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SENATE BILL NO. 608

Offered January 12, 2022

Prefiled January 12, 2022

A *BILL to amend and reenact §§ 22.1-212.6 through 22.1-212.8 and 22.1-212.9 through 22.1-212.14 of the Code of Virginia, relating to public charter schools; applications; review and approval.*

Patrons—Suetterlein and Obenshain

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-212.6 through 22.1-212.8 and 22.1-212.9 through 22.1-212.14 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-212.6. Establishment and operation of public charter schools; requirements.

A. Enrollment in a public charter school shall be open to any child who is deemed to reside within the relevant school division or, in the case of a regional public charter school, within any of the relevant school divisions, as set forth in § 22.1-3, through a lottery process on a space-available basis, except that in the case of the conversion of an existing public school, students who attend the school and the siblings of such students shall be given the opportunity to enroll in advance of the lottery process. 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 public charter school shall be administered and managed by a management committee, composed of parents of students enrolled in the school, teachers and administrators working in the school, and representatives of any community sponsors, in a manner agreed to by the public charter school applicant and the *Board or the* local school board. Pursuant to a charter contract, a public charter school may operate free from specified school division policies and state regulations, and, as public schools, shall be subject to the requirements of the Standards of Quality, including the Standards of Learning and the Standards of Accreditation.

C. Pursuant to a charter agreement, a public charter school shall be responsible for its own operations, including, but not limited to, such budget preparation, contracts for services, and personnel matters as are specified in the charter agreement. A public 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 public charter school is required to perform in order to carry out the educational program described in its charter. Any services for which a public charter school contracts with a school division shall not exceed the division's costs to provide such services.

D. As negotiated by contract, the *Board, the* local school board, or the relevant *local* school boards, in the case of regional public charter schools, may allow a public charter school to use vacant or unused properties or real estate owned by the *Commonwealth or the* school board. In no event shall a public charter school be required to pay rent for space ~~which~~ that is deemed available, as negotiated by contract, in ~~school division~~ facilities *owned by the Commonwealth or the school board*. All other costs for the operation and maintenance of the facilities used by the public charter school shall be subject to negotiation between the public charter school and the *Board or the local school division board* or, in the case of a regional public charter school, between the regional public charter school and the relevant *local school divisions boards*.

E. A public charter school shall not charge tuition.

§ 22.1-212.6:1. Applicability of other laws, regulations, policies, and procedures.

A. Public charter schools are subject to all federal laws and authorities as set forth in this article and the charter contract with the *Board or the* local school board.

B. Public charter schools are subject to the same civil rights, health, and safety requirements applicable to other public schools in the Commonwealth, except as otherwise provided in this article.

C. Public charter schools are subject to the student assessment and accountability requirements applicable to other public schools in the Commonwealth, but nothing in this article precludes a public charter school from establishing additional student assessment measures that go beyond state requirements if the school's authorizer approves such measures.

D. Management committees of public charter schools are subject to and shall comply with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

E. No public charter school shall discriminate against any individual on the basis of disability, race,

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59 creed, color, sex, sexual orientation, gender identity, national origin, religion, ancestry, or need for
60 special education services or any other unlawful basis, and each public charter school shall be subject to
61 any court-ordered desegregation plan in effect for the school division.

62 F. No public charter school shall discriminate against any student on the basis of limited proficiency
63 in English, and each public charter school shall provide students who have limited proficiency in
64 English with appropriate services designed to teach such students English and the general curriculum,
65 consistent with federal civil rights laws.

66 G. No public charter school shall engage in any sectarian practices in its educational program,
67 admissions or employment policies, or operations.

68 **§ 22.1-212.7. Contracts for public charter schools.**

69 A. Within 90 days of approval of a charter application, the local school board and the management
70 committee of the approved public charter school shall execute a charter contract that clearly sets forth (i)
71 the academic and operational performance expectations and measures by which the public charter school
72 will be judged and (ii) the administrative relationship between the *Board or the* local school board and
73 public charter school, including each party's rights and duties. Such 90-day period may be extended by a
74 period not to exceed 30 days by mutual agreement of the parties. Such performance expectations and
75 measures shall include applicable federal and state accountability requirements and may be refined or
76 amended by mutual agreement after the public charter school has collected baseline achievement data for
77 its enrolled students.

78 B. The academic and operational performance expectations and measures in the charter contract shall
79 be based on a performance framework that clearly sets forth the academic and operational performance
80 indicators, measures, and metrics that will guide the *Board's or the* local school board's evaluations of
81 each public charter school. The performance framework shall include indicators, measures, and metrics
82 for:

- 83 1. Student academic proficiency;
- 84 2. Student academic growth;
- 85 3. Achievement gaps in both proficiency and growth between the major student subgroups based on
86 gender, race, poverty status, special education status, English language learner status, and gifted status;
- 87 4. Attendance;
- 88 5. Recurrent annual enrollment;
- 89 6. Postsecondary education readiness of high school students;
- 90 7. Financial performance and sustainability; and
- 91 8. The performance and stewardship of the management committee, including compliance with all
92 applicable laws, regulations, and terms of the charter contract.

93 C. The performance framework shall allow the inclusion of additional rigorous, valid, and reliable
94 indicators proposed by a public charter school to augment external evaluations of its performance,
95 provided that the *Board or the* local school board approves the quality and rigor of such indicators and
96 such indicators are consistent with the purposes of this article.

97 D. The performance framework shall require the disaggregation of all student performance data by
98 major student subgroups based on gender, race, poverty status, special education status, English language
99 learner status, and gifted status.

100 E. Annual performance targets shall be set by each public charter school and the *Board or the* local
101 school board and shall be designed to help each school meet applicable federal, state, and local school
102 board expectations.

103 F. The charter contract shall be signed by the *president of the Board or the* chairman of the local
104 school board and the president or chairman of the public charter school's management committee.
105 Within 10 days of executing a charter contract, ~~the~~ *a* local school board shall submit to the Board
106 written notification of the charter contract execution, including a copy of the executed charter contract
107 and any attachments.

108 G. No public charter school shall commence operations without a charter contract executed in
109 accordance with this section and approved in an open meeting of the *Board or the* local school board.

110 H. If the charter application proposes a program to increase the educational opportunities for at-risk
111 students, including those proposals for residential *public* charter schools for at-risk students, the *Board,*
112 *the* local school board, or *the* relevant *local* school boards, as the case may be, on behalf of the public
113 charter school, shall also *approve or* request that the Board approve an Individual School Accreditation
114 Plan for the evaluation of the performance of the school as authorized by the Standards of Accreditation
115 pursuant to ~~8VAC20-131-280~~ *8VAC20-131-420 D* of the Virginia Administrative Code.

116 I. Any material revision of the terms of the contract may be made only with the approval of the
117 *Board, the* local school board, or *the* relevant *local* school boards and the management committee of the
118 public charter school.

119 **§ 22.1-212.8. Charter application.**

120 A. Any person, group, or organization, including any institution of higher education, may submit an

application for the formation of a public charter school.

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

1. An executive summary.

2. A mission statement of the public charter school that is consistent with the principles of the Standards of Quality, including identification of the targeted academic program of study.

3. A plan for the displacement of pupils, teachers, and other employees who will not attend or be employed in the public charter school, in instances of the conversion of an existing public school to a public charter school, and for the placement of public charter school pupils, teachers, and employees upon termination or revocation of the charter.

4. The location or geographic area proposed for the public charter school.

5. The grades to be served each year for the full term of the charter contract.

6. Minimum, planned, and maximum enrollment per grade level per year for the term of the charter contract.

7. Evidence of need and community support for the proposed public charter school.

8. Background information on the proposed founding management committee members and, if identified, the proposed public charter school leadership and management team.

9. The public charter school's proposed calendar and a sample daily schedule.

10. A description of the academic program that is aligned with the Standards of Learning.

11. A description of the public charter school's instructional design, including the type of learning environment, such as classroom-based or independent study; class size and structure; curriculum overview; and teaching methods.

12. The public charter school's plans for identifying and successfully serving students with disabilities, students who are English language learners, students who lag behind academically, and gifted students, including compliance with applicable laws and regulations.

13. A description of cocurricular or extracurricular programs and how such programs will be funded and delivered.

14. Plans and timelines for student recruitment and enrollment, including lottery procedures.

15. The public charter school's student discipline policies, including discipline policies for special education students.

16. An organization chart that clearly presents the public charter school's organizational structure, including lines of authority and reporting between the management committee; staff; any related bodies, such as advisory bodies or parent and teacher councils; and any external organizations that will play a role in managing the public charter school.

17. A clear description of the roles and responsibilities for the management committee, the public charter school's leadership and management team, and any other entities shown in the organization chart.

18. A staffing chart for the public charter school's first year and a staffing plan for the term of the charter contract.

19. Plans for recruiting and developing the public charter school's leadership and staff.

20. The public charter school's leadership and teacher employment policies.

21. Proposed governing bylaws.

22. Explanations of any partnerships or contractual relationships central to the public charter school's operations or mission.

23. The public charter school's plans for providing transportation, food service, and all other significant operational and ancillary services.

24. A statement of opportunities and expectations for parent involvement.

25. A detailed public charter school start-up plan that identifies tasks, timelines, and responsible individuals.

26. A description of the public charter school's financial plan and policies, including financial controls and audit requirements.

27. A description of the insurance coverage that the public charter school will obtain.

28. Start-up and five-year budgets with clearly stated assumptions.

29. Start-up and first-year cash-flow projections with clearly stated assumptions.

30. Evidence of anticipated fundraising contributions, if claimed in the application.

31. A sound facilities plan, including backup or contingency plans, if appropriate.

32. Assurances that the public charter school (i) is nonreligious in its programs, admission policies, employment practices, and all other operations and (ii) does not charge tuition.

33. Disclosure of any ownership or financial interest in the public charter school, by the charter applicant and the governing body, administrators, and other personnel of the proposed public charter school, and a requirement that the successful applicant and the governing body, administrators, and other personnel of the public charter school shall have a continuing duty to disclose such interests during the term of any charter.

182 C. The charter applicant shall include in the proposed agreement the results of any Board review of
183 the public charter school application that may have been conducted as provided in subsection C of
184 § 22.1-212.9.

185 **§ 22.1-212.9. Review of public charter school applications.**

186 A. Public charter school applications shall be received and reviewed by the Board of Education and,
187 ~~the local school boards board~~, or, in the case of a regional public charter school, by all of the relevant
188 school boards; as provided in subsection C. However, no charter school application that is initiated by
189 one or more local school boards shall be subject to the provisions of subsection C.

190 The Board of Education and each local school board shall establish procedures for receiving,
191 reviewing, and, in the case of local school boards, ruling upon applications. The Board of Education and
192 each local school boards board shall post their procedures on their websites and make a copy of the
193 procedures available to all interested parties upon request. If ~~the Board~~ or any such local school board
194 finds the public charter school application is incomplete, ~~the board~~ it shall request the necessary
195 information from the charter applicant.

196 B. To provide appropriate opportunity for input from parents, teachers, citizens, and other interested
197 parties and to obtain information to assist ~~the Board or any local school boards board~~ in their decisions
198 ~~its decision~~ to grant or deny a public charter school application, ~~the Board and each local school boards~~
199 ~~board~~ shall establish a procedure for public notice and to receive comment on public charter school
200 applications. ~~A The Board and each local school board~~ shall give at least 14 days' notice of its intent to
201 receive public comment on an application.

202 C. Prior to submission of an application to a local school board for review, the public charter school
203 applicant shall submit its proposed charter application to the Board of Education for its review,
204 comment, and a determination as to whether the application meets the approval criteria developed by the
205 Board. The Board's review shall examine such applications for feasibility, curriculum, financial
206 soundness, and other objective criteria as the Board may establish, consistent with existing state law.
207 The Board's review and comment shall be for the purpose of ensuring that the application conforms with
208 such criteria, and the Board shall make a determination as to whether the application meets the approval
209 criteria developed by the Board. Nothing in this section shall prevent a local school division from
210 working with a charter school applicant before the application is submitted to the Board of Education
211 for review and recommendation.

212 **§ 22.1-212.10. Decisions final; new applications.**

213 A. If a local school board denies a public charter school application, or revokes or fails to renew a
214 charter agreement, it shall provide to the applicant or grantee its reasons, in writing, for such decision,
215 and it shall post such reasons on its website. A public charter school applicant whose application was
216 denied, or a grantee whose charter was revoked or not renewed, shall be entitled to petition the local
217 school board for reconsideration. The petition for reconsideration shall be filed no later than 60 days
218 from the date the public charter school application is denied or the charter agreement is revoked or fails
219 to be renewed. Such reconsideration shall be decided within 60 days of the filing of the petition ~~The~~
220 ~~decision of the Board or a local school board to grant or deny a public charter school application or to~~
221 ~~revoke or fail to renew a public charter school agreement is final and is not subject to appeal.~~

222 B. Each local school board shall establish a process for reviewing petitions of reconsideration, which
223 shall include an opportunity for public comment. The petition of reconsideration may include an
224 amended application based on the reasons given by the local school board for such decision.

225 C. Prior to seeking reconsideration, an applicant or grantee may seek technical assistance from the
226 Superintendent of Public Instruction to address the reasons for denial, revocation, or non-renewal.

227 D. Upon reconsideration, the decision of a local school board to grant or deny a public charter
228 school application or to revoke or fail to renew a charter agreement shall be final and not subject to
229 appeal. Following a local school board decision to deny a public charter school application or to revoke
230 or fail to renew a charter agreement, the local school board shall submit documentation to the Board as
231 to the rationale for the local school board's denial of the public charter school application or revocation
232 of or failure to renew the charter agreement.

233 E. The Board has no authority to grant or deny a public charter school application or to revoke or
234 fail to renew a charter agreement but may communicate any Board finding relating to the rationale for
235 the local school board's denial of the public charter school application or revocation of or failure to
236 renew the charter agreement based on the documentation submitted pursuant to subsection D in any
237 school division in which at least half of the schools receive funding pursuant to Title I, Part A of the
238 Elementary and Secondary Education Act of 1965, P.L. 89-10, as amended.

239 F. Nothing in this section shall prohibit an applicant whose application has been denied or a grantee
240 whose charter has been revoked or not renewed from submitting a new application, pursuant to
241 § 22.1-212.9.

242 **§ 22.1-212.11. Public charter school restrictions.**

243 A. ~~Local~~ ~~The Board or any local school boards board~~ may establish public charter schools within the

school division. Priority shall be given to public charter school applications designed to increase the educational opportunities of at-risk students, and at least one-half of the public charter schools per division shall be designed for at-risk students; however, the one-half requirement shall not apply in cases in which an existing public school is converted into a public charter school that serves the same community as the existing public school, nor shall such public charter school conversions be counted in the determination of school division compliance with the one-half requirement.

B. Local school boards shall report the grant or denial of public charter school applications to the Board and shall specify the maximum number of charters that may be authorized, if any; the number of charters granted or denied; and whether a public 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 public charter school.

§ 22.1-212.12. Public charter school term; renewals and revocations.

A. A charter may be approved or renewed for a period not to exceed five school years. A public charter school renewal application submitted to the *Board, the local school board, or, in the case of a regional public charter school, to the relevant local school boards* shall contain:

1. A report on the progress of the public charter school in achieving the goals, objectives, program and performance standards for students, and such other conditions and terms as the *Board, the local school board, or the local school boards* 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 public charter school and that has been concisely and clearly written to enable the school board or boards and the public to compare such costs to those of other schools or comparable organizations.

B. ~~Local~~ *The Board or any local school board* may revoke a charter if the public charter school:

1. Violates the conditions, standards, or procedures established in the public 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 public charter school was not specifically exempted.

C. Nothing in this section shall be construed to restrict the authority of *the Board or local school boards* to decline to renew a charter agreement.

§ 22.1-212.13. Employment of professional, licensed personnel.

A. ~~At the discretion of the~~ *In the case of a public charter school established by a local school board or by local school boards, public charter school personnel may be employees of the local school board, or boards, granting the charter. Any personnel not employed by the local school board shall remain subject to the provisions of §§ 22.1-296.1, 22.1-296.2, and 22.1-296.4.*

B. Professional, licensed education personnel may volunteer for assignment to a public charter school *established by a local school board or by local school boards*. Assignment in a public charter school shall be for one contract year. Upon request of the employee and the recommendation of the management committee of the public charter school, reassignment to the public charter school shall occur on an annual basis.

C. At the completion of each contract year, professional, licensed education personnel who request assignment to a public noncharter school in the relevant school division or who are not recommended for reassignment in the public charter school, other than for the grounds cited in § 22.1-307, shall be guaranteed an involuntary transfer to a public noncharter school in the school division according to the employment policies of the school division.

D. Professional, licensed personnel of a public charter school *established by a local school board or by local school boards* shall be granted the same employment benefits given to professional, licensed personnel in public noncharter schools in accordance with the policies of the relevant *local school board or boards*.

E. School boards may employ such health, mental health, social services, and other related personnel to serve in residential *public* charter schools for at-risk pupils as set forth in the charter agreement between such school board and the *public* charter school; however, nothing herein shall require a school board to fund the residential or other services provided by a residential *public* charter school.

§ 22.1-212.14. Funding of public charter schools; services provided.

A. ~~For the purposes of this article~~ *In the case of a public charter school established by a local school board or by local school boards, students enrolled in a public charter school shall be included in the average daily membership of the relevant school division and shall be reported in fall membership*

305 for purposes of calculating the state and local shares required to fund the Standards of Quality.

306 B. Insofar as constitutionally valid, ~~a~~ *the Board*, the local school board, or, in the case of a regional
307 public charter school, the relevant *local* school boards may establish by contract an agreement stating
308 the conditions for funding the public charter school, including funding for the educational program to be
309 provided by a residential *public* charter school for at-risk students. In *the case of a public charter school*
310 *established by a local school board or by local school boards and in* accordance with subsection D, the
311 per pupil funding provided to the *public* charter school by the local school board or, in the case of a
312 regional public charter school, the relevant school boards; shall be negotiated in the charter agreement
313 and shall be commensurate with the average school-based costs of educating the students in the existing
314 schools in the division or divisions unless the cost of operating the *public* charter school is less than that
315 average school-based cost.

316 C. Services provided the public charter school by the *Board*, the local school board, or the relevant
317 school boards, in the case of regional public charter schools, may include food services; custodial and
318 maintenance services; curriculum, media, and library services; warehousing and merchandising; and such
319 other services not prohibited by the provisions of this article or state and federal laws.

320 D. Funding and service agreements between local school boards and public charter schools shall not
321 provide a financial incentive or constitute a financial disincentive to the establishment of a public charter
322 school, including any regional public charter school.

323 E. Any educational and related fees collected from students enrolled at a public charter school shall
324 be credited to the account of such public charter school ~~established by the relevant local school board~~.

325 F. Notwithstanding any other provision of law, the proportionate share of state and federal resources
326 allocated for students with disabilities and school personnel assigned to special education programs shall
327 be directed to public charter schools enrolling such students. The proportionate share of moneys
328 allocated under other federal or state categorical aid programs shall be directed to public charter schools
329 serving students eligible for such aid.

330 G. The management committee of a public charter school is authorized to accept gifts, donations, or
331 grants of any kind made to the public charter school and to spend such funds in accordance with the
332 conditions prescribed by the donor. However, no gift, donation, or grant shall be accepted by the
333 management committee of a public charter school if the conditions for such funds are contrary to law or
334 the terms of the agreement ~~between the local school board and the public charter school or, in the case~~
335 ~~of a regional public charter school, the relevant school boards and the regional~~ *establishing the* public
336 charter school.

337 H. The Department of Education shall provide technical assistance to *the Board and* local school
338 boards relating to receipt, review, and ruling upon applications for public charter schools.