

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

BILL NUMBER: Senate Bill 337 (Second Edition)

SHORT TITLE: NC Public Charter School Board.

SPONSOR(S): Senators Tillman and Soucek

FISCAL IMPACT

(\$ in millions)

Yes No No Estimate Available

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
State Impact					
General Fund Revenues:					
General Fund Expenditures:					
State Positions:					
NET STATE IMPACT	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:

State Board of Education, Department of Public Instruction

EFFECTIVE DATE When the bill becomes law.

TECHNICAL CONSIDERATIONS:

Yes - See Technical Considerations Section

BILL SUMMARY:

The bill creates an eleven member North Carolina Public Charter Schools Board (Charter Board), located in the Department of Public Instruction (DPI), but exercising its powers and duties independently of the State Board of Education (State Board) and DPI. The Charter Board's purpose would be to authorize and oversee high-quality public charter schools throughout the state and to exercise authority for approving charter applicants. The Department of Public Instruction's Office of Charter Schools would serve as the principal administrative unit under the direction of the Charter Board. The Charter Board would have the authority to establish "reasonable" fees for initial and renewal charter applications under Chapter 150B of the General Statutes. The fees would be placed in the "Charter Application Fund" and be used by the Charter Board for the administration of Part 6A of Article 16 of Chapter 115C.

The bill would make several substantive changes to the charter school application process as well as other conforming changes. The bill would make two modifications to current charter school capital statutes. At the request of a charter school, the local board of education of the LEA in which the charter is located would be required to lease an available building or land under the LEA's ownership to the charter school for \$1.00 per year unless it can show the lease is not economically or practically feasible or that it needs the space for its own enrollment needs. Secondly, if a charter school is dissolved or its charter is not renewed, all net assets purchased with public funds would become property of State and returned to the General Fund rather than the LEA in which the charter is located.

The bill would also modify certain requirements pertaining to teacher licensure, student admissions, charter review, renewal and revocation. It would also modify the timing of local per-pupil funding transfers from local school administrative units (LEAs) to charter schools, as well as clarifying the eligibility of certain funds in considering the local per-pupil funding transfer. Lastly, the bill would provide for a tax exemption from property that is wholly and exclusively used for educational purposes by a charter school even if the charter school is not the owner of the building.

ASSUMPTIONS AND METHODOLOGY: While this bill would make a number of substantive changes to charter school approval, operation and review processes, this analysis will solely focus on those items that could have a fiscal impact.

North Carolina Public Charter School Board Operations

The bill would create an independent Charter Board that would replicate many of the same responsibilities currently administered by the North Carolina Charter Schools Advisory Council (Advisory Council). Funding for the Advisory Council is allocated from the State Board of Education's administrative budget. Over the last calendar year, its expenses are as follows:

Advisory Council, Costs by Activity (4/2012-2/2013)	
Compensation to Board Members	2,325
Board Transportation	7,944
Board Subsistence	7,772
Miscellaneous Compensation	193
Food Service	3,253
Ground Transportation	80
Printing / Duplicating	3,739
Requisitions	117
Application Review	15,000
Total	\$40,426

In that time, the Council has held 5 two-day full committee meetings, 2 one-day full committee meetings, 2 two-day subcommittee meetings and three no-cost webinars. With nine in-person meetings held over eleven months, the Council has been essentially been conducting monthly meetings. Fifteen members sit on the Advisory Council, four more than would be appointed to the

Charter Board, not including the Superintendent of Public Instruction, who would serve in a non-voting capacity.

The bill authorizes Charter Board meetings “... upon the call of the chair or the vice-chair with the approval of the chair,” without restriction. In the absence of additional information about how often the Charter Board would meet and for how many days those meetings would last, there is insufficient evidence to estimate an additional fiscal impact above and beyond the costs associated with the Advisory Council. The Technical Considerations section of this document further discusses funding for the Charter Board.

Charter School Application Fees

The Charter Board would be authorized to collect “reasonable fees” for initial and charter school renewal applications. The bill does not articulate the extent of those fees. Currently fees are not charged for charter approvals. It may be that the bill would anticipate that fees could be set to cover the difference between the current State Board of Education support for the Advisory Council and any additional costs created by increased number and review of charter school applications by the Charter Board in future years.

This analysis assumes that funding for the primary staff to the Charter Board, the Office of Charter Schools, would remain State-supported through existing appropriations made to the Department of Public Instruction. As such, the anticipated impact of fees would likely be to provide for additional direct resources for the Charter Board’s activities or contracted services.

Dispersal of Local Funds for Charter Schools

The bill would provide that the per-pupil share of the local current expense fund legally required to be provided on behalf of public charter school students be transferred to the charter school within 30 days of the receipt of monies into the local current expense fund. Current law does not specify a timeline for this fund transfer. In addition, a variety of information about the calculation of those funds must be provided by the LEA to the charter school.

To enforce the provisions of the transfer of local funds, courts adjudicating a proceeding regarding local charter school funding would be required to award the prevailing party reasonable attorneys’ fees and costs plus interest from and after the date that the monies should have been paid to the charter school. Monies would have to be paid in full within 3 years of the judgment. Any impact of this provision would be local in nature. This analysis does not have a basis for estimating the potential LEA costs for legal fees and interest payments that may arise from this bill.

Leasing of Property by LEAs to Charter Schools

Current law holds that LEAs shall lease any available building or land under its ownership to a charter school located within its district, provided that it is economically feasible and the building or land is not otherwise needed by the LEA. That lease may be provided at no cost to the charter school tenant. This bill would modify that arrangement and require that the LEAs shall charge \$1 per year for such leases, instead of a rate otherwise set by the LEA. Sufficient data is not available to estimate the impact of potentially lowered LEA revenues from leased facilities. Like most of the preceding sections, any impact would solely be local.

Property Tax Status of Charter School Property

The bill provides that charter school buildings used solely for educational purposes would be exempt from property taxes even if the building is not owned by the charter school. Sufficient data is not available to determine the number and value of charter school buildings that are currently subject to property tax that would become exempt under the bill. To the extent that properties that are currently taxable become tax-exempt, local governments would experience a decrease in property tax revenue; however, no estimate is available on the size of the fiscal impact.

Uniform Budget Format Modifications

The bill would remove “special programs” as a category that may be excluded from calculating the local per-pupil appropriation for transfer on behalf of charter school students. The bill would also exempt LEA special fund proceeds from that calculation. There is no estimate available for the potential changes in the local per-pupil appropriations transfer. Any actual impact would solely involve LEA funding.

SOURCES OF DATA: Department of Public Instruction.

TECHNICAL CONSIDERATIONS:

The bill creates a unique status for the Charter Board, in which it would be located administratively within the Department of Public Instruction but operate independently of the State Board of Education and Department of Public Instruction, with limited exceptions. The following considerations are identified as a result of the Board’s special status.

State Board of Education funding. The preceding analysis presumes that funds appropriated to the State Board of Education and used for the activities of the Charter School Advisory Council would be reallocated to the Charter Board. The bill does not identify a financial relationship between the State Board and Charter Board. If the sponsors wish that existing Advisory Council funding be reallocated to the Charter Board, they may wish to consider language to explicitly require that distribution. On the other hand, if the sponsors anticipate that the Charter Board will be entirely fee-supported they may wish to include language that would clarify that status.

Legal Counsel. The State Board of Education currently provides legal services free of charge to the Advisory Council from its counsel. To the extent that the Advisory Council is under the purview of the State Board, no conflict is inherent. However, with the Charter Board’s independence from the State Board, additional funding could be needed for the Charter Board to utilize necessary independent legal counsel.

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