

**Department of Legislative Services**  
 Maryland General Assembly  
 2024 Session

**FISCAL AND POLICY NOTE**  
**Third Reader**

Senate Bill 892

(Senator McCray, *et al.*)

Budget and Taxation

Appropriations

**School Construction - Public Charter School Facility Fund - Establishment**

This bill creates the Public Charter School Facility Fund, administered by the Interagency Commission on School Construction (IAC), to provide funding to public charter schools for eligible expenses associated with public charter school facilities. The Governor may include an annual appropriation in the budget bill of up to \$2,000 per student enrolled in a public charter school. **The bill takes effect July 1, 2024.**

**Fiscal Summary**

**State Effect:** Assuming the maximum amount of funding authorized by the bill is included in the budget beginning FY 2026, general fund expenditures for IAC increase by \$73,700 in FY 2025 for staffing and by \$48.1 million beginning in FY 2026 to provide funding to public charter schools and to administer the fund. Special fund revenues and expenditures increase by \$48.0 million accordingly. Total expenditures for administration and grant distribution may be less to the extent less than the maximum per student funding amount is provided in the budget.

(\$ in millions)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
SF Revenue	\$0	\$48.00	\$48.00	\$48.00	\$48.00
GF Expenditure	\$0.07	\$48.13	\$48.14	\$48.14	\$48.15
SF Expenditure	\$0	\$48.00	\$48.00	\$48.00	\$48.00
Net Effect	(\$0.07)	(\$48.13)	(\$48.14)	(\$48.14)	(\$48.15)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** None. Funding is provided directly to public charter schools, not local school systems.

**Small Business Effect:** Minimal.

## **Analysis**

**Bill Summary:** The fund may be used for facilities that are either leased or owned by the public charter school and to pay eligible facility expenses, which are actual expenses incurred by a public charter school, including:

- debt service under a mortgage, bond, or other debt instrument;
- rent;
- operations;
- maintenance (including both routine and capital maintenance);
- insurance;
- usage fees; and
- any other expenses determined by IAC.

The fund consists of (1) money appropriated to the fund; (2) interest earnings; and (3) any other money from any other source.

The amount of funding provided to a public charter school each year should be equal to the eligible facility expenses that the public charter school demonstrates that it incurred during the immediately preceding fiscal year, up to \$2,000 per student. Funding must be paid directly to a public charter school and not to a local government or local school board.

A public charter school is not eligible to apply for funding from the fund after its charter has been revoked, nonrenewed, or surrendered. A public charter school may not sell, lease, exchange, give away, or otherwise transfer or dispose of any interest in real property for which it received reimbursement for debt service to acquire the property unless the Board of Public Works (BPW) gives prior written consent following at least 60 calendar days from when the public charter school gave notice of a proposed transfer or disposition. BPW may condition permission to transfer or dispose of the property on the repayment by the public charter school of the proceeds received for debt service, at BPW's discretion. Funding may not supplant any other State funding received by the public charter school.

### **Current Law:**

#### *Public Charter Schools*

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.

The local board of education is the public chartering authority within a county. Public charter schools must be nonsectarian and, with exceptions, open to all students on a space-available basis and admit students on a lottery basis if more students apply than can be accommodated. If granted a waiver, a public charter school located within a federal military base may designate as much as 65% of its enrollment for students whose parents are assigned to the base.

Public charter schools cannot discriminate in their enrollment policies or charge tuition to students. A local school system must serve students with disabilities attending public charter schools in the same manner as the public agency serves students with disabilities in its other schools, in accordance with applicable federal and State law. A public charter school must require students to be physically present on school premises for a period of time substantially similar to that which other public school students spend on school premises.

An application to establish a public charter school may be submitted to a local board by the staff of a public school, a parent of a student who attends a public school in the county, a nonsectarian nonprofit entity, a nonsectarian institution of higher education in the State, or any combination of these. A public chartering authority may not grant a charter to a private school, a parochial school, a home school, or a school that operates fully online.

IAC advises that some charter schools are eligible for capital construction and systemic renovation funding from the State's Public School Construction Program (PSCP). However, funding is available only for facilities that are owned by local school systems (and leased to the charter school) and if the funding request is submitted by the local school system in which the charter school is located.

### *Charter School Facilities*

In general, public charter schools have right of first refusal for any land, school site, or building that is no longer needed by a local school system and county government. Specifically, if a local school board finds, with the approval of the State Superintendent, that any land, school site, or building is no longer needed for school purposes, it must inform the county commissioners or county council of that determination. Within 30 days of receiving the notice from the local school board, the county government must notify the local school board either (1) of the need to transfer the land, site, or building to the county if it is an integral part of an existing economic development plan that will significantly benefit the county or (2) that the county government has no existing plans for the land, site, or building. If the county government has no plans for the property or does not provide

notification within 30 days, the local school board must make the property available to any charter school in the district, under terms established by the local school board.

### *Funding for Charter School Facilities in the State Operating and Capital Budgets*

Public charter schools are authorized to use Foundation Formula funding for maintenance and operation of the public charter school.

Until May 2023, only public charter schools in buildings owned by a local school system were eligible for capital construction and systemic renovation funding from the PSCP. In order to receive funding from the PSCP, a local school system in which the charter school is located must submit a funding request. The request then requires the local school system to assume the local share of the State and local cost-share formula for the PSCP. According to IAC, only 12 public charter schools are in facilities owned by a local school system and very few public charter schools have been submitted for funding through the PSCP.

In 2023, IAC adopted a policy to allow the use of bond proceeds for capital improvements in leased public school buildings not owned by a local school system, provided that the lease is a minimum of 25 years in duration and, for charter schools, subject to a written guarantee by the local school system that granted the charter. The new IAC policy does not allow State bond proceeds to be used for rent payments, utility costs, or salaries. The fiscal 2025 capital improvement plan is the first to allow submission of projects under this new policy.

Public charter schools are eligible and receive direct funding through the State's capital program. In the fiscal 2024 capital budget (Chapter 102 of 2023), two public charter schools received State funding totaling \$560,000, and one public charter school received a preauthorization for \$1.2 million in fiscal 2025. Funding from the capital program can only be used for expenses described as eligible in the authorization, and funding does not require any local school system or public charter school matching funding.

### **State Fiscal Effect:**

#### *Public Charter School Facility Fund*

The Maryland State Department of Education advises that, during the 2023-2024 school year, 49 charter schools are operating and serving approximately 24,000 students. The number of charter schools and their total enrollment has not changed substantially in recent years.

Therefore, general fund expenditures increase by \$48.0 million annually beginning in fiscal 2026 to capitalize the fund. Special fund revenues and expenditures increase

commensurately, assuming that funds are fully disbursed to charter schools each year. To the extent that charter school enrollment changes in future years, general fund expenditures (and special fund revenues and expenditures) change accordingly, but this analysis assumes stable enrollment in line with recent trends.

### *Fund Administration*

IAC must administer the fund and oversee the disbursement of nearly \$50 million annually (assuming the program is funded at its maximum level), which it cannot do with existing staff. As the fund may be used only to provide funding to public charter schools, general funds are needed to cover staffing costs for IAC. Although funding for charter schools may not be available until fiscal 2026, the bill requires IAC to develop application procedures for the funding. Therefore, this analysis assumes that staffing is necessary beginning January 1, 2025, to prepare for the disbursement of funding in fiscal 2026.

Accordingly, general fund expenditures increase by \$73,674 in fiscal 2025, which accounts for a six-month start-up delay from the bill's July 1, 2024 effective date, as discussed above. This estimate reflects the cost of hiring one program manager to oversee the disbursement of funding to charter schools and ensure that it is used for eligible expenses. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	1.0
Salaries and Fringe Benefits	\$66,688
Operating Expenses	<u>6,986</u>
<b>Total FY 2025 State Expenditures</b>	<b>\$73,674</b>

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

**Additional Comments:** IAC notes that public charter schools that receive funding for debt service may be bound to repay the amount they receive when they sell or dispose of property purchased with the loan (unless BPW releases them from that obligation).

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### **Additional Information**

**Recent Prior Introductions:** Similar legislation has been introduced within the last three years. See SB 646 of 2023.

**Designated Cross File:** HB 1061 (Delegate Young) - Appropriations.

**Information Source(s):** Maryland State Department of Education; Interagency Commission on School Construction; Department of Budget and Management; Board of Public Works; Department of Legislative Services

**Fiscal Note History:** First Reader - February 15, 2024  
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Analysis by: Michael E. Sousane

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510