

VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

CHAPTER 530

An Act to amend and reenact §§ 2.2-3109, 22.1-212.5, 22.1-212.6, 22.1-212.8, 22.1-212.9, 22.1-212.11, and 22.1-212.12 of the Code of Virginia, relating to the Charter School Excellence and Accountability Act.

[H 380]

Approved April 12, 2004

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3109, 22.1-212.5, 22.1-212.6, 22.1-212.8, 22.1-212.9, 22.1-212.11, and 22.1-212.12 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3109. Prohibited contracts by other officers and employees of local governmental agencies.

A. No other officer or employee of any governmental agency of local government shall have a personal interest in a contract with the agency of which he is an officer or employee other than his own contract of employment.

B. No officer or employee of any governmental agency of local government shall have a personal interest in a contract with any other governmental agency that is a component of the government of his county, city or town unless such contract is (i) awarded as a result of competitive sealed bidding or competitive negotiation as defined in § 2.2-4301 or is awarded as a result of a procedure embodying competitive principles as authorized by subdivisions 10 or 11 of § 2.2-4343 or (ii) is awarded after a finding, in writing, by the administrative head of the governmental agency that competitive bidding or negotiation is contrary to the best interest of the public.

C. The provisions of this section shall not apply to:

1. An employee's personal interest in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided the employee does not exercise any control over the employment or the employment activities of the member of his immediate family and the employee is not in a position to influence those activities;

2. An officer's or employee's personal interest in a contract of employment with any other governmental agency that is a component part of the government of his county, city or town;

3. Contracts for the sale by a governmental agency of services or goods at uniform prices available to the general public;

4. Members of local governing bodies who are subject to § 2.2-3107; ~~or~~

5. Members of local school boards who are subject to § 2.2-3108; *or*

6. *Any ownership or financial interest of members of the governing body, administrators, and other personnel serving in a public charter school in renovating, lending, granting, or leasing public charter school facilities, as the case may be, provided such interest has been disclosed in the public charter school application as required by § 22.1-212.8.*

§ 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 *and maintain* high standards for both teachers and administrators; and (vii) develop models for replication in other public schools, public 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.

"Public charter school" means a public, nonsectarian, nonreligious, or non-home-based alternative school located within a public school division. A public 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 public charter school shall be established through the conversion of a private school or a nonpublic home-based educational program. A charter school for at-risk pupils may be established as a residential school.

"Regional public charter school" means a public charter school operated by two or more school boards and chartered directly by the participating school boards.

§ 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 relevant 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 relevant 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, 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~~ *institutions* of higher education, or any third party for the use *or construction* 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 maintenance of the facilities used by the public charter school shall be subject to negotiation between the public charter school and the school division or, in the case of a regional public charter school, between the regional public charter school and the relevant school divisions.

E. A public charter school shall not charge tuition.

§ 22.1-212.8. Charter application.

A. Any person, group, or organization, including any institution of higher education, may submit an application for the formation of a public charter school.

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

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

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

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

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

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

7. Evidence that the plan for the public charter school is economically sound for both the public charter school and the school division or relevant 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 public charter school, including any services provided by the school division or relevant 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 public charter school, in instances of the conversion of an existing public school to a public charter school, and for the placement of public charter school pupils, teachers, and employees

upon termination or revocation of the charter.

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

15. *Disclosure of any ownership or financial interest in the public charter school, by the charter applicant and the governing body, administrators, and other personnel of the proposed public charter school, and a requirement that the successful applicant and the governing body, administrators, and other personnel of the public charter school shall have a continuing duty to disclose such interests during the term of any charter.*

C. The charter applicant shall include in the proposed agreement the results of any Board of Education review of the public charter school application that may have been conducted as provided in subsection D of § 22.1-212.9.

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

A. Public charter school applications shall be received and reviewed by local school boards or, in the case of a regional public charter school, by all of the relevant school boards.

Each local school board 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. { Repealed. }~~

The public charter school applicant may submit its proposed charter application to the Board of Education for review and comment. The Board's review shall examine such applications for feasibility, curriculum, financial soundness, and other objective criteria as the Board may establish, consistent with existing state law. The Board's review and comment shall be for the purpose of ensuring that the application conforms with such criteria, but shall not include consideration as to whether the application shall be approved by the local school board.

§ 22.1-212.11. Public charter school restrictions.

A. *In establishing public charter schools within the division, local school boards 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 shall give priority 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 particularly those at-risk students currently served by schools that have not achieved full accreditation.*

B. Local school boards shall report the grant or denial of public charter school applications 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 the reasons for any such denials; and whether a public charter school is designed to increase the educational opportunities of at-risk students or any students served by schools that have not achieved full accreditation.

The Board of Education shall report annually to the General Assembly the number of public charter school applications granted and denied, and the reasons for any such denials.

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.

§ 22.1-212.12. Public charter school term; renewals and revocations.

A. A charter may be approved or renewed for a period not to exceed ~~three~~ five school years. A

public charter school renewal application submitted to the local school board or, in the case of a regional public charter school, to the relevant school boards shall contain:

1. A report on the progress of the public 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 public 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 schools or comparable organizations.

B. Local school boards may revoke a charter if the public charter school:

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

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

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

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

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

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

2. That the provisions of this act shall expire on July 1, 2009.