VIRGINIA ACTS OF ASSEMBLY -- 1998 SESSION

CHAPTER 748

An Act 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 the establishment of charter schools.

[H 543]

Approved April 16, 1998

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.

Establishment of Charter Schools.

§ 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 performance-based educational programs; (vi) establish high standards for both teachers and administrators; and (vii) develop models for replication in other public schools, 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.

"Charter school" means a public, nonsectarian, nonreligious, or non-home-based alternative school located within a public school division. A 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 charter school shall be established through the conversion of a private school or a nonpublic home-based educational program.

§ 22.1-212.6. Establishment and operation of charter schools; requirements.

A. A 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.

Enrollment shall be open to any child who is deemed to reside within the relevant school division, 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 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 charter school applicant and the local school board. Pursuant to a charter contract and as specified in § 22.1-212.7, a charter school may operate free from specified school division policies and state regulations, except for the requirements of the Standards of Quality.

C. Pursuant to a charter agreement, a charter school shall be responsible for its own operations, including, but not limited to, budget preparation, contracts for services, and personnel matters as specified in the charter agreement. 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 not exceed the division's costs to provide such services.

D. 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 division.

E. A charter school shall not charge tuition.

§ 22.1-212.7. Contracts for 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 charter school and the local school board. 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, on behalf of the charter school, shall request such releases from the Board of Education.

If the charter application proposes a program to increase the educational opportunities for at-risk students, the local school board, on behalf of the 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.

Any material revision of the terms of the contract may be made only with the approval of the local school board and the management committee of the charter school.

§ 22.1-212.8. Charter application.

A. Any person, group, or organization may submit an application for the formation of a charter school.

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

1. The mission statement of the 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 charter school, which educational objectives must meet or exceed the Standards of Learning.

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

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

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

7. Evidence that the plan for the charter school is economically sound for both the charter school and the school division; 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 charter school, including any services provided by the school division, 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 charter school and for the placement of charter school pupils, teachers, and employees upon termination or revocation of the charter.

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

10. An explanation of the relationship that will exist between the proposed 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 charter school plans to meet the transportation needs of its pupils.

13. Assurances that the charter school (i) is nonsectarian in its programs, admission policies, employment practices, and all other operations and (ii) does not charge tuition.

§ 22.1-212.9. Review of charter applications.

A. After public notice, a public hearing, and adoption by the local school board of a resolution stating its intent to receive applications for the establishment of charter schools in the school division, the local school board may receive and review all applications for charter schools. The public notice shall appear once a week for two successive weeks in a newspaper having a general circulation in the jurisdiction of the school division. The second publication shall not be sooner than one calendar week after the first publication.

The local school board may 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 such board finds the 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 the local school board in its decision to grant a charter school application, the local school board may establish a procedure for public notice, comment, or hearings on charter school applications.

§ 22.1-212.10. Decision of local board final.

The decision of a local school board to grant or deny a charter school application or to revoke or fail to renew a charter agreement shall be final and not subject to appeal.

§ 22.1-212.11. Charter school restrictions.

A. On and after July 1, 1998, local school boards electing to receive applications for charter schools pursuant to § 22.1-212.9 may establish a charter school within the school division and shall be authorized to limit the number of schools so established; however, the total number of charter schools shall not exceed ten percent of the school division's total number of schools or two charter schools, whichever is greater. Further, no more than two charters per school division shall be granted prior to July 1, 2000. Priority shall be given to charter school applications designed to increase the educational opportunities of at-risk students, and at least one-half of the charter schools per division shall be reserved for such applications.

B. Local school boards that grant charter school applications shall report such action to the Board and shall specify the maximum number of charters that may be authorized, if any; the number of charters granted; and whether a charter school is designed to increase the educational opportunities of at-risk students.

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 charter school.

§ 22.1-212.12. Charter school term; renewals and revocations.

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 and that has been concisely and clearly written to enable the school board and the public to compare such costs to those of other schools or comparable organizations.

B. A local school board may revoke a charter if the charter school:

1. Violates the conditions, standards, or procedures established in the 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 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.

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

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

A. Charter school personnel shall be employees of the local school board granting the charter.

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

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

D. Professional, licensed personnel of a charter school shall be granted the same employment benefits given to professional, licensed personnel in noncharter schools.

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

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

A. For the purposes of this article, students enrolled in a charter school shall be included in the average daily membership of the school division; however, charter schools shall not be reported in fall membership for purposes of calculating the state and local shares required to fund the Standards of

Quality.

B. Insofar as constitutionally valid, a local school board may establish by contract an agreement stating the conditions for funding the charter school.

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

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

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

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

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

H. The Department of Education shall provide technical assistance to local school boards electing to receive, review, and act upon applications for charter schools.

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

School boards establishing charter schools shall submit annual evaluations of such schools to the Board of Education. The Board shall review the evaluations against any Board regulations and policies waived for the charter schools to determine the efficacy of such waivers and whether the charter schools accomplished established goals and objectives. Such school boards shall also submit annually to the Board a comparison of the performance of charter school students and students enrolled in the regular schools of the school division and a report of the number of students enrolled in such charter schools at the end of the school year.

The Board shall report annually its findings and evaluations of any charter schools established in the Commonwealth to the Governor and the General Assembly, beginning in January 1999.