

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2015

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HOUSE BILL 96

Short Title: Charter School Financial Accountability. (Public)

Sponsors: Representative L. Hall (Primary Sponsor).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary I, if favorable, Regulatory Reform, if favorable, Education - K-12.

February 23, 2015

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE FINANCIAL ACCOUNTABILITY OF CHARTER SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-218.1(b) reads as rewritten:

"(b) The application shall contain at least the following information:

- (1) A description of a program that implements one or more of the purposes in G.S. 115C-218.
- (2) A description of student achievement goals for the school's educational program and the method of demonstrating that students have attained the skills and knowledge specified for those student achievement goals.
- (3) The governance structure of the school including the names of the initial members of the board of directors of the nonprofit, tax-exempt corporation and the process to be followed by the school to ensure parental involvement. A teacher employed by the board of directors to teach in the charter school may serve as a nonvoting member of the board of directors for the charter school.
- (4) The local school administrative unit in which the school will be located.
- (5) Admission policies and procedures.
- (6) A proposed budget for the school and evidence that the financial plan for the school is economically sound.
- (7) Requirements and procedures for program and financial audits.
- (7a) The names and contact information for the principal officers of the school, or an organization that may operate the school, with the authority to maintain or expend funds of the charter school.
- (7b) The name of any individual with the authority to maintain or expend funds of the charter school who is currently, or was previously, listed in the database maintained by the Department of Public Instruction, Office of Charter Schools, pursuant to G.S. 115C-218.100(d), related to prior incidences of financial and governance noncompliance.
- (8) A description of how the school will comply with G.S. 115C-218.20, 115C-218.25, 115C-218.30, 115C-218.40, 115C-218.45, 115C-218.50, 115C-218.55, 115C-218.60, 115C-218.65, 115C-218.70, 115C-218.75, 115C-218.80, 115C-218.85, and 115C-218.90.



- 1 (9) Types and amounts of insurance coverage, including bonding insurance
2 required pursuant to G.S. 115C-218.20 for the principal officers of the
3 school, school and any other individual with the authority to maintain or
4 expend funds, to be obtained by the charter school.
- 5 (10) The term of the charter.
- 6 (11) The qualifications required for individuals employed by the school.
- 7 (12) The procedures by which students can be excluded from the charter school
8 and returned to a public school. Notwithstanding any law to the contrary,
9 any local board may refuse to admit any student who is suspended or
10 expelled from a charter school due to actions that would lead to suspension
11 or expulsion from a public school under G.S. 115C-390.5 through
12 G.S. 115C-390.11 until the period of suspension or expulsion has expired.
- 13 (13) The number of students to be served, which number shall be at least 65, and
14 the minimum number of teachers to be employed at the school, which
15 number shall be at least three. However, the charter school may serve fewer
16 than 65 students or employ fewer than three teachers if the application
17 contains a compelling reason, such as the school would serve a
18 geographically remote and small student population.
- 19 (14) Information regarding the facilities to be used by the school and the manner
20 in which administrative services of the school are to be provided."

21 **SECTION 2.** G.S. 115C-218.5 reads as rewritten:

22 **"§ 115C-218.5. Final approval of applications for charter schools.**

- 23 (a) The State Board may grant final approval of an application if it finds the following:
- 24 (1) The application meets the requirements set out in this Article and such other
25 requirements as may be adopted by the State Board of Education.
- 26 (2) The applicant has the ability to operate the school and would be likely to
27 operate the school in an educationally and economically sound manner.
- 28 (2a) The applicant is not employing, directly or indirectly by contract, an
29 individual who is currently listed in the database maintained by the
30 Department of Public Instruction, Office of Charter Schools, pursuant to
31 G.S. 115C-218.100(d), related to prior incidences of financial and
32 governance noncompliance.
- 33 (3) Granting the application would achieve one or more of the purposes set out
34 in G.S. 115C-269.1.

35 In reviewing applications for the establishment of charter schools within a local school
36 administrative unit, the State Board is encouraged to give preference to applications that
37 demonstrate the capability to provide comprehensive learning experiences to students identified
38 by the applicants as at risk of academic failure.

39 ...
40 (g) A charter school shall notify the State Board of Education and the Department of
41 Public Instruction, Office of Charter Schools, within 30 days of any change to the information
42 provided in the charter application pursuant to subdivisions (7a) or (7b) of subsection (b) of
43 G.S. 115C-218.1."

44 **SECTION 3.** G.S. 115C-218.15(c) reads as rewritten:

45 "(c) A charter school shall operate under the written charter signed by the State Board
46 and the applicant. The written charter shall include terms requiring that individuals with the
47 authority to maintain or expend funds for the charter school be held personally and individually
48 liable for debts incurred by the charter school in accordance with G.S. 115C-218.20(a2). A
49 charter school is not required to enter into any other contract. The charter shall incorporate the
50 information provided in the application, as modified during the charter approval process, and

1 any terms and conditions imposed on the charter school by the State Board of Education. No
2 other terms may be imposed on the charter school as a condition for receipt of local funds."

3 **SECTION 4.** G.S. 115C-218.20 reads as rewritten:

4 "**§ 115C-218.20. Civil liability and liability; bond and insurance requirements.**

5 (a) Amount of Liability Insurance and Bonds. – The board of directors of a charter
6 school may sue and be sued. The State Board of Education shall adopt rules to establish (i)
7 reasonable amounts and types of liability insurance that the board of directors shall be required
8 by the charter to ~~obtain~~ obtain and (ii) the bond requirement for principal officers and any
9 other individual with the authority to maintain or expend funds of the charter school as required
10 by subsection (a1) of this section. The board of directors shall obtain at least the amount of and
11 types of insurance required by these rules to be included in the charter. The board of directors
12 shall also ensure that the bond requirement under subsection (a1) of this section is met for
13 individuals employed, directly or indirectly by contract, by the charter school. Any sovereign
14 immunity of the charter school, of the organization that operates the charter school, or its
15 members, officers, or directors, or of the employees of the charter school or the organization
16 that operates the charter school, is waived to the extent of indemnification by
17 ~~insurance~~ insurance or as otherwise provided in State law.

18 (a1) Bond Required. – The principal officer of a charter school or any other individual
19 with the authority to maintain or expend funds of a charter school must file a bond with the
20 State Board of Education executed by the individual as a principal and by a bonding company
21 authorized to do business in this State. The bond must be payable to the State Board of
22 Education, must be conditioned on fulfillment of the obligations of the individual in their
23 capacity as an employee of the charter school, and must remain in effect until cancelled by the
24 bonding company. The bonding company may cancel the bond upon 30 days' notice to the State
25 Board of Education.

26 (a2) Personal Liability for Debts Incurred by the Charter School. – Upon the voluntary or
27 involuntary closure of a charter school or charter schools, any individual with the authority to
28 maintain or expend funds on behalf of the charter school may be held personally and
29 individually liable for any outstanding debts incurred by a charter school in excess of any funds
30 reserved for charter school closure proceedings or amounts applied from liability insurance
31 held by the board of directors and bonds required under subsection (a1) of this section.

32 (b) No Civil Liability for the State Board of Education. – No civil liability shall attach
33 to the State Board of Education, or to any of their members or employees, individually or
34 collectively, for any acts or omissions of the charter school."

35 **SECTION 5.** G.S. 115C-218.90 is amended by adding a new subsection to read:

36 "(c) History of Financial and Governance Noncompliance. – The board of directors of a
37 charter school shall not employ, directly or indirectly by contract, any individual who is
38 currently listed in the database maintained by the Department of Public Instruction, Office of
39 Charter Schools, pursuant to G.S. 115C-218.100(d), related to prior incidences of financial and
40 governance noncompliance for any services related to the maintenance or expenditure of
41 charter school funds."

42 **SECTION 6.** G.S. 115C-218.100 is amended by adding new subsections to read:

43 "(c) Debt Collection from Personally Liable Individuals. – Following the dissolution of a
44 charter school, for any individuals who are personally and individually liable pursuant to
45 G.S. 115C-218.20 and have failed to pay the State Board of Education for any debt owed, the
46 State Board may (i) submit the debt owed by the individual to the Department of Revenue, in
47 accordance with Chapter 105A of the General Statutes or (ii) utilize an alternative means of
48 collection for the debt owed, including establishing a repayment agreement with the individual
49 or individuals who are held liable.

50 (d) Database Related to Financial Governance Noncompliance. – The Department of
51 Public Instruction, Office of Charter Schools, shall maintain a database of individuals with the

1 authority to maintain or expend funds on behalf of charter schools who (i) had that authority at
2 the time a charter school was dissolved, involuntarily or voluntarily, for reasons of financial
3 and governance noncompliance and (ii) have failed to repay any debt owed to the State Board
4 of Education for which the individual is held personally and individually liable pursuant to
5 G.S. 115C-218.20. The database shall contain the individual's name, the name of the charter
6 school or charter schools for which the individual had financial authority, and the amount and
7 nature of any outstanding debt owed to the State Board. An individual who is listed in the
8 database shall not be employed, directly or indirectly by contract, by a charter school for
9 services related to the maintenance or expenditure of funds until the individual pays in full any
10 debt owed to the State Board. If the individual pays the debt in full, the individual's name shall
11 be removed from the database at which time the individual shall be eligible to be employed,
12 directly or indirectly by contract, to perform services for charter schools related to the
13 maintenance or expenditure of charter school funds."

14 **SECTION 7.** Within 60 days of the effective date of this act, the State Board of
15 Education shall adopt (i) language to include in the written charter agreement for charter
16 schools, including virtual charter schools, to implement the requirements of G.S. 115C-218.15,
17 as amended by this act, and (ii) bond requirements for individuals with the authority to
18 maintain or expend funds of a charter school in accordance with G.S. 115C-218.20(a1) of this
19 act.

20 **SECTION 8.** The State Board of Education may adopt policies setting forth debt
21 collection methods for any individuals who are held personally and individually liable pursuant
22 to G.S. 115C-218.20(a2), as enacted by this act, and have failed to pay the State Board for any
23 debt owed, as authorized by G.S. 115C-218.100(c), as enacted by this act. Debt collection
24 methods adopted by the State Board may include repayment plans and installment contracts.

25 **SECTION 9.** Notwithstanding G.S. 115C-218.20, as amended by this act,
26 individuals with the authority to maintain or expend funds of a charter school shall meet the
27 bond requirement under G.S. 115C-218.20(a1) within 90 days of the effective date of this act.

28 **SECTION 10.** This act is effective when it becomes law. Sections 1 through 3 of
29 this act apply to an initial application for or the renewal of a charter school, including a virtual
30 charter school. Section 5 applies to an individual initially employed or reemployed, directly or
31 indirectly by contract, by a charter school, including a virtual charter school, on or after the
32 effective date of this act.