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HOUSE BILL NO. 2311

Offered January 10, 2007

Prefiled January 9, 2007

A BILL to amend and reenact §§ 22.1-212.5 through 22.1-212.10 and 22.1-212.12 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 22.1-212.5:1 and 22.1-212.14:1, relating to university charter schools.

Patron—Lingamfelter

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-212.5 through 22.1-212.10 and § 22.1-212.12 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 22.1-212.5:1 and 22.1-212.14:1 as follows:

Article 1.2.**Establishment of Public Charter and University Charter Schools.****§ 22.1-212.5. Objectives; definitions.**

A. (Effective until July 1, 2009) 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 *and university charter schools* may be established in Virginia as provided in this article.

A. (Effective July 1, 2009) 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, public charter schools *and university 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, 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.

"University charter school" means a public school established by a public accredited institution of higher education operating in the Commonwealth.

§ 22.1-212.5:1. University Charter School Fund established.

There is hereby created in the state treasury a special nonreverting fund to be known as the University Charter School Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated by the General Assembly and any gifts, grants, bequests, or donations from public or private sources shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to the Fund. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of establishing or supporting university charter schools in the Commonwealth that stimulate the development of alternative public education programs by providing opportunities for innovative instruction and greater cooperation and coordination between institutions of higher education and K-12 education systems. Expenditures and disbursements from the Fund shall be made by the State

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59 *Treasurer on warrants issued by the Comptroller upon written request signed by the Superintendent of*
60 *Public Instruction.*

61 § 22.1-212.6. Establishment and operation of public charter schools and university charter schools;
62 requirements.

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

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

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

84 C. (Effective until July 1, 2009) Pursuant to a charter agreement, a public charter school *or*
85 *university charter school* shall be responsible for its own operations, including, but not limited to, such
86 budget preparation, contracts for services, and personnel matters as are specified in the charter
87 agreement. A public charter school *or university charter school* may negotiate and contract with a
88 school division, the governing body of institutions of higher education, or any third party for the use or
89 construction of a school building and grounds, the operation and maintenance thereof, and the provision
90 of any service, activity, or undertaking which the public charter school *or university charter school* is
91 required to perform in order to carry out the educational program described in its charter. Any services
92 for which a public charter school *or university charter school* contracts with a school division shall not
93 exceed the division's costs to provide such services.

94 C. (Effective July 1, 2009) Pursuant to a charter agreement, a public charter school *or university*
95 *charter school* shall be responsible for its own operations, including, but not limited to, such budget
96 preparation, contracts for services, and personnel matters as are specified in the charter agreement. A
97 public charter school *or university charter school* may negotiate and contract with a school division, the
98 governing body of a public institution of higher education, or any third party for the use of a school
99 building and grounds, the operation and maintenance thereof, and the provision of any service, activity,
100 or undertaking which the public charter school *or university charter school* is required to perform in
101 order to carry out the educational program described in its charter. Any services for which a public
102 charter school *or university charter school* contracts with a school division shall not exceed the
103 division's costs to provide such services.

104 D. In no event shall a public charter school be required to pay rent for space which is deemed
105 available, as negotiated by contract, in school division facilities. All other costs for the operation and
106 maintenance of the facilities used by the public charter school shall be subject to negotiation between
107 the public charter school and the school division or, in the case of a regional public charter school,
108 between the regional public charter school and the relevant school divisions.

109 E. A public charter school *or university charter school* shall not charge tuition.

110 § 22.1-212.7. Contracts for public charter schools and university charter schools; release from certain
111 policies and regulations.

112 An approved charter application shall constitute an agreement, and its terms shall be the terms of a
113 contract (i) between the public charter school and the local school board ~~or, in the case of a regional~~
114 ~~public charter school,~~ (ii) between the regional public charter school and the relevant school boards, *or*
115 *(iii) in the case of a university charter school, between the university charter school and the Board of*
116 *Education.* The contract between the public charter school and the local school board or relevant school
117 boards shall reflect all agreements regarding the release of the public charter school from school division
118 policies. Such contract between the public charter school and the local school board or relevant school
119 boards shall reflect all requests for release of the public charter school from state regulations, consistent
120 with the requirements of subsection B of § 22.1-212.6. The local school board or relevant school boards,

on behalf of the public charter school, shall request such releases from the Board of Education. *In the case of a university charter school, the contract between the university charter schools and the Board of Education shall reflect all requests for release of the university charter school from state and local regulations, consistent with the requirements of subsection B of § 22.1-212.6.*

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

Any material revision of the terms of the contract may be made only with the approval of the local school board or relevant school boards *or, in the case of a university charter school, by the Board of Education*, and the management committee of the public charter school *or university charter school*.

§ 22.1-212.8. Charter application.

A. Any person, group, or organization, including any *public* institution of higher education, may submit an application for the formation of a public charter school. *Any public institution of higher education chartered and operating within the Commonwealth and accredited by the State Council of Higher Education for Virginia may submit an application for formation of a university charter school.*

B. The public charter school *or university 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. (Effective until July 1, 2009) ~~Evidence~~ *In the case of a public charter school or regional public charter school only, 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.

3. (Effective July 1, 2009) ~~Evidence~~ *In the case of a public charter school or regional public charter school only, evidence* that an adequate number of parents, teachers, pupils, or any combination thereof, support the formation of a public charter school.

4. A statement of the need for a public charter school *or university 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 *or the university 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~~ *In the case of a public charter school or regional public charter school only, 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.*

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

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

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

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

192 13. Assurances that the ~~public charter~~ school (i) is nonreligious in its programs, admission policies,
 193 employment practices, and all other operations and (ii) does not charge tuition. *This assurance shall not*
 194 *apply to instruction in comparative religions or the study of religious texts as they pertain to history or*
 195 *literature.*

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

200 15. (Effective until July 1, 2009) ~~Disclosure~~ *In the case of a public charter school or regional public*
 201 *charter school only, disclosure* of any ownership or financial interest in the public charter school, by the
 202 charter applicant and the governing body, administrators, and other personnel of the proposed public
 203 charter school, and a requirement that the successful applicant and the governing body, administrators,
 204 and other personnel of the public charter school shall have a continuing duty to disclose such interests
 205 during the term of any charter.

206 C. (Effective until July 1, 2009) ~~The~~ *In the case of a public charter school or regional public charter*
 207 *school only, the* charter applicant shall include in the proposed agreement the results of any Board of
 208 Education review of the public charter school application that may have been conducted as provided in
 209 subsection C of § 22.1-212.9.

210 § 22.1-212.9. Review of public charter school and university charter school applications.

211 A. Public charter school applications shall be received and reviewed by local school boards or, in the
 212 case of a regional public charter school, by all of the relevant school boards. *University charter school*
 213 *applications shall be received and reviewed by the Board of Education.*

214 Each local school board *and the Board of Education* shall establish procedures for receiving,
 215 reviewing, and ruling upon applications and shall make a copy of any such procedures available to all
 216 interested parties upon request. If any such board finds the ~~public charter school~~ application is
 217 incomplete, the board shall request the necessary information from the charter applicant. *In the case of*
 218 *university charter school applications, the Board of Education's review procedures shall establish a*
 219 *review committee that shall include Virginia residents familiar with the operation of similar schools*
 220 *located in other states.*

221 B. To provide appropriate opportunity for input from parents, teachers, and other interested parties
 222 and to obtain information to assist local school boards *and the Board of Education* in their decisions to
 223 grant a public charter school ~~application~~ *or university charter school application*, local school boards
 224 *and the Board of Education* may establish a procedure for public notice, comment, or hearings on ~~public~~
 225 ~~charter school~~ such applications.

226 C. (Effective until July 1, 2009) The public charter school applicant may submit its proposed charter
 227 application to the Board of Education for review and comment. The Board's review shall examine such
 228 applications for feasibility, curriculum, financial soundness, and other objective criteria as the Board may
 229 establish, consistent with existing state law. The Board's review and comment shall be for the purpose of
 230 ensuring that the application conforms with such criteria, but shall not include consideration as to
 231 whether the application shall be approved by the local school board.

232 § 22.1-212.10. Decision of local board and Board of Education final.

233 The decision of a local school board *and the Board of Education, as the case may be*, to grant or
 234 deny a public charter school *or university charter school* application or to revoke or fail to renew a
 235 charter agreement shall be final and not subject to appeal.

236 § 22.1-212.12. Public charter school and university charter school term; renewals and revocations.

237 A. (Effective until July 1, 2009) A charter may be approved or renewed for a period not to exceed
 238 five school years. A public charter school renewal application submitted to the local school board ~~or, in~~
 239 ~~the case of~~, a regional public charter school, *application submitted to the relevant school boards, and a*
 240 *university charter school application submitted to the Board of Education* shall contain:

241 A. (Effective July 1, 2009) A charter may be approved or renewed for a period not to exceed three
 242 school years. A public charter school renewal application submitted to the local school board ~~or, in the~~
 243 ~~case of~~, a regional public charter school, *application submitted to the relevant school boards, and a*

university charter school application submitted to the Board of Education 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 or Board of Education 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 or Board of Education and the public to compare such costs to those of other schools or comparable organizations.

B. Local school boards, and in the case of a university charter school, the Board of Education may revoke a charter if the public charter or university 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 for a public charter school 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 or, in the case of a university charter school, the Board of Education to decline to renew a charter agreement.

§ 22.1-212.14:1. Funding of university charter schools.

A. Each university charter school shall receive the proportionate amount of state funds for students enrolled in such schools that are allocated for such students if they attend the public schools of the school division in which they reside.

B. The management committee of a university charter school is authorized to accept gifts, donations, or grants of any kind 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 university charter school if the conditions for such funds are contrary to the law or the terms of the agreement between the Board of Education and the university charter school.

C. 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 university charter schools enrolling such students. The proportionate share of moneys allocated under other federal or state categorical aid programs shall be directed to university charter schools serving students eligible for such aid.

D. University charter schools shall be eligible to apply for and receive any federal or state funds otherwise allocated for public charter schools in the Commonwealth.

E. Any educational and related fees collected from students enrolled at a university charter school shall be credited to the account of such school.