

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 651
Ways and Means

(Delegate King, *et al.*)

Education - Public Charter Schools - Clarifications

This bill establishes a method to determine the allocation of local school system funds to a public charter school and addresses and clarifies other provisions of the Maryland Public Charter School Program.

The bill takes effect July 1, 2006.

Fiscal Summary

State Effect: Any additional administrative requirements for the Maryland State Department of Education (MSDE) that result from the bill could be handled with existing personnel and resources. It is assumed that federal funds provided for public charter school efforts in the State would not be adversely affected by the bill.

Local Effect: Local school expenditures could increase or decrease in FY 2007 for school systems that have charter schools, depending on local interpretations of the existing charter school funding provision. The 85% allocation proposed in the bill is consistent with average school-level spending by the local school systems.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Charter School Funding

The bill defines a specific funding method for determining local board of education disbursements to charter schools.

General Calculation

For each charter school student, a local board of education must provide 85% of the local per pupil expenditures from the unrestricted current expense fund, minus expenditures for special education, student transportation, contingencies, and reserve funds. A charter school must also receive any restricted grant funds for which it qualifies.

Initial funding computations are based on budgeted expenditures and estimated September 30 enrollments. Adjustments must be made to a charter school's funding allocation at a later point in time using actual September 30 enrollment counts and actual school system expenditures. A local board of education and a charter school may negotiate an amount in excess of the 85% calculation, but the negotiation is not appealable to the State Board of Education.

Special Education

A local school system must provide special education services to charter school students who are eligible for the services; however, a charter school may request the authority to provide the services. The local board of education must approve or deny the request within 30 days. If the request is approved, the board and the charter school must negotiate a system of reimbursement for the services. If the local board and the charter school cannot reach an agreement, either party may appeal to the State board.

Student Transportation

A local school system or a charter school may provide transportation for charter school students. If the charter school provides the services, the local board must reimburse the charter school for the cost of transporting students or for the average per rider cost in the school system, whichever is less. A charter school may not reimburse parents for transporting their children to the school in personal vehicles.

Charter School Waivers

Aside from a few specified exceptions, the bill clarifies that a charter school may not seek a waiver from the laws governing public charter schools. Waivers may be sought, however, from local laws, regulations, or policies through an appeal to the local board of education. If a waiver request is denied by the local board, a charter school may appeal to the State Board of Education.

The bill authorizes the State Board of Education to waive the requirement that charter schools hire professional staff who hold State certification if the individual a charter school seeks to hire has an area of expertise that is not considered a core subject area and for which certification is not offered. In addition, the requirement that a charter school

use a lottery system when it has more applicants than available space is modified. A charter school is authorized to reserve up to 10% of its available space for students whose parents or guardians submit the charter school application.

Employee Organization and Charter School Agreements

The bill requires a local board of education to review amendments to collective bargaining agreements negotiated by the local employee organization and a charter school. If an amendment is in good faith and in the best interest of the charter school and its employees, the local board must approve the amendment within 30 days.

Charter School Reporting Requirements

The bill requires a charter school to report all information required by the State and local boards of education in the format that is required. At no cost to a charter school, a local board must provide payroll services; budgeting systems; auditing services; student tracking services; and other services, information technology systems, and programs that enable the charter school to report the required information. A charter school may purchase other local board of education services if the charter school and the local board mutually agree to a price.

Submission of Charter School Applications

The bill specifies that a charter school application must be submitted by August 1, and a local board of education must review each application and render a decision by December 1. If the local board's decision is appealed to the State Board of Education, the State board must render a decision within 90 days.

Restructured Schools

The bill prohibits the State Board of Education from contracting with a for-profit entity to operate a restructured school.

Current Law: Public charter schools are free, nonsectarian schools that are open to all students in the district on a space-available basis. The staff of a public school, the parent or guardian of a public school student, a nonsectarian nonprofit entity, or a nonsectarian institution of higher education may apply to the local board of education to establish a charter school. Local boards of education act as the primary chartering authority for the schools, and the State Board of Education has secondary chartering authority in its appeal review capacity and as the chartering authority for restructured schools.

Public charter schools must comply with the provisions of law and regulation governing other public schools, although they may seek a waiver of these requirements through an appeal to the State board. A waiver may not be granted from provisions relating to audit

requirements; student assessments; or the health, safety, and civil rights of students and employees.

Charter school employees are employees of the local board of education and professional employees must hold the appropriate Maryland certification. The local board of education must disburse to a charter school an amount of State, local, and federal funding that is commensurate with the amount disbursed to other public schools.

Background: The Public Charter School Act of 2003 was established as a means to provide innovative learning opportunities and creative educational approaches. Although the program had been in place for two years, no new charter schools had opened since the enactment of the law until the 2005-2006 school year, when 12 charter schools opened in Baltimore City and 2 opened in Anne Arundel County. Additional charter schools are anticipated in Baltimore City and Harford, Prince George's, and St. Mary's counties in 2006. Another charter school currently operating in Frederick County opened prior to the enactment of the statewide charter school program. MSDE received a three-year, \$15 million federal grant for charter schools in 2004.

In spring 2005, three charter school applicants, two in Baltimore City and one in Prince George's County, pursued their right of appeal before the State Board of Education. All three challenged the level of funding provided by the local boards of education, and two sought waivers from the requirement that public charter school employees be controlled by the collective bargaining agreements of other public school employees. On the question of funding, the State board initially ruled that a charter school should be allocated a per pupil amount equal to 100% of budgeted expenditures in the local school system divided by enrollment. The State board revised this decision three weeks later to reduce the allocation to 98% of per pupil expenditures and to make some adjustments for federal funds that are provided for specific student populations. With respect to waivers, the State board ruled that State law allows for waivers from collective bargaining agreements and outlined a procedure by which such an appeal could be sought.

The decisions of the State board were appealed by the Baltimore City and Prince George's County boards of education to the county circuit court. A separate petition was filed in Baltimore City by the Baltimore Teachers' Union and AFSCME Local 44 regarding the waiver question. In both cases, the courts ruled that the funding issue was moot because contracts between the school systems and the charter schools had been signed, representing a compromise on the issue. Regarding the 98% funding formula advanced by the State board, however, the courts held that local boards are not bound by that formula since it was not promulgated by regulation in accordance with the State Administrative Procedures Act. On the question of waivers, the courts ruled that waivers may only be sought from laws that govern other public schools, not laws that govern charter schools. Appeals by the charter schools of both the funding decision and the waiver decision are currently pending in the Court of Special Appeals.

A survey conducted by the Department of Legislative Services (DLS) attempted to determine the percent of local school system expenditures that are used to support individual schools or students. Surveys were sent to all 24 local school systems, and valid responses were provided by 23 systems. After removing the special education and student transportation categories, the percent of school system expenditures that were attributed to individual schools ranged from 65% to 96%, with all but one response falling between 74% and 96%. The survey responses provided by each local school system are shown in **Exhibit 1**. Using the results of the survey, DLS concluded that, on average, 84% to 86% of school system expenditures support individual schools or students.

Exhibit 1
School System Expenditures Used to Support Individual Schools or Students
Excluding Special Education and Student Transportation Expenditures
Fiscal 2005
(\$ in Thousands)

<u>County</u>	<u>Total Expenditures</u>	<u>School-Level Expenditures</u>	<u>Percent School-Level</u>
Calvert	\$122,477	\$117,045	95.6%
Washington	146,315	136,766	93.5%
Worcester	63,570	58,772	92.5%
Baltimore	815,034	746,536	91.6%
Harford	262,345	239,389	91.2%
Anne Arundel	554,203	501,689	90.5%
Charles	173,782	157,076	90.4%
Caroline	34,409	30,751	89.4%
Garrett	32,521	28,953	89.0%
Baltimore City	659,409	569,447	86.4%
Queen Anne's	47,647	40,415	84.8%
Howard	372,067	309,935	83.3%
St. Mary's	108,460	89,989	83.0%
Frederick	294,179	243,144	82.7%
Montgomery	1,332,628	1,098,973	82.5%
Kent	19,653	15,873	80.8%
Cecil	109,682	86,984	79.3%
Dorchester	30,897	24,452	79.1%
Talbot	31,052	24,244	78.1%
Carroll	198,201	151,954	76.7%
Wicomico	97,668	73,948	75.7%
Prince George's	962,328	711,623	73.9%
Somerset*	26,755	17,279	64.6%
State	\$6,495,282	\$5,475,235	84.3%

*The county noted that employee benefits were not allocated to the school-level spending category despite attributing the salaries to school-level spending.

Source: Department of Legislative Services survey of local school systems, November 2005.

Local Expenditures: The impact this bill will have on local school system expenditures depends on the interpretation of the current statute, which requires charter schools to receive funding that is “commensurate” with the funding provided to other public schools. The State Board of Education interpreted this to mean approximately 98% of per pupil expenditures. Compared to this interpretation, the bill would reduce local school system disbursements to charter schools and reduce local school expenditures in school systems that have charter schools.

To the extent that some school systems may currently be offering charter schools less than the 85% allocation proposed in this bill, the bill will result in greater per pupil distributions to charter schools in these jurisdictions. Although the data necessary to make an accurate comparison are not immediately available, it appears that current allocations to charter schools in Anne Arundel County and Baltimore City are at least equal to and may exceed the 85% allocation. The bill authorizes charter schools to receive more than 85% per pupil if negotiated with the school system.

Based on the DLS survey of local school systems, approximately 85% of local school system expenditures statewide support school-level functions and the remaining expenditures support central office functions and activities. It is assumed, therefore, that allocating 85% of per pupil expenditures to charter schools and providing in-kind special education and student transportation services will be roughly equivalent to allocations that charter schools would receive from local school systems under current law. However, it may increase expenditures for charter schools in some school systems and decrease expenditures for charter schools in some others. The allocation method established in the bill would provide for a predictable funding level for charter schools.

Additional Information

Prior Introductions: None.

Cross File: SB 293 (Senator Pinsky, *et al.*) – Education, Health, and Environmental Affairs.

Information Source(s): Maryland State Department of Education, Department of Legislative Services

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