

Department of Legislative Services  
Maryland General Assembly  
2001 Session

FISCAL NOTE

Senate Bill 721 (Senator McCabe, *et al.*)  
Economic and Environmental Affairs

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**Education Innovation Act of 2001 - Public Charter School Program**

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This bill establishes a Maryland Public Charter School Program with chartering authority granted to local boards of education and institutions of higher education. Local boards are required to provide the same level of funding to public charter schools that is provided to traditional public schools, and local boards and public charter schools can negotiate for additional funding. Public charter schools cannot discriminate in their enrollment policies or charge tuition. A public charter school advisory office is created within the Maryland State Department of Education. The State Board of Education is required to submit an evaluation report of the Public Charter School Program to the General Assembly by October 1, 2004.

The bill takes effect July 1, 2001.

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**Fiscal Summary**

**State Effect:** State education formula expenditures could increase to the extent that the bill encourages students who currently attend private schools to attend public charter schools. Any future expenditure increase is assumed to be minimal. Revenues would not be affected.

**Local Effect:** A portion of local school expenditures would be redirected to public charter schools. State aid to local school systems and local school expenditures could increase to the extent that the bill encourages students who currently attend private schools to attend public charter schools. Public charter schools may need to receive nonpublic funding in order to remain financially viable.

**Small Business Effect:** None.

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## Analysis

**Bill Summary:** Local boards of education and institutions of higher education are granted chartering authority for the establishment of public charter schools. Public charter schools can be operated by: (1) staff at a public school; (2) parents or guardians of students attending a public or nonpublic school in the county; (3) a nonprofit entity; (4) an institution of higher education; (5) a unit of local government; or (6) any unit of State government created to advise or oversee charter schools.

An existing public school is eligible to become a public charter school if: (1) at least two-thirds of the staff and two-thirds of the parents of children attending the school sign a petition in support of the school becoming a public charter school; or (2) the local board of education determines that the school is under performing relative to other local schools in the system. A public charter school may specialize in providing services to children who attend either a traditional public school that has been determined by the local board of education to be under performing or a reconstitution eligible school. A public charter school that is developed as a new public school may limit admission to a particular grade level; however, it cannot limit admission on the basis of intellectual or physical ability.

The State Board of Education or a local board of education may exempt a public charter school from certain education regulations or requirements, except those pertaining to civil rights, student health, and student safety. Public charter schools may not charge students tuition. Public charter schools and the student's parents are responsible for providing transportation services, although, a public charter school and a local board of education can negotiate an agreement for transporting students. A member of the professional staff of a public charter school must hold the appropriate Maryland certification.

**Current Law:** Maryland does not have authorizing legislation for the establishment of charter schools.

**Background:** Charter school legislation has been enacted in 36 states, the District of Columbia, and Puerto Rico. The Center for Education Reform estimates that 2,073 charter schools will operate in the 2000-2001 school year serving approximately 520,000 students. This represents approximately 1% of all public school students. Arizona has the most charter schools (408) serving 95,000 students. California has 261 charter schools serving 122,000 students, followed by Texas (182) serving 38,000 students, and Michigan (181) serving 53,000 students. Virginia has one charter school serving 30 students.

According to the U.S. Department of Education, approximately 48% of charter school students are white compared to 59% of public school enrollment. Black students comprise 24% of charter school enrollment and Hispanic students comprise 21%. Charter

schools in several states (Connecticut, Illinois, Louisiana, Massachusetts, Michigan, Minnesota, New Jersey, North Carolina, and Texas) enroll a much higher percentage of minority students than all public schools in those states. In addition, charter schools enroll a slightly higher percentage of students eligible for free and reduced-price lunch than do public schools (39% versus 37%).

Charter school laws vary considerably across the country; some states, such as Arizona, grant maximum autonomy to charter schools, while other states, such as Georgia, provide schools with limited authority. For example, in Arizona, charter schools are legally independent entities with complete waivers from district and state regulations. In Georgia, however, charter schools are considered part of the school district and are granted less freedom over budgets and personnel. While different in many ways, certain characteristics are common for all charter schools. Charter schools cannot charge tuition, must be nonsectarian, are subject to federal and state laws prohibiting discrimination, and must comply with all health and safety laws. In addition, most charter schools can negotiate and contract for facilities and services, acquire real property, receive and disburse funds, incur temporary debt, and operate as a business or corporation.

Legislation enacted in 1998 established a task force to recommend legislation that would allow Maryland public charter schools to qualify and compete for start-up funds under the Federal Charter School Grant Program. This grant program is open to states that have enacted a state law authorizing the granting of charters to schools. The task force identified the provisions that should be contained in such a law.

**State Fiscal Effect:** State funding for public schools could increase to the extent that establishing public charter schools encourages private school students to return to the public school system. Nationally, charter schools enroll only about 1% of public school students. Assuming public charter schools in Maryland experience similar trends, approximately 8,500 students could be enrolled in public charter schools. If a portion of these students comes from private schools, State education funding will increase. Currently 14% of students in Maryland attend private schools.

**Local Fiscal Effect:** Local boards are required to provide the same level of funding to public charter schools that is provided to traditional public schools. In addition, local boards and public charter schools can negotiate for additional funding. The estimated average per pupil operating expenditure for public schools in fiscal 2002 is approximately \$7,700. This figure includes the cost for teachers' retirement payments.

Teachers and other professional staff at a public charter school must hold the appropriate State certification. Requiring public charter schools to hire only certificated teachers could prevent the charter school from realizing lower instructional costs that is needed to

cover start-up expenses, facilities costs, new academic programs, and administrative costs.

**Additional Comments:** Even with the availability of State and local funds, public charter schools may still incur financial difficulties. Based on a study by the National Conference of State Legislatures, locating and paying for adequate school facilities pose significant barriers to charter schools. According to this report, new charter schools rarely have a financial track record or assets that enable them to secure loans to lease or buy buildings. In addition, many charter schools do not have access to local district funds available for capital improvements (buildings and major improvements), nor do they have the ability to issue bonds. Accordingly, most charter schools must use a portion of their operating funds to purchase and maintain school facilities. In many states, charter schools are located in commercial office and retail space and other facilities that may not conform to public school standards.

Another major fiscal issue involves start-up costs. According to a report by the Education Commission of the States, most charter schools have initial cash-flow problems because they do not receive any state or local money until the school year begins. Charter schools often have to take out loans for operating and start-up expenses. Further, it can be difficult for a charter school to access or receive federal categorical funds during its first year, because funding for some federal programs is based on prior year enrollment. To alleviate this problem, some states, such as Massachusetts, have made an exception for charter schools by allowing them to qualify for federal categorical funds based on actual enrollment of eligible children during the first year.

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### **Additional Information**

**Prior Introductions:** A similar bill was introduced at the 1998 session as HB 999 and resulted in a task force to study public charter schools. At the 1999 session, HB 116, a substantially similar bill, was adopted by the House. It received a favorable report with amendments by the Economic and Environmental Affairs Committee and was approved by the Senate. An agreement was never reached by both the House and Senate. A similar bill was introduced in the 2000 session as HB 526 and was adopted by the House and referred to interim study by the Senate Economic and Environmental Affairs Committee.

**Cross File:** None.

**Information Source(s):** U. S. Department of Education, National Conference of State Legislatures, Education Commission of the States, Maryland State Department of Education, Department of Legislative Services

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