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SENATE BILL NO. 411

Offered January 21, 2000

A *BILL to amend and reenact §§ 22.1-26, 22.1-87, and 22.1-212.5 through 22.1-212.15 of the Code of Virginia, relating to charter schools.*

Patrons—Barry, Bolling, Hawkins, Martin, Miller, K.G., Mims, Newman, Norment, Potts, Quayle, Rerras, Schrock and Williams; Delegates: Drake, Landes, McClure, O'Brien, Purkey, Rollison and Wardrup

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-26, 22.1-87, and 22.1-212.5 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 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 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 regional *charter* school shall not be changed for such joint, *regional*, or regional *charter* school by the State Board without the approval of the school boards. The school boards operating a regional charter school shall determine the school division to which any regional charter school is assigned for the purposes of any restrictions on the number of charter schools imposed by § 22.1-212.11.

§ 22.1-87. Judicial review.

Any parent, custodian, or legal guardian of a pupil attending the public schools in a school division who is aggrieved by an action of the school board, *any person who has submitted an application for a charter school and who is aggrieved by a school board's denial of a charter application, and any governing body of a charter school aggrieved by a school board's revocation or denial of renewal of a charter* may, within thirty days after such action, *denial, or revocation*, petition the circuit court having jurisdiction in the school division to review the action ~~of~~, *denial, or revocation by* the school board. Such review shall proceed upon the petition, the minutes of the meeting at which the school board's action was taken, the orders, if any, of the school board, an attested copy of the transcript, if any, of any hearing before the school board, and any other evidence found relevant to the issues on appeal by the court. The action ~~of~~, *denial, or revocation by* the school board shall be sustained unless the school board exceeded its authority, acted arbitrarily or capriciously, or abused its discretion.

§ 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.

"Regional charter school" means a charter school operated by two or more school boards. Regional charter schools may be chartered directly by the participating school boards or by the Board of

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60 *Education with the concurrence of the participating school boards. The Board shall establish procedures*
61 *for receiving and reviewing applications, seeking public comment, and obtaining the concurrence of*
62 *participating school boards for regional schools to be chartered by the Board. Any such regional*
63 *charter schools shall be operated by the participating school boards.*

64 § 22.1-212.6. Establishment and operation of charter schools; requirements.

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

70 Enrollment shall be open to any child who is deemed to reside within the relevant school division *or,*
71 *in the case of a regional charter school, within any of the participating school divisions,* as set forth in
72 § 22.1-3, through a lottery process on a space-available basis. A waiting list shall be established if
73 adequate space is not available to accommodate all students whose parents have requested to be entered
74 in the lottery process. Such waiting list shall also be prioritized through a lottery process and parents
75 shall be informed of their student's position on the list.

76 B. A charter school shall be administered and managed by a management committee, composed of
77 parents of students enrolled in the school, teachers and administrators working in the school, and
78 representatives of any community sponsors, in a manner agreed to by the charter school applicant and
79 the local school board. Pursuant to a charter contract and as specified in § 22.1-212.7, a charter school
80 may operate free from specified school division policies and state regulations, ~~except for~~ *and, as public*
81 *schools, shall be subject to the requirements of the Standards of Quality, including the Standards of*
82 *Learning and the Standards of Accreditation.*

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

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

96 E. A charter school shall not charge tuition.

97 § 22.1-212.7. Contracts for charter schools; release from certain policies and regulations.

98 An approved charter application shall constitute an agreement, and its terms shall be the terms of a
99 contract between the charter school and the local school board *or, in the case of a regional charter*
100 *school, between the regional charter school and the participating school boards.* The contract between
101 the charter school and the local school board *or participating school boards* shall reflect all agreements
102 regarding the release of the charter school from school division policies. Such contract between the
103 charter school and the local school board *or participating school boards* shall reflect all requests for
104 release of the charter school from state regulations, except for the requirements of the Standards of
105 Quality. The local school board *or participating school boards*, on behalf of the charter school, shall
106 request such releases from the Board of Education.

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

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

114 § 22.1-212.8. Charter application.

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

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

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

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

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

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

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

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

7. Evidence that the plan for the charter school is economically sound for both the charter school and the school division *or participating school divisions, as the case may be*; a proposed budget for the term of the charter; and a description of the manner in which an annual audit of the financial and 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 regional charter school to be chartered directly by local school boards, 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 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.*

Applications for regional charter schools to be chartered directly by the Board of Education shall be received and reviewed in accordance with Board procedures established pursuant to § 22.1-212.5.

~~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.*

§ 22.1-212.10. Decision of local board subject to review.

The decision of a local school board to grant or deny a charter school application or to revoke or fail to renew a charter agreement shall be ~~final and not subject to appeal~~ *subject to judicial review pursuant*

183 to § 22.1-87.

184 § 22.1-212.11. Charter school restrictions.

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

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

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

200 § 22.1-212.12. Charter school term; renewals and revocations.

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

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

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

211 B. A local school board boards may revoke a charter if the charter school:

212 1. Violates the conditions, standards, or procedures established in the charter school application;

213 2. Fails to meet or make reasonable progress toward achievement of the content standards or student
214 performance standards identified in the charter application;

215 3. Fails to meet generally accepted standards of fiscal management; or

216 4. Violates any provision of law from which the charter school was not specifically exempted.

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

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

223 § 22.1-212.13. Employment of professional, licensed personnel.

224 A. Charter school personnel shall be employees of the local school board or boards granting the
225 charter or, in the case of a regional charter school chartered by the Board, of the participating school
226 divisions.

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

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

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

239 E. Nothing in this section shall be construed to restrict the authority of the local school board to
240 assign professional, licensed personnel to a charter school or any other public school as provided in
241 §§ 22.1-293 and 22.1-295.

242 § 22.1-212.14. Funding of charter schools; services provided.

243 A. For the purposes of this article, students enrolled in a charter school shall be included in the
244 average daily membership of the relevant school division; however, charter schools shall not be reported

in fall membership for purposes of calculating the state and local shares required to fund the Standards of Quality *if the enrollment at the charter school is less than 100 students and constitutes less than five percent of the total enrollment of the relevant grades in that school division.*

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

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

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

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

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

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

H. The Department of Education shall provide technical assistance to local school boards electing to receive, review, and act upon applications for charter schools.

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

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

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