

**Department of Legislative Services**  
 Maryland General Assembly  
 2003 Session

**FISCAL AND POLICY NOTE**

House Bill 11 (Delegate Leopold, *et al.*)  
 Ways and Means

**Public Charter School Act of 2003**

This bill establishes a Maryland Public Charter School Program with chartering authority granted to the local boards of education. If the local board of education denies the application, the applicant can appeal the decision to the State Board of Education (SBE). The decision of SBE is final. The public charter school must operate under the direct supervision of the local board of education in accordance with the charter granted to the school and the provisions of law governing other public schools in the county.

The bill takes effect July 1, 2003.

**Fiscal Summary**

**State Effect:** Administrative costs within the Maryland State Department of Education (MSDE) would increase by \$128,900 in FY 2004. Future year expenditures reflect annualization and inflation. State education aid could increase to the extent that the bill encourages students who currently attend private schools to attend public charter schools. Potential increase in federal funds for charter schools.

(in dollars)	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	128,900	151,700	158,800	166,500	174,700
Net Effect	(\$128,900)	(\$151,700)	(\$158,800)	(\$166,500)	(\$174,700)

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

**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.

**Small Business Effect:** None.

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## **Analysis**

**Bill Summary:** Staff of public schools, parents or guardians of public school students, public institutions of higher education, or any combination of these individuals or institutions can apply to establish a public 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.

Private, parochial, or home schools are not eligible to become a public charter school. Public charter schools must be nonsectarian. 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. Professional staff members of a public charter school must hold the appropriate Maryland certification.

A public charter school can be either a new public school or an existing public school. 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 local board must approve whether a public school can become a charter school.

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 or charge tuition to students. Enrollment preferences must 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 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 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.

SBE is required to submit an evaluation report of the public charter school program by October 1, 2006. The report must include a recommendation on the advisability of the continuation, modification, expansion, or termination of the program.

**Current Law:** Local boards of education have the authority to establish public charter schools. However, there is no enabling State statute.

**Background:** In October 1996 the State Board of Education created a Public Charter School Study Group to explore issues that might impact charter schools in Maryland. This group presented a report to SBE and the State Superintendent of Schools in early 1997. During the same year, MSDE issued guidelines governing the establishment of public charter schools. Currently, a charter school has received approval by the Frederick County Board of Education to operate in the county. The Montgomery County Board of Education denied a request to establish a charter school in the county. There are a few schools in Baltimore City that are similar to charter schools.

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. The 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.

### *Charter Schools Across America*

Charter school legislation has been enacted in 39 states, the District of Columbia, and Puerto Rico. The Center for Education Reform estimates that 2,696 charter schools operated in the 2002-2003 school year serving approximately 685,000 students. This represents approximately 1.3% of all students. Arizona has the most charter schools (464) serving 73,500 students. **Exhibit 1** shows the number of charter schools in operation and the number of students served during the 2002-2003 school year.

### *Racial Composition of Charter Schools*

Based on a U.S. Department of Education report from 2000, white students comprise 48% of charter school enrollment, African-American students comprise 24%, Hispanic students comprise 21%, and Asian students comprise 3%. 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*

Across the country charter school laws vary considerably and are defined as ranging from strong to weak. States in which school districts maintain the majority of the control regarding the charter contract are defined as having weak laws; states in which the school district maintains little control regarding the contract are defined as having strong laws. For example, some states such as Arizona grant maximum autonomy to charter schools, while other states such as Rhode Island and Virginia provide charter schools with limited authority.

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.

**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 about 1.3% of students. Assuming public charter schools in Maryland experience similar trends, approximately 12,700 students could be enrolled in public charter schools. If a portion of these students come from private schools, State education funding will increase. Currently, 15% of students attending kindergarten through grade 12 in Maryland attend private schools.

Administrative expenditures within MSDE would increase by \$128,900 in fiscal 2004, which accounts for a three-month start-up delay. The estimate reflects the cost of two new positions (an education coordinator and an office secretary) to administer and serve as a liaison to the program and \$35,000 to hire consultants to assist in annual evaluations of the program. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. Future year expenditures reflect: (1) full salaries with a 4.5% annual increase and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

	<b><u>Fiscal 2004</u></b>
Salaries and Benefits	\$80,600
Consultant Expenses	35,000
Start-up Costs	8,900
Ongoing Operating Costs	<u>4,400</u>
<b>Total Expenditures</b>	<b>\$128,900</b>

**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 local board and the public charter school can negotiate for additional funding. The per pupil amount under the education foundation program in fiscal 2004 totals \$4,766. The total per pupil expenditures for public schools in fiscal 2004 is estimated at \$9,500. This amount is approximately \$4,700 less than the estimated fiscal 2004 total per pupil expenditures for public schools. Since public charter schools cannot charge tuition and the bill does not provide 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 local board. Requiring a public charter school 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 and local funding under this bill for public charter schools accounts for only 50% of the estimated 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. In many states, charter schools are located in commercial office and retail space and other facilities that may not conform to public school standards.

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.

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### **Additional Information**

**Prior Introductions:** A similar bill was introduced at the 2002 session as HB 131. The bill received a favorable with amendments report by the House Ways and Means Committee and was adopted by the House. The Senate Education, Health, and Environmental Affairs Committee amended the bill and the Senate adopted it. A conference committee was appointed; however, an agreement between the two chambers was not reached.

Charter school legislation has been introduced repeatedly since the 1998 session. At the 1998 session, HB 999 was introduced. 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 was introduced and received a favorable with amendments report by the House Ways and Means Committee and was adopted with floor amendments by the full House. In the Senate, HB 116 received a favorable with amendments report 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. At the 2000 session, HB 526 was introduced and received a favorable with amendments report by the House Ways and Means Committee and was adopted by the full House. The Senate Economic and Environmental Affairs Committee referred the bill to interim study. At the 2001 session, HB 29 was introduced and received a favorable with amendments report by the House Ways and Means Committee and was adopted by the full House. In the Senate, HB 29 received a favorable with amendments report 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.

**Cross File:** SB 5 (Senator Greenip, *et al.*) – Education, Health, and Environmental Affairs.

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

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**Exhibit 1**  
**Charter Schools In Operation During 2002-2003 School Year**

<b>State</b>	<b>Year Law Enacted</b>	<b>Strength of Charter School Law</b>	<b>Number of Schools</b>	<b>Number of Students</b>
Alabama	No Law		0	0
Alaska	1995	Weak	15	2,682
Arizona	1994	Strong to Medium	464	73,542
Arkansas	1995	Weak	8	1,486
California	1992	Strong to Medium	428	153,935
Colorado	1993	Strong to Medium	93	25,512
Connecticut	1996	Weak	16	2,526
Delaware	1995	Strong to Medium	11	5,262
District of Columbia	1996	Strong to Medium	39	11,530
Florida	1996	Strong to Medium	227	53,350
Georgia	1993	Weak	35	15,117
Hawaii	1994	Weak	25	3,301
Idaho	1998	Weak	13	2,694
Illinois	1996	Weak	29	10,309
Indiana	2001	Strong to Medium	10	1,275
Iowa	2002	Weak	0	0
Kansas	1994	Weak	30	2,568
Kentucky	No Law		0	0
Louisiana	1995	Weak	20	4,631
Maine	No Law		0	0
Maryland	No Law		0	0
Massachusetts	1993	Strong to Medium	46	14,013
Michigan	1993	Strong to Medium	196	60,236
Minnesota	1991	Strong to Medium	87	12,269
Mississippi	1997	Weak	1	334
Missouri	1998	Strong to Medium	26	12,130
Montana	No Law		0	0
Nebraska	No Law		0	0
Nevada	1997	Weak	13	2,851
New Hampshire	1995	Weak	0	0
New Jersey	1996	Strong to Medium	56	18,081
New Mexico	1993	Strong to Medium	28	4,234
New York	1998	Strong to Medium	38	10,954
North Carolina	1996	Strong to Medium	93	21,030
North Dakota	No Law		0	0



**Exhibit 1 (continued)**

<b>State</b>	<b>Year Law Enacted</b>	<b>Strength of Charter School Law</b>	<b>Number of Schools</b>	<b>Number of Students</b>
Ohio	1997	Strong to Medium	131	28,446
Oklahoma	1999	Weak	10	2,197
Oregon	1999	Strong to Medium	25	2,107
Pennsylvania	1997	Strong to Medium	91	33,656
Rhode Island	1995	Weak	7	914
South Carolina	1996	Weak	13	1,235
South Dakota	No Law		0	0
Tennessee	2002	Weak	0	0
Texas	1995	Strong to Medium	221	60,562
Utah	1998	Weak	12	1,259
Vermont	No Law		0	0
Virginia	1998	Weak	8	1,440
Washington	No Law		0	0
West Virginia	No Law		0	0
Wisconsin	1993	Strong to Medium	130	26,797
Wyoming	1995	Weak	1	110
<b>United States</b>			<b>2,696</b>	<b>684,575</b>

Source: The Center for Education Reform