

021265930

HOUSE BILL NO. 734

Offered January 9, 2002

Prefiled January 9, 2002

A BILL to amend and reenact §§ 22.1-87, 22.1-212.6 through 22.1-212.11 and 22.1-212.13, 22.1-212.14, and 22.1-212.15 of the Code of Virginia, and to amend the Code of Virginia by adding sections numbered 22.1-212.16, 22.1-212.17, and 22.1-212.18, relating to charter schools.

Patrons—Sears, Black, Keister and Welch

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-87, 22.1-212.6 through 22.1-212.11 and 22.1-212.13 through 22.1-212.15 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 22.1-212.16 through 22.1-212.18 as follows:

§ 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 is aggrieved by a school board's announced intent to accept or not to accept charter school applications pursuant to § 22.1-212.9, any person who has submitted an application for a charter school and who is aggrieved by a school board's grant or 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, *announced intention, grant, denial, or revocation*, petition the circuit court having jurisdiction in the school division to review the action ~~of~~, *announced intention, grant, 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~~, *announced intention, grant, 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.

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

A. A public 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 regional public 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 regional public 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 public 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 governing body~~, in a manner agreed to by the public charter school applicant and the local school board. Pursuant to a charter contract and as specified in § 22.1-212.7, a public charter school may operate free from specified school division policies and state regulations, and, as public schools, shall be subject to the requirements of the Standards of Quality, including the Standards of Learning and the Standards of Accreditation.

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

D. In no event shall a public charter school be required to pay rent for space which is deemed available, as negotiated by contract, in school division facilities. All other costs for the operation and

INTRODUCED

HB734

59 maintenance of the facilities used by the public charter school shall be subject to negotiation between
60 the public charter school and the school division or, in the case of a regional public charter school,
61 between the regional public charter school and the participating school divisions.

62 E. A public charter school shall not charge tuition.

63 § 22.1-212.7. Contracts for public charter schools; release from certain policies and regulations.

64 An approved charter application shall constitute an agreement, and its terms shall be the terms of a
65 contract between the public charter school and the local school board or, in the case of a regional public
66 charter school, between the regional public charter school and the participating school boards. The
67 contract between the public charter school and the local school board or participating school boards shall
68 reflect all agreements regarding the release of the public charter school from school division policies.
69 Such contract between the public charter school and the local school board or participating school
70 boards shall reflect all requests for release of the public charter school from state regulations, consistent
71 with the requirements of subsection B of § 22.1-212.6. The local school board or participating school
72 boards, on behalf of the public charter school, shall request such releases from the Board of Education.

73 If the charter application proposes a program to increase the educational opportunities for at-risk
74 students, including those proposals for residential charter schools for at-risk students, the local school
75 board or participating school boards, as the case may be, on behalf of the public charter school, shall
76 also request that the Board of Education approve an Individual School Accreditation Plan for the
77 evaluation of the performance of the school as authorized by the Standards of Accreditation pursuant to
78 8 VAC 20-131-280 C of the Virginia Administrative Code.

79 Any material revision of the terms of the contract may be made only with the approval of the local
80 school board or participating school boards and the ~~management committee~~ governing body of the public
81 charter school.

82 § 22.1-212.8. Charter application.

83 A. Any person, group, or organization may submit an application for the formation of a public
84 charter school.

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

86 1. The mission statement of the public charter school that must be consistent with the principles of
87 the Standards of Quality.

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

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

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

95 5. A description of the public charter school's educational program, pupil performance standards, and
96 curriculum, which must meet or exceed any applicable Standards of Quality; ~~the~~ any assessments to be
97 used to measure pupil progress towards achievement of the school's pupil performance standards, *in*
98 *addition to the Standards of Learning assessments prescribed by § 22.1-253.13:3*; the timeline for
99 achievement of such standards; and the procedures for taking corrective action in the event that pupil
100 performance at the public charter school falls below such standards.

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

108 7. Evidence that the plan for the public charter school is economically sound for both the public
109 charter school and the school division or participating school divisions, as the case may be; a proposed
110 budget for the term of the charter; and a description of the manner in which an annual audit of the
111 financial and administrative operations of the public charter school, including any services provided by
112 the school division or participating school divisions, as the case may be, is to be conducted.

113 8. A plan for the (i) displacement of pupils, teachers, and other employees who will not attend or be
114 employed in the public charter school ~~and for the~~, *in instances of the conversion of an existing public*
115 *school to a public charter school*; (ii) placement of public charter school pupils, teachers, and employees
116 upon termination or revocation of the charter; and (iii) *placement of public charter school pupils,*
117 *teachers, and employees choosing not to return to the charter school.*

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

10. An explanation of the relationship that will exist between the proposed public 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 public charter school plans to meet the transportation needs of its pupils.

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

14. In the case of a residential charter school for at-risk students, a description of (i) the residential program, facilities, and staffing; (ii) any parental education and after-care initiatives; (iii) the funding sources for the residential and other services provided; and (iv) any counseling or other social services to be provided and their coordination with any current state or local initiatives.

§ 22.1-212.9. Review of public charter school applications.

A. ~~Public~~ *Except as provided in § 22.1-212.16, public* charter school applications shall only be received and reviewed by a local school board or, in the case of a regional public 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 the intent to receive applications for the establishment of such other public charter schools in the relevant school divisions. 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 divisions. The second publication shall not be sooner than one calendar week after the first publication.

Each local school board that adopts a resolution announcing its intent to accept applications for public 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 public 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 local school boards in their decisions to grant a public charter school application, local school boards may establish a procedure for public notice, comment, or hearings on public charter school applications.

C. Prior to receiving applications for any public charter school, a local school board shall provide public notice of its intent to accept or not to accept applications for public charter schools and may, upon providing such public notice, alter its decision to accept or not to accept such applications.

§ 22.1-212.10. Decisions of local board subject to judicial review.

The *local school board's announced intent to accept or not to accept charter school applications pursuant to § 22.1-212.9 and any 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 to § 22.1-87.

§ 22.1-212.11. Public charter school restrictions.

A. ~~On~~ *Except as provided in § 22.1-212.16, on* and after July 1, 1998, local school boards electing to receive applications for public charter schools pursuant to § 22.1-212.9 may establish public charter schools within the school division and shall be authorized to limit the number of schools so established; however, the total number of public charter schools, including those designed to increase educational opportunities for at-risk pupils but not including any regional public charter schools, shall not exceed ten percent of the school division's total number of schools or two public charter schools, whichever is greater. Priority shall be given to public charter school applications designed to increase the educational opportunities of at-risk students, and at least one-half of the public charter schools per division shall be for at-risk students.

B. Local school boards that grant *or deny* public 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 *or denied*; and whether a public 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 public charter school.

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

A. ~~Public~~ *For the purposes of employment benefits only, public* charter school personnel shall be employees of the local school board or boards granting the charter, *but in all other respects, teachers shall be considered employees of the public charter school and shall be subject to the policies established by the governing body of the public charter school.*

B. Professional, licensed education personnel may volunteer for assignment to a public charter

school. Assignment in a public charter school shall be for one contract year. Upon request of the employee and the recommendation of the management committee of the public charter school, reassignment to the public charter school shall occur on an annual basis.

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

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

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

F. No local school board shall require any employee of the school board to be employed at a public charter school. The governing body of the public charter school shall select its teachers, provided, however, that no person shall be required to teach in a public charter school unless they so choose. Teachers at charter schools shall hold a license or provisional license issued by the Board of Education as required under Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1.

C. School boards may employ such health, mental health, social services, and other related personnel to serve in residential charter schools for at-risk pupils as set forth in the charter agreement between such school board and the public charter school; however, nothing herein shall require a school board to fund the residential or other services provided by a residential public charter school.

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

A. For the purposes of this article, students enrolled in a public charter school shall be included in the average daily membership of the relevant school division; however, public 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 public 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 public charter school, the participating school boards may establish by contract an agreement stating the conditions for funding the public charter school, including funding for the educational program to be provided by a residential charter school for at-risk students. The amount of state and local funding provided a public charter school shall be at least 100 percent of the respective per-pupil state and local shares required to fund the Standards of Quality, as set forth in the appropriations act. The local school board may retain up to five percent of such per-pupil funds for administrative costs, as negotiated in the charter agreement.

C. Services provided the public 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 public charter schools shall not provide a financial incentive or constitute a financial disincentive to the establishment of a public charter school, including any regional public charter school.

E. Any educational and related fees collected from students enrolled at a public charter school shall be credited to the account of such public 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 public charter schools enrolling such students. The proportionate share of moneys allocated under other federal or state categorical aid programs shall be directed to public charter schools serving students eligible for such aid.

G. The management committee governing body of a public charter school is authorized to accept gifts, donations, or grants of any kind made to the public 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 governing body of a public 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 public charter school or, in the case of a regional public charter school, the participating school boards and the regional public charter school.

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

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

School boards establishing public 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 public charter schools to determine the efficacy of such waivers and whether the public charter schools accomplished established goals and objectives. Such school boards shall also submit annually to the Board a comparison of the performance of public charter school students and students enrolled in the regular schools of such relevant school division and a report of the number of students enrolled in such public charter schools at the end of the school year.

The Board shall report annually its findings and evaluations of any public charter schools established in the Commonwealth, *as well as the number of charters denied*, to the Governor and the General Assembly, beginning in January 1999.

§ 22.1-212.16. *Public charter schools for at-risk pupils.*

A. *Notwithstanding any other provisions of this article, local school boards shall receive and review applications, including those from colleges and universities, for the establishment of public charter schools designed to increase the educational opportunities of at-risk pupils.*

B. *Notwithstanding any other provision of this article, public charter schools designed to increase the educational opportunities of at-risk pupils and state-chartered regional public charter schools shall be exempt from all state regulations, except as provided in subsection A of § 22.1-212.6, and except for the Standards of Accreditation addressing student achievement expectations set forth in 8 VAC 20-131-30, the requirements for graduation set forth in 8 VAC 20-131-50, and school accreditation set forth in 8 VAC 20-131-280 through 8 VAC 20-131-340 and those regulations identified by the Board of Education as necessary to protect the health and safety of public charter school students and personnel.*

§ 22.1-212.17. *State-chartered regional public charter schools for at-risk pupils.*

A. *The Board of Education may receive and consider an application for a state-chartered regional public charter school. The Board may grant the application if (i) the application meets the requirements specified in § 22.1-212.10 and the objectives of this article; (ii) the Board has obtained the concurrence of the local school boards in the affected school divisions; and (iii) the proposed public charter school is for at-risk pupils within one or more school divisions.*

B. *The provisions of this Article shall apply to state-chartered regional charter schools, except as otherwise expressly stated in this article. The Board shall develop guidelines for the administration of state-chartered regional public charter schools for at-risk pupils.*

§ 22.1-212.18. *Immunity. A public charter school and its governing body are immune from liability to the same extent as a public school and its school board, and the employees and volunteers in a charter school are immune from liability to the same extent as the employees and volunteers in a public school.*