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SENATE BILL NO. 440

Offered January 11, 2012

Prefiled January 11, 2012

A BILL to amend and reenact §§ 22.1-212.6, 22.1-212.13, and 22.1-212.14 of the Code of Virginia, relating to public charter schools.

Patrons—Obenshain and Black

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-212.6, 22.1-212.13, and 22.1-212.14 of the Code of Virginia are amended and reenacted as follows:

§ 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 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. *The local school board or the relevant school boards, in the case of regional public charter schools, shall allow a public charter school to lease or purchase vacant or unused properties or real estate owned by the school board.* 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.

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

~~A. Public~~ *At the discretion of the local school board, charter school personnel shall may be employees of the local school board, or boards, granting the charter. Any personnel not employed by the local school board shall remain subject to the provisions of §§ 22.1-296.1, 22.1-296.2, and 22.1-296.4.*

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

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59 guaranteed an involuntary transfer to a public noncharter school in the school division according to the
60 employment policies of the school division.

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

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

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

71 § 22.1-212.14. Funding of public charter schools; services provided.

72 A. For the purposes of this article, students enrolled in a public charter school shall be included in
73 the average daily membership of the relevant school division and shall be reported in fall membership
74 for purposes of calculating the state and local shares required to fund the Standards of Quality.

75 B. Insofar as constitutionally valid, a local school board or, in the case of a regional public charter
76 school, the relevant school boards may establish by contract an agreement stating the conditions for
77 funding the public charter school, including funding for the educational program to be provided by a
78 residential charter school for at-risk students. *The per pupil funding provided to the charter school by*
79 *the local school board or, in the case of a regional public charter school, the relevant school boards*
80 *shall not be less than 90 percent of the school division's or divisions' state and local share of the*
81 *Standards of Quality per pupil funding. The contract with the public charter school may include*
82 *mandatory performance-based measures or audits.*

83 C. Services provided the public charter school by the local school board or the relevant school
84 boards, in the case of regional public charter schools, may include food services; custodial and
85 maintenance services; curriculum, media, and library services; warehousing and merchandising; and such
86 other services not prohibited by the provisions of this article or state and federal laws.

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

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

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

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

103 H. The Department of Education shall provide technical assistance to local school boards relating to
104 receipt, review, and ruling upon applications for public charter schools.
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