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By: **Senators Pinsky, Britt, Conway, Dyson, Green, and Hollinger**  
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Committee Report: Favorable with amendments  
Senate action: Adopted with floor amendments  
Read second time: March 22, 2006

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

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

1 of reimbursement for the provision of special education services under certain  
2 circumstances; authorizing certain county boards and certain charter schools to  
3 provide certain transportation for certain students; providing for certain  
4 reimbursement for certain transportation; clarifying that certain  
5 reimbursement does not include certain circumstances; and generally relating to  
6 public charter schools.

7 BY renumbering  
8 Article - Education  
9 Section 9-110  
10 to be Section 9-113  
11 Annotated Code of Maryland  
12 (2004 Replacement Volume and 2005 Supplement)

13 BY repealing and reenacting, with amendments,  
14 Article - Education  
15 Section 9-102 through 9-106, 9-108, and 9-109  
16 Annotated Code of Maryland  
17 (2004 Replacement Volume and 2005 Supplement)

18 BY adding to  
19 Article - Education  
20 Section 9-110 through 9-112  
21 Annotated Code of Maryland  
22 (2004 Replacement Volume and 2005 Supplement)

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

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

28 **Article - Education**

29 9-102.

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

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

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

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

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

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

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

4 (7) Is tuition-free;

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

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

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

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

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

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

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

20 9-103.

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

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

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

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

29 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
30 PARAGRAPH, THE STATE BOARD MAY NOT CONTRACT WITH A FOR-PROFIT ENTITY TO  
31 OPERATE A RESTRUCTURED SCHOOL.

32 (II) THE STATE BOARD MAY RENEW A CONTRACT WITH A  
33 FOR-PROFIT ENTITY THAT OPERATES A RESTRUCTURED SCHOOL IF THE CONTRACT  
34 EXISTED ON JANUARY 1, 2006.

1 9-104.

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

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

6 (i) The staff of a public school;

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

9 (iii) A nonsectarian nonprofit entity;

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

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

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

15 (i) A private school;

16 (ii) A parochial school; or

17 (iii) A home school.

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

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

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

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

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

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

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

3 (b) (1) If the county board denies an application to establish a public charter  
4 school, the applicant may appeal the decision to the State Board, in accordance with  
5 § 4-205(c) of this article.

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

8 (3) If the county board denies an application to establish a public charter  
9 school and the State Board reverses the decision, the State Board may direct the  
10 county board to grant a charter and shall mediate with the county board and the  
11 applicant to implement the charter.

12 9-105.

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

16 (B) THE STATE BOARD MAY WAIVE THE REQUIREMENT UNDER SUBSECTION  
17 (A) OF THIS SECTION IF THE INDIVIDUAL PROVIDES AN AREA OF EXPERTISE THAT IS  
18 NOT ~~CONSIDERED A CORE~~ A SUBJECT AREA ~~BY THE STATE BOARD AND~~ FOR WHICH  
19 CERTIFICATION IS ~~NOT~~ OFFERED ~~IN~~ BY THE STATE.

20 9-106.

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

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

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

29 (1) Audit requirements;

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

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

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

1 (E) (1) A WAIVER FROM ~~LOCAL LAWS~~ THE RULES, REGULATIONS, OR  
 2 POLICIES OF A COUNTY BOARD MAY BE SOUGHT THROUGH ~~AN APPEAL~~ A WRITTEN  
 3 REQUEST TO A COUNTY BOARD.

4 (2) A REQUEST MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION  
 5 SHALL BE MADE DURING:

6 (I) THE APPLICATION REVIEW PERIOD ESTABLISHED UNDER §  
 7 9-104 OF THIS SUBTITLE; OR

8 (II) ANY ADDITIONAL TIME PERIOD ESTABLISHED BY THE COUNTY  
 9 BOARD AND IN ACCORDANCE WITH THE CHARTER AGREEMENT.

10 (3) IF A COUNTY BOARD DENIES A REQUEST FOR A WAIVER UNDER  
 11 PARAGRAPH (1) OF THIS SUBSECTION, AN APPEAL MAY BE MADE TO THE STATE  
 12 BOARD.

13 9-108.

14 (a) Employees of a public charter school:

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

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

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

22 (b) If a collective bargaining agreement under Title 6, Subtitle 4 or Subtitle 5  
 23 of this article is already in existence in the county where a public charter school is  
 24 located, the employee organization and the public charter school may mutually agree  
 25 to ~~negotiate~~ DISCUSS amendments to the existing agreement THAT RELATE TO  
 26 WAGES, HOURS, AND OTHER WORKING CONDITIONS to address the needs of the  
 27 particular public charter school.

28 (C) (1) IF AN EMPLOYEE ORGANIZATION AND A PUBLIC CHARTER SCHOOL  
 29 NEGOTIATE DISCUSS AN AMENDMENT TO AN EXISTING AGREEMENT UNDER  
 30 SUBSECTION (B) OF THIS SECTION, THEN THE EMPLOYEE ORGANIZATION SHALL  
 31 SUBMIT THE AMENDMENT TO THE COUNTY BOARD FOR REVIEW.

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

1           (3)     THIS SUBSECTION MAY NOT BE CONSTRUED TO REQUIRE THE  
2 COUNTY BOARD TO NEGOTIATE WITH AN EMPLOYEE ORGANIZATION UNDER TITLE 6  
3 OF THIS ARTICLE.

4           (4)     AN AMENDMENT APPROVED IN ACCORDANCE WITH THIS  
5 SUBSECTION MAY NOT BE RAISED IN AN ACTION TAKEN TO RESOLVE AN IMPASSE  
6 UNDER TITLE 6 OF THIS ARTICLE.

7 9-109.

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

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

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

16           (1)     SUBTRACT EXPENDITURES FOR SPECIAL EDUCATION SERVICES,  
17 TRANSPORTATION SERVICES, CONTINGENCIES, AND RESERVE FUNDS IN THE  
18 COUNTY FROM THE COUNTY BOARD'S OPERATING BUDGET FOR THE FISCAL YEAR IN  
19 WHICH THE PUBLIC CHARTER SCHOOL WILL OPERATE TO REACH AN INITIAL  
20 FUNDING FIGURE;

21           (2)     CALCULATE ~~85%~~ 86% OF THE INITIAL FUNDING FIGURE CALCULATED  
22 UNDER PARAGRAPH (1) OF THIS SUBSECTION TO REACH AN ADJUSTED FUNDING  
23 FIGURE;

24           (3)     DIVIDE THE ADJUSTED FUNDING FIGURE CALCULATED UNDER  
25 PARAGRAPH (2) OF THIS SUBSECTION BY THE COUNTY'S FULL TIME EQUIVALENT  
26 ENROLLMENT AS DEFINED IN § 5-202(A) OF THIS ARTICLE FOR THE FISCAL YEAR IN  
27 WHICH THE PUBLIC CHARTER SCHOOL WILL OPERATE TO REACH AN ADJUSTED PER  
28 PUPIL EXPENDITURE; AND

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

34       (D)     (1)     BEFORE SEPTEMBER 30, AN ESTIMATED ENROLLMENT FIGURE FOR  
35 THE PUBLIC CHARTER SCHOOL SHALL BE USED TO DETERMINE THE PUBLIC  
36 CHARTER SCHOOL'S ANNUAL FUNDING ALLOCATION, WHICH SHALL BE RECONCILED  
37 WHEN THE SEPTEMBER 30 ENROLLMENT COUNT IS AVAILABLE AND THE PUBLIC  
38 CHARTER SCHOOL'S ANNUAL FUNDING ALLOCATION SHALL BE ADJUSTED AS  
39 APPROPRIATE.

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

5 (3) IF THE PUBLIC CHARTER SCHOOL CANNOT RETURN ANY REQUIRED  
6 FUNDS IN THE CURRENT FISCAL YEAR, THE AMOUNT SHALL BE REDUCED FROM THE  
7 PUBLIC CHARTER SCHOOL'S ANNUAL FUNDING ALLOCATION IN THE FOLLOWING  
8 YEAR.

9 (E) (1) NOTWITHSTANDING SUBSECTION (C) OF THIS SECTION, A COUNTY  
10 BOARD AND A CHARTER SCHOOL MAY NEGOTIATE FOR THE DISBURSEMENT OF  
11 FUNDS TO THE CHARTER SCHOOL IN EXCESS OF THE FUNDS PROVIDED UNDER  
12 SUBSECTION (C) OF THIS SECTION.

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

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

18 9-110.

19 (A) A PUBLIC CHARTER SCHOOL SHALL REPORT ALL INFORMATION REQUIRED  
20 BY THE STATE AND THE COUNTY BOARD IN THE FORMAT REQUIRED BY THE STATE  
21 AND THE COUNTY BOARD.

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

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

25 (2) ~~PURCHASE OR RECEIVE THE SERVICES OF A COUNTY BOARD IF THE~~  
26 ~~PUBLIC CHARTER SCHOOL AND THE COUNTY BOARD MUTUALLY AGREE TO A PRICE.~~

27 (C) A PUBLIC CHARTER SCHOOL SHALL USE THE FOLLOWING SERVICES AND  
28 INFORMATION TECHNOLOGY SYSTEMS OF THE COUNTY BOARD THAT ARE USED BY  
29 OTHER PUBLIC SCHOOLS IN THE COUNTY, WHICH THE COUNTY BOARD SHALL  
30 PROVIDE AT NO ADDITIONAL CHARGE TO THE PUBLIC CHARTER SCHOOL:

31 (1) PAYROLL;

32 (2) BUDGETING SYSTEM;

33 (3) AUDITING;

34 (4) STUDENT TRACKING; AND

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

4 9-111.

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

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

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

15 (3) IF A COUNTY BOARD APPROVES THE REQUEST SUBMITTED UNDER  
16 PARAGRAPH (1) OF THIS SUBSECTION, THE CHARTER SCHOOL AND THE COUNTY  
17 BOARD SHALL NEGOTIATE A SYSTEM OF REIMBURSEMENT TO THE CHARTER  
18 SCHOOL FOR THE PROVISION OF THESE SERVICES.

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

22 9-112.

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

25 (B) A PUBLIC CHARTER SCHOOL MAY PROVIDE TRANSPORTATION FOR ITS  
26 STUDENTS.

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

30 (1) LESS THAN THE AVERAGE PER RIDER EXPENDITURE IN THE COUNTY  
31 FOR TRANSPORTATION AS CALCULATED BY THE DEPARTMENT MULTIPLIED BY THE  
32 NUMBER OF STUDENTS AT THE PUBLIC CHARTER SCHOOL ELIGIBLE FOR  
33 TRANSPORTATION, THEN THE COUNTY BOARD SHALL REIMBURSE THE PUBLIC  
34 CHARTER SCHOOL FOR THE TOTAL ACTUAL COST OF TRANSPORTATION; OR

35 (2) EQUAL TO OR MORE THAN THE AVERAGE PER RIDER EXPENDITURE  
36 IN THE COUNTY FOR TRANSPORTATION AS CALCULATED BY THE DEPARTMENT  
37 MULTIPLIED BY THE NUMBER OF STUDENTS AT THE PUBLIC CHARTER SCHOOL  
38 ELIGIBLE FOR TRANSPORTATION, THEN THE COUNTY BOARD SHALL REIMBURSE

1 THE PUBLIC CHARTER SCHOOL ~~ELIGIBLE~~ FOR TRANSPORTATION EXPENSES EQUAL  
2 TO THE NUMBER OF ELIGIBLE STUDENTS MULTIPLIED BY THE AVERAGE PER RIDER  
3 EXPENDITURE.

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

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