

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

Senate Bill 669 (Senator Pinsky, *et al.*)
Education, Health, and Environmental Affairs

Education - Public Charter Schools - Revisions

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, 2007.

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 2008 for school systems that have charter schools, depending on local interpretations of the existing charter school funding provision. The 86% allocation proposed in the bill is consistent with average school-level spending in 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 86% 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 later points 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 86% 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

The bill clarifies that a charter school may not seek a waiver from State laws governing public charter schools, with a few specified exceptions. Waivers may be sought, however, from local rules, 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 a charter school hire professional staff who hold State certification if the individual a charter school seeks to hire has an area of expertise for which certification is not offered.

Employee Organization and Charter School Agreements

The bill requires a local board of education to be a party to a collective bargaining side agreement between a charter school and the local employee organization. A side agreement may not be implemented unless it is negotiated between the employee organization and the local board.

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 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. A charter school waiver request must also be made by August 1, or any additional time period established by the local board in accordance with the charter agreement.

Charter School Enrollment

The bill authorizes a charter school to reserve up to 10% of its available space for students whose parents or guardians submit the charter school application.

Restructured Schools

The bill prohibits the State Board of Education from contracting with a for-profit entity to operate a restructured school. The State board may, however, renew a contract with a for-profit entity if the contract existed on January 1, 2006.

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. In the 2006-2007 school year, 23 charter schools are operating in the State, including 16 in Baltimore City, 3 in Prince George's County, 2 in Anne Arundel County, 1 in Harford County, and 1 in Frederick County that actually predates the State charter school law. MSDE reports that 9 additional charter schools are scheduled to open for fall 2007, 6 in Baltimore City, 2 in Prince George's County, and 1 in St. Mary's County.

MSDE received a three-year, \$15 million federal grant for charter schools in 2004 that will expire in August 2007 and has recently applied for additional federal funding under this grant. MSDE advises that all of the charter schools currently operating in Maryland have received funds from the federal grant and advises that the grants allocated by the federal government give priority to states where charter schools have a high degree of operational and financial autonomy.

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 argued that the level of funding provided by the local boards of education was too low, and two sought waivers from the requirement that public charter school employees be subject to the collective bargaining agreements of other public school employees. On the question of funding, the State board ruled that a charter school should be allocated 98% of per pupil expenditures in the school system, with 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 and by the Baltimore Teachers' Union, beginning a string of court appeals that continue to the present. The lower courts ruled that the funding question was moot since contracts between local boards of education and charter schools had been signed, and ruled that waivers from the laws that govern charter schools were not permissible. On appeal by the charter schools, however, the Court of Special Appeals reversed the Baltimore City Circuit Court's ruling on funding and upheld the State Board of Education's 98% funding formula, resulting in another appeal by the Baltimore City Board of School Commissioners to the Maryland Court of Appeals. The Court of Appeals has agreed to hear the case, but no date for oral arguments has been set.

A survey conducted by the Department of Legislative Services (DLS) in fall 2005 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.

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 98% of per pupil expenditures in a system. Relative to this interpretation, the bill would reduce local school system disbursements to charter schools and reduce expenditures in school systems that have charter schools. To the extent that some school systems may currently be offering charter schools less than the 86% allocation proposed in this bill, the bill will result in greater per pupil distributions to charter schools in these jurisdictions.

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*	<u>26,755</u>	<u>17,279</u>	<u>64.6%</u>
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.

Exhibit 2 compares the funding and services charter schools receive through their existing contracts to the funding and services they would be receiving under the bill if it was in effect for the current school year. The exhibit demonstrates the variations in school system interpretations of the commensurate funding requirement. Some school systems, like Anne Arundel County, provide more discretionary funding to the charter schools and fewer services. Others, like Baltimore City, provide a wide array of services but less discretionary funding.

Based on the DLS survey of local school systems, approximately 84% to 86% 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 86% of per pupil expenditures to a charter school and providing in-kind special education and student transportation services will be roughly equivalent to the average amount of funding other schools in the system receive and similar 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.

Additional Information

Prior Introductions: A similar bill, SB 293 of 2006, received a favorable report from the Senate Education, Health, and Environmental Affairs Committee but was not approved by the full Senate.

Cross File: None.

Information Source(s): Maryland State Department of Education; Anne Arundel, Frederick, and Harford county public school systems; Patterson Park Public Charter School; Department of Legislative Services

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nas/rhh

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Exhibit 2
Comparisons of Fiscal 2007 Charter School Contracts and Senate Bill 669

	Baltimore City		Anne Arundel		Frederick		Harford	
	<u>Current Contracts</u>	<u>SB 669*</u>	<u>Current Contracts</u>	<u>SB 669*</u>	<u>Current Contract</u>	<u>SB 669*</u>	<u>Current Contract</u>	<u>SB 669*</u>
Discretionary Allocation Per Pupil	\$5,859	\$7,209	\$9,636	\$7,508	\$7,413	\$7,102	\$6,150**	\$7,065
In-kind Services								
Top-level Administrative Oversight	X	X	X	X	X	X	X	X
Student Transportation		X		X		X	X	X
Special Education Services	X	X		X	X	X	X	X
Limited English Proficiency	X							
Food Services	X		X		X		X	
Security	X							
Employee Benefits	X							
Plant Operations & Maintenance							X	
Student Personnel Services					X		X	
Health Services			X		X			

*Discretionary per pupil allocations and services for SB 669 assume that the local school system provides special education and transportation services to students in charter schools. However, the bill provides opportunities for a charter school to provide these services in exchange for additional funding from the local school system.

**Although the amount budgeted for the charter school in Harford County was based on a per pupil amount of \$6,150, the school's actual per pupil allocation is higher due to lower-than-projected enrollment. Rather than reduce the total allocation to the charter school to reflect its actual enrollment, the school system decided to maintain the full budgeted amount. As a result, the charter school is actually receiving \$8,786 per pupil in fiscal 2007. Harford County advises that the amount provided to the charter school in future fiscal years will accurately reflect the school system's calculated per pupil amount and enrollment at the school.

Notes: Base discretionary allocations per pupil exclude any additional funding that charter schools may receive from restricted grants, including food service funds. Prince George's County did not provide information on its existing charter school contracts in time for inclusion in this fiscal note.

Sources: Anne Arundel, Frederick, and Harford counties; Patterson Park Public Charter School; Department of Legislative Services