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SENATE BILL NO. 318

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Education
on March 9, 1998)

(Patron Prior to Substitute—Senator Barry)

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.

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. Definitions.

As used in this article:

"At-risk pupil" means a student who, because of physical, emotional, intellectual, socioeconomic, or cultural factors, may not succeed in a conventional educational environment.

"Charter school" means a public, nonsectarian, nonreligious, or non-home-based alternative school located within a public school division for the purposes of providing opportunities for innovative instructional practices pursuant to a contract with the local school board. 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 resides within the school division.

B. 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. 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. 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.

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. Except as may be otherwise provided in this article, 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 and the charter school shall jointly request such releases from the 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. Any person, group, or organization may submit an application for the formation of a charter

60 school.

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

62 1. The mission statement of the charter school that must be consistent with the principles of the
63 Standards of Quality.

64 2. The goals and educational objectives to be achieved by the charter school, which educational
65 objectives must meet or exceed the Standards of Learning.

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

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

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

75 6. A description of a lottery process to be used if the charter school's capacity is insufficient to
76 enroll all pupils who submit a timely application and, if appropriate, a tailored admission policy that
77 meets the specific mission or focus of the charter school and is consistent with all federal and state laws
78 and regulations and constitutional provisions prohibiting discrimination that are applicable to public
79 schools and with any court-ordered desegregation plan in effect for the school division.

80 7. Evidence that the plan for the charter school is economically sound for both the charter school
81 and the school division; a proposed budget for the term of the charter; and a description of the manner
82 in which an annual audit of the financial and administrative operations of the charter school, including
83 any services provided by the school division, is to be conducted.

84 8. A plan for the displacement of pupils, teachers, and other employees who will not attend or be
85 employed in the charter school and for the placement of charter school pupils, teachers, and employees
86 upon termination or revocation of the charter.

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

90 10. An explanation of the relationship that will exist between the proposed charter school and its
91 employees, including evidence that the terms and conditions of employment have been addressed with
92 affected employees.

93 11. An agreement between the parties regarding their respective legal liability and applicable
94 insurance coverage.

95 12. A description of how the charter school plans to meet the transportation needs of its pupils.

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

98 § 22.1-212.9. Review of charter applications.

99 A. Upon adoption by the local school board of a resolution after public notice substantially in
100 accordance with § 15.2-1427 F and a public hearing, stating its intent to receive applications for the
101 establishment of charter schools in the school division, the local school board may receive and review
102 all applications for charter schools. The local school board may establish a schedule for receiving,
103 reviewing, and ruling upon applications and shall make a copy of any such schedule available to all
104 interested parties upon request. If such board finds the charter school application is incomplete, the
105 board shall request the necessary information from the charter applicant.

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

110 § 22.1-212.10. Decision of local board final.

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

113 § 22.1-212.11. Charter schools restrictions.

114 A. On and after July 1, 1998, local school boards electing to receive applications for charter schools
115 pursuant to § 22.1-212.9 may establish a charter school within the school division and shall be
116 authorized to limit the number of schools so established. However, no more than two charters per
117 school division shall be granted prior to July 1, 2000. Priority shall be given to charter school
118 applications designed to increase the educational opportunities of at-risk students, and at least one-half
119 of the charters per division shall be reserved for such applications.

120 B. Local school boards that grant charter school applications shall report such action to the Board
121 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 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 governing body 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 chapter, 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 chapter 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

183 *serving students eligible for such aid.*

184 *G. The governing body of a charter school is authorized to accept gifts, donations, or grants of any*
185 *kind made to the charter school and to spend such funds in accordance with the conditions prescribed*
186 *by the donor. However, no gift, donation, or grant shall be accepted by the governing body of a charter*
187 *school if the conditions for such funds are contrary to law or the terms of the agreement between the*
188 *local school board and the charter school.*

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

191 *§ 22.1-212.15. Evaluation of charter schools; reports.*

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

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