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SENATE BILL NO. 562

Offered January 25, 1994

A *BILL to amend the Code of Virginia by adding in Chapter 13 of Title 22.1 an article numbered 1.2, consisting of sections numbered 22.1-212.5 through 22.1-212.15, relating to Commonwealth charter schools.*

Patrons—Bell, Earley, Potts, Quayle and Stolle; Delegates: Cantor, Hamilton and Martin

Referred to the Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 13 of Title 22.1 an article numbered 1.2, consisting of sections numbered 22.1-212.5 through 22.1-212.15 as follows:

Article 1.2.

Commonwealth Charter Schools.

§ 22.1-212.5. Definitions.

As used in this article:

"At-risk pupil" means a student who, because of physical, emotional, socioeconomic, or cultural factors, is less likely to succeed in a conventional educational environment.

"Charter school" means a public, nonsectarian, nonreligious, or non-home-based school located within a public school divisions.

§ 22.1-212.6. Charter schools; requirements and establishment.

A. A charter school shall be a public school, subject to all federal and state laws 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. Enrollment shall be open to any child who resides within the school division.

A charter school shall be administered and governed by a governing body in a manner agreed to by the charter school applicant and the local school board.

B. Except as otherwise provided in this article, a charter school shall not charge tuition.

C. Pursuant to a contract, a charter school may operate free from specified school division policies and state regulations, except for the requirements of the Standards of Quality. Upon request of the charter applicant, the Board of Education shall provide summaries of the regulations and policies to use in preparing a charter school application. The Department of Education shall prepare the summary of state regulations with existing appropriations.

D. A charter school shall be responsible for its own operation, including, but not limited to, preparation of a budget, contracting for services, and personnel matters. A 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 charter school is required to perform in order to carry out the educational program described in its charter. Any services for which a charter school contracts with a school division shall be provided by the school division at cost.

E. In no event shall a 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 charter school shall be subject to negotiation between the charter school and the school district.

§ 22.1-212.7. Contracts for charter schools.

A. An approved charter application shall constitute an agreement, and the terms thereof shall be the terms of a contract between the charter school and the local board of education. The contract between the charter school and the local school board shall reflect all agreements regarding the release of the charter school from school division policies. Such contract between the charter school and the local school board shall reflect all requests for release of the charter school from state regulations, except for the requirements of the Standards of Quality. The local school board and the charter school shall jointly request such release from the state Board of Education. Any material revision of the terms of the contract may be made only with the approval of the local school board and the governing body of the charter school.

§ 22.1-212.8. Charter application.

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

1. The mission statement of the charter school, which must be consistent with the principles of the

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SB562

60 *Standards of Quality.*

61 2. *The goals, objectives, and pupil performance standards to be achieved by the charter school.*

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

64 4. *A statement of the need for a charter school in a school division or in a geographic area within a*
65 *school division.*

66 5. *A description of the charter school's educational program, pupil performance standards, and*
67 *curriculum, which must meet or exceed any applicable Standards of Quality, the assessments to be used*
68 *to measure pupil progress towards achievement of the school's pupil performance standards, the timeline*
69 *for achievement of such standards, and the procedures for taking corrective action in the event that*
70 *pupil performance at the charter school falls below such standards.*

71 6. *Evidence that the plan for the charter school is economically sound for both the charter school*
72 *and the school division, a proposed budget for the term of the charter, a description of the manner in*
73 *which an annual audit of the financial and administrative operations of the charter school, including*
74 *any services provided by the school division, is to be conducted, and a plan for the displacement of*
75 *pupils, teachers, and other employees who will not attend or be employed in the charter school.*

76 7. *A description of the governance and operation of the charter school, including the nature and*
77 *extent of parental, professional educator, and community involvement in the governance and operation*
78 *of the charter school.*

79 8. *An explanation of the relationship that will exist between the proposed charter school and its*
80 *employees, including evidence that the terms and conditions of employment have been addressed with*
81 *affected employees and their recognized representative.*

82 9. *An agreement between the parties regarding their respective legal liability and applicable*
83 *insurance coverage.*

84 10. *A description of how the charter school plans to meet the transportation needs of its pupils and,*
85 *if the charter school plans to provide transportation for pupils, a plan for addressing the transportation*
86 *needs of low-income and academically low-achieving pupils.*

87 B. *No person, group, or organization may submit an application to convert a private school or a*
88 *nonpublic home-based educational program into a charter school or to create a charter school which is*
89 *a nonpublic home-based educational program.*

90 § 22.1-212.9. *Charter application process.*

91 A. *The local school board shall receive and review all applications for charter schools. The local*
92 *school board may establish a schedule for receiving applications and shall make a copy of any such*
93 *schedule available to all interested parties upon request. If such board finds the charter school*
94 *application is incomplete, the board shall request the necessary information from the charter applicant.*
95 *The charter school application shall be reviewed by the division accountability committee prior to*
96 *consideration by the local school board.*

97 B. *After giving reasonable public notice, the local school board shall hold community meetings in the*
98 *affected areas of the entire school division to obtain information to assist the local school board in its*
99 *decision to grant a charter school application. The local school board shall rule on the application for*
100 *a charter school in a public hearing, upon reasonable public notice, within sixty days after receiving the*
101 *application.*

102 C. *If a local school board denies a charter school application, the charter applicant may appeal the*
103 *denial to the Board of Education as provided in this article.*

104 § 22.1-212.10. *Appeals.*

105 A. *The Board of Education, upon receipt of a notice of appeal or upon its own motion, may review*
106 *decisions of any local board of education concerning charter schools in accordance with the provisions*
107 *of this article.*

108 B. *A charter applicant or any other person who wishes to appeal a decision of a local school board*
109 *concerning a charter school shall provide the Board of Education and the local school board with a*
110 *notice of appeal within thirty days of the local school board's decision.*

111 C. *If the notice of appeal, or the motion to review by Board of Education, relates to a local school*
112 *board's decision to deny, refuse to renew, or revoke a charter, the appeal and review process shall be*
113 *as follows:*

114 1. *Within thirty days after receipt of the notice of appeal or the making of a motion to review by the*
115 *Board of Education and after reasonable public notice, the Board of Education, at a public hearing*
116 *which may be held in the school division in which the proposed charter school is located, shall review*
117 *the decision of the local school board and make its findings. If the Board of Education finds that the*
118 *local school board's decision was contrary to the best interests of the pupils, school division, or*
119 *community, the Board shall remand such decision to the local school board with written instructions for*
120 *reconsideration thereof. The instructions shall include specific recommendations concerning the matters*
121 *requiring reconsideration.*

2. Within thirty days following the remand of a decision to the local school board and after reasonable public notice, the local school board, at public hearing, shall reconsider its decision and make a final decision.

3. If the local school board's final decision is still to deny, refuse to renew, or revoke a charter, a second notice of appeal may be filed with the Board of Education within thirty days following such final decision.

4. Within thirty days following receipt of the second notice of appeal or the making of a motion for a second review by the Board and after reasonable public notice, the Board, at a public hearing, shall determine whether the final decision of the local school board was contrary to the best interests of the students, school division, or community. If such a finding is made, the Board shall remand such final decision to the local school board with instructions to approve the charter application. The decision of the Board shall be final and not subject to appeal.

5. If the notice of appeal, or the motion to review by the Board, relates to a local school board's decision to grant a charter, the appeal and review process shall be as follows:

a. Within thirty days after receipt of the notice of appeal or the making of a motion to review by the Board and after reasonable public notice, the Board, at a public hearing which may be held in the school division where the proposed charter school is located, shall review the decision of the local school board and determine whether such decision was arbitrary and capricious or whether the establishment or operation of the proposed charter school would violate any federal or state law concerning civil rights, a court order, the provisions of this chapter pertaining to the number of charter schools permissible; threaten the health and safety of students in the school division; or conflict with the equitable distribution of charter schools among the school divisions.

6. If such a determination is made, the Board shall remand such decision to the local school board with instructions to deny the charter application. The decision of the Board shall be final and not subject to appeal.

7. Nothing in this section shall be construed to alter the requirement that a charter school be a part of the school division in which it is located and accountable to the local school board, as provided in this chapter.

§ 22.1-212.11. Charter school restrictions.

A. On and after July 1995, a school board may establish a charter school within the school division and shall be authorized to limit the number of schools so established; however, no more than ten charters shall be granted prior to July 1, 1996, and at least one-half of the charters shall be reserved for charter school applications designed to increase the educational opportunities of at-risk students.

B. Local school boards which grant charter school applications shall report such action to the Board and shall specify whether or not such school is designed to increase the educational opportunities of at-risk students. The Board shall promptly notify the local school boards when the limit allowable has been reached.

C. Priority shall be given to charter school applications designed to increase the educational opportunities of at-risk students.

D. Nothing in this chapter shall be construed to prevent a school within a school division in which it is the only school in the division from applying to become a charter school.

§ 22.1-212.12. Charter school term; renewal of charter; revocation.

A. A charter may be approved or renewed for a period not to exceed three school years. A charter school renewal application submitted to the local school board shall contain:

1. A report on the progress of the charter school in achieving the goals, objectives, program and performance standards for students, and such other conditions and terms as the school board 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 charter school that has been concisely and clearly written to enable the public to compare such costs to other schools or comparable organizations.

B. A local school board may revoke or deny renewal of a charter if the charter school:

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

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

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

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

C. A charter may not be renewed if the local school board determines that it is not in the public interest or the welfare of the students within the school division to continue the operation of the school.

D. A decision to revoke or to deny renewal of the charter application may be appealed pursuant to the provisions of the chapter.

§ 22.1-212.13. Employment of teachers; leave of absence.

183 A. During the first year that a teacher employed by a local school board is assigned to a charter
184 school, such teacher shall be considered to have been granted a one-year leave of absence from the
185 school division. Such leave of absence shall commence on the first day of operation of the charter
186 school. Upon the request of the teacher, the local school board may extend the leave of absence for no
187 more than two years upon the mutual agreement of the teacher and the school board. A leave of
188 absence shall be evaluated by the local school board at the end of the third year of such leave, and the
189 local school board shall provide written notice of its decision to the teacher, no later than five days
190 after the decision.

191 B. The Board of Education shall establish policies for determining the employment status of school
192 division employees employed by the charter school who seek to return to their former positions held in
193 the schools of the school division.

194 C. Employees of a charter school shall be granted membership in the Virginia Retirement System
195 and shall make the appropriate contributions as may be required.

196 § 22.1-212.14. Funding of charter schools; services provided.

197 A. For the purposes of this chapter, students enrolled in a charter school shall be counted in the
198 average daily membership of the school division. The local school board shall report the number of
199 such students enrolled in each charter school annually at the end of the school year to the Board of
200 Education.

201 B. In so far as constitutionally valid, a school board may establish by contract an agreement stating
202 the conditions for funding the charter school.

203 C. Services provided the charter school by the local school board may include food services,
204 custodial and maintenance services, curriculum, media, and library services, warehousing and
205 merchandising, and such other services not prohibited by the provisions of this chapter or state and
206 federal laws.

207 D. In no event shall the amount of funding provided a charter school be less than eighty percent of
208 the school division's operating revenues multiplied by the number of students enrolled in the charter
209 school.

210 E. Funding and service agreements between local school boards and charter schools shall not
211 provide a financial incentive or constitute a financial disincentive to the establishment of a charter
212 school.

213 F. Educational related fees collected from students enrolled at a charter school shall be credited to
214 the account of such charter school established by the school board.

215 G. Notwithstanding any other provision of law, the proportionate share of state and federal
216 resources generated by students with disabilities and school personnel assigned to special education
217 programs shall be directed to charter schools enrolling such students. The proportionate share of
218 moneys generated under other federal or state categorical aid programs shall be directed to charter
219 schools serving students eligible for such aid.

220 H. The governing body of a charter school is authorized to accept gifts, donations, or grants of any
221 kind made to the charter school and to spend such funds in accordance with the conditions prescribed
222 by the donor. However, no gift, donation, or grant shall be accepted by the governing body of a charter
223 school if the conditions for such funds are contrary to law or the terms of the agreement between the
224 school board and the charter school.

225 I. The Department of Education shall provide technical assistance to school boards in completing or
226 revising charter school applications.

227 § 22.1-212.15. Evaluation of charter schools; reports.

228 School boards establishing charter schools shall submit evaluations of the schools annually to the
229 Board of Education. The Board shall review the evaluations against any Board regulations and policies
230 waived for the charter schools to determine the efficacy of such waivers and whether the charter schools
231 accomplished established goals and objectives. The Board shall also compare the performance of
232 charter school students with the performance of students enrolled in the regular schools of the school
233 division. Further, the Board shall report its findings and evaluations of any charter schools established
234 in the Commonwealth to the Governor and the General Assembly annually, beginning on January 1995.