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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

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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;

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.

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.