

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 194 (Senator Kelley, *et al.*)

Education, Health, and Environmental Affairs

Ways and Means

**Education - Charter Schools - Study to Recommend Improvements to the
Maryland Public Charter School Program**

This bill requires the Maryland State Department of Education (MSDE) to conduct a study of specified items related to charter schools and provide final recommendations to the Governor and the General Assembly by November 1, 2014. The study conducted and recommendations must include documented consultation and cooperation with specified interested stakeholders; a review and analysis of charter school laws deemed effective in other states and of research regarding innovative practices for charter schools authorizers; and must include recommendations for improvements to the Maryland Public Charter School Program. By December 1, 2013, MSDE must submit a status report on the study to the Governor and the General Assembly. By December 31, 2014, the Department of Legislative Services (DLS) must review the methodology, data analysis, findings, and recommendations contained within the study and make any comments or recommendations on the study to the General Assembly.

The bill takes effect June 1, 2013, and terminates June 30, 2015.

Fiscal Summary

State Effect: General fund expenditures increase by \$450,000 in FY 2014 and \$150,000 in FY 2015 to cover MSDE costs for hiring an independent consultant to complete the study and required reported. DLS can review the study using existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The general purpose of the Maryland Public Charter School Program is to establish an alternative means within the existing public school system in order to provide innovative learning opportunities and creative educational approaches to improve the education of students. A local board of education must disburse to a public charter school an amount of county, State, and federal money for elementary, middle, and high school students that is commensurate with the amount disbursed to other public schools in the local jurisdiction.

Chartering Authority and Establishing a Public Charter School

The local board of education is the primary public chartering authority for charter schools; the State Board of Education is a secondary public chartering authority when acting in its appeal review capacity or as the public chartering authority for a restructured school. An application to establish a public charter school in a county must be submitted to the local board of education. If the local board of education denies the application, the applicant can appeal the decision to the State Board of Education. Public school staff, parents or guardians of public school students, nonsectarian nonprofit entities, or nonsectarian institutions of higher education in the State can apply to establish a public charter school. Private, parochial, or home schools are not eligible to become a public charter school.

Public Charter School Rules and Local Board of Education Charter School Policy

In general, a public charter school must comply with all the provisions of law and regulation governing other public schools. A public charter school must comply with all applicable health and safety laws. A public charter school may seek a waiver of these requirements through an appeal to the State board. A waiver may not be granted relating to audit requirements; student assessments; or health, safety, and civil rights.

A public chartering authority may not grant a charter to a public charter school whose operation would be inconsistent with any public policy initiative, court order, or federal improvement plan governing special education that is applicable to the State. The State board must provide technical assistance to the operators of a public charter school to help the school meet the requirements of federal and State laws.

Each local board of education must develop a public charter school policy and submit it to the State Board of Education. The policy must include guidelines and procedures regarding: (1) evaluation of public charter schools; (2) revocation of a charter; (3) reporting requirements; and (4) financial, programmatic, or compliance audits of public charter schools.

Student Enrollment

Public charter schools must be nonsectarian and open to all students on a space-available basis. Public charter schools cannot discriminate in their enrollment policies or charge tuition to students. However, the State Board of Education may grant a waiver from the requirement that a public charter school be open to all students on a space-available basis to a charter school that is located on a federal military base; the school must admit students with parents who are not assigned to the base to at least 35% of its total available space and must admit all students on a lottery basis.

Public Charter School Employees

Professional staff members of a public charter school must hold the appropriate Maryland certification. Public charter school employees remain public school employees. If a collective bargaining agreement is already in existence in the county where a public charter school is located, the employee organization and the public charter school may mutually agree to negotiate amendments to the existing agreement to address the needs of the particular public charter school.

Surplus School Site or Building

If, with the approval of the State Superintendent of Schools, a local board of education determines that a school site or building no longer is needed for school purposes and after the county commissioners or county council have provided the required notice, the local board must inform the public charter schools in the jurisdiction that the school site or building is available for occupation and use by a public charter school on the terms determined by the local board. A public charter school that occupies or uses a school site or building under this provision of the law may not sell, dispose of, or otherwise transfer the school site or building.

Each local board of education must establish a procedure to determine which public charter school may occupy and use an available school site or building if more than one public charter school notifies the local board of an interest in occupying and using a school site or building. Any portion of a building or property occupied and used by a public charter school must be exempt from property taxes for the duration of the occupation and use of the building or property as a public charter school.

Charter schools located in former school buildings are eligible to receive State school construction funds if the project is requested by the school board.

Background: Currently there are 52 public charter schools, serving over 16,000 students, operating in seven local school systems: Baltimore City (38), and Anne Arundel (2), Baltimore (1), Frederick (2), Montgomery (1), Prince George's (7), and

St. Mary's (1) counties. Four additional public charter schools are scheduled to begin operations in Maryland by August 2014.

In a 7-2 ruling, 400 Md. 324, 929 A.2d 113 (2007), the Maryland Court of Appeals upheld the State Board of Education's funding model for charter schools, thereby rejecting separate funding models developed by the Baltimore City Board of School Commissioners (city board) and the Prince George's County Board of Education (PGCBE). The State board's funding model requires that, for each student they enroll, charter schools receive funding equal to the total annual school system operating budget (including all federal, State, and local funds) divided by the total number of students in the school system. It allows local school boards to deduct up to 2% from that amount for central office administrative functions and only requires local school boards to distribute federal funds to charter schools when they qualify for the funds under federal rules. The city board and PGCBE had each proposed alternative models that provided reduced funding levels to charter schools, but also provided specific in-kind services to charter schools in their jurisdictions (including, for example, special education and meal services).

MSDE advises that Maryland was not approved to receive the federal charter schools program grant in 2011 or 2012, because State law is not aligned to the federal program's requirements. The Department of Legislative Services advises that the federal Charter School Program grant is very competitive and only two states, Florida and New York, were awarded grants in 2011 and only three states in 2012 (Massachusetts, Minnesota, and New Jersey). MSDE was granted \$18.2 million in 2007 through the federal grant program for use from 2007 to 2011. There are also two federal grant programs that allow individual charter schools to apply directly to the U.S. Department of Education for funds.

State Fiscal Effect: MSDE advises that because of the scope, methodology, and required components for the study, an independent consultant will be required. Given the required components of the study and the timeline for its completion, it is estimated that the costs associated with the independent consultant will total \$450,000 in fiscal 2014 (75% of the cost) and \$150,000 in fiscal 2015 (25% of the cost).

Additional Information

Prior Introductions: None.

Cross File: HB 1051 (Delegate Ivey) – Ways and Means.

Information Source(s): Maryland State Department of Education, Department of Legislative Services

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