



This Bill Analysis reflects the contents of the bill as it was presented in committee.

HOUSE BILL 334: Transfer Office of Charter Schools

2015-2016 General Assembly

Committee:		Date:	September 14, 2015
Introduced by:	Reps. Jeter, Steinburg	Prepared by:	Drupti Chauhan and Kara McCraw
Analysis of:	Conference Report		

SUMMARY: *The Conference Committee Substitute (CCS) for House Bill 334 makes changes to various charter school statutes and other education statutes.*

SECTION 1

CURRENT LAW: The Charter School Advisory Board (Advisory Board) has 11 voting members: 3 members appointed by the Governor, including the chair, 6 members appointed by the General Assembly, 1 member appointed by the State Board of Education (SBE), and the Lieutenant Governor or the Lieutenant Governor's designee.

BILL ANALYSIS: The CCS would make the following changes to the Advisory Board:

- Adding a nonvoting member who is a member of the SBE and is appointed by the Chair of the SBE. The Chair of the SBE must make this appointment within 45 days of the effective date of the act.
- Prohibiting the voting member of the Advisory Board appointed by the SBE from being a member of the SBE and requiring that member to be a charter school advocate. The SBE must make this appointment within 45 days of the effective date of the act.
- Requiring the Chair of the Advisory Board or the Chair's designee to advocate for the recommendations of the Advisory Board at meetings of the SBE upon the request of the SBE.

The CCS would make these changes to the North Carolina Office of Charter Schools (Office of Charter Schools):

- Codify the Office of Charter Schools in the General Statutes and place it administratively in the Department of Public Instruction (DPI) but subject to the supervision, direction, and control of the SBE.
- Require the Executive Director of the Office of Charter Schools be appointed by the SBE and report to and serve at the pleasure of the SBE.
- Authorize various powers and duties for the Office of Charter Schools, including serving as staff to the Advisory Board, providing technical assistance and guidance to charter schools, nonprofits seeking to operate charter schools, and assisting in coordinating services between charters schools and DPI.

The SBE must appoint an Executive Director of the Office of Charter Schools within 90 days of the effective date of this act. This initial appointment must be upon the recommendation of a search committee comprised of the Lieutenant Governor (the chair of the search committee), the vice-chair of the SBE and one other member of the SBE appointed by the SBE.

SECTION 2

CURRENT LAW: The minimum number of students a charter school may serve is 65 students unless there is a compelling reason for fewer students such as serving a geographically remote and small student population.

BILL ANALYSIS: The minimum number of students a charter school may serve would be increased to 80.

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SECTION 3

CURRENT LAW: Unless allowed by law or the mission of the charter school as set out in its charter, a charter school may not limit admission to students on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, disability, race, creed, national origin, religion, or ancestry. If a charter school receives more applications for admission at the school than are available, the charter school must conduct a lottery for the admissions process.

BILL ANALYSIS: The CCS would clarify that unless allowed by law or the mission of the charter school as set out in its charter, a charter school may not limit admission to students on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, or disability. Under no circumstances would a charter school be able to limit admission to students on the basis of race, creed, national origin, religion, or ancestry.

The CCS would also provide for weighted lotteries. A charter school applicant would have to set forth in its application the process it would use for conducting a weighted lottery that reflects the mission of the school if it wishes to use a weighted lottery for admission. The SBE would be required to approve the process for the weighted lottery and then the charter school would be able to conduct such a lottery in accordance with the procedure set forth in the charter and approved by the SBE.

SECTION 4

BILL ANALYSIS: The SBE and the Advisory Board would be required to provide timely notification to charter applicants of format issues or incomplete information in the initial application and provide 5 business days for corrections. Equal consideration must then be given to the application if corrections are submitted within the time period. The Advisory Board or a committee of the Advisory Board would provide for an applicant or charter school board member to address the Advisory Board or committee if they are present at a meeting before action is taken regarding the charter school or charter applicant.

The Advisory Board would make recommendations on guidance for implementing this section to the SBE and the SBE would develop the guidance by October 15, 2015.

SECTIONS 5 and 9.(c)

CHARTER RENEWALS

CURRENT LAW: The SBE may renew charters upon the request of the chartering entity for a period of 10 years. The renewal may be for less than 10 years if one of the following applies: (i) the charter school has not provided financially sound audits for the prior 3 years; (ii) the charter school's student academic outcomes for the past 3 years have not been comparable to the academic outcomes of the students in the local school administrative unit (LEA) in which the charter is located, or (iii) the charter school is not in compliance with State law, federal law, the school's own bylaws, or the provisions set forth in the charter granted by the SBE.

BILL ANALYSIS: The SBE would be required to renew a charter upon the request of the chartering entity for a period of 10 years unless one of the following applies:

- The charter school has not provided financially sound audits for the prior 3 years.
- The charter school's student academic outcomes for the past 3 years have not been comparable to the academic outcomes of the students in the LEA in which the charter is located.
- The charter school is not, at the time of the request for renewal of the charter, substantially in compliance with State law, federal law, the school's own bylaws, or the provisions in the charter granted by the SBE.

MATERIAL REVISIONS TO CHARTERS FOR ENROLLMENT GROWTH

CURRENT LAW: Enrollment growth of more than 20% is considered a material revision of a charter and the SBE may approve enrollment growth of more than 20% only if it finds **all** of the following: (i) the actual enrollment of the charter school is within 10% of its maximum authorized enrollment; (ii) the charter school has commitments for 90% of the requested maximum growth; (iii) the charter school is not identified as low-

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performing; (iv) the charter school meets generally accepted standards of fiscal management; and (v) it is otherwise appropriate to approve enrollment growth.

BILL ANALYSIS: The CCS would eliminate requirement (v) and would instead require that the charter school be, at the time of the request for the enrollment increase, substantially in compliance with State law, federal law, the charter school's own bylaws, and the provisions set forth in the charter granted by the SBE.

NON-MATERIAL REVISIONS TO CHARTERS THAT DO NOT REQUIRE SBE APPROVAL

CURRENT LAW: The following actions by charter schools are not material revisions and do not require prior approval by the SBE: (i) increasing enrollment during the 2nd year of operation and annually thereafter by up to 20% of the school's previous year's enrollment; (ii) increasing enrollment during the 2nd year of operation and annually thereafter in accordance with its charter; (iii) expanding to offer one grade higher than the school currently offers if it has operated for at least 3 years and has not been identified as having inadequate performance.

BILL ANALYSIS: The CCS would amend the action described in (iii) and state that it is not a material revision and no SBE approval would be needed for a charter school to expand one grade higher or lower than the school currently offers if the school has (i) operated for at least 3 years; (ii) has not been identified as having inadequate performance; and (iii) has been in financial compliance as required by the SBE.

By January 15, 2016, based upon written recommendations made by the Advisory Board, the SBE would adopt a policy on the process for determining whether a charter school is in "substantial compliance" as required by the changes in Section 5. The SBE would report to the Joint Legislative Education Oversight Committee by February 15, 2016 on the adoption of this policy.

SECTION 6.(a)

BILL ANALYSIS: Boards of directors of charter school would be required to adopt a policy on conflict of interest and anti-nepotism that includes the following: (i) The requirements of Chapter 55A of the General Statutes related to conflicts of interest. (ii) A requirement that before immediate family members of a member of the board of directors or an employee with supervisory authority can be employed, that proposed employment is disclosed to the board and approved in an open session meeting. The burden of disclosure of such a conflict is on applicable board member or employee with supervisory authority. (iii) A requirement that the person is not disqualified from serving as a member of the school's board of directors because of the existence of a conflict of interest as long as the person's actions comply with the policy.

The board of directors may have members who reside outside of North Carolina but the SBE may require through policy that a majority of the board of directors and all officers reside within the State.

SECTION 6.(b)

BILL ANALYSIS: Local boards of education would be required to adopt policies that require disclosure to and approval by the local board of education in an open meeting before any immediate family member of any board of education member or central office staff administrator is employed or contracted by the local board of education.

Sections 6.(a) and 6.(b) become effective March 1, 2016.

SECTION 7

CURRENT LAW: Charter schools may not charge tuition or fees except those fees that are charged by the LEA in which the charter school is located.

BILL ANALYSIS: If approved by the board of directors of the charter school, the school may establish fees for extracurricular activities. These fees cannot exceed the fees for the same extracurricular activities charged by the LEA in which 40% of the students enrolled in the charter school reside.

SECTION 8

CURRENT LAW: In order to ensure payment of expenses related to closure, a charter school must maintain one or more of the following options with a minimum aggregate value of \$50,000 in reserved funds: escrow accounts,

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letters of credit, bonds, or deeds of trust. The SBE may not allocate any funds to a charter school unless the school has provided documentation of such reserved funds. The reserved funds must be used to pay wages owed to charter school employees, funds owed to the North Carolina Retirement System pursuant to G.S. 135-8, and funds owed to the State Health Plan, in that order. Other expenses must be paid from the remaining balance.

BILL ANALYSIS: A charter school would have to have funds reserved for closure proceedings only if it has elected to participate in the North Carolina Retirement System and must keep those reserved funds for as long as it continues to participate in the North Carolina Retirement System.

This requirement would apply to charter schools that submitted applications or renewal of charters to the SBE on or after August 2, 2014.

The SBE would study and develop a proposed policy regarding the circumstances in which a charter school should be subject to the \$50,000 reserve funds requirement for payment of expenses related to closure. The SBE must consider whether total or partial waivers should be allowed and the eligibility for such waivers. The SBE would report to the Joint Legislative Education Oversight Committee by February 15, 2016 on the study, proposed policy, and legislative recommendations.

SECTION 9.(a)

BILL ANALYSIS: By January 15, 2016 and based on recommendations of the Advisory Board, the SBE would amend the process and rules for the replication of high-quality charter schools established in North Carolina State Board of Education Policy TCS-U-016 (Fast Track Replication of High Quality Charter Schools) to authorize consideration for fast track replication of a charter application from a board of directors of a North Carolina nonprofit corporation who agrees to contract with an education management organization or charter management organization currently operating a charter school in the State for at least one year, regardless of whether the board of directors has previously operated a charter school within the State. The SBE would report to the Joint Legislative Education Oversight Committee by February 15, 2016 on the amendment to the process and rules.

SECTION 9.(b)

BILL ANALYSIS: The Advisory Board must study and make recommendations to the SBE on a process for allocating allotments to charter schools that increase enrollment without the prior approval of the SBE. The SBE must review the recommendations and report to the Joint Legislative Education Oversight Committee by February 15, 2016 on recommended policy or proposed legislation.

SECTION 9.(d)

BILL ANALYSIS: Upon recommendations of the Advisory Board, the SBE would adopt a policy on the submission of proposed rules and guidance related to charter schools for review by the Advisory Board and a requirement for the Advisory Board to provide recommendations to the SBE on covered matters. The SBE would report to the Joint Legislative Education Oversight Committee by February 15, 2016 on the policy adoption.

SECTION 10

CURRENT LAW: A student who receives a Special Education Scholarship for Students With Disabilities (Scholarship) must be reevaluated every 3 years by the local educational agency (LEA) in order to verify that the student continues to be a child with a disability who requires special education and related services.

BILL ANALYSIS: The CCS would require that the student's continuing eligibility is assessed every 3 years by one of the following: (i) the LEA or (ii) a licensed psychologist with a school psychology focus who must assess if the education and related services received by the student in the nonpublic school setting have improved the child's educational performance and if the child would continue to benefit from the nonpublic school placement. It would remove references to "reevaluations" and replace with "continuing eligibility assessments".

This section would apply to students required to be assessed on or after January 1, 2015.

EFFECTIVE DATE: Sections 2, 3, 4, 5, and 7 apply with the beginning of the 2015-2016 school year. Except as otherwise provided, the remainder of the act is effective when it becomes law.