

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

H.B. 1041  
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HOUSE PRINCIPAL CLERK

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HOUSE DRH40106-TCz-28A\* (04/17)

Short Title: Charter School Preliminary Approval Process.

(Public)

Sponsors: Representative Howard.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REESTABLISH A PROCESS FOR PRELIMINARY APPROVAL OF  
CHARTER SCHOOLS BY LOCAL BOARDS OF EDUCATION AND BOARDS OF  
TRUSTEES OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF  
NORTH CAROLINA, AS RECOMMENDED BY THE JOINT LEGISLATIVE  
PROGRAM EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 115C-238.29C is reenacted and reads as rewritten:

**"§ 115C-238.29C. Preliminary approval of applications for charter schools.**

(a) ~~The~~ A preliminary chartering entity may be:

(1) The local board of education of the local school administrative unit in which the charter school will be located.

(2) The board of trustees of a constituent institution of The University of North Carolina, so long as the constituent institution is involved in the planning, operation, or evaluation of the charter school.

A preliminary chartering entity that receives a request for preliminary approval of a charter school shall act on each request received prior to November 1 of a calendar year by February 1 of the next calendar year. Regardless of which chartering entity receives the application for preliminary approval, the State Board of Education shall have final approval of the charter school as provided in G.S. 115C-238.29D.

(b) The preliminary chartering entity shall give preliminary approval to the application if the preliminary chartering entity determines that (i) information contained in the application meets the requirements set out in this Part ~~or~~ and such other requirements as may be adopted by the State Board of Education, (ii) the applicant has the ability to operate the school and would be likely to operate the school in an educationally and economically sound manner, and (iii) granting the application would improve student learning and would achieve one of the other purposes set out in G.S. 115C-238.29A. In reviewing applications for the establishment of charter schools within a local school administrative unit, the preliminary chartering entity is encouraged to give preference to applications that demonstrate the capability to provide comprehensive learning experiences to students identified by the applicants as at risk of academic failure. If the preliminary chartering entity approves more than one application for charter schools located in a local school administrative unit, the preliminary chartering entity may state its order of preference among the applications that it approves.

(c) If a preliminary chartering entity ~~other than the State Board~~ disapproves an application, the applicant may appeal to the State Board of Education prior to February 15. The State Board shall consider the appeal ~~at the same time it is considering final approval in~~



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1 accordance with ~~G.S. 115C-238.29D~~ by April 15. The State Board shall ~~give preliminary~~  
 2 ~~approval of the review and consider the application as if it were made directly to the State~~  
 3 ~~Board~~ if it finds that the preliminary chartering entity acted in an arbitrary or capricious manner  
 4 in disapproving the application, failed to consider appropriately the application, or failed to act  
 5 within the time set out in G.S. 115C-238.29C.

6 If the preliminary chartering entity, the State Board of Education, or both, disapprove an  
 7 application, the applicant may modify the application and reapply subject to the application  
 8 deadline contained in subsection (a) of this section.

9 (d) Notwithstanding the provisions of this ~~subsection, section,~~ if the State Board of  
 10 Education finds that an applicant (i) submitted an application to a local board of education and  
 11 received final approval from the State Board of Education, but (ii) is unable to find a suitable  
 12 location within that local school administrative unit to operate, the State Board of Education  
 13 may authorize the charter school to operate within an adjacent local school administrative unit  
 14 for one year only. The charter school cannot operate for more than one year unless it reapplies,  
 15 in accordance with ~~subdivision (1), (2), or (3) of this subsection,~~ this section or by direct  
 16 application to the State Board of Education, and receives final approval from the State Board of  
 17 Education."

18 **SECTION 2.** G.S. 115C-238.29D reads as rewritten:

19 "**§ 115C-238.29D. Final approval of applications for charter schools.**

20 (a) The State Board may grant final approval of an application if it finds the following:

21 ~~(i)(1) that the~~ The application meets the requirements set out in this Part and such  
 22 other requirements as may be adopted by the State Board of ~~Education,~~  
 23 Education.

24 ~~(ii)(2) that the~~ The applicant has the ability to operate the school and would be  
 25 likely to operate the school in an educationally and economically sound  
 26 ~~manner, and manner.~~

27 ~~(iii)(3) that granting~~ Granting the application would achieve one or more of the  
 28 purposes set out in G.S. 115C-238.29A.

29 ~~The State Board shall act by January 15 of a calendar year on all applications and appeals it~~  
 30 ~~receives prior to a date established by the Office of Charter Schools for receipt of applications~~  
 31 ~~in the prior calendar year.~~ In reviewing applications for the establishment of charter schools  
 32 within a local school administrative unit, the State Board is encouraged to give preference to  
 33 applications that demonstrate the capability to provide comprehensive learning experiences to  
 34 students identified by the applicants as at risk of academic failure.

35 (a1) The State Board shall make final decisions on the approval or denial of applications  
 36 by June 15 of a calendar year on all applications it receives prior to a date established by the  
 37 Office of Charter Schools for receipt of applications in the prior calendar year. The State Board  
 38 shall also make final decisions on the approval or denial of all applications by June 15 of a  
 39 calendar year on all applications granted preliminary approval by a preliminary chartering  
 40 entity and submitted to the State Board by March 1 of that calendar year.

41 ...

42 (d) The State Board of Education may grant the initial charter for a period not to exceed  
 43 10 years and may renew the charter upon the request of the charter school or the preliminary  
 44 chartering entity for subsequent periods not to exceed 10 years each. The State Board of  
 45 ~~Education~~ Education, and the preliminary chartering entity if the charter school received  
 46 preliminary approval from a preliminary chartering entity, shall review the operations of each  
 47 charter school at least once every five years to ensure that the school is meeting the expected  
 48 academic, financial, and governance standards.

49 ...."

50 **SECTION 3.** G.S. 115C-238.29F(c)(2) reads as rewritten:

1           "(2) No civil liability shall attach to a preliminary chartering entity, the State  
2           Board of Education, or to any of their members or employees, individually  
3           or collectively, for any acts or omissions of the charter school."

4           **SECTION 4.** G.S. 115C-238.29F(f)(3) reads as rewritten:

5           "(3) The school shall report at least annually to the preliminary chartering entity  
6           and the State Board of Education the information required by the  
7           preliminary chartering entity and the State Board."

8           **SECTION 5.** G.S. 115C-238.29G(a) reads as rewritten:

9           "(a) The State Board of ~~Education~~ Education, or a preliminary chartering entity subject  
10          to the approval of the State Board, may terminate, not renew, or seek applicants to assume the  
11          charter through a competitive bid process established by the State Board upon any of the  
12          following grounds:

- 13           (1) Failure to meet the requirements for student performance contained in the  
14           charter;
- 15           (2) Failure to meet generally accepted standards of fiscal management;
- 16           (3) Violations of law;
- 17           (4) Material violation of any of the conditions, standards, or procedures set forth  
18           in the charter;
- 19           (5) Two-thirds of the faculty and instructional support personnel at the school  
20           request that the charter be terminated or not renewed; or
- 21           (6) Other good cause identified."

22          **SECTION 6.** G.S. 115C-238.29G(b) reads as rewritten:

23          "(b) The State Board of Education shall develop and implement a process to address  
24          contractual and other grievances between a charter school and its preliminary chartering entity  
25          or the local board of education during the time of its charter."

26          **SECTION 7.** This act is effective when it becomes law and applies beginning with  
27          the 2014-2015 school year.