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## HOUSE BILL NO. 785

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Education  
on February 12, 2000)

(Patron Prior to Substitute—Delegate Harris)

A BILL to amend and reenact §§ 22.1-26, 22.1-212.5 through 22.1-212.9, and 22.1-212.11 through 22.1-212.15 of the Code of Virginia, relating to charter schools.

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-26, 22.1-212.5 through 22.1-212.9, and 22.1-212.11 through 22.1-212.15 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-26. Joint schools.

Two or more school boards may, with the consent of the State Board, establish joint or regional schools, including *public* regional charter schools as defined in § 22.1-212.5, for the use of their respective school divisions and may jointly purchase, take, hold, lease, convey and condemn both real and personal property for such joint, *regional*, or *public* regional charter schools. The school boards, acting jointly, shall have the same power of condemnation as other school boards except that land so condemned shall not be in excess of thirty acres for the use of any one joint school. The title to all property acquired for such purposes shall vest jointly in the school boards in such respective proportions as the school boards may determine, and the schools shall be managed and controlled by the school boards jointly, in accordance with such regulations as are promulgated by the State Board. However, the regulations in force at the time of the adoption of a plan for the operation of a joint, *regional*, or *public* regional charter school shall not be changed for such joint, *regional*, or *public* regional charter school by the State Board without the approval of the school boards. The school boards operating a *public* regional charter school shall determine the school division to which any *public* regional charter school is assigned for the purposes of any restrictions on the number of charter schools imposed by § 22.1-212.11.

§ 22.1-212.5. Objectives; definitions.

A. In order to (i) stimulate the development of innovative programs within public education; (ii) provide opportunities for innovative instruction and assessment; (iii) provide parents and students with more options within their school divisions; (iv) provide teachers with a vehicle for establishing schools with alternative innovative instruction and school scheduling, management and structure; (v) encourage the use of performance-based educational programs; (vi) establish high standards for both teachers and administrators; and (vii) develop models for replication in other public schools, charter schools may be established in Virginia as provided in this article.

B. As used in this article:

"At-risk pupil" means a student having a physical, emotional, intellectual, socioeconomic, or cultural risk factor, as defined in Board of Education criteria, which research indicates may negatively influence educational success.

"Charter school" means a public, nonsectarian, nonreligious, or non-home-based alternative school located within a public school division. A charter school may be created as a new public school or through the conversion of all or part of an existing public school; however, no charter school shall be established through the conversion of a private school or a nonpublic home-based educational program.

"Public regional charter school" means a charter school operated by two or more school boards.

§ 22.1-212.6. Establishment and operation of charter schools; requirements.

A. A charter school shall be subject to all federal and state laws and regulations and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services and shall be subject to any court-ordered desegregation plan in effect for the school division or, in the case of a public regional charter school, any court-ordered desegregation plan in effect for participating school divisions.

Enrollment shall be open to any child who is deemed to reside within the relevant school division or, in the case of a public regional charter school, within any of the participating school divisions, as set forth in § 22.1-3, through a lottery process on a space-available basis. A waiting list shall be established if adequate space is not available to accommodate all students whose parents have requested to be entered in the lottery process. Such waiting list shall also be prioritized through a lottery process and parents shall be informed of their student's position on the list.

B. A charter school shall be administered and managed by a management committee, composed of parents of students enrolled in the school, teachers and administrators working in the school, and representatives of any community sponsors, in a manner agreed to by the charter school applicant and the local school board. Pursuant to a charter contract and as specified in § 22.1-212.7, a charter school may operate free from specified school division policies and state regulations, ~~except for~~ and, as public

60 schools, shall be subject to the requirements of the Standards of Quality, including the Standards of  
61 Learning and the Standards of Accreditation.

62 C. Pursuant to a charter agreement, a charter school shall be responsible for its own operations,  
63 including, but not limited to, such budget preparation, contracts for services, and personnel matters as  
64 are specified in the charter agreement. A charter school may negotiate and contract with a school  
65 division, the governing body of a public institution of higher education, or any third party for the use of  
66 a school building and grounds, the operation and maintenance thereof, and the provision of any service,  
67 activity, or undertaking which the charter school is required to perform in order to carry out the  
68 educational program described in its charter. Any services for which a charter school contracts with a  
69 school division shall not exceed the division's costs to provide such services.

70 D. In no event shall a charter school be required to pay rent for space which is deemed available, as  
71 negotiated by contract, in school division facilities. All other costs for the operation and maintenance of  
72 the facilities used by the charter school shall be subject to negotiation between the charter school and  
73 the school division *or, in the case of a public regional charter school, between the public regional*  
74 *charter school and the participating school divisions.*

75 E. A charter school shall not charge tuition.

76 § 22.1-212.7. Contracts for charter schools; release from certain policies and regulations.

77 An approved charter application shall constitute an agreement, and its terms shall be the terms of a  
78 contract between the charter school and the local school board *or, in the case of a public regional*  
79 *charter school, between the public regional charter school and the participating school boards.* The  
80 contract between the charter school and the local school board *or participating school boards* shall  
81 reflect all agreements regarding the release of the charter school from school division policies. Such  
82 contract between the charter school and the local school board *or participating school boards* shall  
83 reflect all requests for release of the charter school from state regulations, except for the requirements of  
84 the Standards of Quality. The local school board *or participating school boards*, on behalf of the charter  
85 school, shall request such releases from the Board of Education.

86 If the charter application proposes a program to increase the educational opportunities for at-risk  
87 students, the local school board *or participating school boards, as the case may be*, on behalf of the  
88 charter school, shall also request that the Board of Education approve an Individual School Accreditation  
89 Plan for the evaluation of the performance of the school as authorized by the Standards of Accreditation  
90 pursuant to 8 VAC 20-131-280 C of the Virginia Administrative Code.

91 Any material revision of the terms of the contract may be made only with the approval of the local  
92 school board *or participating school boards* and the management committee of the charter school.

93 § 22.1-212.8. Charter application.

94 A. Any person, group, or organization may submit an application for the formation of a charter  
95 school.

96 B. The charter school application shall be a proposed agreement and shall include:

97 1. The mission statement of the charter school that must be consistent with the principles of the  
98 Standards of Quality.

99 2. The goals and educational objectives to be achieved by the charter school, which educational  
100 objectives must meet or exceed the Standards of Learning.

101 3. Evidence that an adequate number of parents, teachers, pupils, or any combination thereof, support  
102 the formation of a charter school.

103 4. A statement of the need for a charter school in a school division *or participating school divisions*  
104 *in the case of a public regional charter school*, or in a geographic area within a school division *or*  
105 *participating school divisions, as the case may be.*

106 5. A description of the charter school's educational program, pupil performance standards, and  
107 curriculum, which must meet or exceed any applicable Standards of Quality; the assessments to be used  
108 to measure pupil progress towards achievement of the school's pupil performance standards; the timeline  
109 for achievement of such standards; and the procedures for taking corrective action in the event that pupil  
110 performance at the charter school falls below such standards.

111 6. A description of the lottery process to be used to determine enrollment. A lottery process shall  
112 also be developed for the establishment of a waiting list for such students for whom space is unavailable  
113 and, if appropriate, a tailored admission policy that meets the specific mission or focus of the charter  
114 school and is consistent with all federal and state laws and regulations and constitutional provisions  
115 prohibiting discrimination that are applicable to public schools and with any court-ordered desegregation  
116 plan in effect for the school division *or, in the case of a public regional charter school, in effect for any*  
117 *of the participating school divisions.*

118 7. Evidence that the plan for the charter school is economically sound for both the charter school and  
119 the school division *or participating school divisions, as the case may be*; a proposed budget for the term  
120 of the charter; and a description of the manner in which an annual audit of the financial and  
121 administrative operations of the charter school, including any services provided by the school division *or*

participating school divisions, as the case may be, is to be conducted.

8. A plan for the displacement of pupils, teachers, and other employees who will not attend or be employed in the charter school and for the placement of charter school pupils, teachers, and employees upon termination or revocation of the charter.

9. A description of the management and operation of the charter school, including the nature and extent of parental, professional educator, and community involvement in the management and operation of the charter school.

10. An explanation of the relationship that will exist between the proposed charter school and its employees, including evidence that the terms and conditions of employment have been addressed with affected employees.

11. An agreement between the parties regarding their respective legal liability and applicable insurance coverage.

12. A description of how the charter school plans to meet the transportation needs of its pupils.

13. Assurances that the charter school (i) is nonsectarian in its programs, admission policies, employment practices, and all other operations and (ii) does not charge tuition.

§ 22.1-212.9. Review of charter applications.

A. ~~After~~ Charter school applications shall only be received and reviewed by a local school board or, in the case of a public regional charter school, by all of the participating school boards, after public notice, a public hearing, and adoption by the local school board or boards of a resolution stating ~~its~~ the intent to receive applications for the establishment of such other charter schools in the relevant school divisiondivisions; the local school board may receive and review all applications for charter schools. The public notice shall appear once a week for two successive weeks in a newspaper having a general circulation in the jurisdiction of the relevant school divisiondivisions. The second publication shall not be sooner than one calendar week after the first publication.

~~The~~ Each local school board ~~may~~ that adopts a resolution announcing its intent to accept applications for charter schools and publishes such notice of its intent shall establish procedures for receiving, reviewing, and ruling upon applications and shall make a copy of any such procedures available to all interested parties upon request. If any such board finds the charter school application is incomplete, the board shall request the necessary information from the charter applicant.

B. To provide appropriate opportunity for input from parents, teachers, and other interested parties and to obtain information to assist the local school boardboards in ~~its~~ their decision decisions to grant a charter school application, the local school boardboards may establish a procedure for public notice, comment, or hearings on charter school applications.

C. Each local school board shall provide public notice by December 31, 2000, of its intent to accept or not to accept applications for charter schools.

§ 22.1-212.11. Charter school restrictions.

A. On and after July 1, 1998, local school boards electing to receive applications for charter schools pursuant to § 22.1-212.9 may establish a charter schoolschools within the school division and shall be authorized to limit the number of schools so established; however, the total number of charter schools, including those designed to increase educational opportunities for at-risk pupils but not including any public regional charter schools, shall not exceed ten percent of the school division's total number of schools or two charter schools, whichever is greater. Further, no more than two charters per school division shall be granted prior to July 1, 2000. Priority shall be given to charter school applications designed to increase the educational opportunities of at-risk students, and at least one-half of the charter schools per division shall be reserved for such applications.

B. Local school boards that grant charter school applications shall report such action to the Board and shall specify the maximum number of charters that may be authorized, if any; the number of charters granted; and whether a charter school is designed to increase the educational opportunities of at-risk students.

C. Nothing in this article shall be construed to prevent a school that is the only school in the division from applying to become a charter school.

§ 22.1-212.12. Charter school term; renewals and revocations.

A. A charter may be approved or renewed for a period not to exceed three school years. A charter school renewal application submitted to the local school board or, in the case of a public regional charter school, to the participating school boards shall contain:

1. A report on the progress of the charter school in achieving the goals, objectives, program and performance standards for students, and such other conditions and terms as the school board or boards may require upon granting initial approval of the charter application.

2. A financial statement, on forms prescribed by the Board, that discloses the costs of administration, instruction, and other spending categories for the charter school and that has been concisely and clearly written to enable the school board or boards and the public to compare such costs to those of other

183 schools or comparable organizations.

184 B. A ~~local~~Local school board boards may revoke a charter if the charter school:

- 185 1. Violates the conditions, standards, or procedures established in the charter school application;  
186 2. Fails to meet or make reasonable progress toward achievement of the content standards or student  
187 performance standards identified in the charter application;  
188 3. Fails to meet generally accepted standards of fiscal management; or  
189 4. Violates any provision of law from which the charter school was not specifically exempted.

190 A charter may be revoked if the local school board determines, in its discretion, that it is not in the  
191 public interest or for the welfare of the students within the school division to continue the operation of  
192 the school or, in the case of a public regional charter school, to continue its participation in the  
193 operation of school.

194 C. Nothing in this section shall be construed to restrict the authority of the local school board boards  
195 to decline to renew a charter agreement.

196 § 22.1-212.13. Employment of professional, licensed personnel.

197 A. Charter school personnel shall be employees of the local school board or boards granting the  
198 charter or, in the case of a public regional charter school chartered by the Board, of the participating  
199 school divisions.

200 B. Professional, licensed personnel may volunteer for assignment to a charter school. Assignment in  
201 a charter school shall be for one contract year. Upon request of the employee and the recommendation  
202 of the management committee of the charter school, reassignment to the charter school shall occur on an  
203 annual basis.

204 C. At the completion of each contract year, professional, licensed personnel who request assignment  
205 to a noncharter school in the relevant school division or who are not recommended for reassignment in  
206 the charter school, other than for the grounds cited in § 22.1-307, shall be guaranteed an involuntary  
207 transfer to a noncharter school in the school division according to the employment policies of the school  
208 division.

209 D. Professional, licensed personnel of a charter school shall be granted the same employment benefits  
210 given to professional, licensed personnel in noncharter schools in accordance with the policies of the  
211 relevant school board.

212 E. Nothing in this section shall be construed to restrict the authority of the local school board to  
213 assign professional, licensed personnel to a charter school or any other public school as provided in  
214 §§ 22.1-293 and 22.1-295.

215 § 22.1-212.14. Funding of charter schools; services provided.

216 A. For the purposes of this article, students enrolled in a charter school shall be included in the  
217 average daily membership of the relevant school division; however, charter schools shall not be reported  
218 in fall membership for purposes of calculating the state and local shares required to fund the Standards  
219 of Quality if the enrollment at the charter school is less than 100 students and constitutes less than five  
220 percent of the total enrollment of the relevant grades in that school division.

221 B. Insofar as constitutionally valid, a local school board or, in the case of a public regional charter  
222 school, the participating school boards may establish by contract an agreement stating the conditions for  
223 funding the charter school.

224 C. Services provided the charter school by the local school board or participating school boards may  
225 include food services; custodial and maintenance services; curriculum, media, and library services;  
226 warehousing and merchandising; and such other services not prohibited by the provisions of this article  
227 or state and federal laws.

228 D. Funding and service agreements between local school boards and charter schools shall not provide  
229 a financial incentive or constitute a financial disincentive to the establishment of a charter school,  
230 including any public regional charter school.

231 E. Any educational and related fees collected from students enrolled at a charter school shall be  
232 credited to the account of such charter school established by the relevant local school board.

233 F. Notwithstanding any other provision of law, the proportionate share of state and federal resources  
234 allocated for students with disabilities and school personnel assigned to special education programs shall  
235 be directed to charter schools enrolling such students. The proportionate share of moneys allocated under  
236 other federal or state categorical aid programs shall be directed to charter schools serving students  
237 eligible for such aid.

238 G. The management committee of a charter school is authorized to accept gifts, donations, or grants  
239 of any kind made to the charter school and to spend such funds in accordance with the conditions  
240 prescribed by the donor. However, no gift, donation, or grant shall be accepted by the management  
241 committee of a charter school if the conditions for such funds are contrary to law or the terms of the  
242 agreement between the local school board and the charter school or, in the case of a public regional  
243 charter school, the participating school boards and the public regional charter school.

244 H. The Department of Education shall provide technical assistance to local school boards electing to

245 receive, review, and act upon applications for charter schools.

246 § 22.1-212.15. Evaluation of charter schools; reports.

247 School boards establishing charter schools shall submit annual evaluations of such schools to the  
248 Board of Education. The Board shall review the evaluations against any Board regulations and policies  
249 waived for the charter schools to determine the efficacy of such waivers and whether the charter schools  
250 accomplished established goals and objectives. Such school boards shall also submit annually to the  
251 Board a comparison of the performance of charter school students and students enrolled in the regular  
252 schools of ~~the~~*such relevant* school division and a report of the number of students enrolled in such  
253 charter schools at the end of the school year.

254 The Board shall report annually its findings and evaluations of any charter schools established in the  
255 Commonwealth to the Governor and the General Assembly, beginning in January 1999.