

REPORT OF THE JOINT SUBCOMMITTEE

**STUDYING CHARTER SCHOOLS
PURSUANT TO HJR 551 AND SJR
334**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



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EXECUTIVE SUMMARY

Adopted by the 1995 Session of the General Assembly, House Joint Resolution No. 551 and Senate Joint Resolution No. 334 established a nine-member joint subcommittee to study charter schools. While acknowledging variations in charter school legislation adopted in other states, the resolutions note the shared premise reflected in all charter school statutes: the establishment of locally initiated public schools, controlled by the initiating group and "relieved of state and local controls and mandates to the extent possible." The subcommittee was directed to review, among other things, the actual operations of charter schools in other states; various constitutional and funding issues; and the specific mechanics of charter school legislation, and is to make recommendations regarding the efficacy of such legislation.

The issue of educational excellence--and the effective administration of public education--continues to dominate headlines and legislative agendas. A number of states have grappled with school finance reform, and many have also explored initiatives such as school choice, vouchers, site-based management, school performance assessments, and teacher empowerment. Believing that the current structure of the public education system inhibits innovation and reform, some policymakers have supported alternatives that give schools increased authority and flexibility to implement programs that meet required instructional goals.

Combining various aspects of the choice and site-based management programs, the charter school concept espouses the creation of an autonomous public school, organized and operated by an individual or group pursuant to a charter or contract with a sponsor--usually the state or local school board. Although released from compliance with various state education laws, the charter school remains accountable for its operations; the school must meet specified performance standards or lose its charter. Supporters of the charter school concept praise its cost effectiveness and its emphasis on outcomes and the empowerment of teachers and parents. Others, however, have voiced concerns regarding educational quality, pupil equity, and teacher employment issues, and contend that the mechanisms necessary to support education innovation already exist within the present system.

States contemplating the adoption of charter school legislation must consider a number of practical as well as policy questions. Not only must the sponsorship, governance, and funding of these schools be addressed, but also the participation of private schools, waivers of state education law, teacher employment issues, and the state's role in providing assistance. The 19 states that have already adopted charter school legislation--Arizona, Arkansas, California, Colorado, Delaware, Georgia, Hawaii, Kansas, Louisiana, Massachusetts, Michigan, Minnesota, New Hampshire, New Mexico, Rhode Island, Texas, Vermont, Wisconsin, and Wyoming--have resolved these issues through a number of variations of the basic charter school concept.

In the spring of 1995, nearly 240 charter schools had been approved nationwide; approximately 110 were in operation across the United States. Even if every charter

application were approved, charter schools would comprise less than 2 percent of the schools in a state, and in some states, less than 0.5 percent. An August 1995 survey of about 165 charter schools--or about two-thirds of those in operation in seven states--indicates that most charter schools are designed to serve a cross-section of students; at-risk pupils received the next greatest focus, followed by gifted/talented and learning-disabled students. The most frequently cited reason for initiating a charter school was to provide improved instruction and learning opportunities. Also influencing decisions to create charter schools were, among other things, the desire for innovation, adherence to particular principles or educational philosophies, and interest in serving at-risk pupils. Charter schools use a variety of accountability mechanisms, including standardized tests, state assessment programs, student portfolios, and performance-based tests; however, there are no data available as yet to indicate improvement in pupil performance.

Application of the charter school concept in Virginia's system of public education necessarily includes consideration of state constitutional and statutory provisions and related policy issues regarding educational excellence, the effective administration of public education, and the responsibility and authority of local school boards. As a public school, any charter school established in the Commonwealth would be subject to those Standards of Quality (SOQ) mandated by the Constitution and established in the Code of Virginia; compliance with these minimum educational standards could not be waived by a charter agreement. Responsibility for funding a charter school would be shared by the Commonwealth and the locality, just as responsibility for funding the SOQ is now apportioned between the state and localities pursuant to the Virginia Constitution. Another significant consideration in the development of any charter school legislation in the Commonwealth is the supervisory authority of local school boards, as the Virginia Constitution vests local school boards with responsibility for the supervision and daily management of public schools.

Increased educational opportunities, educational quality, and flexibility in the implementation of educational standards have received repeated review by the legislative and executive branches in recent years. Inter- and intra-district choice programs have been statutorily authorized and are the focus of Board regulation. Recent sessions have considered not only charter schools, but also collaborative decision making, single-gender classes, and site-based management. Although the charter schools bills considered in 1995 failed to pass, the legislation raised significant issues that warranted consideration by the joint subcommittee.

In pursuing its study, the joint subcommittee reviewed in great detail pertinent state constitutional provisions and case law regarding the administration of public education in Virginia. The joint subcommittee considered required educational standards and methods of implementing these standards as well as flexibility within the present educational system. The actual operations of charter schools in other states also merited review, as did the specific components of charter school legislation. Finally, the joint subcommittee examined funding and policy issues, including any financial incentives or disincentives for establishing a charter school, access and admissions criteria, and teacher employment concerns.

The joint subcommittee therefore recommends the following parameters for charter schools legislation:

- **Charter school as public school.** Charter schools may be created as new public schools or through the conversion of an existing public school; no private schools or nonpublic home-based educational program could become a charter school. Further, as a public school, a Virginia charter school would be “free”--no tuition could be charged, except as is currently permitted for nonresident students pursuant to § 22.1-5. Subject to the SOQ, state and federal anti-discrimination laws, and court-ordered desegregation plans, these schools are deemed part of the school division and are accountable to the local school board.
- **Local option.** To preserve local option and to prevent administrative and fiscal problems prompted by unsolicited charter applications, local school boards would have to affirmatively act to announce their intention to receive, review, and approve charter school applications. Further, a school board should craft its own schedule for review, public input, and approvals.
- **Role of State Board of Education.** Because the Virginia Constitution vests the “general supervision” of the public schools in the Board of Education (BOE) and makes the Board primarily responsible for “effectuating the educational policy,” the operation of any charter schools in Virginia must necessarily be consistent with this state education policy.
- **Educational Standards.** As a public school, any charter school established in the Commonwealth would be subject to the SOQ mandated by the Constitution and established in the Code of Virginia; compliance with these minimum educational standards could not be waived by a charter agreement.
- **Funding.** Responsibility for funding a charter school should be shared by the Commonwealth and the locality. Funding should be based on a mechanism similar to that used for some Governor’s Schools and some alternative education programs. While the details of particular funding arrangements should be negotiated in the charter agreement to accurately reflect actual support services and expenses, legislation must nonetheless be carefully crafted to ensure that no additional requirements are placed on state or local education funds to support charter schools.
- **Charter application.** Any person, group, or organization may apply to operate a charter school. Each charter application must include a school mission statement; goals and performance standards; evidence of parental, teacher, and pupil support; a statement of need; a plan for displaced pupils and teachers; and a description of governance, employment conditions, and other related matters.
- **Approval authority and appeals.** Ultimate authority for the approval of charter schools should rest exclusively with local school boards; decisions of the local school

board to grant, deny, revoke, or to fail to renew a charter should be final and not subject to appeal. The school board has no obligation to renew a charter contract.

- **Local school board authority.** Consistent with the supervisory authority of local school boards articulated in the Virginia Constitution, charter schools legislation should provide for the negotiation of operations issues, but preserve the local board's authority over matters that are seen as "essential and indispensable" to this supervisory power.
- **Flexibility and waivers.** Waivers from state and local regulations should be specifically negotiated in the charter agreement, rather than through a "superwaiver" provision in any charter schools legislation. Because the state Board, and not the local school board, retains authority over state education regulations, any legislation should include some provision for waivers granted on a case-by-case basis pursuant to each charter agreement. Special care must be taken to ensure compliance with regulations governing health and safety, federal law and regulation, and the SOQ and standards that meet or exceed the Standards of Learning (SOL).
- **Admissions policies.** While enrollment should be open to all children in the school division, charter schools should be given the flexibility to address particular curricula or pupil populations, such as the at-risk or gifted. In no event, however, should admissions policies be allowed to violate state and federal antidiscrimination laws or any court-ordered desegregation plans.
- **Teacher licensure.** Charter school legislation should specify that instructional personnel employed by a charter school be licensed by the Board of Education.
- **Restrictions on Number and Term of Charters.** The school board may restrict the number of charters granted, and no more than 2 charters may be granted per division before July 1, 1998. The term of any charter--whether initial or renewed--may not exceed three years.
- **Evaluation.** To ensure accountability, an annual evaluation of charter schools should be incorporated in charter schools legislation. In addition, the State Board should report annually to the Governor and the General Assembly regarding the operations of these special schools.
- **Technical Assistance.** The Department of Education should provide technical assistance to those school boards that permit the establishment of charter schools.

REPORT JOINT SUBCOMMITTEE STUDYING CHARTER SCHOOLS PURSUANT TO HJR 551 AND SJR 334

Authority and Study Objectives

Adopted by the 1995 Session of the General Assembly, House Joint Resolution No. 551 and Senate Joint Resolution No. 334 established a nine-member joint subcommittee to study charter schools. The joint subcommittee consisted of five members of the House of Delegates, appointed by the Speaker of the House, and four members of the Senate, appointed by the Senate Committee on Privileges and Elections.

While acknowledging variations in charter school legislation adopted in other states, the resolutions noted the shared premise reflected in all charter school statutes: the establishment of locally initiated public schools, controlled by the initiating group and "relieved of state and local controls and mandates to the extent possible." Supporting the charter school concept, the resolutions stated, is the rationale that releasing these schools from compliance with certain legal requirements may promote the development of innovative educational programs with "measurable goals and high academic standards." The resolutions cautioned that charter school legislation must be carefully drawn to conform with specific state constitutional requirements, and cited the "unique constitutional structure" and judicial interpretations among the various states that may influence the development of charter school legislation. The subcommittee was directed to make recommendations regarding the efficacy of charter schools legislation for the Commonwealth.

To meet this directive, the subcommittee met four times in 1995 and sought the input and expertise of the Superintendent of Public Instruction, state agency representatives, local school superintendents, and national education organizations. The subcommittee focused on, among other things, the actual operations of charter schools in other states; various state constitutional and funding issues; the specific mechanics of charter school legislation; charter schools legislation proposed in recent General Assembly Sessions; the issues of flexibility and accountability in public education; and the financial and policy implications of authorizing charter schools in the Commonwealth.

Introduction: Education Reform and the Charter School Concept

The issue of educational excellence--and the effective administration of public education--continues to dominate headlines and legislative agendas. Rising dropout rates, escalating school violence, and declining student test scores have prompted education leaders to call for "systemic change in the way teaching and learning are practiced in the nation's elementary and secondary schools."¹ Arguably launched by the 1983 publication of *A Nation At Risk* by the National Commission on Excellence in

¹The Business Roundtable, *Essential Components of a Successful Education System* at 1, 2 (1991).

Education, the education reform efforts of the past decade have included research and rhetoric as well as specific initiatives. A number of states have grappled with school finance reform, and many have also explored initiatives such as school choice, vouchers, site-based management, school performance assessments, and teacher empowerment.²

Linking many of these reform initiatives are the concepts of autonomy and competition. Believing that the current structure of the public education system--“a rigidly top-down, rule-driven bureaucracy”³--inhibits innovation and reform, some policymakers have supported alternatives that give schools the “authority and flexibility to design their own strategies for achieving the instructional goals established at the top.”⁴ Site-based management has been proposed in some states to “decentralize” public education, ideally freeing individual schools and teachers to pursue more creative solutions to various educational and administrative challenges. Based on the theory that competition for students will enhance school performance, choice programs adopted in various states allow parents to select the public school their children will attend. Voucher programs, providing state dollars for students to attend private or parochial schools, also reflect this marketplace philosophy.⁵

Described as “the next logical step on the school improvement continuum,” the charter school concept combines various aspects of the choice and site-based management programs.⁶ In its basic form, the charter school is an autonomous public school, organized and operated by an individual or group pursuant to a charter or contract with a sponsor--usually the state or local school board. Although released from compliance with various state education laws and requirements, the charter school is nonetheless accountable to the sponsor for its operations; the school must meet the performance standards specified in its charter in exchange for this increased flexibility and autonomy. Charter schools failing to meet these performance criteria are closed. Operating as a “school of choice” and supported by existing public education funds, the charter school is ideally designed to provide innovative instruction, tuition-free, for those students choosing to attend. The charter school may be a new public school, a school-within-a-school, or an existing public or private school, and may target certain curricula or a specific student group.⁷

²C.L. Koprowicz, “From Statehouse to Schoolhouse,” *State Legislatures* 24, 25 (February 1993); Division of Legislative Services. “The Standards of Quality.” *A Legislator’s Guide to Public Education in Virginia* at 1 (1993) [hereinafter referred to as *Guide*]; L. Mulholland and L. Bierlein, “Charter Schools: A Glance at the Issues.” *Policy Brief*. Arizona State University, Morrison Institute for Public Policy. at 1 (November 1993)[hereinafter referred to as Mulholland].

³ “Contracting: The Case for Privately Operated Public Schools.” *Policy Brief*, RAND Institute on Education & Training (February 1995).

⁴P. Wohlstetter and L. Anderson, “What Can U.S. Charter Schools Learn from England’s Grant-Maintained Schools?” *Phi Delta Kappan* 486 (February 1994) [hereinafter referred to as Wohlstetter].

⁵See generally, K. Sylvester, “School Choice and Reality,” *Governing* 37 (June 1993)[hereinafter referred to as Sylvester]; C. Pipho, “Bipartisan Charter Schools,” *Phi Delta Kappan* 102 (October 1993).

⁶M. Dianda and R. Corwin, “An Early Look at Charter Schools in California.” *Occasional Paper*, Southwest Regional Laboratory. at 14 (April 1993)[hereinafter referred to as Dianda].

⁷ Mulholland, *supra* note 2, at 1, 4; Dianda, *supra* note 6, at iii, 1; L. Mulholland and L. Bierlein, “Understanding Charter Schools,” *Fastback* at 7-8 (1995) [hereinafter referred to as *Fastback*];

The charter school concept has been cited as “one of the most powerful and promising to emerge from the school reform movement of the past decade.”⁸ Supporters praise its cost-effectiveness and its emphasis on outcomes and the empowerment of teachers and parents. Described by some as the “‘managed competition of the education reform movement,’” charter schools combine choice and innovation in public education.⁹ Others, however, have voiced concerns that “[w]ithout a system of standards, incentives, and accountability, charter schools will be left to do their own thing, with no guarantee that their ‘product’ will be any improvement over what we have now.”¹⁰ Some have cited pupil equity and teacher employment issues, while still others view the charter school concept as “vouchers in disguise”--providing state dollars for private schools. Finally, some opponents contend that those mechanisms necessary to support education innovation already exist within the present system.¹¹

Federal Action

The charter school concept was cited at the federal level in *America 2000*, the 1991 national education strategy which noted that educational choice should “include all schools that serve the public and are accountable to public authority, regardless of who runs them.”¹² In 1992, charter school legislation was proposed, but not enacted, as part of the U.S. Senate’s Neighborhood Improvement Act and the House of Representatives’ Education Improvement bill. Funding for the promotion of charter schools was also included in Goals 2000: Educate America Act, submitted to Congress in spring 1993.¹³

British “Grant-Maintained” Schools

Although the topic of much debate among lawmakers, educators, and parents in America, the charter school concept is not native to the United States. In England, “grant-maintained” schools were authorized by Parliament’s Education Reform Act of 1988, which allowed local schools to “opt out” of local control and instead seek direct national funding pursuant to charters with the Department of Education. Financial incentives for becoming a grant-maintained school include seed moneys for the transitional and restructuring periods and annual appropriations for capital structural repairs. Schools may also seek supplementary grants to support major capital development projects. Grant-maintained schools also receive assistance from outside consultants. As of February 1994, there were approximately 700 such grant-maintained schools in England and Wales; an estimated 2.26 million students will be enrolled in

Wohlstetter, *supra* note 4, at 487; R. Sautter, “Charter Schools: A New Breed of Public Schools,” *Policy Briefs*, North Central Regional Educational Laboratory, at 2 (1993)[hereinafter referred to as Sautter].

⁸Sautter, *supra* note 7, at 3.

⁹*Connecticut Task Force on Charter Schools Report* at vi, vii, 1 (February 7, 1992); Sylvester, *supra* note 5, at 39; *see also*, *Fastback*, *supra* note 7, at 9-11.

¹⁰A. Shanker, “Where We Stand: Charter Schools.” *State Legislatures* 4 (February 1995).

¹¹C. Koprowicz. “Charter Schools.” *NCSL Legisbrief* (July 1993); Sautter, *supra* note 7, at 13.

¹²United States Department of Education, *America 2000: An Education Strategy* at 11, 22 (1991).

¹³Mulholland. *supra* note 2, at 4; Sautter, *supra* note 7, at 5.

local education authority. In most states, the state or local school board grants or denies charters; however, this approval authority is held by a special state board for charter schools in Arizona and by the state secretary of education in Massachusetts. Twelve states restrict the number of charters that may be granted; 16 restrict the term of an initial or renewed charter.

Other features commonly addressed in charter school statutes include teacher employment issues; specific exemptions from compliance with state education laws; and nondiscriminatory admissions policies. Charter school statutes typically include provisions for the revocation of the charters of those schools failing to meet agreed-upon performance standards or for other charter violations. These statutes also generally specify that charter schools be nonsectarian in their programs and policies; some statutes prohibit the conversion of private or parochial schools to charter schools. State funding for charter schools may be based on a detailed formula or may reflect average per pupil expenditures. Perhaps prompted by the British grant-maintained program, Arizona provides a "charter schools stimulus fund" for start-up costs.¹⁶ (See appendix, Comparison of Selected Features of Charter Schools Statutes.)

As part of the recent overhaul of its state education code, Texas now authorizes the creation of three types of charter schools: the home-rule school charter, which may free an entire school district from certain laws and regulations; the open-enrollment charter school, which is not deemed part of any school district and is approved by the State Board of Education; and the campus or campus program charter school, established at a public school by a local school board upon petition from a majority of parents and teachers at a particular school campus.¹⁷

This summer, charter school legislation was under consideration by the North Carolina legislature. Senate Bill 940 (Charter School Act of 1995) and House Bill 955 (Charter School Educational Opportunity Act) offer contrasting approaches to the charter school concept. While Senate Bill 940 allowed any person, group or nonprofit corporation to seek to create a charter school, House Bill 955 authorized only 501(c)(3) organizations to seek charters from the State or local board of education, county commissioners, town or city council, community college boards, or board of trustees of a constituent of the University of North Carolina. The bills set forth different application processes, but both grant the State Board of Education final approval authority. The Senate bill provided for appeals and evaluation processes. Funding for charter schools in each bill was based on an average per pupil allocation in the particular school division. Both measures included detailed teacher employment and benefits provisions. Borrowing language from the California, Minnesota, and Wyoming statutes, the two measures also included a statement of legislative purpose supporting innovation in education, improved student learning and professional opportunities for teachers, and

¹⁶ Ariz. Rev. Stat. Ann. § 15-188 (1994 Supp.).

¹⁷ Tex. Educ. Code Ann. tit. 1 § 12.001 *et seq.* (1995); Texas Association of School Administrators, *Capitol Watch*, "Senate Bill 1: Summary of Key Provisions in the New Texas Education Code" (June 1, 1995).

expanded choice for parents and students.¹⁸ When the North Carolina General Assembly adjourned on July 30, 1995, House Bill 995 remained in conference; the Senate bill was in the House committee on education. Both measures will be available for consideration in 1996.

Most notorious of these charter school statutes is the Michigan law, recently retooled after a county circuit court found its original form violated the state constitution by usurping the state board's general authority over public education and by providing public money for private education. Fueling fears that public funds might support religious instruction was the approval of a charter for the Noah Webster Academy, a home-schooling program. In *Council of Organizations and Others for Education about Parochial, Inc., et al. v. Engler, et al.*, the Ingham County Circuit Court found that the charter schools authorized by the Michigan statute were not public schools for purposes of state funding because they are not under the "immediate, exclusive control" of the State. Revisions to the statute, effective March 30, 1995, clarified that Michigan's "public school academies" are indeed public schools, subject to the "leadership and general supervision of the state board over all public education" The legislation included alternative provisions to be enacted or repealed, as appropriate, upon the final disposition of the *Parochial* case. The eight schools that had been approved under the original legislation--with the exception of Noah Webster--are expected to prepare for rechartering under the new statute.¹⁹

Legal issues are not the only hurdles facing charter schools; fiscal and administrative concerns may also pose challenges. A Colorado charter school reportedly faced problems in hiring procedures and in complying with open meetings laws, while fiscal management woes prompted Edutrain, a California charter school for at-risk pupils, to relinquish its charter in December 1994. Other concerns include sources of start-up funds, the appropriate divisions of responsibility for charter school governance, and economies-of-scale issues. Difficulties in negotiations and internal conflicts prevent many approved charter schools from opening. Most frequently cited as barriers to the successful operation of charter schools were lack of start-up funds or facilities and financial problems; employment issues are seen as more problematic in states with larger numbers of charter schools using existing facilities. The provision of special education services has been troublesome in some charter schools negotiations, while other schools simply contract with public schools for these services. Staffing and teacher certification issues have also complicated the charter school process. The creation of a charter school as a new school or through the "conversion" of an existing public school may have a significant impact on these barriers. Reviewing a number of British grant-maintained schools, experts have pointed to financial incentives, assistance for consultants, previous experience in school-based management, and the creation of a school administrator

¹⁸ Senate Bill 940; House Bill 955 (North Carolina 1995).

¹⁹ "Michigan Charter School Law Shot Down," *State Legislatures* 13 (February 1995); "Michigan Rewrites Charter School Law," *State Legislatures* 10 (March 1995); Mich. Comp. Laws Ann. §§ 380.501 et seq. (1994 Supp.); Senate Fiscal Agency, *SFA Bill Analysis, Public Act 416 of 1994 (Senate Bill 1103)* (February 14, 1995); see also, *Fastback*, supra note 7, at 21, 22, 40; "This Isn't PS 123," *Newsweek* 70 (September 26, 1994).

position as potential "strategies for success" in the creation and operation of charter schools.²⁰

Charter School Operations

In the spring of 1995, nearly 240 charter schools had been approved nationwide; as of last spring, approximately 110 were in operation across the United States. Even if every charter application were approved, charter schools would comprise less than 2 percent of the schools in a state, and in some states, less than 0.5 percent. An August 1995 survey by the Education Commission of the States (ECS), covering about 165 charter schools (or about two-thirds of those in operation in seven states), indicates that most charter schools are designed to serve a cross-section of students; at-risk pupils received the next greatest focus, followed by gifted/talented and learning-disabled students. The most frequently cited reason for initiating a charter school was to provide improved instruction and learning opportunities. Also influencing decisions to create charter schools were, among other things, the desire for innovation, adherence to particular principles or educational philosophies, and interest in serving at-risk pupils. Parents were the primary "partners" in charter school development, followed closely by teachers; community members were also cited as key participants in charter schools.

The average ethnic composition of the surveyed charter schools is about 60 percent Caucasian, nearly 20 percent Hispanic, about 10 percent African American, about 5 percent Pacific Rim, and nearly 5 percent Native American. While there are sizable waiting lists for entry to charter schools, no data are available on charter school attrition rates. Over 70 percent of the surveyed charter schools offer an integrated curriculum. Although the survey results may reflect some overlap in many of the curriculum categories, technology, civics, sciences, arts, and "back-to-basics" studies are also popular curricula focuses. Charter schools use a variety of accountability mechanisms, including standardized tests, state assessment programs, student portfolios, and performance-based tests; however, there are no data available as yet to indicate improvement in pupil performance.

Start-up funds for charter schools typically come from foundations or the business sector. Average start-up moneys per school stand at about \$20,000, although some schools may receive more than \$40,000. One school in California reported a \$600,000 start-up support; Wisconsin also reported higher start-up resources, perhaps reflecting local district support. No comparisons of per pupil costs for charter schools

²⁰ *Fastback*, *supra* note 7, at 40-42; L. Pisano, "Edutrain: A Charter School for At-Risk Kids," *The Education Digest* 64 at 64-66 (January 1994); Testimony of Alex Medler, Education Commission of the States, September 12, 1995, meeting summary; *see also*, Education Commission of the States, Center for School Change, *Charter Schools: What Are They Up To?* (August 1995)[hereinafter referred to as ECS]; Wohlstetter, *supra* note 4, at 487-491.

and other public schools are currently available. Most charter schools use leased commercial or nonprofit space; vacant schools may also serve as school sites.²¹

As of February 1995, 19 charter schools had been approved in Arizona, including a trilingual community-based school and the Arizona Career Academy, which offers academic and technical training to "challenged youths." In California, the second state to adopt charter school legislation (1992), 82 charter schools had been established as of April 1995, most often through the conversion of existing schools. Of the 23 charter schools approved in Colorado, 14 are currently in operation. Having established a statewide cap of 25 for charter schools, Massachusetts has approved 21. Minnesota, the first state to adopt charter schools legislation (1991), has approved 16 charter schools. The first charter school, City Academy, operates a year-round program for 50 at-risk youth. Other Minnesota charter schools include a school for deaf and hearing-impaired students, a converted private Montessori school, and a vocational/technical school focusing on internships. Three schools were expected to apply for charter school status in Georgia in spring 1995, with a fall 1995 targeted operation date. With a statewide cap of five charter schools, New Mexico has provided planning grants to 10 schools; four charter schools opened in 1994, each supported by a \$15,600 start-up grant.²²

Exploring the Charter School Concept in Virginia

Application of the charter school concept in Virginia's system of public education necessarily includes consideration of state constitutional and statutory provisions and related policy issues regarding educational excellence, the effective administration of public education, and the responsibility and authority of local school boards.

Role of State Board of Education

Similar to the Michigan Constitution provisions cited in *Parochiad*, Article VIII, § 4 of the Virginia Constitution states that the "general supervision" of the public schools shall be vested in the Board of Education. In addition, the Board is primarily responsible, under Article VIII, § 5, for "effectuating the educational policy set forth in this Article" Thus, the operation of any charter schools in Virginia must necessarily be consistent with the state education policy set by the Board.

Flexibility, Accountability, and Educational Standards

Perhaps the most distinguishing feature of any charter school statute is the charter school's release from compliance with various state education requirements. About half of the states with charter schools statutes offer an automatic exemption from education laws; the others provide waivers from compliance through the negotiated charter. Among

²¹Testimony of Alex Medler, Education Commission of the States, September 12, 1995, meeting summary; see also, ECS, *supra* note 20.

²²ECS, *supra* note 20, at 3; *Fastback*, *supra* note 7, at 19-23.

the most sought-after waivers are administrator certification, teacher employment and compensation requirements, textbook adoption, and certain curriculum requirements.

In seeking to promote innovation in education, charter school statutes often include education performance standards to ensure quality and accountability, but grant the charter school some flexibility in the design and implementation of programs to achieve those educational standards. The development of any charter school legislation in Virginia requires careful examination of constitutional and statutory education standards that apply to all public schools, those state education requirements that might be waived, and existing mechanisms for flexibility in the attainment of state education standards.

Ultimate responsibility for public education rests with the General Assembly, specifically charged in Article VIII, § 1 of the Virginia Constitution to provide for “a system of free public elementary and secondary schools for all children of school age” and to “seek to ensure that an educational program of high quality is established and continually maintained.” Section 2 directs the Board of Education to establish standards of quality for public schools, while granting the General Assembly the dual responsibilities of revising and funding these standards. As a public school, therefore, any charter school established in the Commonwealth would be subject to the Standards of Quality (SOQ) mandated by the Constitution and established in the Code of Virginia. Compliance with these minimum educational standards could not be waived by a charter agreement.

More complicated, perhaps, is the potential release of charter schools from compliance with the Standards of Learning (SOL), educational objectives established by the Board “to implement the development of necessary skills.” The Standards of Learning were designed to “identify what students are expected to accomplish, to provide a method of determining what has been learned, and encourage teachers to place emphasis on critical areas in the curriculum.” Standards of Learning have since been developed for language arts, mathematics, science, social studies, health (including driver education), physical education, music, art, foreign language, and family life education. Each set of standards includes learning objectives, crafted for various grade levels.²³ Although the SOL are not mandated by the Virginia Constitution, they are cited within the Standards of Quality, arguably raising some question as to the propriety of their waiver for a charter school. School divisions are directed to implement these educational objectives or objectives that are equivalent to or exceed these requirements.

Similarly, the Standards of Accreditation (SOA), also cited in the Standards of Quality, are designed by the Board of Education not only to ensure high quality educational programs but also to assist in assessing the effectiveness of schools.

²³Virginia Department of Education, *Standards of Learning Objectives for Virginia's Public Schools: Mathematics* at v (1988); Virginia Department of Education, *Standards of Learning Objectives for Virginia's Public Schools: Physical Education* at i (1984); Virginia Department of Education, *Standards of Learning Objectives for Virginia's Public Schools: Science* (1988); Virginia Department of Education, *Standards of Learning Objectives for Virginia's Public Schools: Language Arts* (1988).

Emphasizing educational excellence, student achievement, quality instruction and administration, and appropriate facilities, the SOA include mandates for student-teacher ratios, course offerings, and staff levels and responsibilities.²⁴

Accountability for educational excellence is also a critical component of the SOA pursuant to § 22.1-253.13:3 D of the Code of Virginia (Standard 3 of the Standards of Quality). Using "outcome indicators" such as course enrollments, attendance, and dropout rates, the Outcome Accountability Project (OAP), administered by the Department of Education, provides annual reports of student performance data as a tool for improving public education in Virginia. To ensure accountability for charter schools, charter contracts typically incorporate specific performance standards; failure to meet these standards results in the revocation of the charter. Because charter schools would operate as public schools subject to the SOQ, any charter agreement should arguably contain education performance criteria consistent with the SOA.²⁵

Current Mechanisms for Flexibility

Although the waiver of compliance with various education laws and regulations is seen as an integral part of the charter school concept, debate over charter schools legislation continues to focus on, among other things, whether existing public schools will have access to the same flexibility granted to a charter school. Current statutory provisions that may not directly promote flexibility but may simply increase the range of educational opportunities available for students and parents include § 22.1-269.1, which directs the Board of Education to promulgate regulations for the voluntary participation of school divisions in programs to allow students to receive educational services at another public school, either in the division in which the student resides or in another division, and § 22.1-254.1, which details the requirements for home instruction of school-age children. Also evidencing innovation and flexibility within Virginia's current public education system are a number of ongoing programs, such as Governor's Schools; a collaborative school improvement planning initiative; and a variety of open enrollment policies, magnet and special emphasis schools, alternative and night schools, and dual enrollment programs.²⁶

Supporting further flexibility in educational programs was the adoption of HB 2601 in 1995, which directs the Board to identify those provisions of the SOA "providing flexible implementation alternatives to the several school divisions of the Commonwealth" and will establish "consistent criteria" for granting school board

²⁴*Guide, supra* note 2, at 14, 15; Va. Code § 22.1-253.13:1 (1995 Supp.).

²⁵*Guide, supra* note 2, at 15-16.

²⁶Testimony of Dorothea Shannon, Superintendent, Charlottesville City Schools; Richard L. Kelley, Assistant Superintendent, Roanoke City Schools; Edward N. Decker, Executive Director, K-8, Franklin County Schools; John D. Edwards, Director of Instruction, Secondary Education-Personnel, Grayson County, September 12, 1995, meeting summary.

applications for this flexibility.²⁷ Currently, there are three forms of grants for flexibility under the SOA: (i) the state Board may grant school divisions flexibility to employ “experimental and innovative programs” if existing regulations impede innovation; (ii) the local board may approve certain initiatives; and (iii) within existing regulations, which may simply require certain action without specifying how such action is to be taken. In distinguishing “flexibility in implementation” from a waiver, the former retains some expectation of compliance with regulatory requirements, but in a different manner, while the latter releases the school division from compliance entirely. Funding may remain in place for flexible implementation, but may be withdrawn in waiver situations.

The state Board may grant school divisions flexibility for experimental and innovative programs (which may deviate from the SOA, but not from the SOQ); for changes in the standard school year and school day; and for alternative staffing plans. Most requests for waivers for experimental programs address block scheduling. Although no requests have been submitted to reduce the standard school year, about 48 school divisions are in session less than the statutorily specified 180 days; these schools, however, do meet the required 990 instructional hours requirement. While alternative staffing plans may not include reductions in staff, these same reductions may be approved as “experimental” programs. To seek a grant of flexibility from the state, the division superintendent must make a written request to the Superintendent of Public Instruction. Following Department of Education review and recommendation, the Superintendent will notify the local superintendent of the grant or denial of flexibility.

Local boards may approve flexibility under the five Standards of Accreditation addressing standard units of credit, elective courses, standard school year and day, correspondence courses, and alternative programs for pupils failing the Literacy Passport Tests. Finally, flexibility without additional approvals exists within some current regulations, which may simply require certain initiatives without specifying a mode of implementation. Although there are presently no sanctions for decreased academic performance resulting from waivers, schools are accredited biennially and must submit annual reports of compliance with accreditation requirements.

In addition to the SOA, there are currently 58 sets of Board of Education regulations governing public schools in the Commonwealth. Eight sets of these regulations address state Board of Education (BOE) procedures and have no direct application for local school divisions. Of the 50 remaining sets affecting public schools, 31 contain no provisions for flexibility; some of these regulations duplicate statutory requirements and may not be waived.

Within the 18 sets of regulations that contemplate flexibility in application, waiver and approval standards may vary between--as well as within--particular subject areas. Provisions requiring prior state approval for waivers can be found in 10 sets of

²⁷Testimony of Lin Corbin-Howerton, Department of Education, August 1, 1995, meeting summary. The Board was to report to the House Committee on Appropriations and the Senate Committee on Finance by November 1, 1995, regarding its findings.

regulations, while provisions that do not require state approvals are sprinkled throughout 14 sets. Subject areas that may permit flexibility without state approval include pupil transcripts, teacher licensure, jointly operated schools and programs, and instructional materials. In 1994-95, waivers were sought for five of the 10 sets of regulations for which state approval is required; of these 1,375 requests, all but five addressed special education program standards. One request each was made and granted for regulations governing licensure and Literary Fund loans, and one request addressing accreditation of day-care centers for pre-school children was pending at the time of the meeting. Two requests were received and granted for waivers from certain regulations governing school breakfast programs. No requests were made for waivers from regulations governing local school boards, reduction of state aid, and day-care centers for school-age children. No data were available for waiver requests for regulations governing pupil transportation and secondary school transcripts.

Requests for Waivers From Special Education Regulations 1994-95

Special Ed. Regulation	Requests	Waivers Granted
Conditional Licenses	711	492
Mixed Classes & Inn. Programs	368	274
Excess Caseloads	197	128
Interpreter Qualifications	94	76

Any charter legislation in Virginia must include provisions creating or defining a waiver process for charter schools. Because the state Board, and not the local school board, retains authority over state education regulations, any legislation should include some provision for either a broad waiver of regulations as identified by BOE, or for waivers granted on a case-by-case basis pursuant to each charter agreement. Special care must be taken to ensure compliance with regulations governing health and safety, federal law and regulation, and the SOQ. The Board of Education should identify those regulations addressing these areas, as well as any policy considerations that may make the waiver of certain other regulations inappropriate.²⁸

Also applicable to charter schools--to any public school--are the provisions of the Uniform Statewide Building Code. Buildings are classified according to use; public schools are typically classified as "Use Group E" ("Educational"), although smaller public schools--those enrolling fewer than 50 pupils--might be classified as "Use Group B" ("Business"). Requirements addressing means of egress are tied to the number of students in the building; similarly, requirements for sprinkler systems are linked to building size. Although no waiver process exists for Building Code requirements, additional provisions permit modifications that meet or exceed Building Code requirements. Testimony from Building Code officials indicated, however, that no

²⁸Testimony of Dr. William C. Boshier, Jr, Superintendent of Public Instruction, September 12, 1995, meeting summary; Cathy Clark, Virginia Department of Education, October 25, 1995, meeting summary, and Lin Corbin-Howerton, Virginia Department of Education, August 1, 1995, meeting summary. The joint subcommittee did not review regulations governing school construction and renovation.

special Building Code provisions would be necessary in any charter schools legislation; a charter school would be treated like any other public school for purposes of Building Code requirements and any permitting or modifications procedures.²⁹

Funding Issues

Another significant component of charter schools legislation--funding--is treated differently throughout the 19 charter schools states and is inextricably linked to the particular statutory or other provisions governing school finance generally in each state. Most charter schools states--and Virginia--employ a "foundation" program using a measure of local wealth to determine state funding for public schools. Like Virginia, half of the charter schools states require some level of local effort; local fiscal capacity may be determined on the basis of property values, personal income, and other revenues, or by a combination of these indicators. Three-fourths of the charter schools states--unlike Virginia--have fiscally independent school districts. The 19 states treat categorical funding programs--capital outlay and debt service, transportation, special education, compensatory education, and gifted and talented education--in a variety of ways for charter schools.

Also varying from state to state is the degree of fiscal autonomy granted a charter school. Arizona, California, Colorado, Massachusetts, Michigan, and Minnesota charter schools have been described as having greater control in fiscal management issues, while charter schools in Georgia, Hawaii, Kansas, New Mexico, Wisconsin, and Wyoming are generally seen as less independent. Most statutes require the charter school to negotiate its foundation--or basic--payment and the price of central services, such as transportation, food services, libraries, custodial, curriculum, and other services provided by the school division. Even if the local school board is fiscally independent of the local governing body, few statutes afford the charter school direct access to local tax revenues used for public schools.

Most charter schools statutes incorporate an "average per pupil expenditure" in some way when calculating payments for charter schools. This typically means that the per pupil amount follows a student moving from a regular public school to a charter school. With the exceptions of Delaware, Minnesota, and Texas, which allow the state to fund charter schools directly, and Michigan, which directs payment to the approving authority, charter schools usually receive funding through the local division. A statistical average of all students, the per pupil cost may not accurately reflect the actual cost of educating any one student.

Other funding concerns, such as facilities, special education, and teacher retirement programs, are handled differently in the various statutes. Seven charter schools statutes specifically permit charter schools to seek or accept private funding; all states prohibit charter schools from charging tuition. Federal funds for public education

²⁹Testimony of Jack Proctor, Deputy Director, Division of Building Regulation, Department of Housing and Community Development, December 20, 1995, meeting summary.

may be distributed directly to the charter school if it is considered a legally autonomous entity--like a school division; if, however, the charter school is deemed part of a local school division, federal moneys flow through the division. Start-up costs and planning grants are a rarity in charter schools statutes, appearing only in Arizona, Georgia, and New Mexico. The Federal Improving America's Schools Act (1995) included start-up moneys for charter schools.

State funding could be provided for charter schools in Virginia by either (i) allowing funds to flow through the current state and local public education funding stream or (ii) providing a special grant in the Appropriations Act for a pilot project or projects. Although special grants might afford greater flexibility, providing funding through the current SOQ formula might enhance the stability of future funding.

By state constitutional mandate, the Commonwealth and localities share fiscal responsibility for a system of public education meeting the SOQ; authority to apportion these shared costs rests with the General Assembly. Sales tax revenues, which comprise about one-quarter of state aid for public education, is distributed on the basis of school age population with all divisions receiving the same amount per pupil. The majority of state education funding, however, is supplied on an "equalized" or ability-to-pay basis, pursuant to a formula that incorporates a number of calculations, including the foundation cost or estimate of the cost of providing a minimum educational program meeting the SOQ; average daily membership (ADM), which supports student-based cost calculations; the allocation of sales tax revenues; and the local school division's composite index, or its ability-to-pay its required share for the SOQ program. On average statewide, the Commonwealth supports 55 percent of SOQ costs, with local appropriations providing the remaining 45 percent. Recurring policy issues raised when considering charter school funding are the overall state contribution to SOQ costs, expectations and requirements about local matching funds, the potentially small charter school pupil population and corresponding probable loss of economies of scale in any smaller public school, and the way in which state funds are actually distributed to a locality.

Estimating foundation costs involves the calculation of required instructional positions and the "prevailing statewide cost" of particular required programs or services--a calculation that becomes especially significant when examining how a charter school might be funded. Applying staffing requirements and pupil/teacher ratios specifically quantified in the SOQ and SOA to the enrollment at each grade level in each school, the current formula does not contemplate the economy of optimal class sizes or school configurations. The number of calculated positions for each school is aggregated for each school division, and is then compared to various position floors established in the Appropriation Act; positions are added if the calculated positions fall below the required minimum. Prevailing salaries for these positions are then applied to the positions funded for each school division; salaries for instructional positions comprise about 70 percent of school division budgets. If a charter school enrolls only a small number of pupils, the Commonwealth's funding formula could increase per pupil funding for these special schools--as it would for any small public school.

The calculation of prevailing costs also has significant implications for the funding of charter schools. Because some school operations and services required by the SOQ and SOA (such as pupil transportation, instructional supplies, professional development, and other support costs) are not specifically quantified, the current funding formula pinpoints a "reasonable" cost, based on school practices, to determine the per pupil spending for the services in each school division. Should charter schools be funded through the SOQ formula, the funding of support costs--which may vary from school to school--might be effectively addressed in the charter contract to reflect more accurately the actual services and expenses covered by the charter school. If a charter school is contained within an existing public school, many per pupil costs may appropriately remain within the division; however, if the charter school operates as a separate facility, the support cost factor might be negotiated to determine what costs should follow the pupils to the charter school.

Also meriting consideration is the "overmatching" of required contributions to SOQ costs by most localities that creates a range of local support for public education throughout the Commonwealth. Should a charter school be funded through the SOQ formula, several questions must be answered in the charter or in legislation: What level of public education funds would be provided to the charter school? Would only state and local required funds follow pupils enrolling in these schools? What provisions would be made for nonresident pupils whose home school division may have a different average per pupil cost, local effort, or ability-to-pay? What discretionary local funds, if any, would be provided for charter schools students? What portion of state education appropriations that are not required by the SOQ would support a charter school, and how should these amounts be determined? Would sales tax revenues be provided for charter schools?

In addition, the Commonwealth currently provides grants for various incentive programs, such as reduced class sizes in grades K-3, dropout prevention, at-risk four-year-old initiatives, and alternative education. Awarded on a competitive basis or to localities named in the Appropriation Act, these funds may support the entire cost of a program or may require a local match, either through the SOQ formula or some other cost-sharing arrangement. The propriety of sharing these specific funds with charter schools must also be determined in the charter or in legislation. Should the funds be shared if the particular program is provided at the charter school, or should the issue be resolved in each charter?³⁰

Responsibility for funding a charter school should be shared by the Commonwealth and the locality, just as responsibility for funding the Standards of Quality is now apportioned between the state and localities pursuant to Article VIII, § 2. Arguably, the Commonwealth and localities might only be required to apportion costs for charter programs meeting the SOQ; any additional initiatives would be funded locally or through private or federal sources. The funding mechanisms supporting some

³⁰Testimony of Carolyn Cook, House Appropriations Committee Staff, and Pamela Currey, Senate Finance Committee Staff, October 25, 1995, meeting summary.

Governor's Schools and alternative education programs might serve as useful models for charter schools funding. As a public school, a Virginia charter school would be "free"--no tuition could be charged, except as is currently permitted for nonresident students pursuant to § 22.1-5. Finally, any charter school must be created as a public school to be eligible for state appropriations, as Article VIII, § 10 prohibits, with limited exceptions, state funding for "any school or institution of learning not owned or exclusively controlled by the State or some political subdivision thereof"

Supervisory Authority of Local School Boards

Another significant consideration in the development of any charter school legislation in the Commonwealth is the supervisory authority of local school boards. Although the General Assembly mandates standards for public schools and the Board of Education effectuates educational policy, application of these state standards and policies, as well as the supervision and daily management of public schools, remains the responsibility of the local school board pursuant to Article VIII, § 7.³¹

The operation of a charter school, as delineated by an agreement between a local school board and the charter school organizer, may raise a number of concerns regarding the delegation of this supervisory authority. Addressing the delegation of school board employment authority was *School Bd. v. Parham*, a 1978 decision in which the Virginia Supreme Court found that a binding arbitration provision adopted by the Board of Education would "remove from a local school board and transfer to others a function essential and indispensable to the exercise of the power of supervision vested by § 7 of Article VIII."³²

In 1978, following the *Parham* decision, the Attorney General advised that local school boards might adopt teacher grievance procedures with a binding arbitration component, with Board of Education approval; the opinion noted that *Parham* did not prohibit the General Assembly and the Board of Education from requiring local school board to adopt a grievance procedure consistent with a State Board model.³³ The Office of the Attorney General again reviewed the application of Article VIII, § 7 in 1984, and advised that the adoption of voluntary, short-term disability plans by local school boards was consistent with the supervisory authority granted by the Virginia Constitution. The

³¹Va. Const., Art. VIII, §§ 2, 4 (1995); *Bradley v. School Bd.*, 462 F.2d 1058 (4th Cir.), *rev'g* 338 F. Supp. 67 (E.D. Va. 1972), *aff'd*, 412 U.S. 92, 93 S.Ct. 1952 (1973); *Dennis v. County School Bd.*, 582 F. Supp. 536 (W.D. Va. 1984); Virginia Department of Education, "A Certain Degree of Instruction" at 1, 15, 16 (1977). As corporate bodies, school boards may make contracts, sue and be sued, and purchase, lease, and convey real and personal property. They are statutorily entrusted with the care and management of school property and are ultimately responsible for the operation and maintenance of the public schools in the division. As an employer, school boards must administer a grievance procedure for all employees, except the division superintendent and other specified personnel. In addition, school boards are responsible for the management and control of education funds. Va. Code §§ 22.1-71; 22.1-77; 22.1-79; 22.1-89 (1993 and 1995 Supp.).

³²218 Va. 950 at 957, 243 S.E.2d 468 (1978).

³³1978-79 Va. Op. Att. Gen. 174 (May 11, 1978).

opinion noted the broad language of Article VIII, § 7, and stated that the school boards' "general supervisory authority is not plenary."³⁴

Revisiting the supervisory authority of school boards in employment matters in 1989, the Virginia Supreme Court noted in *Russell County School Bd. v. Anderson* that a school board's authority to discharge employees was "rooted in the Constitution of Virginia" and that "[n]o statutory enactment can permissibly take away from a local school board its fundamental power to supervise its school system."³⁵ Illustrative of the significance of school board authority over employment matters was the General Assembly's proposal in 1989 to amend to Article VIII, § 7, by adding "the General Assembly may provide by general law for a personnel grievance procedure for school board employees which permits grievances to be resolved by a body other than the school board." The 1990 Session failed to approve the amendment.³⁶

Asked to review the proposed amendment, the Office of the Attorney General responded in 1989 that the formulation and alteration of personnel policies would remain an "essential supervisory function" of the school board. The opinion clearly stated that, even if the amendment were approved, "the *power to formulate and alter personnel or other policies* within statutory guidelines *could not be delegated* to a grievance panel or other third party, and . . . any legislation authorizing a grievance panel or other party to invalidate or alter duly adopted and authorized policies of a school board under the guise of a grievance procedure would be unconstitutional" (emphasis added).³⁷ This language is especially significant today, as the 1995 Session adopted SJR 379, which proposes the same amendment to Article VIII, § 7. The resolution must be approved again by the Legislature in 1996, and must then be submitted to the voters.³⁸

More recently, the Attorney General has cited Article VIII, § 7 in his decisions to prohibit the retention of a consultant as division superintendent; to permit the reappointment of a division superintendent in certain cases; to allow fees for optional student parking; to prohibit the adoption of nepotism standards more stringent than state standards; and to allow the appointment of advisory committees.³⁹ Consistent with previous Virginia Supreme Court decisions, the Attorney General has cited the invalidation of legislation "transferring to other entities those functions indispensable to the daily supervision of schools."⁴⁰

³⁴1984-85 Va. Op. Att. Gen. 59 (November 23, 1984), citing *Commonwealth v. Arlington County Bd.*, 217 Va. 558, 232 S.E.2d 30 at 41 (1977).

³⁵238 Va. 372 at 383, 384 S.E.2d 598 (1989).

³⁶House Joint Resolution No. 178 (1989).

³⁷1989 Va. Op. Att. Gen. 46 (December 29, 1989).

³⁸Va. Const., Art. XII, § 1 (1995).

³⁹1991 Va. Op. Att. Gen. 140 (June 20, 1991); 1991 Va. Op. Att. Gen. 144 (May 6, 1991); 1991 Va. Op. Att. Gen. 149 (November 8, 1991); 1991 Va. Op. Att. Gen. 1 (September 12, 1991); 1993 Va. Op. Att. Gen. 141 (October 11, 1991).

⁴⁰1991 Va. Op. Att. Gen. 1 at 3 (September 12, 1991), citing *School Board v. Parham*, 218 Va. 950, 243 S.E.2d 468 (1978); *Howard v. School Board*, 203 Va. 55, 58 S.E.2d 891 (1961); *Harrison v. Day*, 200 Va. 439, 106 S.E.2d 636 (1959).

Although Article VIII, § 7, has been the focus of repeated review, most of the court decisions and Attorney General opinions have largely focused on actions that may exceed, supplant, or usurp authority reserved to the school boards. No definitive cases appear to address inappropriate delegations of authority by a school board. While employment matters would clearly seem to be included among those day-to-day functions “indispensable” or “essential” to the exercise of supervisory authority, the propriety of any voluntary delegation of this or other supervisory authority by the school board itself to a charter school--as opposed to a delegation of authority as required by statute--is somewhat unclear.

Recent Developments in the Commonwealth

Increased educational opportunities, educational quality, and flexibility in the implementation of educational standards have received repeated review by the legislative and executive branches in recent years. In 1992, the Department of Education examined the viability of school choice in Virginia, examining inter- and intra-district programs as well as private school choice.⁴¹ With the adoption of HB 1993 in 1993, inter- and intra-district choice programs were statutorily authorized and became the focus of Board regulation. Also considered in 1993, but not passed, was a measure promoting collaborative decision-making processes in school divisions.⁴² In 1994, the General Assembly reviewed, but declined to pass, legislation authorizing a local option voucher program. That session also considered charter schools legislation; these measures include provisions focusing on at-risk pupils, performance-based contracts, and site-based management.⁴³

Alternative or innovative educational opportunities have also received the attention of various executive branch commissions in recent months. The Governor’s Commission on Government Reform (“Blue Ribbon Strike Force”) recommended in late 1994 that the Commonwealth ensure “to all parents, the maximum choice possible in the determination of the education of their children . . .” and supported choice of school as an “acceptable option” for parents “to increase the competitive behavior among schools and school districts.”⁴⁴ In its interim report, issued in November 1994, the Governor’s Commission on Champion Schools cited charter schools as “an important step toward addressing the decline in academic achievement and providing for greater parental and local involvement and choice in our public schools.” The Commission recommended that charter schools be created, subject to the SOQ and SOL, state health and safety requirements, and civil rights laws, but released from all other state and local education laws, policies, and regulations by a “superwaiver” provision. The Commission also recommended that charter schools receive 100 percent of required state and local SOQ

⁴¹Virginia Department of Education, *The Viability of School Choice in Virginia* (November 24, 1992).

⁴²1993 Acts of Assembly, c. 947; House Bill No. 2199 (1993); *see also*, Virginia Division of Legislative Services, *1993 Session Summary* (1993).

⁴³Senate Bill No. 561; Senate Bill No. 562; House Bill No. 875; House Bill No. 1042 (1994); *see also*, Virginia Division of Legislative Services, *1994 Session Summary* (1994).

⁴⁴Governor’s Commission on Government Reform, Blue Ribbon Strike Force. *Final Report to the Governor* at 178 (November 15, 1994).

funding. Additional recommendations addressed applicant eligibility, appeals processes, admissions, employment policies, and pupil transportation.⁴⁵

Legislative emphasis on educational performance and innovation continued in the 1995 Session, which passed legislation authorizing local school boards to establish single-gender classes “consistent with constitutional principles.” Also passed was the previously discussed HB 2601, providing for flexibility in the implementation of the Standards of Accreditation.⁴⁶ Three charter schools bills considered by the Virginia General Assembly in 1995 were based largely on the current Colorado statute. HB 2535 and SB 1037, identical measures, and HB 1625, offered two versions of charter school legislation. A fourth measure, HB 875, had been carried over from 1994, and offered a slightly different version of the charter school concept. Although all four failed to pass, each raised significant issues that may be revisited in future legislative sessions.

The three 1995 bills defined a charter school as a public, nonsectarian, nonreligious school within a public school division. Each of these three measures authorized the establishment of charter schools as new public schools or by the conversion of existing public schools through a charter application process initiated by individuals or organizations. Each measure included an evaluation feature and specified that charter schools must comply with state and federal anti-discrimination laws and court-ordered desegregation plans, and remain subject to the SOQ. In HB 1625, a charter contract would release the school from specified division policies and state regulations. A “superwaiver” provision in HB 2535 and SB 1037 automatically released charter schools from state regulations, including the Standards of Accreditation.

Notable differences in these two models were found in the funding provisions, appeals processes, and in the treatment of employment issues. In HB 1625, state and local funds for a charter school must equal at least 80 percent of the required state and local shares for SOQ, while HB 2535 and SB 1037 contemplated a 100 percent funding level and included state grants to establish charter schools. Appeals processes in one model incorporated judicial review; in the other, separate procedures are established for grants and denials of charters. HB 2535 and SB 1037 provided that teachers and administrators serving at a charter school need not be licensed by the Board of Education.⁴⁷ Also significant in this model was the delegation of the local school board’s authority over certain personnel matters, including hiring, termination, and grievance procedures, to the charter school.

The fourth measure, HB 875, restricted the creation of charter schools to the conversion of existing public schools. Performance-based contracts between the Board of Education and a local school board would define the terms governing the charter

⁴⁵Governor’s Commission on Champion Schools, *Interim Report* at 3-8 (November 9, 1994).

⁴⁶1995 Acts of Assembly, c. 582 (House Bill No. 2419); c. 406 (House Bill No. 2601); *see also*, Virginia Division of Legislative Services, *1995 Session Summary* (1995).

⁴⁷Current licensure regulations include alternative routes to licensure and Technical Professional Licenses for persons with high school diploma/GED; §§ 22.1-293, 22.1-299 require teachers and administrators to be licensed.

school arrangement. Unlike the 1995 versions, the HB 875 model granted the Board of Education ultimate authority for the approval of charter applications. The Board of Education would also establish guidelines for site-based management and operations.

Conclusions and Recommendations

Application of the charter school concept to Virginia necessitates consideration of a range of state constitutional and statutory issues. In pursuing its study, the joint subcommittee reviewed in great detail pertinent state constitutional provisions and case law regarding the administration of public education in Virginia. The joint subcommittee also reviewed required educational standards and methods of implementing these standards to determine what degree of flexibility currently exists and what changes may be appropriate to promote educational excellence in Virginia's public schools. The actual operations of charter schools in other states also merited scrutiny, as did the specific components of charter school legislation. Finally, the joint subcommittee examined funding and policy issues, including potential financial incentives or disincentives to establishing a charter school, access and admissions criteria, and teacher employment concerns.

The joint subcommittee therefore recommends the introduction of charter schools legislation based on the following parameters:

- **Charter school as public school.** Charter schools must be created as new public schools or through the conversion of existing public schools; no private school or nonpublic home-based educational program could become a charter school. Further, as a public school, a Virginia charter school would be "free"--no tuition could be charged, except as is currently permitted for nonresident students pursuant to § 22.1-5. Subject to the SOQ, state and federal anti-discrimination laws, and court-ordered desegregation plans, these schools are deemed part of the school division and are accountable to the local school board.
- **Local option.** To preserve local option and to prevent administrative and fiscal problems prompted by unsolicited applications, local school boards would have to affirmatively act to announce their intention to receive, review, and approve charter school applications. Further, a school board should craft its own schedule for review, public input, and approvals.
- **Role of State Board of Education.** Because the Virginia Constitution vests the "general supervision" of the public schools in the Board of Education (BOE) and makes the Board primarily responsible for "effectuating the educational policy," the operation of any charter schools in Virginia must necessarily be consistent with this state education policy.
- **Educational Standards.** As a public school, any charter school established in the Commonwealth would be subject to the Standards of Quality mandated by the

Constitution and established in the Code of Virginia; compliance with these minimum educational standards could not be waived by a charter agreement.

- **Funding.** Responsibility for funding a charter school should be shared by the Commonwealth and the locality. Funding should be based on a mechanism similar to that used for some Governor's Schools and some alternative education programs. The objectives of this mechanism are to: (i) avoid the creation of a financial incentive or disincentive for charter schools; (ii) to ensure that SOQ costs calculated in the fall are not affected by special programs, such as a charter school, that might enroll few students but might still drive up costs through required instructional positions (these charter school students should be funded, however, through the average daily membership); and (iii) to create consistency in funding calculations among school divisions deciding to establish charter schools. The proportionate share of state and federal money for disabled pupils and special education personnel as well as state and federal categorical aid must also go to the charter school. Finally, while the details of particular funding arrangements should be negotiated in the charter agreement to accurately reflect support services and expenses, legislation should nonetheless be carefully crafted to ensure that no additional requirements are placed on state or local education funds to support charter schools.
- **Charter application.** Any person, group, or organization may apply to operate a charter school. Each charter application must include a school mission statement; goals and performance standards; evidence of parental, teacher, and pupil support; a description of employment conditions; a proposed budget; a plan for displaced pupils and teachers; and other related matters.
- **Approval authority and appeals.** Ultimate authority for the approval of charter schools should rest exclusively with local school boards; decisions to grant, deny, revoke, or to fail to renew a charter should be final and not subject to appeal. Local boards may revoke a charter for failure to make progress toward performance standards, violations of law or charter conditions, or fiscal mismanagement, or upon a determination that the charter is simply "not in the public interest." There is no obligation to renew a charter contract.
- **Local school board authority.** Consistent with the supervisory authority of local school boards articulated in Article VIII, § 7, of the Virginia Constitution, charter schools legislation should provide for the negotiation of operations issues, but preserve the local board's authority over matters that are seen as "essential and indispensable" to this supervisory power.
- **Flexibility and waivers.** Waivers from state and local regulations should be specifically negotiated in the charter agreement, rather than through a "superwaiver" provision in any charter schools legislation. Because the state Board, and not the local school board, retains authority over state education regulations, any legislation should include some provision for waivers granted on a case-by-case basis pursuant

to each charter agreement. Special care must be taken to ensure compliance with regulations governing health and safety, federal law and regulation, and the SOQ and standards that meet or exceed the SOL.

- **Admissions policies.** While enrollment should be open to any child residing in the school division, charter schools should be given the flexibility to address particular curricula or pupil populations, such as the at-risk or gifted. In no event, however, should admissions policies be allowed to violate state and federal antidiscrimination laws or any court-ordered desegregation plans.
- **Teacher licensure.** Charter school legislation should specify that instructional personnel employed by a charter school be licensed by the Board of Education; licensure regulations already afford sufficient flexibility by including alternative routes to licensure and Technical Professional Licenses for persons with high school diplomas or GED. Further, although instructional personnel should be able to volunteer for assignment to a charter school, school boards should retain authority to assign personnel as necessary.
- **Restrictions on Number and Term of Charters.** The school board may restrict the number of charters granted, and no more than 2 charters may be granted per division before July 1, 1998. The term of any charter--whether initial or renewed--may not exceed three years. At least half of a division's charters must be reserved for applications designed to increase opportunities for at-risk students and priority given to these applications.
- **Evaluation.** To ensure accountability, an annual evaluation of charter schools should be incorporated in charter schools legislation. In addition, the State Board should report annually to the Governor and the General Assembly regarding the operations of these special schools.
- **Technical Assistance.** The Department of Education should provide technical assistance to those school boards electing to permit the establishment of charter schools.

Respectfully submitted,
The Joint Subcommittee Studying Charter
Schools pursuant to HJR 551 and SJR 334

Respectfully dissenting:

I disapprove of the report for the following reasons:

The concept for high-achieving students is already possible with the public system, i.e., Governor's School and Magnet Schools.

The charter school concept should be aimed at those students on the lower end of the socioeconomic scale. If we would greatly improve the education of the lowest quartile in public school, we would go a long way in putting Virginia at the top of the public education system in this country.

--The Honorable Mitchell Van Yahres

I feel that the current system of public education has enough flexibility to allow for different types of schools within the system. Therefore, I believe this charter school legislation is unnecessary.

--The Honorable Linda T. Puller

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**Meetings of the Joint Subcommittee Studying Charter Schools
(HJR 551 and SJR 334)**

10 a.m., Tuesday, August 1, 1995

House Room C, General Assembly Building, Richmond, Virginia

Review of Initial Staff Briefing Report: Kathleen G. Harris, *Senior Attorney*; Status of Board of Education Review of Flexibility in Standards of Accreditation: Lin Corbin-Howerton, *Lead Specialist*, Policy and Planning, Virginia Department of Education

10 a.m., Tuesday, September 12, 1995

House Room C, General Assembly Building, Richmond, Virginia

Overview of Charter Schools in Other States: Alex Medler, Education Commission of the States; Review of Waiver Requests: Dr. William C. Boshier, Jr. Superintendent of Public Instruction; Current Innovative Education Programs: Dorothea Shannon, Superintendent, Charlottesville City Schools; Richard L. Kelley, Assistant Superintendent, Roanoke City Schools; Edward N. Decker, Executive Director, K-8, Franklin County Schools; John D. Edwards, Director of Instruction, Secondary Education-Personnel, Grayson County; Richard D. Trumble, Superintendent, Portsmouth City Schools

9:30 a.m., Wednesday, October 25, 1995

House Room C, General Assembly Building, Richmond, Virginia

Review of Requests for Waivers from Regulations: Cathy Clark, Policy Analyst, Virginia Department of Education; Funding Issues for Charter Schools: Carolyn Cook, *Legislative Fiscal Analyst, House Appropriations Committee Staff* (Overview of Funding in Charter School States); Pamela Currey, *Legislative Fiscal Analyst, Senate Finance Committee Staff* (Financial Implications for Virginia)

10 a.m., Wednesday, December 20, 1995

House Room C, General Assembly Building, Richmond, Virginia

Work Session

Jack Proctor, *Deputy Director*, Division of Building Regulation, Department of Housing and Community Development

REGULATIONS OF THE STATE BOARD OF EDUCATION

VR270-00-0001	Public Participation Guidelines (1984)
VR270-01-0000	Regulations Governing Teacher Certification (replaced)
VR270-01-0000:1	Licensure Regulations for School Personnel (July 1, 1993)
VR270-01-0001	Regulations Governing Adult High School Programs (June 27, 1985)
VR270-01-0002	Regulations Governing Programs for Gifted Education (amended 1993)
VR270-01-0003	Regulations Governing CORE Standards (amended May 4, 1994)
VR270-01-0004	Regulations Governing Correspondence Courses for Home Instruction (September 30, 1985)
VR270-01-0005	Regulations Governing Interdepartmental Committee on Rate Setting Standards (repealed by CSA)
VR270-01-0006	Regulations Governing Pupil Transportation Including Minimum for School Buses (amended July 1, 1994)
VR270-01-0007	Regulations Governing Special Education Programs for Children with Disabilities in Virginia (amended January 1, 1994)
VR270-01-0008	Regulations Governing Procedures for Adjusting Grievances (amended February 1986)
VR270-01-0009	Regulations Governing Literary Fund Loans in Virginia (March 3, 1995)
VR270-01-0010	Regulations Governing Pupil Accounting Records (July 1, 1988)
VR270-01-0011	Regulations Governing Vocational Education (amended August 19, 1987)
VR270-01-0012	Regulations Governing Standards for Accrediting Schools in Virginia (amended October 7, 1992)
VR270-01-0013	Regulations Governing Retention Schedule (amended May 1987)
VR270-01-0014	Regulations Governing Management of the Student's Scholastic Records (amended August 24, 1995)
VR270-01-0015	Regulations Governing Secondary School Transcripts (May 25, 1988)
VR270-01-0016	Regulations Governing Instructional Materials-Selection and Utilization by Local School Boards (1980)
VR270-01-0017	Regulations Governing School Community Programs (1980)
VR270-01-0018	Regulations Governing Textbooks: Free and Rental Systems (1980)
VR270-01-0019	Regulations Governing Diploma-High School Completion (1980)

VR270-01-0020	Regulations Governing Classification of Expenditures (amended February 1, 1989)
VR270-01-0021	Regulations Governing Textbook Adoption-State Level (1980)
VR270-01-0022	Regulations Governing Textbook Adoption-Local Level (1980)
VR270-01-0023	Regulations Governing School Activity Funds (1980)
VR270-01-0024	Regulations Governing Testing of Pupil's Sight and Hearing (1980)
VR270-01-0025	Regulations Governing Financial Retention Schedule (1980)
VR270-01-0026	Regulations Governing Textbook Fund Management and Handling on Local Level (1980)
VR270-01-0027	Regulations Governing Jointly Owned and Operated Schools and Jointly Operated Programs (1980)
VR270-01-0028	Regulations Governing School Lunch-Sale of Food Items (1980)
VR270-01-0029	Regulations Governing Film Circulation from State and Regional Audio-Visual Services (1980)
VR270-01-0030	Regulations Governing Instructions Concerning Drugs and Drug Abuse (1980)
VR270-01-0031	Regulations Governing Physical and Health Education (1980)
VR270-01-0032	Regulations Governing Alternative Education (1980)
VR270-01-0033	Regulations Governing Driver Education (1980)
VR270-01-0034	Regulations Governing the Operation of Proprietary Schools and Issuing of Agent Permits (amended March 9, 1994)
VR270-01-0035	Regulations Governing GED Certificates (1980)
VR270-01-0036	Regulations Governing Fees and Charges (1980)
VR270-01-0037	Regulations Governing Public School Building Construction (1980)
VR270-01-0038	Regulations Governing Division Superintendent's Qualifications and Responsibilities (1980)
VR270-01-0039	Regulations Governing Division Superintendents' Salary and Expenses (1980)
VR270-01-0040	Regulations Governing Allowable Credit for Teaching Licensure (1980)
VR270-01-0041	Regulations Governing Personnel in Public School Libraries Operated Under Joint Contract of Local School Boards (1980)
VR270-01-0042	Regulations Governing Contractual Agreements with Professional Personnel (replaced)
VR270-01-0042:1	Regulations Governing the Employment of Professional Personnel (1994)

VR270-01-0043	Regulations Governing Training and Professional Development (1980)
VR270-01-0044	Regulations Governing Sick Leave Plan for Teachers (1980)
VR270-01-0045	Regulations Governing Nurses, Physicians, and Therapist Standards (September 1, 1980)
VR270-01-0046	Regulations Governing Pupils' Rights and Hearings
VR270-01-0047	Procedures Governing Pupils' Records (September 1, 1980)
VR270-01-0047	Regulations Governing Local School Boards (September 1, 1980)
VR270-01-0048	Regulations Governing Student Insurance Programs (September 1, 1980)
VR270-01-0049	Regulations Governing Superintendent of Public Instruction (September 1, 1980)
VR270-01-0050	Regulations Governing Reduction of State Aid When Length of School Term Falls Below 180 School Days (September 1, 1980)
VR270-01-0051	Regulations Governing Criteria to Identify Toxic Art Materials; Labeling; Use in Elementary Grades Prohibited (April 22, 1992)
VR270-01-0052	Regulations Governing Standards for Approval of Teacher Preparation Programs in Virginia (replaced)
VR270-01-0052:1	Regulations Governing Programs for Virginia Institutions of Higher Education (September 23, 1993)
VR270-01-0053	Bylaws and Regulations Manual (revised July 1986)
VR270-01-0054	Regulations Governing the Reporting of Acts of Violence and Substance Abuse in Schools (April 22, 1992)
VR270-01-0055	Regulations Governing the Protection of Human Subjects in Research (February 23, 1995)
VR270-01-0056	Regulations Governing Proprietary Career School Fees and Assessments (expired)
VR270-01-0057	Special Education Program Standards (February 23, 1994)
VR270-01-0059	Regulations Governing School Breakfast Programs (July 1, 1994)
VR270-01-0060	Regulations Governing Standards for Accrediting Child-Day Center Programs for Pre-school Children (July 1, 1995)
VR270-01-0061	Regulations Governing Standards for Accrediting Child Day Center Programs for School-Age Children (July 1, 1995)

Source: Virginia Department of Education, *Review of Requests for Waivers from Regulations: A Presentation to the Joint Subcommittee Studying Charter Schools* (October 25, 1995).

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Comparison of HB 1625; HB 2535/SB 1037; and HB 875 Charter Schools

HB 1625--Hamilton	HB 2535/SB 1037--Katzen/Bell*	HB 875--Van Yahres (carried over from 1994)
<p style="text-align: center;">Charter school:</p> <p style="text-align: center;">Public, nonsectarian, nonreligious, <u>non-home-based</u> school in public school division (p. 1, lines 21-22)</p> <p>Subject to state, federal, constitutional provisions prohibiting discrimination; subject to court- ordered desegregation (p. 1, lines 24-27)</p> <p>Deemed part of school division; accountable to local school board (p. 3, lines 29-31)</p> <p style="text-align: center;">—</p>	<p style="text-align: center;">Charter school:</p> <p style="text-align: center;">Public, nonsectarian, nonreligious school in public school division (p. 2, lines 13-17)</p> <p>Subject to state, federal, constitutional provisions prohibiting discrimination; subject to court- ordered desegregation (p. 2, lines 19-21)</p> <p>Deemed part of school division; accountable to local school board (p. 2, lines 16-17)</p> <p>May be created as new school or through conversion of all or portion of existing school (p. 2, lines 15-16)</p>	<p style="text-align: center;">Charter school:</p> <p style="text-align: center;">Existing elementary or secondary educational unit in public school division; must have 23% at-risk pupils (p. 1, lines 25-28; p. 2, lines 19-22)</p> <p style="text-align: center;">—</p> <p style="text-align: center;">—</p> <p style="text-align: center;">—</p>

HB 1625--Hamilton	HB 2535/SB 1037--Katzen/Bell	HB 875--Van Yahres
<p>Ultimate authority:</p> <p>Local school board; charter granted pursuant to contract between school board and applicant (p. 1, lines 29-30)</p>	<p>Ultimate authority:</p> <p>Local school board; charter granted pursuant to contract between school board and applicant (p. 2, lines 22-23)</p>	<p>Ultimate authority:</p> <p>State Board of Education; local board approves and presents petition on behalf of applicant school; charter granted pursuant to contract between local board and BOE (p. 1, lines 33-35; p. 2, lines 47-53)</p>
<p>Number of charters:</p> <p>Limited to 10 per division before 7/1/96; school board may limit number granted (p. 3, lines 34-35)</p>	<p>Number of charters:</p> <p>No restriction</p>	<p>Number of charters:</p> <p>Limited to 6 per division supt. region; not more than 2 per educational level (p. 4, lines 5-10)</p>
<p>Terms:</p> <p>No charter to exceed 3 years (initial or renewal) (p. 3, line 45)</p>	<p>Terms:</p> <p>Initial charter may not exceed 5 years; renewals for indefinite period (p. 4, lines 5-6)</p>	<p>Terms:</p> <p>Performance-based contract between BOE and local board may not exceed 3 years (initial); 1-3- year renewals (p. 1, lines 29-32; p. 3, lines 53-54)</p>

HB 1625--Hamilton	HB 2535/SB 1037--Katzen/Bell	HB 875--Van Yahres
<p style="text-align: center;">Charter process:</p> <p style="text-align: center;">Initiated by charter applicant (individuals or organizations); school board must hold community meeting (p. 2, lines 39-44)</p> <p>Application serves as a proposed agreement for operation of school (p. 2, line 5)</p> <p>Cannot convert a private or nonpublic home-based program into a charter school (p. 2, lines 35-37)</p>	<p style="text-align: center;">Charter process:</p> <p style="text-align: center;">Initiated by “any person or entity”; school board must rule on application within 60 days; no community meeting; public hearing may be requested if charter denied (p. 2, line 53; p. 3, lines 45-54; p. 4, line 1)</p> <p>Application serves as a proposed agreement for operation of school (p. 3, lines 4-6)</p> <p>Cannot convert a private or nonpublic home-based program into a charter school (p. 2, lines 53-54; p. 3, lines 1-3)</p>	<p style="text-align: center;">Charter process:</p> <p style="text-align: center;">Initiated by “any local public school”; requires support by 2/3 licensed personnel and parents by secret ballots; school board must rule on application within 60 days; may resubmit if denied (p. 2, lines 25; 27-35; 38-41; 47-54;p. 3, lines 1-6)</p> <p>Application by local board to BOE includes petition and documentation of approval; performance-based contract between BOE and local board (p. 1, lines 20-24; 29-35)</p> <p>Cannot convert a private school into a charter school (p. 4, lines 11-12)</p>

HB 1625--Hamilton	HB 2535/SB 1037--Katzen/Bell	HB 875--Van Yahres
<p style="text-align: center;">Appeals process:</p> <p>BOE may review local board decision on its own motion or upon appeal; separate appeals processes for grants and denials of charters (p. 2, lines 52-54; p. 3, lines 4-28)</p> <p>BOE makes final decision re appeals for <u>grants</u>; local boards make final decision re <u>denials</u> after remand from BOE (p. 3, lines 15-17; 26-28)</p>	<p style="text-align: center;">Appeals process:</p> <p>May request public hearing if charter denied, revoked, not renewed (p. 3, line 54; p. 4, lines 1; 23-28)</p> <p>Revocations, denials, nonrenewals subject to <u>judicial review</u>; does not contemplate appeals for <u>grant</u> of charter (p. 1, lines 33-38; 48-53)</p>	<p style="text-align: center;">Appeals process:</p> <p>May resubmit petition if initially denied by local board (p. 3, lines 4-6)</p>
<p style="text-align: center;">Contents:</p> <p>"Charter application" includes mission statement; goals and performance standards; evidence of "adequate" parental, teacher, pupil support; statement of need; description of standards, which must meet or exceed SOQ; proposed budget; plan for displacement of pupils, teachers; description of governance; employment conditions; transportation; insurance, etc. (p. 2, lines 5-34)</p>	<p style="text-align: center;">Contents:</p> <p>"Charter application" includes mission statement; goals and performance standards; evidence of parental, teacher, pupil support; statement of need; description of standards, which must meet or exceed school division content standards; proposed budget; plan for displacement of pupils, teachers; description of personnel matters, including <u>hiring, firing, grievance</u>; governance; transportation; insurance; <u>equitable selection process</u> (p. 3, lines 7-43)</p>	<p style="text-align: center;">Contents:</p> <p>"Charter petition" includes school community commitment plan and school improvement plan (p. 1, lines 36-41)</p> <p>"Charter application" includes charter petition and evidence of local board approval (p. 1, lines 20-24)</p> <p>"Performance-based contract" operates as agreement between BOE and local board for grant of charter (p. 1, lines 29-32)</p>

<p align="center">HB 1625--Hamilton</p>	<p align="center">HB 2535/SB 1037--Katzen/Bell</p>	<p align="center">HB 875--Van Yahres</p>
<p align="center">Exemptions from certain requirements:</p> <p>Must comply with SOQ (SOL implied) (p. 1, line 33; 52-53; p. 2, lines 13-14)</p> <p>Charter contract details <u>specific</u> exemptions from division policies and state regulations (p. 1, lines 32-33)</p> <p><i>Note: HB 2601 provides SOA flexibility mechanism</i></p> <p>MUST comply with federal anti-discrimination laws, court-ordered desegregation plans (p. 1, lines 24-27)</p>	<p align="center">Exemptions from certain requirements:</p> <p>Must comply with SOQ & SOL (p. 2, lines 29-30)</p> <p>“Superwaiver”--<u>automatically</u> exempt from all state regulations, except health/safety regs., as determined by BOE; subject to school division policies specified in charter (p. 2, lines 24-28)</p> <p>Exempt from Standards of Accreditation (p. 2, line 25)</p> <p>MUST comply with federal anti-discrimination laws, court-ordered desegregation plans (p. 2, lines 19-20)</p>	<p align="center">Exemptions from certain requirements:</p> <p>Must comply with SOQ, Va. Constitution, and superseding federal laws (p. 2, lines 3-8; p. 3, lines 49-51)</p> <p>School improvement plan details requests for exemptions from specified state and local laws and regulations (p. 2, lines 2-3)</p> <p>BOE to include flexible alternatives in SOA for charter schools (p. 4, lines 32-33)</p> <p>BOE negotiates with applicant school and supervising school board for compliance exemptions; BOE regs. establish procedures for exemptions (p. 3, lines 21-29; p. 3, line 49)</p>

HB 1625--Hamilton	HB 2535/SB 1037--Katzen/Bell	HB 875--Van Yahres
<p style="text-align: center;">Funding:</p> <p>State and local funds for charter school must equal at least 80% of required shares for SOQ (p. 4, lines 34-35)</p> <p>Proportionate share of state and federal money for disabled pupils and special ed. personnel to go to charter school; also state and federal categorical aid (p. 4, lines 41-45)</p> <p style="text-align: center;">Can accept gifts, donations (p. 4, lines 46-50)</p> <p style="text-align: center;">—</p>	<p style="text-align: center;">Funding:</p> <p>State and local funds for charter school must equal 100% of required shares for SOQ (p. 5, lines 14-15)</p> <p>Proportionate share of state and federal money for disabled pupils and special ed. personnel to go to charter school; also state and federal categorical aid (p. 5, lines 23-27)</p> <p style="text-align: center;">Can accept gifts, donations (p. 5, lines 28-32)</p> <p>Local school board may retain 5% of per pupil funds for administrative costs, pursuant to charter (p. 5, lines 16-17)</p>	<p style="text-align: center;">Funding:</p> <p>Implied: because existing public school, state and local funds for charter school must equal 100% of required shares for SOQ (p. 1, line 25)</p> <p style="text-align: center;">—</p> <p style="text-align: center;">Can accept gifts, donations (p. 4, lines 14-18)</p> <p>Other local funds may be appropriated, in addition to SOQ portion, for charter school (p. 4, lines 14-18)</p>
<p style="text-align: center;">Tuition:</p> <p>None; operates as a public school; educational fees may be charged (p. 1, line 31; p. 4, lines 39-40)</p> <p><i>Note: § 22.1-5 currently authorizes tuition charges for nonresidents</i></p>	<p style="text-align: center;">Tuition:</p> <p>None; operates as a public school (p. 2, line 19)</p> <p><i>Note: § 22.1-5 currently authorizes tuition charges for nonresidents</i></p>	<p style="text-align: center;">Tuition:</p> <p>None; operates as a public school (p. 1, line 25)</p> <p><i>Note: § 22.1-5 currently authorizes tuition charges for nonresidents</i></p>

HB 1625--Hamilton	HB 2535/SB 1037--Katzen/Bell	HB 875--Van Yahres
<p>Student attendance:</p> <p>Enrollment open to any child residing in school division; plan for displacement of pupils; students in charter school included in division ADM (p. 1, lines 27-28; p. 2, lines 22-23; p. 4, lines 24-25)</p> <p>---</p>	<p>Student attendance:</p> <p>Enrollment open to "all eligible pupils"; <u>may</u> be open to nonresident pursuant to charter agreement; preference given to resident students; plan for alternative arrangements for attendance (p. 3, lines 25-26; p. 4, lines 48-54)</p> <p>Attendance zone remains same for charter school created from existing school (p. 5, lines 1-5)</p>	<p>Student attendance:</p> <p>Student body consists of individuals of school age in attendance zone at time of petition; may request transfer to another school in division; pupils outside attendance zone may request transfer to charter school (p. 3, lines 7-20)</p> <p>---</p>
<p>Evaluations:</p> <p>School boards submit annual evaluation of charter school to BOE; Board reports findings to Governor and General Assembly annually beginning 1/96. (p. 4, line 53 to end)</p>	<p>Evaluations:</p> <p>Renewal application must have progress report (p. 4, lines 8-10)</p>	<p>Evaluations:</p> <p>BOE regs. to require annual review of performance-based contract; annual reports from charter schools to BOE; BOE reports to Governor and General Assembly on status of charter schools annually beginning 1/96; BOE regs. to include site-based evaluations. (p. 3, lines 30-39; p. 4, lines 2-4)</p>

<p align="center">HB 1625--Hamilton</p>	<p align="center">HB 2535/SB 1037--Katzen/Bell</p>	<p align="center">HB 875--Van Yahres</p>
<p align="center">Teacher employment & transfer:</p> <p>Licensed personnel may volunteer for charter school; one-year contract; teachers who are reassigned (voluntarily & involuntarily) are guaranteed involuntary transfer to noncharter school in division; entitled to same benefits as noncharter teachers (p. 4, lines 11-22)</p> <p><i>(Note: Current licensure regulations include alternative routes to licensure and Technical Professional Licenses for persons with high school diploma/GED; §§ 22.1-293, 22.1-299 require teachers, administrators to be <u>licensed</u>).</i></p>	<p align="center">Teacher employment & transfer:</p> <p>Teachers, principals need not be licensed by BOE (p. 4, lines 33-35)</p> <p>Local school board delegates personnel matters-- hiring, firing, grievance--to charter school (p. 3, lines 30-33)</p> <p>Preference for reemployment in school division (p. 4, lines 36-42)</p> <p><u>May</u> participate in VRS; <u>all</u> personnel eligible for local benefits programs (p. 4, lines 43-46)</p>	<p align="center">Teacher employment & transfer:</p> <p>Licensed personnel and teacher aides assigned to charter school may request transfers; guaranteed "first comparable vacant position" or exchange of comparable personnel (p. 3, lines 16-20)</p>
<p align="center">Contracts for services:</p> <p>Charter school may contract for use of facilities; maintenance and operations; other services. Services contracted with school division provided at cost (p. 1, lines 36-42)</p> <p>No rent for school division facilities (p. 1, lines 43-46)</p>	<p align="center">Contracts for services:</p> <p>Charter school may contract for use of facilities; maintenance and operations; other services. Any charges for services contracted with school division not to exceed cost (p. 2, lines 31-37)</p> <p>No rent for school division facilities (p. 2, lines 38-41)</p>	<p align="center">Contracts for services:</p> <p align="center">—</p>

HB 1625--Hamilton	HB 2535/SB 1037--Katzen/Bell	HB 875--Van Yahres
<p style="text-align: center;">Other:</p> <p>Department of Education assists school boards in completing or revising charter applications (p. 4, lines 51-52)</p> <p style="text-align: center;">—</p> <p style="text-align: center;">—</p>	<p style="text-align: center;">Other:</p> <p>Superintendent of Public Instruction to make grants for establishment of charter schools (p. 5, lines 33-35)</p> <p style="text-align: center;">Includes uncodified preamble (p. 1, lines 12-19)</p> <p style="text-align: center;">Includes outline of purpose (p. 2, lines 4-12)</p>	<p style="text-align: center;">Other:</p> <p>Emphasizes site-based management, flexible operations, and parental and personnel involvement (p. 1, lines 33-34; 36-37; 54; p. 2, lines 1-2)</p> <p style="text-align: center;">—</p> <p style="text-align: center;">Includes outline of purpose (p. 2, lines 4-12)</p>

*page and line references are to HB 2535.

Comparison of Selected Features of Charter School Statutes

State	Approval Authority	Applicant	Restricted No. of charters	Funding	Employment Issues	Term	Exempt laws/regs.	Evaluation	Appeals process	New or existing schools	Private schools	Admission	At Risk
Ariz. Ariz. Rev. Stat. Ann. § 15-181 <i>et seq.</i> (1994 Supp.)	state bd. for charter schools § 15-182	pub. body, private person or org.; sponsored by local, state, or charter school bd. § 15-183	---	equal to at least district avg.; formula if sponsored by state or charter bd. § 15-185 A, B	re-empl. preference; retain benefits § 15-187	5 years; 7-year renewals § 15-183 I	exempt except as provided in charter and article § 15-183 E 5	---	---	---	---	no discrim.; "all eligible pupils"; may restrict age or grade § 15-184	---
Ark. Act 1126, 1995 Session Laws Ark. Stat. Ann. § 6-10-115	state board (local board approves petition) faculty/ & parental support § 6-10-115 (b)(5); (c); (d)	local public school § 6-10-115 (b)(4); (c)	---	---	---	3-year initial; renewals not to exceed 3 years § 6-10-115 (b)(1); (h)	specified in contract § 6-10-115 (b)(4)	charter sch. annually to community & state, local bds.; state bd. biennially to legisl.; interim to Ed. Comm. § 6-10-115 (d)(3)	no appeals, but state bd. may have info. hearing if denied by local § 6-10-115 (g)	existing public schools § 6-10-115 (c)	only existing public schools § 6-10-115 (c)	---	---
Calif. Cal. Educ. Code §§ 47600 <i>et seq.</i> (1993/1995 Supp.)	local school bd.; county bd. on appeal § 47605 b, j (3)	teacher support required § 47605 a	100 statewide; 10 per district § 47602 a	equal to district base revenue limit § 47612 a (1)	state teacher retirement § 47611	5-year maximum (initial /renewals) § 47607 a	exempt from all ed. laws except as provided in charter § 47610	DOE 1/1/99 § 47616	review panel; county bd. may grant § 47605 j	---	cannot convert to charter school § 47602 b	no discrim.; may have policy § 47605 b (8), d	preference for at-risk focus § 47605 h
Col. Col. Rev. Stat. §§ 22-30.5-101 <i>et seq.</i> (1994 Supp.)	local school bd. § 22-30.5-105	evidence of local support § 22-30.5-106 (1) (c)	school bds. may limit; no more than 50 prior to 7/1/97 § 22-30.5-109	pursuant to charter; at least 80% of per pupil district § 22-30.5-112	teachers "leave of absence" § 22-30.5-111	5-year maximum (initial /renewals) § 22-30.5-110 (1)	exempt as specified; biennially reviewed § 22-30.5-104 (6)	state bd. 1/1/97 § 22-30.5-113	separate appeals for grants /denials § 22-30.5-108	may convert existing public school § 22-30.5-106	cannot convert private or nonpublic home-based § 22-30.5-106 (1)(2)	no discrim.; must be open to all in district § 22-30.5-104 (3)	portion of charters reserved § 22-30.5-109 (2)(a)

Comparison of Selected Features of Charter School Statutes (cont.)

State	Approval Authority	Applicant	Restricted No. of charters	Funding	Employment Issues	Term	Exempt laws/regs.	Evaluation	Appeals process	New or existing schools	Private schools	Admission	At Risk
Del. ch. 179, 1995 Sess. Laws: Del. Code Ann. tit. 14, § 501 <i>et seq.</i>	local bd., faculty, parents, or state board § 511(c)	any person, university, non-relig., nonsect., non-home based entity § 502	no limit statewide; 5 new per year for first 3 yrs.; however, local or st. bd. may limit no. considered/ granted §§ 501; 511 (f)	funding portions specified § 509	may hire, fire emps.; negotiate pers. policies, coll. barg.; may hire non-certif. §§ 504A (g); 505(c)	3-yrs. initial; 5-yr. max. renewal § 503	exempt from certain state rules, regs. § 501	ch. sch. annually to approv. auth. & state bd.; may be audited; st. bd. annually to Gov. & leg. §§ 513, 514	local or st. decision final; no judicial review § 511 (k)	---	no private or relig. school may apply § 502	no discr.; ct.- ordered desegr.; may estab. admissions policies; may restrict age, grade §§504A (i); 506 (c), (d), (e)	approval criteria includes plan for at- risk § 512(g)
Ga. Ga. Code Ann. § 20-2-225 <i>et seq.</i> (1994 Supp.)	state/ local bds § 20-2-255 (b)(1)	existing school; faculty, parental support § 20-2- 255(c)(2), (3)	---	---	---	3-year initial; 1-3 year renewals §20-2- 255(c), (h)	exempt from state rule, regs., unless specified § 20-2- 255(f)(5)	state bd.; annually § 20-2- 255(i)	---	existing § 20-2- 255(c)	existing public schools only §20-2-255 (c)	---	---
Ha. Hawaii Rev. State. § 296- 101 <i>et seq.</i> (1994 Supp.)	state bd. § 296-102(c)	any public school; faculty/ parental support § 296-102(a)	25 statewide § 296-102 (a)	equal to other public schools § 296-102 (e), (f)	collective bargaining § 296-102 (a)(1)(A)	---	subject to coll. barg.; procuremt.; anti-disc.; health/safety § 296-102 (a)(1)	annual self- eval.; by DOE after 4 yrs. § 296-102 (f)	---	any public school § 296-102 (a)	public schools only § 296-102 (a)	---	---
Kan. Kan. Stat. Ann. § 72- 1903 <i>et seq.</i> (1994 Supp.)	local bd.; local support § 72-1906(c)	school group; ed. services contractor, or others § 72-1906 (b)	15 statewide; 2 per district § 72-1905	---	in charter § 72-1906 (c)(12), (13) benefits § 72-1909	3-year maximum (initial /renewals) § 72-1907	waivers requested in charter § 72-1906 (c)(14), (f)	annually § 72-1910 (b)	no appeals for revocation/ nonrenewal §72-1907 (b)	"any person or entity" § 72-1906 (b)	"any other person or entity" § 72-1906 (b)	criteria in charter; must reflect dist. racial balance § 72- 1906(c)(8), (d)(2)	---

Comparison of Selected Features of Charter School Statutes (cont.)

State	Approval Authority	Applicant	Restricted No. of charters	Funding	Employment Issues	Term	Exempt laws/regs.	Evaluation	Appeals process	New or existing schools	Private schools	Admission	At Risk
La. Act No. 192, 1995 Sess. Laws La. Rev. Stat. § 17:3791 <i>et seq.</i>	local bds. apply to state bd. to be in ch. sch. demo. program; local bd. approves charter; local may also apply to state § 3974(A), (C)	all must include 3 certif. La. teachers; 3 teachers; 10 citizens; public serv. org.; corp. entity; La. college § 3978	8 divisions in demo. program; 1 ch. sch. per 20,000 pupils § 3974 (B)(1), (C)(2)	avg. current operating exp. under approved foundation formula; special ed. funds follow pupil § 3976	75% must be certif.; deemed emp. of nonprofit corp.; corp. retains "exclusive auth." over personnel; retirement; leave of absence §§ 3974 (M); 3979	5-yr. initial or renewal § 3974(N)	comply w/ desegr.; health, safety, acad. reqmts.; exempt except as provided in charter §§ 3974 (G); 3977	local bd. annually to state bd.; ch. sch. to local bd. after 3d yr.; state bd. decides if exemptions aided or impeded; st. bd. to Gov. & Ed. Comms. § 3980	---	may convert existing if faculty & parental support § 3974 (R)	must be nonsect., nonrelig.; cannot convert private or home-study § 3974(J), (K)	included in charter application § 3978	"overriding consideration"; application includes description of at-risk §§ 3972; 3978
Mass. Mass. Gen. Laws Ann. § 89 <i>et seq.</i> (1994 Supp.)	state secretary § 89	businesses; 2 or more teachers; 10 or more parents § 89	25 statewide; 5 max. in Boston and Springfield; 2 max. in others; enroll < 75% pub. sch. pop. § 89	generally, average per pupil cost in district § 89	exempt from certain state statutes; teachers "leave of absence" § 89	5 years § 89	comply with safety/health § 89	annual rept. by charter school § 89	---	---	private /parochial ineligible § 89	no discrim.; all pupils; may restrict age or grade; "reasonable academic standards"; preference to residents § 89	---
Mich. Mich. Comp. Laws Ann. § 380.501 <i>et seq.</i> (1995)	school bd.; comm. coll./state univ. bd. §§ 380.501; 380.503	partnership, corporations (nonprofit or business) § 380.501	---	---	coll. barg.; teachers certificated unless college employee §§ 380.503 (e); 380.505	---	subject to FOIA, etc. § 380.503 (6)	state bd.; annually to legislature § 380.517a	may petition for vote if school bd. does not grant § 380.503	may locate in all or part of public school § 380.504(1)	no aid for sectarian schools § 380.1217	no discrim.; may restrict age or grade; open to residents; may open to nonresidents § 380.504	chartered educ. clinics for at-risk § 380.505a
Minn. Minn. Stat. Ann. § 120.064 <i>et seq.</i> (1993 /1995 Supp.)	state bd.; sponsored by local bd. § 120.064 (4)	"operator" not defined or specified § 120.064 (4)	35 statewide; 5 per district § 120.064 (3)	operates as a nonprofit or cooperative; funding not specified § 120.064 (4)(a)	licensed teachers; "leave of absence"; benefits; coll. barg. § 120.064 (11), (19), (20)	3 years § 120.064 (5)	comply with safety & health; otherwise exempt § 120.064 (7), (8)	each school, annually to sponsor and state bd. § 120.064 (14)	may appeal local bd.'s decision not to sponsor § 120.064 (4)(a)	may convert existing school; teacher support § 120.064 (4)(a)	no school affiliated w/ nonpublic sectarian school or relig. inst. § 120.064 (8)(c)	no discrim.; may restrict age, grade, subject areas § 120.064 (9)	---

Comparison of Selected Features of Charter School Statutes (cont.)

State	Approval Authority	Applicant	Restricted No. of charters	Funding	Employment Issues	Term	Exempt laws/regs.	Evaluation	Appeals process	New or existing schools	Private schools	Admission	At Risk
N.H. ch 260, 1995 Sess. Laws N.H. Rev. Stat. Ann. § 194-B:1 <i>et seq.</i>	local school dist. legislative body, after state bd., after local bd. § 194-B:1; 194-B:3	nonprofits (college, museum, serv. entity); 2 or more certif. N.H. teachers; 10 parents; sch. bd. may convert existing § 194-B:3	no more than 5 before 1/1/97; not more than one charter and charter conversion per district § 194-B:20	formula; sending district pays 80% of avg. per pupil § 194-B:11	barg. units; minimum teaching experience reqmts. § 194-B:14	5 years initial; 7-yr. renewal §§ 194-B:3 (H); (X)	"fully exempt" except health, safety, comp. att., etc. §§ 194-B:3; 194-B:8	joint oversight committee; ch. sch. to local bd. quarterly & annually to local & state bds.; local bd. to state in pilot period §§ 194-B:5; 194-B:10; 194-B:18	decision of dist. legis. body final; bd. of trustees may appeal local denial to st. bd. § 194-B:3	charter "conversion" sch; ch. open enrollment schools § 194-B:1	nonpublic & homebased may not apply § 194-B:3	in charter application; may restrict age, grade, curricula §§ 194-B:2; 194-B:9	---
New Mex. N.M. Stat. Ann. § 22-8A-1 <i>et seq.</i> (1993)	state bd.; local bd. recomm.; faculty/parent support §§ 22-8A-2; 22-8A-5	indiv. schools § 22-8A-5 A	5 statewide § 22-8A-4 C	---	---	5 years § 22-8A-4 B	specific waivers § 22-8A-6	---	---	existing schools apply § 22-8A-5	---	---	---
R.I. Ch. 95-197 (1995) R.I. Gen. Laws § 16-76-1 <i>et seq.</i>	bd. of regents; after commissioner of ed. & local sch. comm. §§ 16-76-3; 16-76-4.1	---	< 1, serving no more than 2% of pupil pop. before 7/1/96; addit'l 10 serving 4% by 7/1/97	state/local funding on per pupil basis § 16-76-6	remain public sch. emp.; coll. barg.; § 16-76-4 (12)	up to 5-yr. initial; 5-yr. renewals § 16-76-3	specified in charter and code §§ 16-76-4; 16-76-11 (13)	ch. sch. annually to parents, commun., local committee, commissioner of ed. § 16-76-4 (5)	---	may create new; existing may convert w/ teacher & parents support § 16-76-3	---	anti-discrim.; enrollment must reflect pupil pop. §§ 16-76-4	10 of 20 charters reserved for at-risk; § 16-76-8

Comparison of Selected Features of Charter School Statutes (cont.)

State	Approval Authority	Applicant	Restricted No. of charters	Funding	Employment Issues	Term	Exempt laws/regs.	Evaluation	Appeals process	New or existing schools	Private schools	Admission	At Risk
Tex. ch. 260 (1995) Tex. Educ. Code Ann. tit. 1 § 12.001 f.seq. (1995)/	dist. bd. of trustees; 3 types: home-rule dist.; campus charter; open-enrollment; popular vote §§ 12.011; 12.019	---	---	contingent on type; if open enrollment, per pupil; funds follow nonresident pupils §§ 12.106; 12.107	if home-rule, continue ret. benefits § 12.012	---	different for each type § 12.019	open-enrollment schools evaluated annually by impartial org. § 12.118	---	existing schools if home-rule §§ 12.012; 12.013	---	anti-discrim. § 12.058	---
Vt. Vt. Stat. Ann. tit. 16 § 166 et seq. (1997/1994 Supp.)	state bd.; hearing § 166 (b)	---	---	---	harassment policies; § 166 (e)	5-year max. § 166 (b)(2)	must meet health/safety § 166 (c)(1) (C)(v)	---	---	---	schools accredited by private or other agencies may apply § 166(b)	---	---
Wisc. Wisc. Stat. Ann. § 118.40 (1994 Supp.)	local bd.; pre-auth. from state supt.; teacher support § 118.40 (1)	"person" or sch. bd. § 118.40 (1m), (2m)	2 per district; no more than 10 districts § 118.40 (1)	---	---	5 years § 188.40 (3)(b)	not specified	legis. audit bureau may review program 1/1/00 § 118.40 (8)	---	---	no conversion of private school § 118.40 (3)(c)	no discrim.; pref. to residents of all. area § 118.40 (4)	preference to at-risk § 118.40 (3)(d)
Wy. Wy. Stat. § 21-3-201 (1995) Enrolled Act No. 79)	local board; pub. hearing; faculty & parent support § 21-3-203	"any person" may circulate petition § 21-3-203 (a)	---	students included in ADM § 21-3-207	teachers licensed; benefits specified in charter § 21-3-203 (b), (c)	5 years § 21-3-204	not specified	local bd. to state bd. annually; state board, state supt. to legisl. 1/1/98 § 21-3-206; Section 2	---	existing schools may apply § 21-3-203 (d)	no conversion of private school § 21-3-202 (a)	no discrim.; pref. to residents if convert existing school § 21-3-203 (d)	---

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1995 SESSION

LD1698168

HOUSE JOINT RESOLUTION NO. 551

Offered January 23, 1995

Requesting the establishment of a joint subcommittee to study charter schools.

Patrons—Councill, Bennett, Christian, Connally, Cooper, Diamonstein, Dickinson, Dillard, Puller, Reynolds, Rhodes, Tata, Van Lanningham and Van Yahres

Referred to Committee on Rules

WHEREAS, 12 states have passed various forms of charter school legislation, beginning with Minnesota in 1991; and

WHEREAS, although charter school legislation differs from state to state, the basic concept remains focused on locally initiated, public schools, which are relieved of state and local controls and mandates to the extent possible and are controlled by the initiating groups; and

WHEREAS, the rationale for this basic concept is that autonomy from some legal restrictions would be exchanged for development of innovative programs with measurable goals and high academic standards; and

WHEREAS, the establishment of measurable goals and high academic standards are laudable aspirations, however, there are many issues related to legal authority for charter schools; and

WHEREAS, each state has its unique constitutional structure, with corresponding and specific state high court interpretations; and

WHEREAS, the provisions of any charter school bill must be carefully composed to conform to a state's generally accepted constitutional principles; and

WHEREAS, in the past several years, the Virginia General Assembly has seen the introduction of several charter school bills, however, the issues continue to need clarification and discussion; now, therefore, be it

RESOLVED, by the House of Delegates, the Senate concurring, That a joint subcommittee to study charter schools be hereby established. The joint subcommittee shall consist of nine members to be appointed as follows: five members of the House of Delegates to be appointed by the Speaker, and four members of the Senate to be appointed by the Senate Committee on Privileges and Elections.

In its deliberations, the joint subcommittee shall comprehensively examine the issues related to charter schools and shall provide a recommendation on the efficacy of such legislation after considering: (1) the provisions of other states laws; (2) actual operations of charter schools in other states, including, but not limited to, the number of students in the average school, the educational purpose, concept, or curricula of the schools, the method for establishing academic standards, accountability, and any revocations and the reasons for such revocations; (3) the focus of the organizing groups; (4) constitutional issues in other states and the interaction of the Constitution of Virginia with the various components of the charter school concept; (5) funding issues related to the charter school concept; and (6) the various components of charter school legislation, including, but not limited to, organizer eligibility, application process, charter eligibility, sponsoring authority, approval authority, governance, employment requirements, administrative responsibilities, limitations on the number of charters, contract terms and conditions, prescribed autonomy or waiver of legal requirements, curricula, student admissions, due process procedures for denials or revocations, accountability, and the state Board of Education's role.

The direct costs of this study shall not exceed \$5,400.

The Division of Legislative Services, the House Committee on Appropriations, and the Senate Committee on Finance shall provide staff support for the study. All agencies of the Commonwealth shall provide assistance to the joint subcommittee, upon request.

The joint subcommittee shall complete its work in time to submit its findings and recommendations to the Governor and the 1996 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for processing legislative documents.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.

LD1698168

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1995 SESSION

LD5852605

SENATE JOINT RESOLUTION NO. 334

Offered January 23, 1995

Requesting the establishment of a joint subcommittee to study charter schools.

Patrons—Schewel; Delegate: Council

Referred to the Committee on Rules

WHEREAS, 12 states have passed various forms of charter school legislation, beginning with Minnesota in 1991; and

WHEREAS, although charter school legislation differs from state to state, the basic concept remains focused on locally initiated, public schools, which are relieved of state and local controls and mandates to the extent possible and are controlled by the initiating groups; and

WHEREAS, the rationale for this basic concept is that autonomy from some legal restrictions would be exchanged for development of innovative programs with measurable goals and high academic standards; and

WHEREAS, the establishment of measurable goals and high academic standards are laudable aspirations, however, there are many issues related to legal authority for charter schools; and

WHEREAS, each state has its unique constitutional structure, with corresponding and specific state high court interpretations; and

WHEREAS, the provisions of any charter school bill must be carefully composed to conform to a state's generally accepted constitutional principles; and

WHEREAS, in the past several years, the Virginia General Assembly has seen the introduction of several charter school bills, however, the issues continue to need clarification and discussion; now, therefore, be it

RESOLVED, by the Senate, the House of Delegates concurring, That a joint subcommittee to study charter schools be hereby established. The joint subcommittee shall consist of nine members to be appointed as follows: four members of the Senate to be appointed by the Senate Committee on Privileges and Elections, and five members of the House of Delegates to be appointed by the Speaker.

In its deliberations, the joint subcommittee shall comprehensively examine the issues related to charter schools and shall provide a recommendation on the efficacy of such legislation after considering: (1) the provisions of other states laws; (2) actual operations of charter schools in other states, including, but not limited to, the number of students in the average school, the educational purpose, concept, or curricula of the schools, the method for establishing academic standards, accountability, and any revocations and the reasons for such revocations; (3) the focus of the organizing groups; (4) constitutional issues in other states and the interaction of the Constitution of Virginia with the various components of the charter school concept; (5) funding issues related to the charter school concept; and (6) the various components of charter school legislation, including, but not limited to, organizer eligibility, application process, charter eligibility, sponsoring authority, approval authority, governance, employment requirements, administrative responsibilities, limitations on the number of charters, contract terms and conditions, prescribed autonomy or waiver of legal requirements, curricula, student admissions, due process procedures for denials or revocations, accountability, and the state Board of Education's role.

The direct costs of this study shall not exceed \$5,400.

The Division of Legislative Services, the Senate Committee on Finance, and the House Committee on Appropriations shall provide staff support for the study. All agencies of the Commonwealth shall provide assistance to the joint subcommittee, upon request.

The joint subcommittee shall complete its work in time to submit its findings and recommendations to the Governor and the 1996 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for processing legislative documents.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.

LD5852605

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1994 SESSION

LD8100480

HOUSE BILL NO. 875

Offered January 25, 1994

A BILL to amend and reenact § 22.1-253.13:3 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 13 of Title 22.1 an article numbered 1.2, consisting of sections numbered 22.1-212.5 through 22.1-212.9, relating to Commonwealth Charter Schools.

Patrons—Van Yahres, Christian, Connally, Cooper, Diamonstein, Plum, Scott and Tata

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-253.13:3 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 13 of Title 22.1 an article numbered 1.2, consisting of sections numbered 22.1-212.5 through 22.1-212.9, as follows:

Article 1.2.

Commonwealth Charter Schools.

§ 22.1-212.5. Definitions.

As used in this article, unless the context requires a different meaning:

“Charter application” means a proposal presented by a local school board to the Board of Education to request the granting of a school charter to one of its supervised public elementary or secondary schools. The charter application shall, in accordance with Board of Education instructions and forms, consist of the school charter petition and documentation of approval of the supervising school board.

“Commonwealth Charter School” means an existing educational unit within a public school division dedicated to providing elementary or secondary education and authorized, in compliance with this article, to operate under a school charter granted by the Board of Education.

“Performance-based contract” means an agreement between the Board of Education and a supervising school board for the granting of a school charter, the terms of which are in accordance with this article and are approved by the parties for an initial three-year period or renewed for no more than three years.

“School charter” means authority for flexible school operations and programs pursuant to a performance-based contract granted by the Board of Education and executed by the Board and a local school board.

“School charter petition” means, in accordance with Board of Education instructions and forms, a proposal for flexible school operations and programs, consisting of a compilation of the agreements of the licensed school personnel and students’ parents required by subdivisions B 1 and B 2 of § 22.1-212.6 as well as the school community commitment plan and the school improvement plan required pursuant to subdivisions B 3 and B 4 of § 22.1-212.6.

“School community commitment plan” means mechanisms and processes for ensuring the involvement of school personnel and students’ parents and, in the case of a high school, the students in (i) the development of all components of the school improvement plan and (ii) the monitoring of the school improvement plan progress and evolution, and for soliciting and including the ideas, opinions, and concerns of school personnel and students’ parents and, in the case of a high school, the students. The school community commitment plan shall also include opportunities for broad input from the community at large.

“School improvement plan” means documentation of (i) measurable and academically challenging educational achievement goals, including proposals for improving student learning, such as clear performance-based and student-achievement-based objectives, and the proposed performance criteria for measuring these objectives and determining student progress during the charter period, (ii) a system for flexible site-based operation and

1 management, including methods for involving school personnel and students' parents in
2 operation and management decisions. (iii) a request for compliance exemption from certain
3 state and local laws and regulations. and (iv) compliance assurances for the Standards of
4 Quality as set forth in Chapter 13.2 (§ 22.1-253.13:1 et seq.) of this title and various
5 superseding federal laws, including but not limited to the Americans with Disabilities Act,
6 the Age Discrimination in Employment Act, the Equal Pay Act, the Civil Rights Act of
7 1964, Section 504 of the Rehabilitation Act of 1973, and the Individuals with Disabilities
8 Education Act.

9 "Students' parents" means the parents, guardian or other person having control or
10 charge of those students who are currently in the average daily membership of the
11 relevant school.

12 "Supervising school board" or "school board" or "local school board" means the school
13 board of the school division in which the petitioning school is located.

14 § 22.1-212.6. Commonwealth Charter Schools; procedure for establishment; attendance
15 and transfer.

16 A. The General Assembly finds that students living in poverty are at risk of poor
17 academic performance and that involving the teachers, parents, and the community of
18 such students in school management and decisions improves educational quality and
19 student achievement. Therefore, the Board of Education shall develop mechanisms to assist
20 the teachers and parents of students in schools that have twenty-three percent or more
21 at-risk students in average daily membership with the establishment of Commonwealth
22 Charter Schools.

23 B. To encourage the development of high academic standards, measurable achievement
24 goals, effective teaching methods, and expanded educational opportunities for parents and
25 students, any local public school may prepare and submit a school charter petition
26 according to the following order and schedule:

27 1. Agreement by secret ballot of two-thirds of the licensed school personnel of the
28 relevant school to the development of school community commitment and school
29 improvement plans.

30 2. Agreement by secret ballot of two-thirds of the students' parents present at a
31 meeting called for this purpose to the development of school community commitment and
32 school improvement plans and to the submission of a school charter petition to the
33 supervising school board. However, in no case shall agreement be obtained from the
34 parents present at such meeting if such parents represent less than thirty percent of the
35 students in average daily membership at the relevant school.

36 3. Development of a school community commitment plan as defined in § 22.1-212.5.

37 4. Development of a school improvement plan as defined in § 22.1-212.5.

38 5. Agreement, after review of the school community commitment and school
39 improvement plans, by secret ballot of two-thirds of the licensed school personnel of the
40 relevant school to the submission of a school charter petition to the supervising school
41 board.

42 6. Compilation, in accordance with Board of Education instructions and forms, of the
43 school charter petition, consisting of documentation for the agreements and plans required
44 in subdivisions 1 through 4 of this subsection,

45 7. Submission of the school charter petition to the supervising school board for review.

46 8. Approval of the supervising school board.

47 C. Within sixty days of submission of a school charter petition, the supervising school
48 board shall review the school charter petition for compliance with this article and such
49 other standards as such school board shall require and may approve or disapprove the
50 school charter petition. Upon approving the school charter petition, the school board shall
51 compile, in accordance with Board of Education instructions, the charter application. After
52 completing the charter application, the school board shall, on behalf the petitioning school,
53 submit the charter application to the Board of Education for review.

54 D. If the school charter petition is disapproved by a supervising school board, the

1 petitioning school shall be informed in writing, within thirty days of submitting the
 2 petition by the disapproving body, of the reasons for disapproval and of corrective actions
 3 that may be taken to obtain approval.

4 E. Schools denied school charter petition approval by a supervising school board may
 5 resubmit a school charter petition. All agreements shall be obtained and all plans shall be
 6 completed as required for the initial submission.

7 F. The student body of a Commonwealth Charter School shall consist of individuals of
 8 school age living within the school's attendance zone as such attendance zone was
 9 configured at the time of the school charter petition. However, any child living within the
 10 charter school's attendance zone whose parent requests a transfer shall be allowed to
 11 attend another public school within the school division. Further, if the school can
 12 accommodate students who do not live within its attendance zone, the parents of such
 13 students may request a transfer to the Commonwealth Charter School. All school boards
 14 that approve charter petitions shall provide procedures for allowing and shall grant
 15 student transfers on a first-come-first-served basis.

16 Any licensed school personnel and teacher's aides assigned to a school granted a school
 17 charter may request a transfer to another school. School boards shall grant such transfer
 18 requests for the first comparable vacant position or may arrange for exchange of
 19 comparable personnel, upon the agreement of individual being transferred to the
 20 Commonwealth Charter School.

21 § 22.1-212.7. Board of Education authority.

22 A. In granting school charters, the Board of Education shall have the authority to
 23 contract for compliance exemptions from state and local laws, regulations, ordinances, and
 24 rules, except as provided herein. The Board of Education shall review the charter
 25 application for compliance with the requirements of this article, the Constitutions of the
 26 United States and Virginia, the Standards of Quality and various superseding federal laws;
 27 shall negotiate with the petitioning school and the local school board for compliance
 28 exemptions and for school community commitment plan and school improvement plan
 29 revisions; and may grant or deny the school charter.

30 B. The Board of Education shall establish, pursuant to the Administrative Process Act
 31 (§ 9-6.13:1.1), regulations providing criteria and procedures for granting school charters to
 32 authorize the operation of Commonwealth Charter Schools which shall include:

- 33 1. Compliance with the requirements of this article.
- 34 2. Instructions and forms.
- 35 3. Annual review of the performance-based contract pursuant to which any school
 36 charter was granted.
- 37 4. Annual reports from the Commonwealth Charter Schools to the parents, the
 38 supervising school boards, and the Board of Education.
- 39 5. Site-based evaluations of the Commonwealth Charter Schools.
- 40 6. Procedures for resubmission of denied charter applications.
- 41 7. Procedures for declaring the school charter null and void if over two-thirds of the
 42 licensed school personnel of the designated Commonwealth Charter School or more than
 43 thirty percent of the parents of students in average daily membership request the
 44 withdrawal of the school charter or if, at any time, the Commonwealth Charter School
 45 fails to fulfill the terms and conditions of the performance-based contract.
- 46 8. Procedures for updating the terms and conditions of school charters, agreed to by
 47 all parties and subject to the agreement of two-thirds of the licensed school personnel
 48 employed in the designated Commonwealth Charter School.
- 49 9. Procedures for determining exemptions from state and local laws; however,
 50 compliance with the Virginia Constitution and the Standards of Quality shall always be
 51 required.
- 52 10. Guidelines for flexible site-based operation and management.

53 C. The Board of Education may grant initial school charters for a three-year period;
 54 thereafter the Board may renew the charter for a one- to three-year period, upon the

1 completion of the schedule required by § 22.1-212.6.

2 D. Beginning in January 1996, the Board of Education shall report annually in January
3 of each year to the Governor and the General Assembly on the status of the
4 Commonwealth Charter Schools.

5 § 22.1-212.8. Limitations and conditions.

6 A. In no case shall more than six school charters be granted per division
7 superintendent's region, with no more than two school charters per educational level
8 (elementary, middle, and high school). For this purpose, the Board of Education shall
9 assign each charter application a review ranking number, based on the chronological order
10 in which the charter application was received.

11 B. No charter shall be granted under this article that authorizes the conversion of any
12 private school to a Commonwealth Charter School.

13 § 22.1-212.9. Construction of article.

14 This article shall not be construed to prevent any person from providing financial or
15 in-kind donations to assist in the establishment or operation of a Commonwealth Charter
16 School or to prohibit the appropriation of local funds, in addition to the required local
17 apportionment for support of the Standards of Quality, for the establishment or operation
18 of a Commonwealth Charter School. Further, in the establishment or operation of any
19 Commonwealth Charter School, this article shall be construed to require strong parental
20 involvement and to encourage the involvement of a broad-based community coalition.

21 § 22.1-253.13:3. Standard 3. Accreditation, other standards and evaluation.

22 A. The General Assembly recognizes the need for the Board of Education to prescribe
23 requirements to ensure that student progress is measured and that school boards and
24 school personnel are accountable.

25 B. The Board of Education shall promulgate regulations establishing standards for
26 accreditation pursuant to the Administrative Process Act (§ 9-6.14:1 et seq.) which shall
27 include, but not be limited to, student outcome measures, requirements and guidelines for
28 instructional programs, administrative and instructional staffing levels and positions, pupil
29 personnel services, special education program standards, auxiliary education programs such
30 as library and media services, course and credit requirements for graduation from high
31 school, community relations, and the philosophy, goals, and objectives of public education in
32 Virginia. The Board's standards for accreditation shall include flexible alternatives for
33 Commonwealth Charter Schools. In revising the standards for accreditation, the Board shall
34 seek to set pupil-teacher ratios for educable mentally retarded (EMR) pupils that do not
35 exceed the pupil-teacher ratios for self-contained classes for pupils with specific learning
36 disabilities. The Board shall review annually the accreditation status of all schools in the
37 Commonwealth.

38 C. The Board shall also establish requirements for certification of teachers, principals,
39 supervisors and other professional staff and determine eligibility for appointment as a local
40 division superintendent.

41 D. The Superintendent of Public Instruction shall develop and the Board of Education
42 shall approve criteria for determining and recognizing educational performance in the
43 Commonwealth's public school divisions and schools. Such criteria, when approved, shall
44 become an integral part of the accreditation process and shall include student outcome
45 measurements. One year following the approval by the Board of such criteria, the
46 Superintendent of Public Instruction shall annually identify to the Board those school
47 divisions and schools that exceed or do not meet the approved criteria. The Superintendent
48 of Public Instruction shall assist local school boards in the implementation of action plans
49 for increasing educational performance in those school divisions and schools that are
50 identified as not meeting the approved criteria. The Superintendent of Public Instruction
51 shall monitor the implementation of and report to the Board of Education on the
52 effectiveness of the corrective actions taken to improve the educational performance in
53 such school divisions and schools.

54 E. In order to assess the educational progress of students, the Board of Education shall

1 also (i) develop appropriate assessments which may include criterion-referenced tests and
 2 alternative assessment instruments which may be used by classroom teachers; (ii) prescribe
 3 and provide measures, which may include nationally normed tests, to be designated as the
 4 Virginia State Assessment Program, which shall be used to identify students who score in
 5 the bottom quartile at selected grade levels; and (iii) prescribe and provide literacy tests in
 6 reading, writing and mathematics which shall be administered to students in grade six and
 7 to students who have not successfully passed them in grades seven and eight.

8 F. Each local school board shall maintain schools which meet the standards of
 9 accreditation as prescribed by the Board of Education. The accreditation status of all
 10 schools in each local school division shall be reviewed annually in public session. Within
 11 the time specified by the Board of Education, each school board shall submit corrective
 12 action plans for any schools within its school division that have been designated as not
 13 meeting the criteria for determining effectiveness as approved by the Board.

14 G. Each local school board shall also provide teachers and principals with (i) periodic
 15 in-service training in preparing tests and other assessment measures and (ii) methods for
 16 assessing the progress of individual students, including Standards of Learning assessment
 17 materials or other criterion-referenced tests which match locally developed objectives.

18 H. In order to assess the educational progress of students as individuals and as groups,
 19 each local school board shall require the administration of appropriate assessments, which
 20 may include criterion-referenced tests, teacher-made tests and alternative assessment
 21 instruments and shall include the Virginia State Assessment Program, the Virginia Literacy
 22 Testing Program, and the National Assessment of Educational Progress state-by-state
 23 assessment. Each school board shall analyze and report annually, in compliance with any
 24 criteria which may be established by the Board of Education, the results from the Virginia
 25 State Assessment Program and the Virginia State Literacy Testing Program to the public.

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1995 SESSION

LD1159264

HOUSE BILL NO. 1625

Offered January 13, 1995

A BILL to amend the Code of Virginia by adding in Chapter 13 of Title 22.1 an article numbered 1.2, consisting of sections numbered 22.1-212.5 through 22.1-212.15, relating to the establishment of charter schools.

Patrons—Hamilton, Dillard, Fisher, Marshall, Rhodes and Wagner; Senators: Barry, Calhoun, Stolle and Woods

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 13 of Title 22.1 an article numbered 1.2, consisting of sections numbered 22.1-212.5 through 22.1-212.15, as follows:

Article 1.2.

Establishment of Charter Schools.

§ 22.1-212.5. Definitions.

As used in this article:

"At-risk pupil" means a student who, because of physical, emotional, socioeconomic, or cultural factors, may not succeed in a conventional educational environment.

"Charter school" means a public, nonsectarian, nonreligious, or non-home-based school located within a public school division.

§ 22.1-212.6. Charter schools; requirements and establishment.

A. A charter school shall be a public school, subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services, and shall be subject to any court-ordered desegregation plan in effect for the school division. Enrollment shall be open to any child who resides within the school division.

A charter school shall be administered and governed by a governing body in a manner agreed to by the charter school applicant and the local school board.

B. Except as may be otherwise provided in this article, a charter school shall not charge tuition.

C. Pursuant to a contract, a charter school may operate free from specified school division policies and state regulations, except for the requirements of the Standards of Quality. Upon request of the charter applicant, the Board of Education shall provide summaries of the regulations and policies to use in preparing a charter school application.

D. A charter school shall be responsible for its own operations, including, but not limited to, budget preparation, contracts for services, and personnel matters. A 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 charter school is required to perform in order to carry out the educational program described in its charter. Any services for which a charter school contracts with a school division shall be provided by the school division at cost.

E. In no event shall a charter school be required to pay rent for space which is deemed available, as negotiated by contract, in school division facilities. All other costs for the operation and maintenance of the facilities used by the charter school shall be subject to negotiation between the charter school and the school division.

§ 22.1-212.7. Contracts for charter schools.

A. An approved charter application shall constitute an agreement, and the terms thereof shall be the terms of a contract between the charter school and the local school board. The contract between the charter school and the local school board shall reflect all agreements regarding the release of the charter school from school division policies. Such contract between the charter school and the local school board shall reflect all requests for release of the charter school from state regulations, except for the requirements of the Standards of Quality. The local school board and the charter school shall

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1 jointly request such release from the Board of Education. Any material revision of the terms of the
2 contract may be made only with the approval of the local school board and the governing body of
3 the charter school.

4 § 22.1-212.8. Charter application.

5 A. The charter school application shall be a proposed agreement and shall include:

6 1. The mission statement of the charter school, which must be consistent with the principles of the
7 Standards of Quality.

8 2. The goals and objectives to be achieved by the charter school.

9 3. Evidence that an adequate number of parents, teachers, pupils, or any combination thereof
10 support the formation of a charter school.

11 4. A statement of the need for a charter school in a school division or in a geographic area
12 within a school division.

13 5. A description of the charter school's educational program, pupil performance standards, and
14 curriculum, which must meet or exceed any applicable Standards of Quality, the assessments to be
15 used to measure pupil progress towards achievement of the school's pupil performance standards, the
16 timeline for achievement of such standards, and the procedures for taking corrective action in the
17 event that pupil performance at the charter school falls below such standards.

18 6. Evidence that the plan for the charter school is economically sound for both the charter school
19 and the school division, a proposed budget for the term of the charter, and a description of the
20 manner in which an annual audit of the financial and administrative operations of the charter school,
21 including any services provided by the school division, is to be conducted.

22 7. A plan for the displacement of pupils, teachers, and other employees who will not attend or be
23 employed in the charter school.

24 8. A description of the governance and operation of the charter school, including the nature and
25 extent of parental, professional educator, and community involvement in the governance and
26 operation of the charter school.

27 9. An explanation of the relationship that will exist between the proposed charter school and its
28 employees, including evidence that the terms and conditions of employment have been addressed with
29 affected employees.

30 10. An agreement between the parties regarding their respective legal liability and applicable
31 insurance coverage.

32 11. A description of how the charter school plans to meet the transportation needs of its pupils,
33 including a plan for addressing the transportation needs of low-income and academically
34 low-achieving pupils.

35 B. No person, group, or organization may submit an application to convert a private school or a
36 nonpublic home-based educational program into a charter school or to create a charter school which
37 is a nonpublic home-based educational program.

38 § 22.1-212.9. Charter application process.

39 A. The local school board shall receive and review all applications for charter schools. The local
40 school board may establish a schedule for receiving applications and shall make a copy of any such
41 schedule available to all interested parties upon request. If such board finds the charter school
42 application is incomplete, the board shall request the necessary information from the charter
43 applicant.

44 B. After giving reasonable public notice, the local school board shall hold community meetings in
45 the affected areas of the entire school division to obtain information to assist the local school board
46 in its decision to grant a charter school application. The local school board shall rule on the
47 application for a charter school in a public hearing, upon reasonable public notice, within sixty days
48 after receiving the application.

49 C. If a local school board denies a charter school application, the charter applicant may appeal
50 the denial to the Board of Education as provided in § 22.1-212.10.

51 § 22.1-212.10. Appeals.

52 A. The Board of Education, upon receipt of a notice of appeal or upon its own motion, may
53 review decisions of any local school board concerning charter schools in accordance with this
54 section.

1 B. A charter applicant or any other person who wishes to appeal a decision of a local school
2 board concerning a charter school shall provide the Board of Education and the local school board
3 with a notice of appeal within thirty days of the local school board's decision.

4 C. If the notice of appeal, or the motion to review by the Board of Education, relates to a local
5 school board's decision to deny, refuse to renew, or to revoke a charter, the appeal and review
6 process shall be as follows:

7 1. Within thirty days after receipt of the notice of appeal or the making of a motion to review by
8 the Board of Education and after reasonable public notice, the Board of Education, at a public
9 hearing which may be held in the school division in which the proposed charter school is located,
10 shall review the decision of the local school board and make its findings. If the Board of Education
11 finds that the local school board's decision was contrary to the best interests of the pupils, school
12 division, or community, the Board shall remand such decision to the local school board with written
13 instructions for reconsideration thereof. The instructions shall include specific recommendations
14 concerning the matters requiring reconsideration.

15 2. Within thirty days following the remand of a decision to the local school board and after
16 reasonable public notice, the local school board, at a public hearing, shall consider the Board's
17 recommendations and shall make a final decision, which shall not be subject to appeal.

18 D. If the notice of appeal or the motion to review by the Board relates to a local school board's
19 decision to grant a charter, the appeal and review process shall be as follows:

20 1. Within thirty days after receipt of the notice of appeal or the making of a motion to review by
21 the Board and after reasonable public notice, the Board, at a public hearing which may be held in
22 the school division where the proposed charter school is to be located, shall review the decision of
23 the local school board and determine whether such decision would violate any federal or state law
24 concerning civil rights or a court order, or threaten the health and safety of students in the school
25 division.

26 2. If such a determination is made, the Board shall remand such decision to the local school
27 board with instructions to deny the charter application. The decision of the Board shall be final and
28 not subject to appeal.

29 E. Nothing in this section shall be construed to alter the requirement that a charter school be a
30 part of the school division in which it is located and accountable to the local school board, as
31 provided in this chapter.

32 § 22.1-212.11. Charter schools restrictions.

33 A. On and after July 1995, a local school board may establish a charter school within the school
34 division and shall be authorized to limit the number of schools so established. However, no more
35 than ten charters per school division shall be granted prior to July 1, 1996. Priority shall be given to
36 charter school applications designed to increase the educational opportunities of at-risk students, and
37 at least one-half of the charters per division shall be reserved for such applications.

38 B. Local school boards that grant charter school applications shall report such action to the
39 Board and shall specify the maximum number of charters that may be authorized, the number of
40 charters granted, and whether a charter school is designed to increase the educational opportunities
41 of at-risk students.

42 C. Nothing in this article shall be construed to prevent a school that is the only school in the
43 division from applying to become a charter school.

44 § 22.1-212.12. Charter school term; renewal of charter; revocation.

45 A. A charter may be approved or renewed for a period not to exceed three school years. A
46 charter school renewal application submitted to the local school board shall contain:

47 1. A report on the progress of the charter school in achieving the goals, objectives, program and
48 performance standards for students, and such other conditions and terms as the school board may
49 require upon granting initial approval of the charter application.

50 2. A financial statement, on forms prescribed by the Board, that discloses the costs of
51 administration, instruction, and other spending categories for the charter school that has been
52 concisely and clearly written to enable the public to compare such costs to those of other schools or
53 comparable organizations.

54 B. A local school board may revoke or deny renewal of a charter if the charter school:

1 1. Violates the conditions, standards, or procedures established in the charter school application.
2 2. Fails to meet or make reasonable progress toward achievement of the content standards or
3 student performance standards identified in the charter application.

4 3. Fails to meet generally accepted standards of fiscal management; or

5 4. Violates any provision of law from which the charter school was not specifically exempted.

6 C. A charter may not be renewed if the local school board determines that it is not in the public
7 interest or for the welfare of the students within the school division to continue the operation of the
8 school.

9 D. A decision to revoke or to deny renewal of the charter application may be appealed pursuant
10 to § 22.1-212.10.

11 § 22.1-212.13. Employment of professional, certified personnel.

12 A. Professional, certified personnel may volunteer for assignment in a charter school. Voluntary
13 assignment in a charter school shall be for one contract year. Upon request of the employee and the
14 recommendation of the governing board of the charter school, reassignment to the charter school
15 shall occur on an annual basis.

16 B. At the completion of each contract year, professional, certified personnel who request
17 assignment to a noncharter school in the school division or who are not recommended for
18 reassignment in the charter school, other than for the grounds cited in § 22.1-307, shall be
19 guaranteed an involuntary transfer to a noncharter school in the school division according to the
20 employment policies of the school division.

21 C. Professional, certified personnel of a charter school shall be granted the same employment
22 benefits given to professional, certified personnel in noncharter schools.

23 § 22.1-212.14. Funding of charter schools; services provided.

24 A. For the purposes of this chapter, students enrolled in a charter school shall be counted in the
25 average daily membership of the school division. The local school board shall report to the Board of
26 Education the number of such students enrolled in each charter school annually at the end of the
27 school year.

28 B. Insofar as constitutionally valid, a local school board may establish by contract an agreement
29 stating the conditions for funding the charter school.

30 C. Services provided the charter school by the local school board may include food services;
31 custodial and maintenance services; curriculum, media, and library services; warehousing and
32 merchandising; and such other services not prohibited by the provisions of this chapter or state and
33 federal laws.

34 D. In no event shall the amount of state and local funding provided a charter school be less than
35 eighty percent of the respective state and local shares required to fund the Standards of Quality.

36 E. Funding and service agreements between local school boards and charter schools shall not
37 provide a financial incentive or constitute a financial disincentive to the establishment of a charter
38 school.

39 F. Any educational and related fees collected from students enrolled at a charter school shall be
40 credited to the account of such charter school established by the local school board.

41 G. Notwithstanding any other provision of law, the proportionate share of state and federal
42 resources allocated for students with disabilities and school personnel assigned to special education
43 programs shall be directed to charter schools enrolling such students. The proportionate share of
44 moneys allocated under other federal or state categorical aid programs shall be directed to charter
45 schools serving students eligible for such aid.

46 H. The governing body of a charter school is authorized to accept gifts, donations, or grants of
47 any kind made to the charter school and to spend such funds in accordance with the conditions
48 prescribed by the donor. However, no gift, donation, or grant shall be accepted by the governing
49 body of a charter school if the conditions for such funds are contrary to law or the terms of the
50 agreement between the local school board and the charter school.

51 I. The Department of Education shall provide technical assistance to local school boards in
52 completing or revising charter school applications.

53 § 22.1-212.15. Evaluation of charter schools; reports.

54 School boards establishing charter schools shall submit annual evaluations of such schools to the

1 *Board of Education. The Board shall review the evaluations against any Board regulations and*
2 *policies waived for the charter schools to determine the efficacy of such waivers and whether the*
3 *charter schools accomplished established goals and objectives. The Board shall also compare the*
4 *performance of charter school students with the performance of students enrolled in the regular*
5 *schools of the school division. Further, the Board shall report annually its findings and evaluations of*
6 *any charter schools established in the Commonwealth to the Governor and the General Assembly,*
7 *beginning in January 1996.*

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1995 SESSION

LD6664812

HOUSE BILL NO. 2535

Offered January 23, 1995

A BILL to amend §§ 22.1-87, as it is currently effective and as it may become effective, 22.1-253.13:3, 22.1-293, 22.1-297, and 22.1-299 of the Code of Virginia, and to amend the Code of Virginia by adding in Chapter 13 of Title 22.1 an article numbered 1.2, consisting of sections numbered 22.1-212.5 through 22.1-212.14, relating to the establishment of charter schools.

Patrons—Katzen, Dudley, Kidd, Marshall, May, McDonnell, Nixon, O'Brien, Ruff, Wardrup and Way

Referred to Committee on Education

Whereas, it is the responsibility of the Commonwealth to provide all children with schools that reflect high expectations; and

Whereas, educators and parents have a right and a responsibility to participate in the decision-making that will improve public education for the children of the Commonwealth; and

Whereas, there are educators, citizens, and parents who are willing to offer innovative educational programs, techniques, and environments but who lack the opportunity or mechanism through which to channel their efforts; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-87, as it is currently effective and as it may become effective, 22.1-253.13:3, 22.1-293, 22.1-297, and 22.1-299 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 13 of Title 22.1 an article numbered 1.2, consisting of sections numbered 22.1-212.5 through 22.1-212.14, as follows:

§ 22.1-87. Judicial review.

A. Any parent, custodian, or legal guardian of a pupil attending the public schools in a school division who is aggrieved by an action of the school board may, within thirty days after such action, petition the circuit court having jurisdiction in the school division to review the action of the school board. Such review shall proceed upon the petition, the minutes of the meeting at which the school board's action was taken, the orders, if any, of the school board, an attested copy of the transcript, if any, of any hearing before the school board, and any other evidence found relevant to the issues on appeal by the court. The action of the school board shall be sustained unless the school board exceeded its authority, acted arbitrarily or capriciously, or abused its discretion.

B. Any person who has submitted an application for a charter school and who is aggrieved by the school board's denial of a charter application, or the governing body of a charter school aggrieved by the school board's revocation or denial of renewal of a charter, may, within thirty days of the school board's action, petition the circuit court having jurisdiction in the school division to review the action of such school board. The action of the school board shall be sustained unless the school board exceeded its authority, acted arbitrarily or capriciously, or abused its discretion.

§ 22.1-87. (Delayed effective date) Judicial review.

A. Any parent, custodian, or legal guardian of a pupil attending the public schools in a school division who is aggrieved by an action of the school board may, within thirty days after such action, petition the family court having jurisdiction in the school division to review the action of the school board. Such review shall proceed upon the petition, the minutes of the meeting at which the school board's action was taken, the orders, if any, of the school board, an attested copy of the transcript, if any, of any hearing before the school board, and any other evidence found relevant to the issues on appeal by the court. The action of the school board shall be sustained unless the school board exceeded its authority, acted arbitrarily or capriciously, or abused its discretion.

B. Any person who has submitted an application for a charter school and who is aggrieved by the school board's denial of a charter application, or the governing body of a charter school aggrieved by the school board's revocation or denial of renewal of a charter, may, within thirty days of the school board's action, petition the circuit court having jurisdiction in the school division to review the action of such school board. The action of the school board shall be sustained unless the school board exceeded its authority, acted arbitrarily or capriciously, or abused its discretion.

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HB2535

1/2/95 20:17

1 Article 1.2.

2 Establishment of Charter Schools.

3 § 22.1-212.5. Purpose; charter schools authorized and defined.

4 A. To increase and improve learning opportunities for all pupils by allowing the creation of
5 schools with rigorous standards for pupil performance; to encourage diverse approaches to learning
6 and education and the use of different and innovative teaching methods; to create new professional
7 opportunities for teachers, including the opportunity to be responsible for the learning program at the
8 school site; to provide parents and pupils expanded choices in the type of educational opportunities
9 within the public school system; to encourage parental and community involvement with public
10 schools; and to allow school divisions to provide for a decentralized system of school governance as
11 they deem appropriate, the establishment of charter schools shall be authorized pursuant to this
12 article.

13 B. As used in this article, "charter school" means a public, nonsectarian, nonreligious school
14 located within a public school division and established by contract with the local school board, as
15 provided in this article. A charter school may be created as a new school or through the conversion
16 of all or any portion of an existing public school, and shall be deemed to be a public school within
17 the division in which it is located.

18 § 22.1-212.6. Establishment of charter schools; requirements.

19 A. A charter school shall be a public school, subject to federal and state laws and constitutional
20 provisions prohibiting discrimination, and shall be subject to any court-ordered desegregation plan in
21 effect for the school division.

22 A charter school shall be administered and governed by a governing body in a manner agreed to
23 by the charter school applicant and the local school board.

24 B. Unless otherwise provided in the charter agreement pursuant to § 22.1-212.7, a charter school
25 shall operate free from state regulations, including the Standards of Accreditation; however,
26 regulations identified by the Board of Education as necessary to protect the health and safety of
27 charter school students and personnel shall not be waived. The charter school shall be subject to
28 school division policies as provided in the charter agreement.

29 Nothing in this subsection shall be construed to release any charter school from compliance with
30 the Standards of Quality and the Standards of Learning.

31 C. A charter school shall be responsible for its own operations, including, but not limited to,
32 budget preparation, contracts for services, and personnel matters. A charter school may negotiate and
33 contract with a school division, the governing body of a public institution of higher education, or any
34 third party for the use of a school building and grounds, the operation and maintenance thereof, and
35 the provision of any service, activity, or undertaking which the charter school is required to perform
36 in order to carry out the educational programs described in its charter. Any charge for such services
37 shall not exceed the school division's cost to provide such services.

38 D. In no event shall a charter school be required to pay rent for space which is deemed available,
39 as negotiated by contract, in school division facilities. All other costs for the operation and
40 maintenance of the facilities used by the charter school shall be subject to negotiation between the
41 charter school and the school division.

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43 A. An approved charter application shall constitute an agreement, and the terms thereof shall be
44 the terms of a contract between the charter school and the local school board. The contract between
45 the charter school and the local school board shall reflect all agreements regarding the release of the
46 charter school from school division policies. Such contract shall not exempt the charter school from
47 any state regulations that are not waived pursuant to subsection B of § 22.1-212.6; however, the
48 contract may impose requirements that are subject to the waiver granted in subsection B of §
49 22.1-212.6.

50 B. Any material revision of the terms of the contract may be made only with the approval of the
51 local school board and the governing body of the charter school.

52 § 22.1-212.8. Charter application.

53 A. Any person or entity may submit an application for the formation of a charter school as a new
54 public school or through the conversion of all or part of an existing public school; however, no

1 person, group, or organization may submit an application to convert an existing private school or a
2 nonpublic home-based educational program into a charter school or to create a charter school which
3 is a nonpublic home-based educational program.

4 B. An approved charter application shall constitute an agreement, and its terms shall be the terms
5 of a contract between the charter school and the local school board. A charter school application
6 shall be a proposed agreement and shall include:

7 1. The mission statement of the charter school;

8 2. The goals, objectives and pupil performance standards to be achieved by the charter school;

9 3. Evidence that parents, teachers, pupils, or any combination thereof support the formation of a
10 charter school;

11 4. A statement of the need for a charter school in a school division or in a geographic area
12 within a school division;

13 5. A description of the charter school's educational program, pupil performance standards, and
14 curriculum, which must meet or exceed any content standards adopted by the school division in which
15 the charter school is located and must be designed to enable each pupil to achieve such standards;

16 6. A description of the charter school's plan for evaluating pupil performance, the types of
17 assessments to be used to measure pupil progress towards achievement of the school's pupil
18 performance standards, the timeline for achievement of such standards, and the procedures for taking
19 corrective action in the event that pupil performance at the charter school falls below such standards;

20 7. Evidence that the plan for the charter school is economically sound for both the charter school
21 and the school division, a proposed budget for the term of the charter, and a description of the
22 manner in which an annual audit of the financial and administrative operations of the charter school,
23 including any services provided by the school division, is to be conducted;

24 8. In the case of an application for the conversion of all or part of an existing school into a
25 charter school, a description of the alternative arrangements for pupils, teachers, and other
26 employees who will not attend or be employed in the charter school;

27 9. A description of the governance and operation of the charter school, including the nature and
28 extent of parental, professional educator, and community involvement in the governance and
29 operation of the charter school;

30 10. A description of proposed personnel qualifications and hiring, termination, grievance
31 procedures and an explanation of the relationship that will exist between the proposed charter school
32 and its employees, including evidence that the terms and conditions of employment have been
33 addressed with affected employees and their recognized representative, if any;

34 11. An agreement between the parties regarding their respective legal liability and applicable
35 insurance coverage;

36 12. A description of how the charter school plans to meet the transportation needs of its pupils;

37 13. Assurances that the charter school (i) is nonsectarian in its programs, admission policies,
38 employment practices, and all other operations and (ii) does not charge tuition; and

39 14. A description of an equitable selection process to be used if the charter school's capacity is
40 insufficient to enroll all pupils who submit a timely application and, if appropriate, a tailored
41 admission policy that meets the specific mission or focus of the charter school and is consistent with
42 all federal and state laws and constitutional provisions prohibiting discrimination that are applicable
43 to public schools and with any court-ordered desegregation plan in effect for the school.

44 § 22.1-212.9. Charter application process.

45 A. The local school board in the division in which the charter is to be located shall receive and
46 review all applications for charter schools. The local school board may establish a schedule for
47 receiving applications and shall make a copy of any such schedule available to all interested parties
48 upon request. If such board finds the charter school application is incomplete, the board shall request
49 the necessary information from the charter applicant. The local school board shall rule on the
50 charter school application within sixty days of receipt of the completed application.

51 B. The local school board shall notify the charter applicant in writing of the reasons for a charter
52 denial. The applicant may submit a revised application for reconsideration by the local school board
53 in accordance with the process established pursuant to subsection A of this section.

54 C. Upon request by an applicant whose charter application has been denied, the local school

1 board shall, after reasonable notice, hold a public hearing on such charter application. If the
 2 decision of the local school board, after such public hearing, is to deny the application, the applicant
 3 may appeal such denial pursuant to subsection B of § 22.1-87.

4 § 22.1-212.10. Charter school term; renewal of charter; revocation.

5 A. A charter may be approved for an initial period not to exceed five school years.

6 B. A charter may be renewed for any specified number of years. A charter school renewal
 7 application submitted to the local school board shall contain:

8 1. A report on the progress of the charter school in achieving the goals, objectives, program and
 9 performance standards for pupils, and such other conditions and terms as the school board may
 10 require as set forth in the charter agreement; and

11 2. A financial statement that discloses the costs of administration, instruction, and other spending
 12 categories for the charter school to enable the public to compare such costs to those of other schools.

13 C. A local school board may revoke or deny renewal of a charter if the charter school:

14 1. Materially violates the conditions, standards, or procedures established in the charter school
 15 application;

16 2. Fails to meet or make reasonable progress toward achievement of the content or pupil
 17 performance standards identified in the charter application;

18 3. Fails to meet generally accepted standards of fiscal management; or

19 4. Violates any provision of law or regulation from which the charter school was not specifically
 20 exempted.

21 Such revocation or denial of renewal shall take effect at the end of the school year to facilitate
 22 the placement of pupils and teachers in another public school.

23 D. The local school board shall notify the governing body of the charter school in writing of the
 24 reasons for the revocation or nonrenewal of the charter. Upon request by such governing body, the
 25 local school board shall, after reasonable notice, hold a public hearing on such revocation or
 26 nonrenewal. If the decision of the local school board, after such public hearing, is to revoke or deny
 27 renewal, the applicant may appeal such revocation or nonrenewal pursuant to subsection B of
 28 § 22.1-87.

29 § 22.1-212.11. Employment of personnel; benefits.

30 A. Charter school personnel shall be employees of the local school board granting the charter;
 31 however, authority to establish terms of employment, including hiring, termination, and grievance
 32 procedures, shall be delegated by the local school board to the governing body of the charter school
 33 pursuant to the charter agreement. Notwithstanding the provisions of §§ 22.1-293 and 22.1-299,
 34 administrative and instructional personnel in a charter school need not be licensed by the Board of
 35 Education.

36 B. A local school board shall give preference to the reemployment of any licensed instructional or
 37 administrative personnel of a charter school if (i) a suitable position is available; (ii) such school
 38 board employed the particular licensed employee immediately prior to his service in the charter
 39 school; and (iii) the employee seeks such reemployment within five years of leaving his employment at
 40 a noncharter school in the particular school division. Upon reemployment, such licensed instructional
 41 or administrative personnel shall resume the employment status previously achieved with the local
 42 school board.

43 C. Unless otherwise specified in the charter, licensed personnel assigned to a charter school shall
 44 be granted membership in the Virginia Retirement System and shall make appropriate contributions
 45 as required. All charter school personnel shall be eligible for membership in any other state or local
 46 benefits program for public school employees.

47 § 22.1-212.12. Admission to charter school.

48 A. A charter school shall enroll all eligible pupils who submit a timely application, consistent with
 49 the charter school's admissions policy as described in the charter agreement. If the charter school
 50 lacks the capacity to enroll all such pupils, the charter school shall select pupils pursuant to the
 51 equitable selection process set forth in the charter agreement. Pursuant to the charter agreement, a
 52 charter school may enroll pupils who are not residents of the school division in which the charter
 53 school is located; however, preference shall be given to those pupils who reside in the school division
 54 in which the charter school is located.

1 B. If the charter school was established through the conversion of all or part of an existing public
2 school, preference shall be given to the enrollment of those pupils living in the school attendance
3 zone as configured at the time the charter school was established. Any pupil residing in such
4 attendance zone shall be permitted to attend another public school in the division upon the request of
5 the pupil's parent, guardian, or other person having legal custody of the pupil.

6 C. The charter school admission policy shall be nondiscriminatory, as provided in subsection A of
7 § 22.1-212.6. The charter school may, however, limit admission to pupils within a specific age group
8 or grade level or in a manner consistent with its mission or focus as described in the charter
9 agreement.

10 § 22.1-212.13. Funding of charter schools; services provided.

11 A. For the purposes of this chapter, pupils enrolled in a charter school shall be counted in the
12 average daily membership of the school division in which the charter school is located, as defined in
13 the annual appropriation act.

14 B. The amount of state and local funding provided a charter school shall be 100 percent of the
15 respective per-pupil state and local shares required to fund the Standards of Quality, as set forth in
16 the appropriation act. The local school board may retain up to five percent of such per-pupil funds
17 for administrative costs, as negotiated in the charter agreement.

18 C. Services provided to the charter school by the local school board, as negotiated in the charter
19 agreement, may include, but need not be limited to, food services; custodial and maintenance
20 services; curriculum, media, and library services; warehousing and merchandising; special education
21 and related services; and transportation. Any charge for such services shall not exceed the school
22 division's costs to provide such services.

23 D. Notwithstanding any other provision of law, the proportionate share of state and federal
24 resources allocated for pupils with disabilities and school personnel assigned to special education
25 programs shall be directed to charter schools enrolling such pupils. The proportionate share of
26 moneys allocated under other federal or state categorical aid programs shall be directed to charter
27 schools serving pupils eligible for such aid.

28 E. The governing body of a charter school is authorized to accept gifts, donations, or grants of
29 any kind made to the charter school and to spend such funds in accordance with the conditions
30 prescribed by the donor. However, no gift, donation, or grant shall be accepted by the governing
31 body of a charter school if the conditions for such funds are contrary to law or to the terms of the
32 agreement between the local school board and the charter school.

33 § 22.1-212.14. Grants for charter schools.

34 From such funds as may be appropriated for this purpose, the Superintendent of Public Instruction
35 shall award grants for the establishment of charter schools.

36 § 22.1-253.13:3. Standard 3. Accreditation, other standards and evaluation.

37 A. The General Assembly recognizes the need for the Board of Education to prescribe
38 requirements to ensure that student progress is measured and that school boards and school personnel
39 are accountable.

40 B. The Board of Education shall promulgate regulations establishing standards for accreditation
41 pursuant to the Administrative Process Act (§ 9-6.14:1 et seq.) which shall include, but not be limited
42 to, student outcome measures, requirements and guidelines for instructional programs, administrative
43 and instructional staffing levels and positions, pupil personnel services, special education program
44 standards, auxiliary education programs such as library and media services, course and credit
45 requirements for graduation from high school, community relations, and the philosophy, goals, and
46 objectives of public education in Virginia. In revising the standards for accreditation, the Board shall
47 seek to set pupil-teacher ratios for educable mentally retarded (EMR) pupils that do not exceed the
48 pupil-teacher ratios for self-contained classes for pupils with specific learning disabilities. The Board
49 shall review annually the accreditation status of all schools in the Commonwealth. Charter schools
50 established pursuant to Article 1.2 of Chapter 13 of this title shall not be subject to the standards of
51 accreditation or any action for the enforcement of such standards of accreditation pursuant to
52 § 22.1-253.13:8.

53 C. The Board shall also establish requirements for ~~certification~~ licensure of teachers, principals,
54 supervisors and other professional staff and determine eligibility for appointment as a local division

1 superintendent.

2 D. The Superintendent of Public Instruction shall develop and the Board of Education shall
3 approve criteria for determining and recognizing educational performance in the Commonwealth's
4 public school divisions and schools. Such criteria, when approved, shall become an integral part of
5 the accreditation process and shall include student outcome measurements. One year following the
6 approval by the Board of such criteria, the Superintendent of Public Instruction shall annually identify
7 to the Board those school divisions and schools that exceed or do not meet the approved criteria. The
8 Superintendent of Public Instruction shall assist local school boards in the implementation of action
9 plans for increasing educational performance in those school divisions and schools that are identified
10 as not meeting the approved criteria. The Superintendent of Public Instruction shall monitor the
11 implementation of and report to the Board of Education on the effectiveness of the corrective actions
12 taken to improve the educational performance in such school divisions and schools.

13 E. In order to assess the educational progress of students, the Board of Education shall also (i)
14 develop appropriate assessments which may include criterion-referenced tests and alternative
15 assessment instruments which may be used by classroom teachers; (ii) prescribe and provide
16 measures, which may include nationally normed tests, to be designated as the Virginia State
17 Assessment Program, which shall be used to identify students who score in the bottom quartile at
18 selected grade levels; and (iii) prescribe and provide literacy tests in reading, writing and mathematics
19 which shall be administered to students in grade six and to students who have not successfully passed
20 them in grades seven and eight.

21 F. Each local school board shall maintain schools which meet the standards of accreditation as
22 prescribed by the Board of Education. The accreditation status of all schools in each local school
23 division shall be reviewed annually in public session. Within the time specified by the Board of
24 Education, each school board shall submit corrective action plans for any schools within its school
25 division that have been designated as not meeting the criteria for determining effectiveness as
26 approved by the Board. G. Each local school board shall also provide teachers and principals with (i)
27 periodic in-service training in preparing tests and other assessment measures and (ii) methods for
28 assessing the progress of individual students, including Standards of Learning assessment materials or
29 other criterion-referenced tests which match locally developed objectives.

30 H. In order to assess the educational progress of students as individuals and as groups, each local
31 school board shall require the administration of appropriate assessments, which may include
32 criterion-referenced tests, teacher-made tests and alternative assessment instruments and shall include
33 the Virginia State Assessment Program, the Virginia Literacy Testing Program, and the National
34 Assessment of Educational Progress state-by-state assessment. Each school board shall analyze and
35 report annually, in compliance with any criteria which may be established by the Board of Education,
36 the results from the Virginia State Assessment Program and the Virginia State Literacy Testing
37 Program to the public.

38 § 22.1-293. School boards authorized to employ principals and assistant principals; license
39 required; powers and duties.

40 A. A school board, upon recommendation of the division superintendent, may employ principals
41 and assistant principals. ~~Persons~~ *With the exception of persons employed in charter schools pursuant*
42 *to § 22.1-212.11, persons* employed in these positions shall hold licenses as prescribed by the Board
43 of Education.

44 B. A principal shall provide instructional leadership in, shall be responsible for the administration
45 of and shall supervise the operation and management of the school or schools and property to which
46 he has been assigned in accordance with the rules and regulations of the school board and under the
47 supervision of the division superintendent.

48 C. A principal may submit recommendations to the division superintendent for the appointment,
49 assignment, promotion, transfer and dismissal of all personnel assigned to his supervision.

50 D. A principal shall perform such other duties as may be assigned by the division superintendent
51 pursuant to the rules and regulations of the school board.

52 § 22.1-297. Assignment of teachers, principals and assistant principals by superintendent.

53 A division superintendent shall have authority to assign to their respective positions in the school
54 wherein they have been placed by the school board all teachers, principals and assistant principals.

1 with the exception of those teachers, principals, and assistant principals serving in charter schools
 2 established pursuant to Article 1.2 of Chapter 13 of this title. If the school board adopts a resolution
 3 authorizing the division superintendent to reassign such teachers, principals and assistant principals,
 4 the division superintendent may reassign any such teacher, principal or assistant principal for that
 5 school year to any school within such division, provided no change or reassignment during a school
 6 year shall affect the salary of such teacher, principal or assistant principal for that school year.

7 § 22.1-299. License required of teachers.

8 ~~No~~ With the exception of teachers employed in charter schools pursuant to § 22.1-212.11, no
 9 teacher shall be regularly employed by a school board or paid from public funds unless such teacher
 10 holds a license or provisional license issued by the Board of Education. In accordance with
 11 regulations prescribed by the Board, a person not meeting the requirements for a license or
 12 provisional license may be employed and paid from public funds by a school board temporarily as a
 13 substitute teacher to meet an emergency.

Official Use By Clerks	
Passed By The House of Delegates	Passed By The Senate
without amendment <input type="checkbox"/>	without amendment <input type="checkbox"/>
with amendment <input type="checkbox"/>	with amendment <input type="checkbox"/>
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Date: _____	Date: _____
_____ Clerk of the House of Delegates	_____ Clerk of the Senate

LD6675812

SENATE BILL NO. 1037

Offered January 23, 1995

A BILL to amend §§ 22.1-87, as it is currently effective and as it may become effective, 22.1-253.13:3, 22.1-293, 22.1-297, and 22.1-299 of the Code of Virginia, and to amend the Code of Virginia by adding in Chapter 13 of Title 22.1 an article numbered 1.2, consisting of sections numbered 22.1-212.5 through 22.1-212.14, relating to the establishment of charter schools.

Patrons—Bell, Benedetti, Earley, Potts and Stolle; Delegates: Cox, Dudley, Katzen, Kidd, Marshall, McDonnell, Nixon, O'Brien, Ruff and Wardrup

Referred to the Committee on Education and Health

Whereas, it is the responsibility of the Commonwealth to provide all children with schools that reflect high expectations; and

Whereas, educators and parents have a right and a responsibility to participate in the decision-making that will improve public education for the children of the Commonwealth; and

Whereas, there are educators, citizens, and parents who are willing to offer innovative educational programs, techniques, and environments but who lack the opportunity or mechanism through which to channel their efforts; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-87, as it is currently effective and as it may become effective, 22.1-253.13:3, 22.1-293, 22.1-297, and 22.1-299 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 13 of Title 22.1 an article numbered 1.2, consisting of sections numbered 22.1-212.5 through 22.1-212.14, as follows:

§ 22.1-87. Judicial review.

A. Any parent, custodian, or legal guardian of a pupil attending the public schools in a school division who is aggrieved by an action of the school board may, within thirty days after such action, petition the circuit court having jurisdiction in the school division to review the action of the school board. Such review shall proceed upon the petition, the minutes of the meeting at which the school board's action was taken, the orders, if any, of the school board, an attested copy of the transcript, if any, of any hearing before the school board, and any other evidence found relevant to the issues on appeal by the court. The action of the school board shall be sustained unless the school board exceeded its authority, acted arbitrarily or capriciously, or abused its discretion.

B. Any person who has submitted an application for a charter school and who is aggrieved by the school board's denial of a charter application, or the governing body of a charter school aggrieved by the school board's revocation or denial of renewal of a charter, may, within thirty days of the school board's action, petition the circuit court having jurisdiction in the school division to review the action of such school board. The action of the school board shall be sustained unless the school board exceeded its authority, acted arbitrarily or capriciously, or abused its discretion.

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9 school site; to provide parents and pupils expanded choices in the type of educational opportunities
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37 the provision of any service, activity, or undertaking which the charter school is required to perform
38 in order to carry out the educational programs described in its charter. Any charge for such services
39 shall not exceed the school division's cost to provide such services.

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contract may impose requirements that are subject to the waiver granted in subsection B of §
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22 and the school division, a proposed budget for the term of the charter, and a description of the
23 manner in which an annual audit of the financial and administrative operations of the charter school,
24 including any services provided by the school division, is to be conducted;

25 8. In the case of an application for the conversion of all or part of an existing school into a
26 charter school, a description of the alternative arrangements for pupils, teachers, and other
27 employees who will not attend or be employed in the charter school;

28 9. A description of the governance and operation of the charter school, including the nature and
29 extent of parental, professional educator, and community involvement in the governance and
30 operation of the charter school;

31 10. A description of proposed personnel qualifications and hiring, termination, grievance
32 procedures and an explanation of the relationship that will exist between the proposed charter school
33 and its employees, including evidence that the terms and conditions of employment have been
34 addressed with affected employees and their recognized representative, if any;

35 11. An agreement between the parties regarding their respective legal liability and applicable
36 insurance coverage;

37 12. A description of how the charter school plans to meet the transportation needs of its pupils;

38 13. Assurances that the charter school (i) is nonsectarian in its programs, admission policies,
39 employment practices, and all other operations and (ii) does not charge tuition; and

40 14. A description of an equitable selection process to be used if the charter school's capacity is
41 insufficient to enroll all pupils who submit a timely application and, if appropriate, a tailored
42 admission policy that meets the specific mission or focus of the charter school and is consistent with
43 all federal and state laws and constitutional provisions prohibiting discrimination that are applicable
44 to public schools and with any court-ordered desegregation plan in effect for the school.

45 § 22.1-212.9. Charter application process.

46 A. The local school board in the division in which the charter is to be located shall receive and
47 review all applications for charter schools. The local school board may establish a schedule for
48 receiving applications and shall make a copy of any such schedule available to all interested parties
49 upon request. If such board finds the charter school application is incomplete, the board shall request
50 the necessary information from the charter applicant. The local school board shall rule on the
51 charter school application within sixty days of receipt of the completed application.

52 B. The local school board shall notify the charter applicant in writing of the reasons for a charter
53 denial. The applicant may submit a revised application for reconsideration by the local school board
54 in accordance with the process established pursuant to subsection A of this section.

1 C. Upon request by an applicant whose charter application has been denied, the local school
2 board shall, after reasonable notice, hold a public hearing on such charter application. If the
3 decision of the local school board, after such public hearing, is to deny the application, the applicant
4 may appeal such denial pursuant to subsection B of § 22.1-87.

5 § 22.1-212.10. Charter school term; renewal of charter; revocation.

6 A. A charter may be approved for an initial period not to exceed five school years.

7 B. A charter may be renewed for any specified number of years. A charter school renewal
8 application submitted to the local school board shall contain:

9 1. A report on the progress of the charter school in achieving the goals, objectives, program and
10 performance standards for pupils, and such other conditions and terms as the school board may
11 require as set forth in the charter agreement; and

12 2. A financial statement that discloses the costs of administration, instruction, and other spending
13 categories for the charter school to enable the public to compare such costs to those of other schools.

14 C. A local school board may revoke or deny renewal of a charter if the charter school:

15 1. Materially violates the conditions, standards, or procedures established in the charter school
16 application;

17 2. Fails to meet or make reasonable progress toward achievement of the content or pupil
18 performance standards identified in the charter application;

19 3. Fails to meet generally accepted standards of fiscal management; or

20 4. Violates any provision of law or regulation from which the charter school was not specifically
21 exempted.

22 Such revocation or denial of renewal shall take effect at the end of the school year to facilitate
23 the placement of pupils and teachers in another public school.

24 D. The local school board shall notify the governing body of the charter school in writing of the
25 reasons for the revocation or nonrenewal of the charter. Upon request by such governing body, the
26 local school board shall, after reasonable notice, hold a public hearing on such revocation or
27 nonrenewal. If the decision of the local school board, after such public hearing, is to revoke or deny
28 renewal, the applicant may appeal such revocation or nonrenewal pursuant to subsection B of
29 § 22.1-87.

30 § 22.1-212.11. Employment of personnel; benefits.

31 A. Charter school personnel shall be employees of the local school board granting the charter;
32 however, authority to establish terms of employment, including hiring, termination, and grievance
33 procedures, shall be delegated by the local school board to the governing body of the charter school
34 pursuant to the charter agreement. Notwithstanding the provisions of §§ 22.1-293 and 22.1-299,
35 administrative and instructional personnel in a charter school need not be licensed by the Board of
36 Education.

37 B. A local school board shall give preference to the reemployment of any licensed instructional or
38 administrative personnel of a charter school if (i) a suitable position is available; (ii) such school
39 board employed the particular licensed employee immediately prior to his service in the charter
40 school; and (iii) the employee seeks such reemployment within five years of leaving his employment at
41 a noncharter school in the particular school division. Upon reemployment, such licensed instructional
42 or administrative personnel shall resume the employment status previously achieved with the local
43 school board.

44 C. Unless otherwise specified in the charter, licensed personnel assigned to a charter school shall
45 be granted membership in the Virginia Retirement System and shall make appropriate contributions
46 as required. All charter school personnel shall be eligible for membership in any other state or local
47 benefits program for public school employees.

48 § 22.1-212.12. Admission to charter school.

49 A. A charter school shall enroll all eligible pupils who submit a timely application, consistent with
50 the charter school's admissions policy as described in the charter agreement. If the charter school
51 lacks the capacity to enroll all such pupils, the charter school shall select pupils pursuant to the
52 equitable selection process set forth in the charter agreement. Pursuant to the charter agreement, a
53 charter school may enroll pupils who are not residents of the school division in which the charter
54 school is located; however, preference shall be given to those pupils who reside in the school division

1 in which the charter school is located.

2 B. If the charter school was established through the conversion of all or part of an existing public
3 school, preference shall be given to the enrollment of those pupils living in the school attendance
4 zone as configured at the time the charter school was established. Any pupil residing in such
5 attendance zone shall be permitted to attend another public school in the division upon the request of
6 the pupil's parent, guardian, or other person having legal custody of the pupil.

7 C. The charter school admission policy shall be nondiscriminatory, as provided in subsection A of
8 § 22.1-212.6. The charter school may, however, limit admission to pupils within a specific age group
9 or grade level or in a manner consistent with its mission or focus as described in the charter
10 agreement.

11 § 22.1-212.13. Funding of charter schools; services provided.

12 A. For the purposes of this chapter, pupils enrolled in a charter school shall be counted in the
13 average daily membership of the school division in which the charter school is located, as defined in
14 the annual appropriation act.

15 B. The amount of state and local funding provided a charter school shall be 100 percent of the
16 respective per-pupil state and local shares required to fund the Standards of Quality, as set forth in
17 the appropriation act. The local school board may retain up to five percent of such per-pupil funds
18 for administrative costs, as negotiated in the charter agreement.

19 C. Services provided to the charter school by the local school board, as negotiated in the charter
20 agreement, may include, but need not be limited to, food services; custodial and maintenance
21 services; curriculum, media, and library services; warehousing and merchandising; special education
22 and related services; and transportation. Any charge for such services shall not exceed the school
23 division's costs to provide such services.

24 D. Notwithstanding any other provision of law, the proportionate share of state and federal
25 resources allocated for pupils with disabilities and school personnel assigned to special education
26 programs shall be directed to charter schools enrolling such pupils. The proportionate share of
27 moneys allocated under other federal or state categorical aid programs shall be directed to charter
28 schools serving pupils eligible for such aid.

29 E. The governing body of a charter school is authorized to accept gifts, donations, or grants of
30 any kind made to the charter school and to spend such funds in accordance with the conditions
31 prescribed by the donor. However, no gift, donation, or grant shall be accepted by the governing
32 body of a charter school if the conditions for such funds are contrary to law or to the terms of the
33 agreement between the local school board and the charter school.

34 § 22.1-212.14. Grants for charter schools.

35 From such funds as may be appropriated for this purpose, the Superintendent of Public Instruction
36 shall award grants for the establishment of charter schools.

37 § 22.1-253.13.3. Standard 3. Accreditation, other standards and evaluation.

38 A. The General Assembly recognizes the need for the Board of Education to prescribe
39 requirements to ensure that student progress is measured and that school boards and school personnel
40 are accountable.

41 B. The Board of Education shall promulgate regulations establishing standards for accreditation
42 pursuant to the Administrative Process Act (§ 9-6.14:1 et seq.) which shall include, but not be limited
43 to, student outcome measures, requirements and guidelines for instructional programs, administrative
44 and instructional staffing levels and positions, pupil personnel services, special education program
45 standards, auxiliary education programs such as library and media services, course and credit
46 requirements for graduation from high school, community relations, and the philosophy, goals, and
47 objectives of public education in Virginia. In revising the standards for accreditation, the Board shall
48 seek to set pupil-teacher ratios for educable mentally retarded (EMR) pupils that do not exceed the
49 pupil-teacher ratios for self-contained classes for pupils with specific learning disabilities. The Board
50 shall review annually the accreditation status of all schools in the Commonwealth. Charter schools
51 established pursuant to Article 1.2 of Chapter 13 of this title shall not be subject to the standards of
52 accreditation or any action for the enforcement of such standards of accreditation pursuant to
53 § 22.1-253.13:8.

54 C. The Board shall also establish requirements for certification. . . .

supervisors and other professional staff and determine eligibility for appointment as a local division superintendent.

D. The Superintendent of Public Instruction shall develop and the Board of Education shall approve criteria for determining and recognizing educational performance in the Commonwealth's public school divisions and schools. Such criteria, when approved, shall become an integral part of the accreditation process and shall include student outcome measurements. One year following the approval by the Board of such criteria, the Superintendent of Public Instruction shall annually identify to the Board those school divisions and schools that exceed or do not meet the approved criteria. The Superintendent of Public Instruction shall assist local school boards in the implementation of action plans for increasing educational performance in those school divisions and schools that are identified as not meeting the approved criteria. The Superintendent of Public Instruction shall monitor the implementation of and report to the Board of Education on the effectiveness of the corrective actions taken to improve the educational performance in such school divisions and schools.

E. In order to assess the educational progress of students, the Board of Education shall also (i) develop appropriate assessments which may include criterion-referenced tests and alternative assessment instruments which may be used by classroom teachers; (ii) prescribe and provide measures, which may include nationally normed tests, to be designated as the Virginia State Assessment Program, which shall be used to identify students who score in the bottom quartile at selected grade levels; and (iii) prescribe and provide literacy tests in reading, writing and mathematics which shall be administered to students in grade six and to students who have not successfully passed them in grades seven and eight.

F. Each local school board shall maintain schools which meet the standards of accreditation as prescribed by the Board of Education. The accreditation status of all schools in each local school division shall be reviewed annually in public session. Within the time specified by the Board of Education, each school board shall submit corrective action plans for any schools within its school division that have been designated as not meeting the criteria for determining effectiveness as approved by the Board. G. Each local school board shall also provide teachers and principals with (i) periodic in-service training in preparing tests and other assessment measures and (ii) methods for assessing the progress of individual students, including Standards of Learning assessment materials or other criterion-referenced tests which match locally developed objectives.

H. In order to assess the educational progress of students as individuals and as groups, each local school board shall require the administration of appropriate assessments, which may include criterion-referenced tests, teacher-made tests and alternative assessment instruments and shall include the Virginia State Assessment Program, the Virginia Literacy Testing Program, and the National Assessment of Educational Progress state-by-state assessment. Each school board shall analyze and report annually, in compliance with any criteria which may be established by the Board of Education, the results from the Virginia State Assessment Program and the Virginia State Literacy Testing Program to the public.

§ 22.1-293. School boards authorized to employ principals and assistant principals; license required; powers and duties.

A. A school board, upon recommendation of the division superintendent, may employ principals and assistant principals. ~~Persons~~ *With the exception of persons employed in charter schools pursuant to § 22.1-212.11, persons* employed in these positions shall hold licenses as prescribed by the Board of Education.

B. A principal shall provide instructional leadership in. shall be responsible for the administration of and shall supervise the operation and management of the school or schools and property to which he has been assigned in accordance with the rules and regulations of the school board and under the supervision of the division superintendent.

C. A principal may submit recommendations to the division superintendent for the appointment, assignment, promotion, transfer and dismissal of all personnel assigned to his supervision.

D. A principal shall perform such other duties as may be assigned by the division superintendent pursuant to the rules and regulations of the school board.

§ 22.1-297. Assignment of teachers, principals and assistant principals by superintendent.

A division superintendent shall have authority to assign to their respective positions in the school

1 wherein they have been placed by the school board all teachers, principals and assistant principals
 2 *with the exception of those teachers, principals, and assistant principals serving in charter schools*
 3 *established pursuant to Article 1.2 of Chapter 13 of this title.* If the school board adopts a resolution
 4 authorizing the division superintendent to reassign such teachers, principals and assistant principals,
 5 the division superintendent may reassign any such teacher, principal or assistant principal for that
 6 school year to any school within such division, provided no change or reassignment during a school
 7 year shall affect the salary of such teacher, principal or assistant principal for that school year.

8 § 22.1-299. License required of teachers.

9 ~~No~~ *With the exception of teachers employed in charter schools pursuant to § 22.1-212.11, no*
 10 teacher shall be regularly employed by a school board or paid from public funds unless such teacher
 11 holds a license or provisional license issued by the Board of Education. In accordance with
 12 regulations prescribed by the Board, a person not meeting the requirements for a license or
 13 provisional license may be employed and paid from public funds by a school board temporarily as a
 14 substitute teacher to meet an emergency.

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1996 SESSION

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HOUSE BILL NO. 776

Offered January 22, 1996

A BILL to amend the Code of Virginia by adding in Chapter 13 of Title 22.1 an article numbered 1.2, consisting of sections numbered 22.1-212.5 through 22.1-212.15, relating to the establishment of charter schools.

Patrons—Councill, Hamilton, Katzen, Nelms and Rhodes

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 13 of Title 22.1 an article numbered 1.2, consisting of sections numbered 22.1-212.5 through 22.1-212.15, as follows:

Article 1.2.

Establishment of Charter Schools.

§ 22.1-212.5. Definitions.

As used in this article:

"At-risk pupil" means a student who, because of physical, emotional, intellectual, socioeconomic, or cultural factors, may not succeed in a conventional educational environment.

"Charter school" means a public, nonsectarian, nonreligious, or non-home-based school located within a public school division. A charter school may be created as a new public school or through the conversion of all or part of an existing public school; however, no charter school shall be established through the conversion of a private school or a nonpublic home-based educational program.

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

A. A charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services, and shall be subject to any court-ordered desegregation plan in effect for the school division. Enrollment shall be open to any child who resides within the school division.

B. A charter school shall be administered and governed by a governing body in a manner agreed to by the charter school applicant and the local school board. Pursuant to a charter contract and as specified in § 22.1-212.7, a charter school may operate free from specified school division policies and state regulations, except for the requirements of the Standards of Quality. Upon request of the charter applicant, the Board of Education shall provide summaries of the regulations and policies to use in preparing a charter school application.

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

D. In no event shall a charter school be required to pay rent for space which is deemed available, as negotiated by contract, in school division facilities. All other costs for the operation and maintenance of the facilities used by the charter school shall be subject to negotiation between the charter school and the school division.

E. Except as may be otherwise provided in this article, a charter school shall not charge tuition.

§ 22.1-212.7. Contracts for charter schools; release from certain policies and regulations.

An approved charter application shall constitute an agreement, and its terms shall be the terms of a contract between the charter school and the local school board. The contract between the charter school and the local school board shall reflect all agreements regarding the release of the charter school from school division policies. Such contract between the charter school and the local school

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1 board shall reflect all requests for release of the charter school from state regulations, except for the
 2 requirements of the Standards of Quality. The local school board and the charter school shall jointly
 3 request such releases from the Board of Education. Any material revision of the terms of the contract
 4 may be made only with the approval of the local school board and the governing body of the charter
 5 school.

6 § 22.1-212.8. Charter application.

7 A. Any person, group, or organization may submit an application for the formation of a charter
 8 school.

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

10 1. The mission statement of the charter school, which must be consistent with the principles of the
 11 Standards of Quality.

12 2. The goals and educational objectives to be achieved by the charter school, which educational
 13 objectives must meet or exceed the Standards of Learning.

14 3. Evidence that an adequate number of parents, teachers, pupils, or any combination thereof
 15 support the formation of a charter school.

16 4. A statement of the need for a charter school in a school division or in a geographic area
 17 within a school division.

18 5. A description of the charter school's educational program, pupil performance standards, and
 19 curriculum, which must meet or exceed any applicable Standards of Quality, the assessments to be
 20 used to measure pupil progress towards achievement of the school's pupil performance standards, the
 21 timeline for achievement of such standards, and the procedures for taking corrective action in the
 22 event that pupil performance at the charter school falls below such standards.

23 6. A description of an equitable selection process to be used if the charter school's capacity is
 24 insufficient to enroll all pupils who submit a timely application and, if appropriate, a tailored
 25 admission policy that meets the specific mission or focus of the charter school and is consistent with
 26 all federal and state laws and constitutional provisions prohibiting discrimination that are applicable
 27 to public schools and with any court-ordered desegregation plan in effect for the school.

28 7. Evidence that the plan for the charter school is economically sound for both the charter school
 29 and the school division, a proposed budget for the term of the charter, and a description of the
 30 manner in which an annual audit of the financial and administrative operations of the charter school,
 31 including any services provided by the school division, is to be conducted.

32 8. A plan for the displacement of pupils, teachers, and other employees who will not attend or be
 33 employed in the charter school and for the placement of charter school pupils, teachers, and
 34 employees upon termination or revocation of the charter.

35 9. A description of the governance and operation of the charter school, including the nature and
 36 extent of parental, professional educator, and community involvement in the governance and
 37 operation of the charter school.

38 10. An explanation of the relationship that will exist between the proposed charter school and its
 39 employees, including evidence that the terms and conditions of employment have been addressed with
 40 affected employees.

41 11. An agreement between the parties regarding their respective legal liability and applicable
 42 insurance coverage.

43 12. A description of how the charter school plans to meet the transportation needs of its pupils.

44 13. Assurances that the charter school (i) is nonsectarian in its programs, admission policies,
 45 employment practices, and all other operations and (ii) does not charge tuition.

46 § 22.1-212.9. Review of charter applications.

47 A. Upon adoption by the local school board of a resolution stating its intent to receive
 48 applications for the establishment of charter schools in the school division, the local school board
 49 may receive and review all applications for charter schools. The local school board may establish a
 50 schedule for receiving, reviewing, and ruling upon applications and shall make a copy of any such
 51 schedule available to all interested parties upon request. If such board finds the charter school
 52 application is incomplete, the board shall request the necessary information from the charter
 53 applicant.

54 B. To provide appropriate opportunity for input from parents, teachers, and other interested

1 parties and to obtain information to assist the local school board in its decision to grant a charter
2 school application, the local school board may establish a procedure for public notice, comment, or
3 hearings on charter school applications.

4 § 22.1-212.10. Decision of local board final.

5 The decision of a local school board to grant or deny a charter school application or to revoke or
6 fail to renew a charter agreement shall be final and not subject to appeal.

7 § 22.1-212.11. Charter schools restrictions.

8 A. On and after July 1, 1996, local school boards electing to receive applications for charter
9 schools pursuant to § 22.1-212.9 may establish a charter school within the school division and shall
10 be authorized to limit the number of schools so established. However, no more than two charters per
11 school division shall be granted prior to July 1, 1998. Priority shall be given to charter school
12 applications designed to increase the educational opportunities of at-risk students, and at least
13 one-half of the charters per division shall be reserved for such applications.

14 B. Local school boards that grant charter school applications shall report such action to the
15 Board and shall specify the maximum number of charters that may be authorized, if any; the number
16 of charters granted; and whether a charter school is designed to increase the educational
17 opportunities of at-risk students.

18 C. Nothing in this article shall be construed to prevent a school that is the only school in the
19 division from applying to become a charter school.

20 § 22.1-212.12. Charter school term; renewals and revocations.

21 A. A charter may be approved or renewed for a period not to exceed three school years. A
22 charter school renewal application submitted to the local school board shall contain:

23 1. A report on the progress of the charter school in achieving the goals, objectives, program and
24 performance standards for students, and such other conditions and terms as the school board may
25 require upon granting initial approval of the charter application.

26 2. A financial statement, on forms prescribed by the Board, that discloses the costs of
27 administration, instruction, and other spending categories for the charter school that has been
28 concisely and clearly written to enable the public to compare such costs to those of other schools or
29 comparable organizations.

30 B. A local school board may revoke a charter if the charter school:

31 1. Violates the conditions, standards, or procedures established in the charter school application;

32 2. Fails to meet or make reasonable progress toward achievement of the content standards or
33 student performance standards identified in the charter application;

34 3. Fails to meet generally accepted standards of fiscal management; or

35 4. Violates any provision of law from which the charter school was not specifically exempted.

36 A charter may be revoked if the local school board determines, in its discretion, that it is not in
37 the public interest or for the welfare of the students within the school division to continue the
38 operation of the school.

39 C. Nothing in this section shall be construed to restrict the authority of the local school board to
40 decline to renew a charter agreement.

41 § 22.1-212.13. Employment of professional, licensed personnel.

42 A. Charter school personnel shall be employees of the local school board granting the charter.

43 B. Professional, licensed personnel may volunteer for assignment to a charter school. Assignment
44 in a charter school shall be for one contract year. Upon request of the employee and the
45 recommendation of the governing board of the charter school, reassignment to the charter school
46 shall occur on an annual basis.

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

52 D. Professional, licensed personnel of a charter school shall be granted the same employment
53 benefits given to professional, licensed personnel in noncharter schools.

54 E. Nothing in this section shall be construed to restrict the authority of the local school board to

1 assign professional, licensed personnel to a charter school or any other public school as provided in
2 § 22.1-295.

3 § 22.1-212.14. Funding of charter schools; services provided.

4 A. For the purposes of this chapter, students enrolled in a charter school shall be included in the
5 average daily membership of the school division; however, charter schools shall not be reported in
6 fall membership for purposes of calculating the state and local shares required to fund the Standards
7 of Quality.

8 B. Insofar as constitutionally valid, a local school board may establish by contract an agreement
9 stating the conditions for funding the charter school.

10 C. Services provided the charter school by the local school board may include food services;
11 custodial and maintenance services; curriculum, media, and library services; warehousing and
12 merchandising; and such other services not prohibited by the provisions of this chapter or state and
13 federal laws.

14 D. Funding and service agreements between local school boards and charter schools shall not
15 provide a financial incentive or constitute a financial disincentive to the establishment of a charter
16 school.

17 E. Any educational and related fees collected from students enrolled at a charter school shall be
18 credited to the account of such charter school established by the local school board.

19 F. Notwithstanding any other provision of law, the proportionate share of state and federal
20 resources allocated for students with disabilities and school personnel assigned to special education
21 programs shall be directed to charter schools enrolling such students. The proportionate share of
22 moneys allocated under other federal or state categorical aid programs shall be directed to charter
23 schools serving students eligible for such aid.

24 G. The governing body of a charter school is authorized to accept gifts, donations, or grants of
25 any kind made to the charter school and to spend such funds in accordance with the conditions
26 prescribed by the donor. However, no gift, donation, or grant shall be accepted by the governing
27 body of a charter school if the conditions for such funds are contrary to law or the terms of the
28 agreement between the local school board and the charter school.

29 H. The Department of Education shall provide technical assistance to local school boards electing
30 to receive, review, and act upon applications for charter schools.

31 § 22.1-212.15. Evaluation of charter schools; reports.

32 School boards establishing charter schools shall submit annual evaluations of such schools to the
33 Board of Education. The Board shall review the evaluations against any Board regulations and
34 policies waived for the charter schools to determine the efficacy of such waivers and whether the
35 charter schools accomplished established goals and objectives. Such school boards shall also submit
36 annually to the Board a comparison of the performance of charter school students and students
37 enrolled in the regular schools of the school division and a report of the number of students enrolled
38 in such charter schools at the end of the school year.

39 The Board shall report annually its findings and evaluations of any charter schools established in
40 the Commonwealth to the Governor and the General Assembly, beginning in January 1997.

Passed By		Official Use By Clerks		Passed By The Senate	
The House of Delegates					
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