

Department of Legislative Services  
Maryland General Assembly  
2001 Session

FISCAL NOTE  
Revised

House Bill 29

(Delegate Leopold, *et al.*)

Ways and Means

Economic and Environmental Affairs

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Public Charter School Act of 2001

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This bill provides that local boards of education may authorize staff members, parents or guardians of public school students, and public institutions of higher education to establish public charter schools. Private, parochial, and home schools are not eligible to become a public charter school. Public charter schools would receive funds from the local board in the amount of the per pupil basic current expense figure. In addition, the local board and the public charter school can negotiate for additional funding. Public charter schools cannot discriminate in their enrollment policies or charge tuition to students.

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, 2005. This 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 re-directed to public charter schools. State aid to local school systems 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 are granted chartering authority for the establishment of public charter schools. Public charter schools can be located in a part of an existing public school building, public buildings, and any other suitable location. An existing public school is eligible to become a public charter school if at least two-thirds of the staff and two-thirds of the parents of children attending the school sign a petition and vote in support of the school becoming a public charter school. In addition, a county board must approve whether a public school can become a charter school. Public charter schools are valid for a four-year period and may be renewed by the local board for subsequent five-year periods.

A public charter school must be open to all students in the county on a space-available basis and may not discriminate in its admission policies or practices. Enrollment preference may be granted to siblings of a student who attends the charter school, a student within the school attendance area if an existing public school converts to a charter school, and the child of a parent or guardian who establishes a charter school. 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 and cannot construct school facilities with public funds. Public charter schools and the student's parents are responsible for providing transportation services, however, a public charter school and a local board of education can negotiate an agreement for transporting students. In addition, the bill establishes certain personnel requirements for public charter schools.

**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 were 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%).

Across the country charter school laws vary considerably; 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. As Maryland currently has no authorizing legislation, 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 come from private schools, State education funding will increase. Currently 14% of students in Maryland attend private schools.

**Local Fiscal Effect:** A local board must provide the public charter school with funds in the amount of the per pupil basic current expense figure. In addition, the county board and the public charter school can negotiate for additional funding. In fiscal 2002, the per pupil basic current expense figure totals \$4,126. Under this bill, each public charter school would be guaranteed this amount (the actual dollar amount increases each year). This amount is approximately \$3,700 less than the estimated fiscal 2002 average per pupil operating expenditures for public schools. Since public charter schools cannot charge tuition and the State has not provided charter schools with start-up or facility expenses, it is assumed that additional funding would be required to adequately finance public charter schools.

Teachers and other professional staff at a public charter school must hold the appropriate State certification, and certificated and noncertificated employees of a public charter school would remain employees of the county board. Requiring public charter schools to hire only certificated teachers could prevent the charter school from realizing lower instructional costs which is needed in order to cover start-up expenses, facilities costs, new academic programs, and administrative costs. The required State local funding under this bill for public charter schools accounts for only 53% of the average operating costs at existing public schools. This does not include the potential cost for capital facilities, which the State is prohibited from funding under this bill.

**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.

Like similar legislation in other states, this bill prohibits public charter schools from using public funds to construct school facilities and does not provide any funding for facility acquisition or school start-up costs that could assist public charter schools to become operational. In addition, this bill requires public charter schools to conform to the regulations governing traditional public school facilities, unless a waiver is granted. This could eliminate potential facility sites for public charter schools, thus increasing costs. 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.

## **Additional Information**

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

**Cross File:** None.

**Information Source(s):** United States 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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