

SENATE BILL 75

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2003 Regular Session
(31r0658)

ENROLLED BILL

-- Education, Health, and Environmental Affairs/Ways and Means --

Introduced by **Senators Dyson, Hollinger, Colburn, DeGrange, Frosh, Giannetti, Harris, Hooper, Kittleman, Lawlah, Mooney, and Stone**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER 358

1 AN ACT concerning

2 **Public Charter School Act of 2003**

3 FOR the purpose of establishing the Maryland Public Charter School Program;
4 adding a certain definition; establishing certain authority in certain boards;
5 specifying certain charter school application requirements; prohibiting a ~~county~~
6 ~~board~~ public chartering authority from granting a charter to certain schools;
7 requiring a county board to review an application to establish a charter school
8 and render a decision within a certain time period; establishing a certain
9 appeals process; requiring the State Board of Education to render a certain
10 decision within a certain time period; authorizing the State Board of Education
11 to direct a county board to grant a charter under certain circumstances and
12 requiring the State Board to mediate a certain decision; establishing a certain
13 certification requirement; requiring a public charter school to comply with
14 certain provisions of law; authorizing a public charter school to apply for a
15 certain waiver; prohibiting the granting of a waiver from certain provisions of
16 law; providing for certain bargaining rights for certain employees; providing for

1 the negotiation of certain amendments to certain collective bargaining
 2 agreements; requiring a county board to disburse a certain amount of money to
 3 a public charter school; authorizing certain boards to give educational materials,
 4 supplies, furniture, and other equipment to a public charter school; requiring
 5 county boards to develop a certain policy; establishing a certain liaison for the
 6 Program; requiring the State Department of Education to create and
 7 disseminate to each local board of education a certain model public charter
 8 school policy by a certain date; requiring the State Board of Education to submit
 9 a certain report on or before a certain date; defining certain terms; authorizing
 10 the State Board to act as the public chartering authority for restructured schools
 11 under certain circumstances; specifying certain procedures and requirements
 12 governing an application for a restructured school that seeks to become a charter
 13 school; specifying certain limitations and requirements for charter schools with
 14 regard to educational services for children with disabilities; requiring the State
 15 Board of Education to provide certain technical assistance to certain operators of
 16 charter schools; and generally relating to the Maryland Public Charter School
 17 Program.

18 BY repealing and reenacting, with without amendments,
 19 Article - Education
 20 Section 6-401(e) and 6-501(g)
 21 Annotated Code of Maryland
 22 (2001 Replacement Volume and 2002 Supplement)

23 BY adding to
 24 Article - Education
 25 Section 9-101 through ~~9-106~~ ~~9-109~~ 9-110, inclusive, to be under the new title
 26 "Title 9. Maryland Public Charter School Program"
 27 Annotated Code of Maryland
 28 (2001 Replacement Volume and 2002 Supplement)

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 30 MARYLAND, That the Laws of Maryland read as follows:

31 **Article - Education**

32 6-401.

33 (e) "Public school employer" means a county board of education for, the
 34 Baltimore City Board of School Commissioners, OR A PUBLIC CHARTER SCHOOL, AS
 35 DEFINED IN TITLE 9 OF THIS ARTICLE.

36 6-501.

37 (g) (1) "Public school employer" means the county board in each county, OR
 38 A PUBLIC CHARTER SCHOOL, AS DEFINED IN TITLE 9 OF THIS ARTICLE.

1 (2) "Public school employer" includes the Baltimore City Board of School
2 Commissioners.

3 TITLE 9. MARYLAND PUBLIC CHARTER SCHOOL PROGRAM.

4 9-101.

5 (A) THERE IS A MARYLAND PUBLIC CHARTER SCHOOL PROGRAM.

6 (B) THE GENERAL PURPOSE OF THE PROGRAM IS TO ESTABLISH AN
7 ALTERNATIVE MEANS WITHIN THE EXISTING PUBLIC SCHOOL SYSTEM IN ORDER TO
8 PROVIDE INNOVATIVE LEARNING OPPORTUNITIES AND CREATIVE EDUCATIONAL
9 APPROACHES TO IMPROVE THE EDUCATION OF STUDENTS.

10 9-102.

11 IN THIS TITLE, "PUBLIC CHARTER SCHOOL" MEANS A PUBLIC SCHOOL THAT:

12 (1) IS NONSECTARIAN IN ALL ITS PROGRAMS, POLICIES, AND
13 OPERATIONS;

14 (2) IS A SCHOOL TO WHICH PARENTS CHOOSE TO SEND THEIR
15 CHILDREN;

16 (3) IS OPEN TO ALL STUDENTS ON A SPACE-AVAILABLE BASIS AND
17 ADMITS STUDENTS ON A LOTTERY BASIS IF MORE STUDENTS APPLY THAN CAN BE
18 ACCOMMODATED;

19 (4) IS A NEW PUBLIC SCHOOL OR A CONVERSION OF AN EXISTING
20 PUBLIC SCHOOL;

21 (5) PROVIDES A PROGRAM OF ELEMENTARY OR SECONDARY
22 EDUCATION OR BOTH;

23 (6) OPERATES IN PURSUIT OF A SPECIFIC SET OF EDUCATIONAL
24 OBJECTIVES;

25 (7) IS TUITION-FREE;

26 (8) IS SUBJECT TO FEDERAL AND STATE LAWS PROHIBITING
27 DISCRIMINATION;

28 (9) IS IN COMPLIANCE WITH ALL APPLICABLE HEALTH AND SAFETY
29 LAWS; ~~AND~~

30 (10) IS IN COMPLIANCE WITH THE REQUIREMENTS OF THE INDIVIDUALS
31 WITH DISABILITIES ACT, 20 U.S.C. 1400 ET SEQ. § 9-107 OF THIS TITLE;

32 (11) OPERATES UNDER THE SUPERVISION OF THE PUBLIC CHARTERING
33 AUTHORITY FROM WHICH ITS CHARTER IS GRANTED AND IN ACCORDANCE WITH ITS

1 CHARTER AND, EXCEPT AS PROVIDED IN § 9-106 OF THIS SUBTITLE, THE PROVISIONS
 2 OF LAW AND REGULATION GOVERNING OTHER PUBLIC SCHOOLS;

3 (12) REQUIRES STUDENTS TO BE PHYSICALLY PRESENT ON SCHOOL
 4 PREMISES FOR A PERIOD OF TIME SUBSTANTIALLY SIMILAR TO THAT WHICH OTHER
 5 PUBLIC SCHOOL STUDENTS SPEND ON SCHOOL PREMISES; AND

6 (13) IS CREATED IN ACCORDANCE WITH THIS TITLE AND THE
 7 APPROPRIATE COUNTY BOARD POLICY.

8 9-103.

9 (A) THE PRIMARY PUBLIC CHARTERING AUTHORITY FOR THE GRANTING OF
 10 ~~CHARTERS~~ A CHARTER SHALL BE ~~THE A COUNTY BOARDS~~ BOARD OF EDUCATION.

11 (B) THE SECONDARY PUBLIC CHARTERING AUTHORITY FOR THE GRANTING
 12 OF ~~CHARTERS~~ A CHARTER SHALL BE THE STATE BOARD ACTING IN ITS APPEAL
 13 REVIEW CAPACITY OR AS THE PUBLIC CHARTERING AUTHORITY FOR A
 14 RESTRUCTURED SCHOOL IN ACCORDANCE WITH § 9-104(A) OF THIS SUBTITLE.

15 ~~(C) THE STATE BOARD MAY CREATE ADDITIONAL PUBLIC CHARTERING~~
 16 ~~AUTHORITIES.~~

17 9-104.

18 (A) (1) AN APPLICATION TO ESTABLISH A PUBLIC CHARTER SCHOOL SHALL
 19 BE SUBMITTED TO THE COUNTY BOARD OF THE COUNTY IN WHICH THE CHARTER
 20 SCHOOL WILL BE LOCATED.

21 (2) AN APPLICATION TO ESTABLISH A PUBLIC CHARTER SCHOOL MAY BE
 22 SUBMITTED TO A COUNTY BOARD BY:

23 (I) THE STAFF OF A PUBLIC SCHOOL;

24 (II) A PARENT OR GUARDIAN OF A STUDENT WHO ATTENDS A
 25 PUBLIC SCHOOL IN THE COUNTY;

26 (III) A NONSECTARIAN NONPROFIT ENTITY;

27 (IV) ~~AN~~ A NONSECTARIAN INSTITUTION OF HIGHER EDUCATION IN
 28 THE STATE; OR

29 (V) ANY COMBINATION OF PERSONS SPECIFIED IN ITEMS (I)
 30 THROUGH (IV) OF THIS PARAGRAPH.

31 (3) ~~A COUNTY BOARD~~ PUBLIC CHARTERING AUTHORITY MAY NOT
 32 GRANT A CHARTER UNDER THIS TITLE TO:

33 (I) A PRIVATE SCHOOL;

34 (II) A PAROCHIAL SCHOOL; OR

1 (III) A HOME SCHOOL.

2 (4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
3 PARAGRAPH, THE COUNTY BOARD SHALL REVIEW THE APPLICATION AND RENDER A
4 DECISION WITHIN 120 DAYS OF RECEIPT OF THE APPLICATION.

5 (II) FOR A RESTRUCTURED SCHOOL:

6 1. THE COUNTY BOARD SHALL REVIEW THE APPLICATION
7 AND RENDER A DECISION WITHIN 30 DAYS OF RECEIPT OF THE APPLICATION;

8 2. THE COUNTY BOARD MAY APPLY TO THE STATE BOARD
9 FOR AN EXTENSION OF UP TO 15 DAYS FROM THE TIME LIMIT IMPOSED UNDER ITEM
10 1 OF THIS SUBPARAGRAPH;

11 3. IF AN EXTENSION IS NOT GRANTED, AND 30 DAYS HAVE
12 ELAPSED, THE STATE BOARD MAY BECOME A CHARTERING AUTHORITY; AND

13 4. IF AN EXTENSION HAS BEEN GRANTED, AND 45 DAYS
14 HAVE ELAPSED, THE STATE BOARD MAY BECOME A CHARTERING AUTHORITY.

15 (B) (1) IF THE COUNTY BOARD DENIES AN APPLICATION TO ESTABLISH A
16 PUBLIC CHARTER SCHOOL, THE APPLICANT MAY APPEAL THE DECISION TO THE
17 STATE BOARD, IN ACCORDANCE WITH § 4-205(C) OF THIS ARTICLE.

18 (2) THE STATE BOARD SHALL RENDER A DECISION WITHIN 120 DAYS OF
19 THE FILING OF AN APPEAL UNDER THIS SUBSECTION.

20 (3) IF THE COUNTY BOARD DENIES AN APPLICATION TO ESTABLISH A
21 PUBLIC CHARTER SCHOOL AND THE STATE BOARD REVERSES THE DECISION, THE
22 STATE BOARD MAY DIRECT THE COUNTY BOARD TO GRANT A CHARTER AND SHALL
23 MEDIATE WITH THE COUNTY BOARD AND THE APPLICANT TO IMPLEMENT THE
24 CHARTER.

25 9-105.

26 A MEMBER OF THE PROFESSIONAL STAFF OF A PUBLIC CHARTER SCHOOL
27 SHALL HOLD THE APPROPRIATE MARYLAND CERTIFICATION.

28 9-106.

29 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A PUBLIC CHARTER
30 SCHOOL SHALL COMPLY WITH THE PROVISIONS OF LAW AND REGULATION
31 GOVERNING OTHER PUBLIC SCHOOLS.

32 (B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A WAIVER OF THE
33 REQUIREMENTS UNDER SUBSECTION (A) OF THIS SECTION MAY BE SOUGHT
34 THROUGH AN APPEAL TO THE STATE BOARD.

35 (C) A WAIVER MAY NOT BE GRANTED FROM PROVISIONS OF LAW OR
36 REGULATION RELATING TO:

1 (1) AUDIT REQUIREMENTS:

2 (2) THE MEASUREMENT OF STUDENT ACADEMIC ACHIEVEMENT,
 3 INCLUDING ALL ASSESSMENTS REQUIRED FOR OTHER PUBLIC SCHOOLS AND OTHER
 4 ASSESSMENTS MUTUALLY AGREED UPON BY THE PUBLIC CHARTERING AUTHORITY
 5 AND THE SCHOOL; OR

6 (3) THE HEALTH, SAFETY, OR CIVIL RIGHTS OF A STUDENT OR AN
 7 EMPLOYEE OF THE CHARTER SCHOOL.

8 ~~9-107.~~

9 (A) A PUBLIC CHARTERING AUTHORITY MAY NOT GRANT A CHARTER TO A
 10 PUBLIC CHARTER SCHOOL WHOSE OPERATION WOULD BE INCONSISTENT WITH ANY
 11 PUBLIC POLICY INITIATIVE, COURT ORDER, OR FEDERAL IMPROVEMENT PLAN
 12 GOVERNING SPECIAL EDUCATION THAT IS APPLICABLE TO THE STATE.

13 (B) A PUBLIC CHARTERING AUTHORITY SHALL ENSURE THAT THE
 14 AUTHORIZING PROCESS FOR A PUBLIC CHARTER SCHOOL AND THE CHARTER
 15 APPLICATION ADDRESS THE ROLES AND RESPONSIBILITIES OF THE COUNTY BOARD
 16 AND THE APPLICANTS AND OPERATORS OF THE PUBLIC CHARTER SCHOOL WITH
 17 RESPECT TO CHILDREN WITH DISABILITIES.

18 (C) THE PUBLIC CHARTERING AUTHORITY SHALL ENSURE THAT, PRIOR TO
 19 OPENING A PUBLIC CHARTER SCHOOL, THE OPERATORS OF THE SCHOOL ARE
 20 INFORMED OF THE HUMAN, FISCAL, AND ORGANIZATIONAL CAPACITY NEEDED TO
 21 FULFILL THE SCHOOL'S RESPONSIBILITIES RELATED TO CHILDREN WITH
 22 DISABILITIES.

23 (D) THE STATE BOARD SHALL PROVIDE TECHNICAL ASSISTANCE TO THE
 24 OPERATORS OF A PUBLIC CHARTER SCHOOL TO HELP THE SCHOOL MEET THE
 25 REQUIREMENTS OF FEDERAL AND STATE LAWS, INCLUDING 20 U.S.C. § 1400, ET SEQ.
 26 AND § 504 OF THE REHABILITATION ACT OF 1973, 29 U.S.C. § 794.

27 ~~9-107, 9-108.~~

28 (A) EMPLOYEES OF A PUBLIC CHARTER SCHOOL:

29 (1) ARE PUBLIC SCHOOL EMPLOYEES, AS DEFINED IN §§ 6-401(D) AND
 30 6-501(F) OF THIS ARTICLE;

31 (2) ARE EMPLOYEES OF A PUBLIC SCHOOL EMPLOYER, AS DEFINED IN §§
 32 6-401(E) AND 6-501(G) OF THIS ARTICLE, IN THE COUNTY IN WHICH THE PUBLIC
 33 CHARTER SCHOOL IS LOCATED; AND

34 (3) SHALL HAVE THE RIGHTS GRANTED UNDER TITLE 6, SUBTITLES 4
 35 AND 5 OF THIS ARTICLE.

36 (B) IF A COLLECTIVE BARGAINING AGREEMENT UNDER TITLE 6, SUBTITLE 4
 37 OR 5 OF THIS ARTICLE IS ALREADY IN EXISTENCE IN THE COUNTY WHERE A PUBLIC

1 CHARTER SCHOOL IS LOCATED, THE EMPLOYEE ORGANIZATION AND THE PUBLIC
2 CHARTER SCHOOL MAY MUTUALLY AGREE TO NEGOTIATE AMENDMENTS TO THE
3 EXISTING AGREEMENT TO ADDRESS THE NEEDS OF THE PARTICULAR PUBLIC
4 CHARTER SCHOOL.

5 ~~9-108. 9-109.~~

6 (A) A COUNTY BOARD SHALL DISBURSE TO A PUBLIC CHARTER SCHOOL AN
7 AMOUNT OF COUNTY, STATE, AND FEDERAL MONEY FOR ELEMENTARY, MIDDLE, AND
8 SECONDARY STUDENTS THAT IS COMMENSURATE WITH THE AMOUNT DISBURSED
9 TO OTHER PUBLIC SCHOOLS IN THE LOCAL JURISDICTION.

10 (B) THE STATE BOARD OR THE COUNTY BOARD MAY GIVE SURPLUS
11 EDUCATIONAL MATERIALS, SUPPLIES, FURNITURE, AND OTHER EQUIPMENT TO A
12 PUBLIC CHARTER SCHOOL.

13 ~~9-109. 9-110.~~

14 (A) (1) EACH COUNTY BOARD SHALL DEVELOP A PUBLIC CHARTER SCHOOL
15 POLICY AND SUBMIT IT TO THE STATE BOARD.

16 (2) THE POLICY REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION
17 SHALL INCLUDE GUIDELINES AND PROCEDURES REGARDING:

18 (I) EVALUATION OF PUBLIC CHARTER SCHOOLS;

19 (II) REVOCATION OF A CHARTER;

20 (III) REPORTING REQUIREMENTS; AND

21 (IV) FINANCIAL, PROGRAMMATIC, OR COMPLIANCE AUDITS OF
22 PUBLIC CHARTER SCHOOLS.

23 (B) THE DEPARTMENT SHALL DESIGNATE A STAFF PERSON TO FUNCTION AS
24 A CONTACT PERSON FOR THE MARYLAND PUBLIC CHARTER SCHOOL PROGRAM.

25 SECTION 2. AND BE IT FURTHER ENACTED, That the State Department
26 of Education shall create and disseminate to each local board of education model
27 public charter school policy language which can be used to create a public charter
28 school policy as required by this Act. Each local board of education shall submit its
29 public charter school policy to the State Board of Education by November 1, 2003.

30 SECTION 3. AND BE IT FURTHER ENACTED, That on or before October 1,
31 2006, based on information gathered from each local board of education, the Board of
32 School Commissioners of Baltimore City, and the public, the State Board of Education
33 shall submit to the General Assembly, in accordance with § 2-1246 of the State
34 Government Article, a report including an evaluation of the public charter school
35 program. The report shall address the advisability of the continuation, modification,
36 expansion, or termination of the program.

1 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 ~~October~~ July 1, 2003.