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SENATE BILL NO. 440

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Education and Health
on February 2, 2012)

(Patron Prior to Substitute—Senator Obenshain)

A BILL to amend and reenact §§ 22.1-212.6, 22.1-212.7, 22.1-212.13, and 22.1-212.14 of the Code of Virginia, relating to public charter schools.

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-212.6, 22.1-212.7, 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. As negotiated by contract, the local school board or the relevant school boards, in the case of regional public charter schools, shall allow a public charter school to use 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.

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

An approved charter application shall constitute an agreement, and its terms shall be the terms of a contract between the public charter school and the local school board or, in the case of a regional public charter school, between the regional public charter school and the relevant school boards. The contract between the public charter school and the local school board or relevant school boards shall reflect all agreements regarding the release of the public charter school from school division policies. Such contract between the public charter school and the local school board or relevant school boards shall reflect all requests for release of the public charter school from state regulations, consistent 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 addition to any such releases granted by the Board, all purchases made by a public charter school shall be exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.), unless otherwise negotiated by contract.

60 If the charter application proposes a program to increase the educational opportunities for at-risk
61 students, including those proposals for residential charter schools for at-risk students, the local school
62 board or relevant school boards, as the case may be, on behalf of the public charter school, shall also
63 request that the Board of Education approve an Individual School Accreditation Plan for the evaluation
64 of the performance of the school as authorized by the Standards of Accreditation pursuant to 8 VAC
65 20-131-280 C of the Virginia Administrative Code.

66 Any material revision of the terms of the contract may be made only with the approval of the local
67 school board or relevant school boards and the management committee of the public charter school.

68 § 22.1-212.13. Employment of professional, licensed personnel.

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

72 B. Professional, licensed education personnel may volunteer for assignment to a public charter
73 school. Assignment in a public charter school shall be for one contract year. Upon request of the
74 employee and the recommendation of the management committee of the public charter school,
75 reassignment to the public charter school shall occur on an annual basis.

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

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

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

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

91 § 22.1-212.14. Funding of public charter schools; services provided.

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

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

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

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

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

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

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

- 122 of a regional public charter school, the relevant school boards and the regional public charter school.
123 H. The Department of Education shall provide technical assistance to local school boards relating to
124 receipt, review, and ruling upon applications for public charter schools.