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SENATE BILL NO. 318

Senate Amendments in [] — February 3, 1998

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 the establishment of charter schools.

Patrons—Barry, Bolling, Chichester, Colgan, Hawkins, Martin, Miller, K.G., Newman, Norment, Quayle, Saslaw, Schrock, Stolle, Stosch, Watkins, Williams and Woods

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. Commonwealth charter schools; objectives; definitions.*

A. In order to (i) stimulate the development of innovative programs within public education; (ii) provide opportunities for innovative instruction and assessments; (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, Commonwealth Charter Schools may be established in Virginia as provided in this article.

B. Definitions.

As used in this article:

"At-risk pupil" means a student having a physical, emotional, intellectual, socioeconomic, or cultural characteristic, as defined in Board of Education regulations, which research indicates may negatively influence educational success.

"Charter school" means a public school dedicated to providing elementary or secondary education and authorized, in compliance with this article, to operate with flexibility pursuant to a charter granted by the local school board and a waiver of regulations granted by the Board of Education. Such school may be created as a new public school, at the discretion of the local school board, or through the conversion of all or part of an existing public school or an educational unit within a public school; however, no charter school shall be established through the conversion of a private or religious 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 constitutional provisions prohibiting discrimination on the basis of age, disability, race, creed, color, gender, national origin, religion, ancestry, or the 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 of the Code of Virginia, 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 managed by a committee of parents of students enrolled in the school, and teachers and administrators working in the school, in a manner agreed to by the charter school applicant and the local school board. Pursuant to a charter and as specified in § 22.1-212.7, a charter school may operate free from specified school division policies and any state regulations for which a waiver is granted by the Board of Education. However, as with all other public schools, a charter school shall comply with the requirements of the Standards of Quality.

C. Pursuant to a charter agreement, a charter school may be authorized to manage its operations. These responsibilities may include 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.

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60 D. A charter school shall not be required to pay rent for space which is deemed available, as
61 negotiated by contract, in school division facilities. If the school will operate in facilities other than the
62 public schools of the school division, all other costs for the operation and maintenance of the facilities
63 used by the charter school shall be subject to negotiation between the charter school and the school
64 board.

65 E. A charter school shall not charge tuition.

66 § 22.1-212.7. Contracts for charter schools; release from certain policies and regulations.

67 A. An approved charter application shall be, upon execution, a contract between the charter school
68 and the local school board. The contract between the charter school and the local school board shall
69 include all agreements regarding the release of the charter school from school division policies and the
70 agreed upon responsibilities of the charter school.

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

73 C. After the local school board determines to grant a charter and the contract has been executed,
74 the local school board [~~and the charter school shall jointly~~ , on behalf of the charter school, shall]
75 request a waiver or waivers of state regulations from the Board of Education. The terms of the waiver
76 request shall be specific and shall provide the rationale for the waiver request and any alternative being
77 proposed.

78 § 22.1-212.8. Charter application.

79 A. Any person, group, or organization may submit an application to the local school board for the
80 formation of a charter school.

81 B. The charter school application shall be a proposed agreement and shall include, at a minimum:

82 1. The mission statement of the charter school, which must be consistent with the Standards of
83 Quality.

84 2. The goals and educational objectives to be achieved by the charter school, which educational
85 objectives must meet or exceed the Standards of Learning and Standards for Accrediting Public Schools
86 in Virginia (8 VAC 20-131-10 et seq.).

87 3. Evidence that [~~an adequate number of parents, teachers, pupils, or any combination thereof~~
88 parents, teachers, pupils, or any combination thereof, choose to participate in and] support the
89 formation of a charter school.

90 4. A description of how students and parents in the community will be informed about the charter
91 school and its programs, and provided equal opportunity for application to attend the charter school.

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

94 6. A description of the charter school's proposed educational program, including the grade levels or
95 ages of children to be served; the curriculum and instructional practices to be utilized; and how the
96 proposed program will increase student performance. This description shall include pupil performance
97 standards; a proposed curriculum, which meets or exceeds Virginia's Standards of Quality, Standards of
98 Learning, and Standards for Accrediting Public Schools in Virginia; the assessments, including the
99 Board's Standards of Learning Assessments, to be used to measure pupil progress towards achievement
100 of the school's pupil performance standards; the timeline for achievement of such standards; and the
101 procedures for taking corrective action in the event that pupil performance at the charter school falls
102 below such standards.

103 7. A description of the lottery process to be used to determine enrollments. A lottery process shall
104 also be developed for the establishment of a waiting list for such students for whom space is
105 unavailable.

106 8. Evidence that the plan for the charter school is fiscally sound for both the charter school and the
107 school division; a proposed budget for the term of the charter; and a description of the manner in
108 which an annual audit of the financial and administrative operations of the charter school, including
109 any services provided by the school division, is to be conducted.

110 9. A plan for the reassignment of pupils, teachers, and other employees who do not wish to attend or
111 be employed in the charter school and for the transition to a traditionally regulated school upon
112 termination or revocation of the charter, including a plan for reassignment of students, teachers, and
113 other employees.

114 10. A description of the management and operation of the charter school, including the nature and
115 extent of parental, professional educator, and community involvement in the management and operation
116 of the charter school, and the provision of support services such as transportation.

117 11. Assurances of compliance with state and federal law, audit requirements, health and safety
118 requirements, reporting requirements, and agreement to cooperation with state, federal, and local
119 authorities, as may be established in the Elementary and Secondary Education Act of 1965, Title X, Part
120 C, as amended, 20 U.S.C. 8061-8067.

121 § 22.1-212.9. Review of charter applications.

A. Upon 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 local school board may establish a schedule for receiving, reviewing, and ruling upon applications and shall make a copy of any such schedule available to all interested parties upon request. If such board finds the charter school application is incomplete, the board may return the application to the applicant for completion.

B. The local school board may establish a procedure for public notice, comment, or hearings on charter school applications to provide appropriate opportunity for input from parents, teachers, and other interested parties and to obtain information to assist in its decision.

§ 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 contract shall be final and not subject to appeal.

§ 22.1-212.11. Charter schools restrictions.

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, no more than two charters per school division shall be granted in any school division which is composed of a single city or a single county; in those school divisions which encompass more than one jurisdiction through consolidation of services or school divisions or through an arrangement for educational services, the school board may grant no more than two charters per county or city. Priority shall be given to charter school applications designed to increase the educational opportunities of at-risk students, and at least one charter per division or, if applicable, per county or city, shall be reserved for such applications.

§ 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~~ school 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 [~~public~~ school board] to compare such costs to those of other schools or comparable organizations.

B. A local school board may revoke or refuse to renew a charter if the charter school:

1. Violates the conditions, standards, or procedures established in the approved 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 also be revoked or not renewed upon a determination by the school board, 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.

§ 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 charter school management committee, reassignment to the charter school shall occur on an annual basis.

C. This section shall not 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.

At the completion of each contract year, professional, licensed personnel who are continuing contract instructional personnel with satisfactory evaluations and 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 request a transfer to a noncharter school in the school division according to the employment policies of the school division. Probationary teachers shall be rehired or transferred upon request in accordance with the school division's employment policies and state law.

§ 22.1-212.14. Funding of charter schools.

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. State funding of such school shall be in accordance with the appropriation act.

183 *B. Insofar as constitutionally valid, a local school board may establish by contract an agreement*
184 *stating the conditions for apportioning local funds to charter schools.*

185 *C. Services provided the charter school by the local school board may include food services;*
186 *custodial and maintenance services; curriculum, media, and library services; warehousing and*
187 *merchandising; transportation, and such other services as may be provided to or in other public schools*
188 *within the school division.*

189 *D. Funding and service agreements between local school boards and charter schools shall not*
190 *provide a financial incentive nor constitute a financial disincentive to the establishment of a charter*
191 *school.*

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

194 *F. Notwithstanding any other provision of law, the proportionate share of state and federal resources*
195 *allocated for students with disabilities and school personnel assigned to special education programs*
196 *shall be directed to charter schools enrolling such students. The proportionate share of moneys*
197 *allocated under other federal or state categorical aid programs shall be directed to charter schools*
198 *serving students eligible for such aid.*

199 *G. The school board is authorized to accept, on behalf of a charter school, gifts, donations, or*
200 *grants of any kind made to the charter school and to spend such funds in accordance with the*
201 *conditions prescribed by the donor. However, no gift, donation, or grant shall be accepted by the school*
202 *board for the charter school if the conditions for such funds are contrary to law or the terms of the*
203 *agreement between the local school board and the charter school.*

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

206 § 22.1-212.15. Evaluation of charter schools; reports.

207 *School boards establishing charter schools shall submit annual evaluations of such schools to the*
208 *Board of Education. The Board shall review the evaluations against any Board regulations and policies*
209 *waived for the charter schools to determine the efficacy of such waivers and whether the charter schools*
210 *accomplished established goals and objectives. Such school boards shall also submit annually, to the*
211 *Board of Education and the community, a comparison of the demographics of the students enrolled in*
212 *the school division and the demographics of the students enrolled in the charter school, including racial*
213 *and economic characteristics; the performance of charter school students and students enrolled in the*
214 *regular schools of the school division on standardized tests and Standards of Learning Assessments; and*
215 *a report of the number of students enrolled in such charter schools at the end of the school year.*

216 *The Board of Education shall annually compile a comparison of the demographics, performance, and*
217 *numbers of the students enrolled in charter schools and the students enrolled in regular schools of the*
218 *school divisions in which such charter schools are located, including, but not limited to, racial and*
219 *economic characteristics and performance on standardized tests and Standards of Learning Assessments.*
220 *The Board shall report annually its comparisons, findings, and evaluations of any charter schools*
221 *established in the Commonwealth to the Governor and the General Assembly, beginning in January*
222 *2001.*