initial charter for a period not to exceed 10
2 years. ~~The State Board of Education shall renew the charter upon the request of the chartering~~
3 ~~entity for subsequent periods of 10 years, unless one of the following applies:~~

4 (1) ~~The charter school has not provided financially sound audits for the prior three~~
5 ~~years.~~

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

9 (3) ~~The charter school is not, at the time of the request for renewal of the charter,~~
10 ~~substantially in compliance with State law, federal law, the school's own~~
11 ~~bylaws, or the provisions set forth in its charter granted by the State Board of~~
12 ~~Education.~~

13 ~~The State Board of Education shall review the operations of each charter school at least once~~
14 ~~every five years to ensure that the school is meeting the expected academic, financial, and~~
15 ~~governance standards.~~

16 (e) ~~A material revision of the provisions of a charter application shall be made only upon~~
17 ~~the approval of the State Board of Education.~~

18 ~~Except as provided in subsection (f) of this section, enrollment growth shall be considered a~~
19 ~~material revision of the charter application, and the State Board may approve such additional~~
20 ~~enrollment growth of greater than twenty percent (20%) only if the State Board finds all of the~~
21 ~~following:~~

22 (1) ~~The actual enrollment of the charter school is within ten percent (10%) of its~~
23 ~~maximum authorized enrollment.~~

24 (2) ~~The charter school has commitments for ninety percent (90%) of the requested~~
25 ~~maximum growth.~~

26 (3) ~~The charter school is not currently identified as low performing.~~

27 (4) ~~The charter school meets generally accepted standards of fiscal management.~~

28 (5) ~~The charter school is, at the time of the request for the enrollment increase,~~
29 ~~substantially in compliance with State law, federal law, the charter school's own~~
30 ~~bylaws, and the provisions set forth in its charter granted by the State Board.~~

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

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

36 (2) ~~Increase its enrollment during the charter school's second year of operation and~~
37 ~~annually thereafter in accordance with planned growth as authorized in its~~
38 ~~charter.~~

39 (3) ~~Expand to offer one grade higher or lower than the charter school currently~~
40 ~~offers if the charter school has (i) operated for at least three years, (ii) has not~~
41 ~~been identified as having inadequate performance as provided in~~
42 ~~G.S.115C-218.95(b), and (iii) has been in financial compliance as required by~~
43 ~~the State Board of Education."~~

44 **SECTION 1.2.** Article 14A of Chapter 115C of the General Statutes is amended by
45 adding a new section to read:

46 **"§ 115C-218.6. Review and renewal of charters.**

47 (a) The State Board of Education shall review the operations of each charter school at least
48 once every ten years to ensure that the school is meeting the expected academic, financial, and
49 governance standards.

50 (b) The State Board of Education shall renew a charter upon the request of the chartering
51 entity for subsequent periods of 10 years, unless one of the following applies:

- 1 (1) The charter school has not provided financially sound audits for the prior three
2 years.
- 3 (2) The charter school's student academic outcomes for the past three years have
4 not been comparable to the academic outcomes of students in the local school
5 administrative unit in which the charter school is located.
- 6 (3) The charter school is not, at the time of the request for renewal of the charter,
7 substantially in compliance with State law, federal law, the school's own
8 bylaws, or the provisions set forth in its charter granted by the State Board of
9 Education."

10 SECTION 1.3. Article 14A of Chapter 115C of the General Statutes is amended by
11 adding a new section to read:

12 **"§ 115C-218.7. Material revisions of charters.**

13 (a) A material revision of the provisions of a charter shall be made only upon the approval
14 of the State Board of Education.

15 (b) Enrollment growth of greater than twenty percent (20%) shall be considered a material
16 revision of the charter. The State Board may approve such additional enrollment growth of greater
17 than twenty percent (20%) only if it finds all of the following:

- 18 (1) The actual enrollment of the charter school is within ten percent (10%) of its
19 maximum authorized enrollment.
- 20 (2) The charter school has commitments for ninety percent (90%) of the requested
21 maximum growth.
- 22 (3) The charter school is not currently identified as low-performing.
- 23 (4) The charter school meets generally accepted standards of fiscal management.
- 24 (5) The charter school is, at the time of the request for the enrollment increase,
25 substantially in compliance with State law, federal law, the charter school's own
26 bylaws, and the provisions set forth in its charter granted by the State Board.

27 (c) For the purposes of calculating actual enrollment and maximum authorized enrollment
28 under subdivision (1) of subsection (b) of this section, if a charter school is pursuing a material
29 revision of enrollment growth based on a proposed capital expansion of the charter school, but
30 fails to meet the requirements of subdivision (1) of subsection (b) of this section, the State Board
31 shall have the discretion to investigate and determine whether subdivision (1) of subsection (b) of
32 this section may be waived to grant the school's material revision request to allow the capital
33 expansion to move forward. In making such a determination, the charter school shall provide the
34 State Board with documentation to show evidence that demonstrates sufficiently in the State
35 Board's discretion all of the following:

- 36 (1) The requested increase in enrollment growth is within a reasonable margin of
37 the threshold necessary to support the requested material revision.
- 38 (2) The charter school has secured financing for its proposed capital expansion
39 conditioned on its obtaining the requested material revision of enrollment
40 growth.

41 (d) If a charter school presents evidence of a proposed capital expansion as part of a
42 request for a material revision of enrollment growth under this section that is granted by the State
43 Board, and the charter school is not able to realize that capital expansion within two years of the
44 grant of the material revision, the charter shall reflect the maximum authorized enrollment
45 immediately preceding that material revision."

46 SECTION 1.4. Article 14A of Chapter 115C of the General Statutes is amended by
47 adding a new section to read:

48 **"§ 115C-218.8. Non-material revisions of charters.**

49 It shall not be considered a material revision of a charter and shall not require prior approval of
50 the State Board for a charter school to do any of the following:

- 1 (a) Increase its enrollment during the charter school's second year of operation and
 2 annually thereafter by up to twenty percent (20%) of the school's previous year's
 3 enrollment.
 4 (b) Increase its enrollment during the charter school's second year of operation and
 5 annually thereafter in accordance with planned growth as authorized in its charter.
 6 (c) Expand to offer one grade higher or lower than the charter school currently offers if the
 7 charter school has (i) operated for at least three years, (ii) has not been identified as a
 8 continually low-performing school, and (iii) has been in financial compliance as
 9 required by the State Board of Education."

10 **SECTION 1.5.** G.S. 115C-218.45(f) reads as rewritten:

- 11 "(f) The charter school may give enrollment priority to any of the following:
 12 (1) Siblings of currently enrolled students who were admitted to the charter school
 13 in a previous year. For the purposes of this section, the term "siblings" includes
 14 any of the following who reside in the same household: half siblings,
 15 stepsiblings, and children residing in a family foster home.
 16 (2) Siblings of students who have completed the highest grade level offered by that
 17 school and who were enrolled in at least four grade levels offered by the charter
 18 school or, if less than four grades are offered, in the maximum number of
 19 grades offered by the charter school.
 20 (3) Limited to no more than fifteen percent (15%) of the school's total enrollment,
 21 unless granted a waiver by the State Board of Education, the following:
 22 a. Children of the school's full-time employees.
 23 b. Children of the charter school's board of directors.
 24 (4) A student who was enrolled in the charter school within the two previous
 25 school years but left the school (i) to participate in an academic study abroad
 26 program or a competitive admission residential program or (ii) because of the
 27 vocational opportunities of the student's parent.
 28 (5) A student who was enrolled in another charter school in the State in the
 29 previous school year that does not offer the student's next grade level.
 30 (6) A student who was enrolled in another charter school in the State in the
 31 previous school year that does not offer the student's next grade level and both
 32 of the charter schools have an enrollment articulation agreement to accept
 33 students or are governed by the same board of directors."

34 **SECTION 1.6.(a)** G.S. 115C-218.95 reads as rewritten:

35 "**§ 115C-218.95. Causes for nonrenewal or termination; disputes.**

36 (a) The State Board of Education may terminate, not renew, or seek applicants to assume
 37 the charter through a competitive bid process established by the State Board upon any of the
 38 following grounds:

- 39 (1) Failure to meet the requirements for student performance contained in the
 40 charter;
 41 (2) Failure to meet generally accepted standards of fiscal management;
 42 (3) Violations of law;
 43 (4) Material violation of any of the conditions, standards, or procedures set forth in
 44 the charter;
 45 (5) Two-thirds of the faculty and instructional support personnel at the school
 46 request that the charter be terminated or not renewed; or
 47 (6) Other good cause identified.

48 ~~(b) The State Board shall adopt criteria for adequate performance by a charter school and~~
 49 ~~shall identify charter schools with inadequate performance. The criteria shall include a~~
 50 ~~requirement that a charter school which demonstrates no growth in student performance and has~~

1 annual performance composites below sixty percent (60%) in any two years in a three year period
2 is inadequate.

3 (1) ~~If a charter school is inadequate in the first five years of the charter, the charter
4 school shall develop a strategic plan to meet specific goals for student
5 performance that are consistent with State Board criteria and the mission
6 approved in the charter school. The strategic plan shall be reviewed and
7 approved by the State Board. The State Board is authorized to terminate or not
8 renew a charter for failure to demonstrate improvement under the strategic plan.~~

9 (2) ~~If a charter school is inadequate and has had a charter for more than five years,
10 the State Board is authorized to terminate, not renew, or seek applicants to
11 assume the charter through a competitive bid process established by the State
12 Board. The State Board shall develop rules on the assumption of a charter by a
13 new entity that include all aspects of the operations of the charter school,
14 including the status of the employees. Public assets would transfer to the new
15 entity and not revert to the local school administrative unit in which the charter
16 school is located pursuant to G.S. 115C-218.100(b).~~

17 (b1) The State Board of Education shall identify low-performing charter schools on an
18 annual basis in accordance with G.S. 115C-105.37. The State Board of Education shall identify
19 continually low-performing charter schools and provide assistance and intervention in accordance
20 with G.S. 115C-105.37A.

21 If a charter school is continually low-performing, the State Board is authorized to terminate,
22 not renew, or seek applicants to assume the charter through a competitive bid process established
23 by the State Board. However, the State Board shall not terminate or not renew the charter of a
24 continually low-performing charter school solely for its continually low-performing status if the
25 charter schools academic achievement is comparable to the schools operated by the local school
26 administrative unit in which the charter school is located or if the charter school has implemented
27 a strategic improvement plan approved by the State Board and is making measurable progress
28 toward adequate student performance goals. The State Board shall develop rules on the
29 assumption of a charter by a new entity that includes all aspects of the operations of the charter
30 school, including the status of the employees. Public assets shall transfer to the new entity and
31 shall not revert to the local school administrative unit in which the charter school is located
32 pursuant to G.S. 115C-218.100(b)."

33 (c) The State Board of Education shall develop and implement a process to address
34 contractual and other grievances between a charter school and the local board of education during
35 the time of its charter.

36 (d) The State Board and the charter school are encouraged to make a good-faith attempt to
37 resolve the differences that may arise between them. They may agree to jointly select a mediator.
38 The mediator shall act as a neutral facilitator of disclosures of factual information, statements of
39 positions and contentions, and efforts to negotiate an agreement settling the differences. The
40 mediator shall, at the request of either the State Board or a charter school, commence a mediation
41 immediately or within a reasonable period of time. The mediation shall be held in accordance with
42 rules and standards of conduct adopted under Chapter 7A of the General Statutes governing
43 mediated settlement conferences but modified as appropriate and suitable to the resolution of the
44 particular issues in disagreement.

45 Notwithstanding Article 33C of Chapter 143 of the General Statutes, the mediation proceedings
46 shall be conducted in private. Evidence of statements made and conduct occurring in a mediation
47 are not subject to discovery and are inadmissible in any court action. However, no evidence
48 otherwise discoverable is inadmissible merely because it is presented or discussed in a mediation.
49 The mediator shall not be compelled to testify or produce evidence concerning statements made
50 and conduct occurring in a mediation in any civil proceeding for any purpose, except disciplinary
51 hearings before the State Bar or any agency established to enforce standards of conduct for

1 mediators. The mediator may determine that an impasse exists and discontinue the mediation at
2 any time. The mediator shall not make any recommendations or public statement of findings or
3 conclusions. The State Board and the charter school shall share equally the mediator's
4 compensation and expenses. The mediator's compensation shall be determined according to rules
5 adopted under Chapter 7A of the General Statutes."

6 **SECTION 1.6.(b)** A charter school identified as inadequate that developed and is
7 following a strategic plan required by G.S. 115C-218.95(b)(1), as repealed by this section, shall
8 not be required to continue the strategic plan during the 2016-2017 school year and thereafter if
9 that charter school has not been identified as low-performing under G.S. 115C-105.37.

10 **SECTION 1.7.** G.S. 115C-218.105 reads as rewritten:

11 "(a) The State Board of Education shall allocate to each charter school:

- 12 (1) An amount equal to the average per pupil allocation for average daily
13 membership from the local school administrative unit allotments in which the
14 charter school is located for each child attending the charter school except for
15 the allocation for children with disabilities and for the allocation for children
16 with limited English proficiency;
17 (2) An additional amount for each child attending the charter school who is a child
18 with disabilities; and
19 (3) An additional amount for children with limited English proficiency attending
20 the charter school, based on a formula adopted by the State Board.

21 In accordance with ~~G.S. 115C-218.5(d)~~, G.S. 115C-218.7 and G.S. 115C-218.8, the State
22 Board shall allow for annual adjustments to the amount allocated to a charter school based on its
23 enrollment growth in school years subsequent to the initial year of operation.

24 In the event a child with disabilities leaves the charter school and enrolls in a public school
25 during the first 60 school days in the school year, the charter school shall return a pro rata amount
26 of funds allocated for that child to the State Board, and the State Board shall reallocate those funds
27 to the local school administrative unit in which the public school is located. In the event a child
28 with disabilities enrolls in a charter school during the first 60 school days in the school year, the
29 State Board shall allocate to the charter school the pro rata amount of additional funds for children
30 with disabilities.

31 (b) Funds allocated by the State Board of Education may be used to enter into operational
32 and financing leases for real property or mobile classroom units for use as school facilities for
33 charter schools and may be used for payments on loans made to charter schools for facilities,
34 equipment, or operations. However, State funds shall not be used to obtain any other interest in
35 real property or mobile classroom units. No indebtedness of any kind incurred or created by the
36 charter school shall constitute an indebtedness of the State or its political subdivisions, and no
37 indebtedness of the charter school shall involve or be secured by the faith, credit, or taxing power
38 of the State or its political subdivisions. Every contract or lease into which a charter school enters
39 shall include the previous sentence. The school also may own land and buildings it obtains
40 through non-State sources.

41 (c) If a student attends a charter school, the local school administrative unit in which the
42 child resides shall transfer to the charter school an amount equal to the per pupil share of the local
43 current expense fund of the local school administrative unit for the fiscal year. The per pupil share
44 of the local current expense fund shall be transferred to the charter school within 30 days of the
45 receipt of monies into the local current expense fund. The local school administrative unit and
46 charter school may use the process for mediation of differences between the State Board and a
47 charter school provided in G.S. 115C-218.95(d) to resolve differences on calculation and
48 transference of the per pupil share of the local current expense fund. The amount transferred under
49 this subsection that consists of revenue derived from supplemental taxes shall be transferred only
50 to a charter school located in the tax district for which these taxes are levied and in which the
51 student resides.

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

4 (1) The total amount of monies the local school administrative unit has in each of
5 the funds listed in G.S. 115C-426(c).

6 (2) The student membership numbers used to calculate the per pupil share of the
7 local current expense fund.

8 (3) How the per pupil share of the local current expense fund was calculated.

9 (4) Any additional records requested by a charter school from the local school
10 administrative unit in order for the charter school to audit and verify the
11 calculation and transfer of the per pupil share of the local current expense fund.

12 In addition, the local school administrative unit shall provide to the State Board of Education all of
13 the information required by this subsection for each charter school to which it transfers a per pupil
14 share of its local current expense fund. This information shall be provided to the State Board of
15 Education by November 1 of each year. The State Board shall adopt a policy to govern the
16 collection of this information. The State Board shall issue a letter of non-compliance to a local
17 school administrative unit that does not provide the State Board with the information required by
18 this subsection."

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

26 PART II. CHARTER SCHOOLS INCLUDED IN LOW-PERFORMING SCHOOLS

27
28 SECTION 2.1. G.S. 115C-105.37 is amended by adding a new subsection to read:

29 "(c) Charter Schools Included in Identification of Low-Performing Schools. – For the
30 purposes of this section, "school" includes a charter school as provided in Article 14A of this
31 Chapter."

32 SECTION 2.2. G.S. 115C-105.37A is amended by adding a new subsection to read:

33 "(d) Charter Schools Included in Definition of Continually Low-Performing Schools. –
34 For the purposes of this section, "school" includes a charter school as provided in Article 14A of
35 this Chapter."

36 SECTION 2.3. G.S. 115C-105.38 is amended by adding a new subsection to read:

37 "(e) For the purposes of this section, "school" includes a charter school as provided in
38 Article 14A of this Chapter."

39 40 PART III. CHARTER SCHOOLS MAY BECOME COOPERATIVE INNOVATIVE 41 HIGH SCHOOLS

42
43 SECTION 3.1. Article 14A of Chapter 115C of the General Statutes is amended by
44 adding a new section to read:

45 "§ 115C-218.12. Operation of a cooperative innovative high school.

46 The board of directors of a charter school may seek to establish a cooperative innovative high
47 school under Part 9 of Article 16 of this Chapter. Notwithstanding any other provision of law, a
48 charter school that is approved as a cooperative innovative high school shall also be subject to the
49 statutes and rules applicable to those schools."

50 SECTION 3.2. G.S. 115C-238.50A(3a) reads as rewritten:

1 "(3a) Local board of education. – A local board as defined in ~~G.S. 115C-5(5)~~G.S.
2 115C-5(5), a board of directors of a charter school as provided in G.S. 115C-
3 218.15, or a regional school board of directors as defined in G.S.
4 115C-238.61(5)."

5 **SECTION 3.3.** G.S. 115C-238.53(f) reads as rewritten:

6 "(f) Except as provided in this Part and under the terms of the agreement, cooperative
7 innovative high schools:

8 (1) Shall have the same exemptions from statutes and rules as charter schools
9 operating under Article 14A of this Chapter, ~~other than those pertaining to~~
10 ~~personnel~~except that a local board of education shall not be exempt from
11 applicable statutes and rules pertaining to its personnel.

12 "

13
14 **PART IV. EXEMPTION FROM CONTESTED CASE PROVISIONS OF THE**
15 **ADMINISTRATIVE PROCEDURE ACT**

16
17 **SECTION 4.** G.S. 150B-1(e) is amended by adding a new subdivision to read:

18 "(24) The State Board of Education with respect to the denial of an application for a
19 charter school under G.S. 115C-218.5, or the nonrenewal of a charter school
20 under G.S. 115C-218.6."

21
22 **PART V: FAST TRACK CHARTER APPLICATION TIMELINES**

23 **SECTION 5.** Section 6.5 of S.L. 2014-101 reads as rewritten:

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

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

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

40 The State Board of Education shall ensure that the rules for a fast-track replication process provide
41 that decisions by the State Board of Education on whether to grant a charter through the
42 replication process are completed in less than ~~150 days~~90 days from the application submission
43 date. The State Board shall provide a decision no later than September 30 of the year immediately
44 preceding the year of the proposed school opening. The State Board of Education shall adopt rules
45 and procedures required by this section by ~~December 15, 2014~~within 90 days of the effective date
46 of this act, and report to the Joint Legislative Education Oversight Committee by ~~February 15,~~
47 2015within 120 of the effective date of this act."

PART VI. CONFORMING CHANGES

SECTION 6.1. G.S. 115C-12(22)b.5. reads as rewritten:

"5. The number of teachers who left employment in hard-to-staff schools. A hard-to-staff school shall be any school in a local school administrative unit identified as low-performing, as provided in G.S. 115C-105.37."

SECTION 6.2. G.S. 115C-325(q) reads as rewritten:

"(q) Procedure for Dismissal of School Administrators and Teachers Employed in ~~Low-Performing Schools~~ Schools in Local School Administrative Units –

(1) Notwithstanding any other provision of this section or any other law, this subdivision governs the State Board's dismissal of principals assigned to low-performing schools in local school administrative units to which the Board has assigned an assistance team:

...

(2) Notwithstanding any other provision of this section or any other law, this subdivision shall govern the State Board's dismissal of teachers, assistant principals, directors, and supervisors assigned to schools in local school administrative units that the State Board has identified as low-performing and to which the State Board has assigned an assistance team under Article 8B of this Chapter. The State Board shall dismiss a teacher, assistant principal, director, or supervisor when the State Board receives two consecutive evaluations that include written findings and recommendations regarding that person's inadequate performance from the assistance team. These findings and recommendations shall be substantial evidence of the inadequate performance of the teacher or school administrator.

(3) The State Board of Education or a local board may terminate the contract of a school administrator dismissed under this subsection. Nothing in this subsection shall prevent a local board from refusing to renew the contract of any person employed in a school in a local school administrative unit identified as low-performing under G.S. 115C-105.37.

...."

SECTION 6.3. G.S. 115C-325.13(a) reads as rewritten:

"(a) Notwithstanding any other provision of this Part or any other law, this section shall govern the State Board's dismissal of teachers, assistant principals, directors, and supervisors assigned to schools in local school administrative units that the State Board has identified as low-performing and to which the State Board has assigned an assistance team under Article 8B of this Chapter. The State Board shall dismiss a teacher, assistant principal, director, or supervisor when the State Board receives two consecutive evaluations that include written findings and recommendations regarding that person's inadequate performance from the assistance team. These findings and recommendations shall be substantial evidence of the inadequate performance of the teacher, assistant principal, director, or supervisor."

SECTION 6.4. G.S. 135-5.3(b7) reads as rewritten:

"(b7) The Board of Trustees may grant final approval of the application if it finds the following:

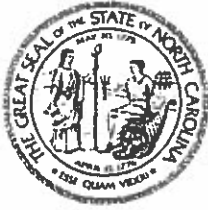
(1) The application meets the requirements set out in this Article.

(2) All members of the board of directors of the charter school have signed a written statement acknowledging and accepting the estimate provided under subsection (b5) of this section and the provisions of G.S. 135-8(i).

- 1 (3) The charter school has not been identified as ~~inadequate~~ continually low-
2 performing by the State Board of Education as provided in ~~G.S.~~
3 ~~115C-218.95(b)~~; G.S. 115C-218.95(b1).
4 (4) The charter school's most recent audited financial statements and independent
5 audit report demonstrate that it is financially sound and can meet the financial
6 obligations of participation in the Retirement System."
7
8

9 **PART VII. EFFECTIVE DATE**

10 **SECTION 7.** Section 5 of this act is effective when it becomes law and applies
11 beginning with applications submitted for fast-track replication of schools opening in the 2017-
12 2018 school year. The remainder of this act becomes effective when it becomes law and applies
13 beginning with the 2016-2017 school year. Section 4 of this act applies to charter applications and
14 charter renewal applications on or after that date.
15



HOUSE BILL 242: Various Charter School Law Changes.

2016-2017 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	June 1, 2016
Introduced by:	Reps. Faircloth, Stam	Prepared by:	Drupti Chauhan and Kara McCraw
Analysis of:	PCS to Third Edition H242-CSRQ-30		Committee Co-Counsel

SUMMARY: *The Proposed Committee Substitute (PCS) for HB 242 removes all of the content of the bill and replaces it with changes to various charter school laws.*

SECTION 1.1

CURRENT LAW: G.S. 115C-218.5 contains all of the following:

- The process for final approval of initial applications for charter schools.
- The process for charter reviews and renewals.
- Material revisions of charters.
- Non-material revisions of charters.

BILL ANALYSIS: This section of the PCS deletes the provisions on the process for charter reviews and renewals; material revisions of charters; and non-material revisions of charters so that each of those items can be set out in new individual statutes.

SECTION 1.2 – Review and Renewal of Charters

CURRENT LAW: G.S. 115C-218.5(d) provides that the State Board of Education (SBE) must review the operations of a charter school at least once every 5 years. The SBE must renew the charter for periods of 10 years unless 1 of the following applies: (i) the charter school has not provided financially sound audits for the past 3 years; (ii) the charter school's student academic outcomes for the past 3 years have not been comparable to the academic outcomes of student in the local school administrative unit in which the charter school is located; or (iii) the charter school is not in substantial compliance with laws, its own bylaws, or the provisions in its charter at the time of the request for the renewal.

BILL ANALYSIS: The current law on review and renewals would be set out again in a new separate statute.

The PCS would make one substantive change by directing the SBE to review the operations of a charter once every 10 years.

SECTION 1.3 – Material Revisions of Charters

CURRENT LAW: Material revisions of a charter can only be made upon the approval of the SBE. Enrollment growth greater than 20% is considered a material revision and the SBE may approve this growth only if the SBE finds all of the following:

- The actual enrollment of the charter school is within 10% of its maximum authorized enrollment.
- The charter school has commitments for 90% of the requested maximum growth.
- The charter school is not identified as low-performing.
- The charter school meets generally accepted standards of fiscal management.

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- The charter school is substantially in compliance with all laws, its bylaws, and its charter.

BILL ANALYSIS: The PCS would provide the SBE with the discretion to waive the requirement that the actual enrollment is within 10% of the maximum authorized enrollment when a charter school is asking for a material revision because of a proposed capital expansion but has not been able to meet that requirement. In this situation, the charter school would have to provide the SBE with the following information:

- The requested increase in enrollment growth is within a reasonable margin of the threshold necessary to support the material revision.
- The charter school has secured financing for its proposed capital expansion conditioned on its obtaining the requested material revision.

If the SBE grants a material revision for enrollment growth based on evidence of a proposed capital expansion and the charter school is not able to realize the capital expansion within 2 years of the grant of the material revision, the charter school would reflect the maximum authorized enrollment that was in place immediately preceding the material revision.

SECTION 1.4 – Non-Material Revisions of Charters

CURRENT LAW: Prior approval of the SBE is not needed and it is not considered a material revision of the charter for a charter school to any of the following:

- Increase its enrollment during the 2nd year of operation and annually thereafter by up to 20% of the school's previous year's enrollment.
- Increase its enrollment during the 2nd year of operation and annually thereafter in accordance with the planned growth authorized in the charter.
- Expand to offer one grade higher or lower than it currently offers if the charter school has operated for at least 3 years, has not been identified as having inadequate performance, and has been in financial compliance.

BILL ANALYSIS: The PCS would change the requirement that the charter school "has not been identified as having inadequate performance" to that it "has not been identified as a continually low-performing school".

SECTION 1.5 – Enrollment Priority

CURRENT LAW: Charter schools can give enrollment priority in a number of different situations, including to siblings of currently enrolled students; children of full-time employees; and students who were enrolled at the school within the past 2 years but left for specific reasons such as parental work opportunities.

BILL ANALYSIS: The PCS would add 2 more enrollment priority categories:

- Students who were enrolled in another charter school in the State in the previous year that does not offer the students' next grade levels.
- Students who were enrolled in another charter school in the State in the previous year that does not offer the students' next grade levels and both schools have enrollment articulation agreements to accept students or are governed by the same board of directors.

SECTION 1.6 – Inadequate Performance

CURRENT LAW: The SBE must adopt criteria for adequate performance of a charter school and has to identify schools with inadequate performance. The criteria has to include a requirement that a charter school is inadequate if it has no growth in student performance and has annual performance composites below 60% in any 2 years in a 3 year period. If a charter school is inadequate in the first 5 years of its charter, it must develop a plan to meet specific goals for student performance which must also be approved by the SBE. The SBE can terminate or not renew a charter if there is no improvement. If a charter is inadequate and has had a charter for more than 5 years, the SBE can terminate, not renew, or seek applicants to assume the charter.

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BILL ANALYSIS: The PCS would require the SBE to identify low-performing and continually low-performing charter schools on an annual basis in the same manner as traditional public schools and provide the same assistance and intervention. If a charter school is continually low-performing, the SBE would be able to terminate, not renew, or seek applicants to assume the charter.

However, the SBE cannot terminate or not renew the charter of a continually low-performing school solely because of its continually low-performing status if: (i) the school's academic achievement is comparable to the schools in the local school administrative unit in which the charter school is located; or (ii) the charter has an approved strategic improvement plan and is making measurable progress toward adequate student performance goals.

A school that had been identified as being inadequate and is following a strategic plan would not be required to continue that plan in 2016-2017 if it is not then identified as low-performing.

SECTION 1.7 – Information on Per Pupil Shares of Local Current Expense Funds

CURRENT LAW: LEAs must give each charter school to which it transfers a per pupil share of its local current expense fund specific information, including the amount of monies in the LEA's various funds and the student membership numbers used to calculate the per pupil share of the local current expense fund.

BILL ANALYSIS: The PCS would require the LEA to provide the SBE with the same information that it provides to the charter schools to which it transfers a per pupil share of its local current expense fund. The SBE would have to adopt a policy on the collection of this information and issues letters of non-compliance if the information is not submitted. This section would also make a conforming change.

SECTIONS 2.1-2.3 – Charter Schools Included in Low-Performing Schools

BILL ANALYSIS: The PCS would provide that charter schools are included in the identification of low-performing schools and in the definition of continually low-performing schools.

SECTION 3 – Charter Schools May Become Cooperative Innovative High Schools

BILL ANALYSIS: The PCS would allow a charter school to seek to establish a cooperative innovative high school. If the charter school is approved as a cooperative innovative high school, then it would be subject to the statutes and rules applicable to cooperative innovative high schools.

SECTION 4 – Exemption from Contested Case Provisions of the Administrative Procedures Act

BILL ANALYSIS: The PCS would provide that the denial of an application or nonrenewal for a charter school would not be subject to the contested case provisions of the Administrative Procedures Act.

SECTION 5 – Fast Track Charter Application Timelines

CURRENT LAW: The SBE must have a process and rules for the fast-track replication of high-quality charter schools. The decisions of the SBE on whether to grant a charter through the fast-track replication process must be completed in less than 150 days. In addition, the SBE was required to adopt these rules and procedures by December 15, 2014 and report to the Joint Legislative Education Oversight Committee by February 15, 2015.

BILL ANALYSIS: The PCS would provide that the SBE must decide whether to grant a charter through the fast-track replication process in less than 90 days from the application submission date. The SBE must provide a decision no later than September 30 of the year immediately preceding the year of the proposed school opening. The SBE must adopt rules and procedures within 90 days of the effective date of this act and must report to the Joint Legislative Education Oversight Committee within 120 days of the effective date of the act.

SECTION 6 – This section makes conforming changes to other statutes.

EFFECTIVE DATE: The bill becomes effective when it becomes law and applies beginning with the 2016-2017 school year. Section 4 applies to charter applications and charter renewals on or after the effective date of the bill. Section 5 applies beginning with applications submitted for fast-track replication of schools opening in the 2017-2018 school year.