
By: **Senators Pinsky, Britt, Conway, Dyson, Green, and Hollinger**
Introduced and read first time: January 26, 2006
Assigned to: Education, Health, and Environmental Affairs and Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Education - Public Charter Schools - Clarifications**

3 FOR the purpose of authorizing certain charter schools to reserve certain spaces for
4 certain students; prohibiting the State Board of Education from contracting
5 with certain entities to operate certain schools; requiring certain charter schools
6 to submit certain applications on or before a certain date; requiring certain
7 county boards of education to review certain applications and render certain
8 decisions on or before a certain date; altering the amount of time within which
9 the State Board must render certain decisions; authorizing the State Board to
10 waive certain requirements regarding certification under certain circumstances;
11 prohibiting certain charter schools from seeking certain waivers; authorizing
12 certain charter schools to seek certain waivers from certain local laws,
13 regulations, or policies from certain county boards; authorizing certain appeals
14 under certain circumstances; requiring certain amendments to certain
15 agreements be submitted to certain county boards for review; requiring certain
16 county boards to approve certain amendments under certain circumstances;
17 requiring certain county boards to disburse certain funds in accordance with a
18 certain formula; authorizing certain county boards and certain charter schools
19 to negotiate for certain funds; requiring certain charter schools to report certain
20 information in a certain format; requiring certain county boards to provide
21 certain special education services to students in certain charter schools;
22 authorizing certain charter schools to submit a certain request to certain county
23 boards regarding the provision of special education services; requiring certain
24 county boards to approve or deny certain requests within a certain period of
25 time; requiring certain charter schools and certain county boards to negotiate a
26 certain system of reimbursement for the provision of special education services
27 under certain circumstances; authorizing certain county boards and certain
28 charter schools to provide certain transportation for certain students; providing
29 for certain reimbursement for certain transportation; clarifying that certain
30 reimbursement does not include certain circumstances; and generally relating to
31 public charter schools.

32 BY renumbering
33 Article - Education
34 Section 9-110

1 to be Section 9-113
2 Annotated Code of Maryland
3 (2004 Replacement Volume and 2005 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article - Education
6 Section 9-102 through 9-106, 9-108, and 9-109
7 Annotated Code of Maryland
8 (2004 Replacement Volume and 2005 Supplement)

9 BY adding to
10 Article - Education
11 Section 9-110 through 9-112
12 Annotated Code of Maryland
13 (2004 Replacement Volume and 2005 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
15 MARYLAND, That Section(s) 9-110 of Article - Education of the Annotated Code of
16 Maryland be renumbered to be Section(s) 9-113.

17 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
18 read as follows:

19 **Article - Education**

20 9-102.

21 (A) In this title, "public charter school" means a public school that:

22 (1) Is nonsectarian in all its programs, policies, and operations;

23 (2) Is a school to which parents choose to send their children;

24 (3) [Is] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IS
25 open to all students on a space-available basis and admits students on a lottery basis
26 if more students apply than can be accommodated;

27 (4) Is a new public school or a conversion of an existing public school;

28 (5) Provides a program of elementary or secondary education or both;

29 (6) Operates in pursuit of a specific set of educational objectives;

30 (7) Is tuition-free;

31 (8) Is subject to federal and State laws prohibiting discrimination;

32 (9) Is in compliance with all applicable health and safety laws;

1 (10) Is in compliance with § 9-107 of this title;

2 (11) Operates under the supervision of the public chartering authority
3 from which its charter is granted and in accordance with its charter and, except as
4 provided in § 9-106 of this title, the provisions of law and regulation governing other
5 public schools;

6 (12) Requires students to be physically present on school premises for a
7 period of time substantially similar to that which other public school students spend
8 on school premises; and

9 (13) Is created in accordance with this title and the appropriate county
10 board policy.

11 (B) A PUBLIC CHARTER SCHOOL MAY RESERVE UP TO 10% OF ITS AVAILABLE
12 SPACE FOR THOSE STUDENTS WHOSE PARENTS OR GUARDIANS SUBMIT AN
13 APPLICATION UNDER § 9-104(A)(2)(II) OF THIS TITLE.

14 9-103.

15 (a) The primary public chartering authority for the granting of a charter shall
16 be a county board of education.

17 (b) (1) The secondary public chartering authority for the granting of a
18 charter shall be the State Board acting:

19 (I) [in] IN its appeal review capacity; or

20 (II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, as the public
21 chartering authority for a restructured school in accordance with § 9-104(a) of this
22 title.

23 (2) THE STATE BOARD MAY NOT CONTRACT WITH A FOR-PROFIT ENTITY
24 TO OPERATE A RESTRUCTURED SCHOOL.

25 9-104.

26 (a) (1) An application to establish a public charter school shall be submitted
27 to the county board of the county in which the charter school will be located.

28 (2) An application to establish a public charter school may be submitted
29 to a county board by:

30 (i) The staff of a public school;

31 (ii) A parent or guardian of a student who attends a public school in
32 the county;

33 (iii) A nonsectarian nonprofit entity;

34 (iv) A nonsectarian institution of higher education in the State; or

1 (v) Any combination of persons specified in items (i) through (iv) of
2 this paragraph.

3 (3) A public chartering authority may not grant a charter under this title
4 to:

5 (i) A private school;

6 (ii) A parochial school; or

7 (iii) A home school.

8 (4) (i) Except as provided in [subparagraph (ii)] PARAGRAPH (5) of
9 this [paragraph, the county board shall review the application and render a decision
10 within 120 days of receipt of the application] SUBSECTION, A CHARTER SCHOOL
11 SHALL SUBMIT ITS APPLICATION ON OR BEFORE AUGUST 1 OF EACH YEAR.

12 (II) THE COUNTY BOARD SHALL REVIEW AN APPLICATION
13 SUBMITTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH AND RENDER A
14 DECISION ON OR BEFORE DECEMBER 1 OF EACH YEAR.

15 [(ii)] (5) For a restructured school:

16 [1.] (I) The county board shall review the application and
17 render a decision within 30 days of receipt of the application;

18 [2.] (II) The county board may apply to the State Board for
19 an extension of up to 15 days from the time limit imposed under [item 1] ITEM (I) of
20 this [subparagraph] PARAGRAPH;

21 [3.] (III) If an extension is not granted, and 30 days have
22 elapsed, the State Board may become a chartering authority; and

23 [4.] (IV) If an extension has been granted, and 45 days have
24 elapsed, the State Board may become a chartering authority.

25 (b) (1) If the county board denies an application to establish a public charter
26 school, the applicant may appeal the decision to the State Board, in accordance with
27 § 4-205(c) of this article.

28 (2) The State Board shall render a decision within [120] 90 days of the
29 filing of an appeal under this subsection.

30 (3) If the county board denies an application to establish a public charter
31 school and the State Board reverses the decision, the State Board may direct the
32 county board to grant a charter and shall mediate with the county board and the
33 applicant to implement the charter.

1 9-105.

2 (A) [A] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A
3 member of the professional staff of a public charter school shall hold the appropriate
4 Maryland certification.

5 (B) THE STATE BOARD MAY WAIVE THE REQUIREMENT UNDER SUBSECTION
6 (A) OF THIS SECTION IF THE INDIVIDUAL PROVIDES AN AREA OF EXPERTISE THAT IS
7 NOT CONSIDERED A CORE SUBJECT AREA BY THE STATE BOARD AND FOR WHICH
8 CERTIFICATION IS NOT OFFERED IN THE STATE.

9 9-106.

10 (a) [Subject to subsection (b) of this section,] EXCEPT AS OTHERWISE
11 PROVIDED IN THIS SECTION, a public charter school shall comply with the provisions
12 of law and regulation governing other public schools.

13 (b) Subject to [subsection (c)] SUBSECTIONS (C), (D), AND (E) of this section, a
14 waiver of the requirements under subsection (a) of this section may be sought through
15 an appeal to the State Board.

16 (c) A waiver may not be granted from provisions of law or regulation relating
17 to:

18 (1) Audit requirements;

19 (2) The measurement of student academic achievement, including all
20 assessments required for other public schools and other assessments mutually agreed
21 upon by the public chartering authority and the school; or

22 (3) The health, safety, or civil rights of a student or an employee of the
23 charter school.

24 (D) EXCEPT AS PROVIDED IN § 9-105(B) OF THIS TITLE, A WAIVER MAY NOT BE
25 SOUGHT FROM PROVISIONS OF LAW WITHIN THIS TITLE.

26 (E) (1) A WAIVER FROM LOCAL LAWS, REGULATIONS, OR POLICIES MAY BE
27 SOUGHT THROUGH AN APPEAL TO A COUNTY BOARD.

28 (2) IF A COUNTY BOARD DENIES A REQUEST FOR A WAIVER UNDER
29 PARAGRAPH (1) OF THIS SUBSECTION, AN APPEAL MAY BE MADE TO THE STATE
30 BOARD.

31 9-108.

32 (a) Employees of a public charter school:

33 (1) Are public school employees, as defined in §§ 6-401(d) and 6-501(f) of
34 this article;

1 (2) Are employees of a public school employer, as defined in §§ 6-401(e)
2 and 6-501(g) of this article, in the county in which the public charter school is located;
3 and

4 (3) Shall have the rights granted under Title 6, Subtitles 4 and 5 of this
5 article.

6 (b) If a collective bargaining agreement under Title 6, Subtitle 4 or Subtitle 5
7 of this article is already in existence in the county where a public charter school is
8 located, the employee organization and the public charter school may mutually agree
9 to negotiate amendments to the existing agreement to address the needs of the
10 particular public charter school.

11 (C) (1) IF AN EMPLOYEE ORGANIZATION AND A PUBLIC CHARTER SCHOOL
12 NEGOTIATE AN AMENDMENT TO AN EXISTING AGREEMENT UNDER SUBSECTION (B)
13 OF THIS SECTION, THEN THE EMPLOYEE ORGANIZATION SHALL SUBMIT THE
14 AMENDMENT TO THE COUNTY BOARD FOR REVIEW.

15 (2) IF AN AMENDMENT SUBMITTED UNDER PARAGRAPH (1) OF THIS
16 SUBSECTION IS IN GOOD FAITH AND IN THE BEST INTEREST OF THE CHARTER
17 SCHOOL AND THE EMPLOYEES AT THE CHARTER SCHOOL, THEN THE COUNTY BOARD
18 SHALL APPROVE THE AMENDMENT WITHIN 30 DAYS OF SUBMISSION.

19 9-109.

20 (a) A county board shall disburse to a public charter school an amount of
21 county, State, and federal [money] UNRESTRICTED CURRENT EXPENSE FUNDS for
22 [elementary, middle, and secondary] students that [is commensurate with the
23 amount disbursed to other public schools in the local jurisdiction] IS IN ACCORDANCE
24 WITH THIS SECTION.

25 (B) A PUBLIC CHARTER SCHOOL SHALL RECEIVE ANY RESTRICTED FUNDS
26 FOR WHICH IT IS ELIGIBLE.

27 (C) SUBJECT TO SUBSECTION (E) OF THIS SECTION, A COUNTY BOARD SHALL:

28 (1) SUBTRACT EXPENDITURES FOR SPECIAL EDUCATION SERVICES,
29 TRANSPORTATION SERVICES, CONTINGENCIES, AND RESERVE FUNDS IN THE
30 COUNTY FROM THE COUNTY BOARD'S OPERATING BUDGET FOR THE FISCAL YEAR IN
31 WHICH THE PUBLIC CHARTER SCHOOL WILL OPERATE TO REACH AN INITIAL
32 FUNDING FIGURE;

33 (2) CALCULATE 85% OF THE INITIAL FUNDING FIGURE CALCULATED
34 UNDER PARAGRAPH (1) OF THIS SUBSECTION TO REACH AN ADJUSTED FUNDING
35 FIGURE;

36 (3) DIVIDE THE ADJUSTED FUNDING FIGURE CALCULATED UNDER
37 PARAGRAPH (2) OF THIS SUBSECTION BY THE COUNTY'S FULL TIME EQUIVALENT
38 ENROLLMENT AS DEFINED IN § 5-202(A) OF THIS ARTICLE FOR THE FISCAL YEAR IN

1 WHICH THE PUBLIC CHARTER SCHOOL WILL OPERATE TO REACH AN ADJUSTED PER
2 PUPIL EXPENDITURE; AND

3 (4) IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION, DISBURSE
4 TO A PUBLIC CHARTER SCHOOL AN AMOUNT OF MONEY EQUAL TO THE ADJUSTED
5 PER PUPIL FULL TIME EQUIVALENT ENROLLMENT IN THE PUBLIC CHARTER SCHOOL
6 AS OF SEPTEMBER 30 OF THE YEAR IN WHICH THE PUBLIC CHARTER SCHOOL IS
7 OPERATING TO DETERMINE AN ANNUAL FUNDING ALLOCATION.

8 (D) (1) BEFORE SEPTEMBER 30, AN ESTIMATED ENROLLMENT FIGURE FOR
9 THE PUBLIC CHARTER SCHOOL SHALL BE USED TO DETERMINE THE PUBLIC
10 CHARTER SCHOOL'S ANNUAL FUNDING ALLOCATION, WHICH SHALL BE RECONCILED
11 WHEN THE SEPTEMBER 30 ENROLLMENT COUNT IS AVAILABLE AND THE PUBLIC
12 CHARTER SCHOOL'S ANNUAL FUNDING ALLOCATION SHALL BE ADJUSTED AS
13 APPROPRIATE.

14 (2) IF A COUNTY BOARD'S EXPENDITURES ARE DIFFERENT THAN THE
15 BUDGETED EXPENDITURES FOR THE FISCAL YEAR IN WHICH THE PUBLIC CHARTER
16 SCHOOL IS OPERATING, THE PUBLIC CHARTER SCHOOL'S ANNUAL FUNDING
17 ALLOCATION SHALL BE ADJUSTED AS APPROPRIATE.

18 (3) IF THE PUBLIC CHARTER SCHOOL CANNOT RETURN ANY REQUIRED
19 FUNDS IN THE CURRENT FISCAL YEAR, THE AMOUNT SHALL BE REDUCED FROM THE
20 PUBLIC CHARTER SCHOOL'S ANNUAL FUNDING ALLOCATION IN THE FOLLOWING
21 YEAR.

22 (E) (1) NOTWITHSTANDING SUBSECTION (C) OF THIS SECTION, A COUNTY
23 BOARD AND A CHARTER SCHOOL MAY NEGOTIATE FOR THE DISBURSEMENT OF
24 FUNDS TO THE CHARTER SCHOOL IN EXCESS OF THE FUNDS PROVIDED UNDER
25 SUBSECTION (C) OF THIS SECTION.

26 (2) IF A COUNTY BOARD AND A PUBLIC CHARTER SCHOOL NEGOTIATE
27 FOR FUNDS UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DECISION OF THE
28 COUNTY BOARD IS FINAL AND IS NOT APPEALABLE TO THE STATE BOARD.

29 [(b)] (F) The State Board or the county board may give surplus educational
30 materials, supplies, furniture, and other equipment to a public charter school.

31 9-110.

32 (A) A PUBLIC CHARTER SCHOOL SHALL REPORT ALL INFORMATION REQUIRED
33 BY THE STATE AND THE COUNTY BOARD IN THE FORMAT REQUIRED BY THE STATE
34 AND THE COUNTY BOARD.

35 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A PUBLIC
36 CHARTER SCHOOL MAY:

37 (1) ELECT TO USE THE SERVICES OF A COUNTY BOARD; OR

1 (2) PURCHASE THE SERVICES OF A COUNTY BOARD IF THE PUBLIC
2 CHARTER SCHOOL AND THE COUNTY BOARD MUTUALLY AGREE TO A PRICE.

3 (C) A PUBLIC CHARTER SCHOOL SHALL USE THE FOLLOWING SERVICES AND
4 INFORMATION TECHNOLOGY SYSTEMS OF THE COUNTY BOARD, WHICH THE COUNTY
5 BOARD SHALL PROVIDE AT NO ADDITIONAL CHARGE TO THE PUBLIC CHARTER
6 SCHOOL:

7 (1) PAYROLL;

8 (2) BUDGETING SYSTEM;

9 (3) AUDITING;

10 (4) STUDENT TRACKING; AND

11 (5) ANY OTHER SERVICE, INFORMATION TECHNOLOGY SYSTEM, OR
12 PROGRAM NECESSARY TO REPORT INFORMATION AS REQUIRED UNDER SUBSECTION
13 (A) OF THIS SECTION.

14 9-111.

15 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A COUNTY BOARD SHALL
16 PROVIDE SPECIAL EDUCATION SERVICES, INCLUDING TRANSPORTATION OF
17 STUDENTS WITH DISABILITIES UNDER § 8-410 OF THIS ARTICLE, TO STUDENTS IN
18 PUBLIC CHARTER SCHOOLS.

19 (B) (1) IF A CHARTER SCHOOL WANTS TO PROVIDE SPECIAL EDUCATION
20 SERVICES TO ITS ELIGIBLE STUDENTS, THE CHARTER SCHOOL SHALL SUBMIT A
21 REQUEST TO THE COUNTY BOARD.

22 (2) A COUNTY BOARD SHALL APPROVE OR DENY THE REQUEST
23 SUBMITTED UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHIN 30 DAYS OF
24 RECEIPT OF THE REQUEST.

25 (3) IF A COUNTY BOARD APPROVES THE REQUEST SUBMITTED UNDER
26 PARAGRAPH (1) OF THIS SUBSECTION, THE CHARTER SCHOOL AND THE COUNTY
27 BOARD SHALL NEGOTIATE A SYSTEM OF REIMBURSEMENT TO THE CHARTER
28 SCHOOL FOR THE PROVISION OF THESE SERVICES.

29 (4) IF THE CHARTER SCHOOL AND THE COUNTY BOARD FAIL TO REACH
30 AN AGREEMENT UNDER THIS SUBSECTION, EITHER PARTY MAY APPEAL TO THE
31 STATE BOARD.

32 9-112.

33 (A) A COUNTY BOARD MAY PROVIDE TRANSPORTATION FOR THE STUDENTS
34 OF A PUBLIC CHARTER SCHOOL.

35 (B) A PUBLIC CHARTER SCHOOL MAY PROVIDE TRANSPORTATION FOR ITS
36 STUDENTS.

1 (C) SUBJECT TO SUBSECTION (D) OF THIS SECTION, IF A PUBLIC CHARTER
2 SCHOOL PROVIDES TRANSPORTATION FOR ITS STUDENTS, AND THE TOTAL ACTUAL
3 COST OF TRANSPORTING ELIGIBLE STUDENTS IS:

4 (1) LESS THAN THE AVERAGE PER RIDER EXPENDITURE IN THE COUNTY
5 FOR TRANSPORTATION AS CALCULATED BY THE DEPARTMENT MULTIPLIED BY THE
6 NUMBER OF STUDENTS AT THE PUBLIC CHARTER SCHOOL ELIGIBLE FOR
7 TRANSPORTATION, THEN THE COUNTY BOARD SHALL REIMBURSE THE PUBLIC
8 CHARTER SCHOOL FOR THE TOTAL ACTUAL COST OF TRANSPORTATION; OR

9 (2) EQUAL TO OR MORE THAN THE AVERAGE PER RIDER EXPENDITURE
10 IN THE COUNTY FOR TRANSPORTATION AS CALCULATED BY THE DEPARTMENT
11 MULTIPLIED BY THE NUMBER OF STUDENTS AT THE PUBLIC CHARTER SCHOOL
12 ELIGIBLE FOR TRANSPORTATION, THEN THE COUNTY BOARD SHALL REIMBURSE
13 THE PUBLIC CHARTER SCHOOL ELIGIBLE FOR TRANSPORTATION MULTIPLIED BY
14 THE AVERAGE PER RIDER EXPENDITURE.

15 (D) THIS SECTION MAY NOT BE CONSTRUED TO AUTHORIZE THE
16 REIMBURSEMENT OF PARENTS WHO TRANSPORT THEIR CHILDREN TO A CHARTER
17 SCHOOL IN A PERSONAL VEHICLE.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 July 1, 2006.