

Department of Legislative Services  
 Maryland General Assembly  
 2003 Session

FISCAL AND POLICY NOTE  
 Revised

Senate Bill 75 (Senator Dyson, *et al.*)  
 Education, Health, and Environmental Affairs

Ways and Means

Public Charter School Act of 2003

This bill establishes a Maryland Public Charter School Program with primary chartering authority granted to local boards of education and secondary chartering authority granted to the State Board of Education (SBE). An application to establish a public charter school must be submitted to the local board of education in the jurisdiction in which the charter school will be located. If the local board of education denies the application, the applicant can appeal the decision to SBE.

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. Revenues would not be affected. 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:** 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 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 and must comply with all applicable health and safety laws. A public charter school must comply with the provisions of law and regulation governing other public schools. 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.

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. Local boards of education must develop and submit a public charter school policy to SBE. This policy must include guidelines and procedures regarding: evaluation of public charter schools; revocation of a charter; reporting requirements; and financial, programmatic, or compliance audits of public charter schools.

MSDE must establish and disseminate to each local board of education model public charter school policy language, which can be used to create a public charter school policy. Each local board must submit its public charter school policy to SBE by November 1, 2003. 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 SBE 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 only 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 comes 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 the annual evaluation 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.

	<u><b>Fiscal 2004</b></u>
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:** Pursuant to this legislation, a public charter school must be either a new public school or an existing public school. A local board of education must disburse to a public charter school an amount of county, State, and federal money for elementary, middle, and secondary students that is commensurate with the amount disbursed to other public schools in the local jurisdiction. Per pupil expenditures averaged \$7,496 in fiscal 2001, ranging from \$6,219 in Caroline County to \$8,922 in Montgomery County.

Average pupil expenditures in fiscal 2004 are estimated at \$8,800, ranging from \$7,300 in low spending districts to \$10,500 in high spending districts. These estimates exclude teachers' retirement payments, capital outlays, and debt service. SBE or the local board of education may give surplus educational materials, supplies, furniture, and other equipment to a public charter school.

**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.

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### **Additional Information**

**Prior Introductions:** A similar bill was introduced at the 2002 session as SB 213. The bill received a favorable with amendments report by the Senate Education, Health, and Environmental Affairs Committee and was adopted by the Senate. The bill received a favorable with amendments report by the House Ways and Means Committee and was adopted by the House. 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.

**Cross File:** None.

**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