

HOUSE BILL 465

F1
SB 669/07 – EHE

8lr2310

By: **Delegate Kullen**

Introduced and read first time: January 30, 2008

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Education – Public Charter Schools – Revisions**

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY renumbering
2 Article – Education
3 Section 9–110
4 to be Section 9–113
5 Annotated Code of Maryland
6 (2006 Replacement Volume)

7 BY repealing and reenacting, with amendments,
8 Article – Education
9 Section 9–102 through 9–106, 9–108, and 9–109
10 Annotated Code of Maryland
11 (2006 Replacement Volume)

12 BY adding to
13 Article – Education
14 Section 9–110 through 9–112
15 Annotated Code of Maryland
16 (2006 Replacement Volume)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That Section(s) 9–110 of Article – Education of the Annotated Code of
19 Maryland be renumbered to be Section(s) 9–113.

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

22 **Article – Education**

23 9–102.

24 (A) In this title, “public charter school” means a public school that:

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

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

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

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

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

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

- 1 (7) Is tuition-free;
- 2 (8) Is subject to federal and State laws prohibiting discrimination;
- 3 (9) Is in compliance with all applicable health and safety laws;
- 4 (10) Is in compliance with § 9–107 of this title;
- 5 (11) Operates under the supervision of the public chartering authority
6 from which its charter is granted and in accordance with its charter and, except as
7 provided in § 9–106 of this title, the provisions of law and regulation governing other
8 public schools;
- 9 (12) Requires students to be physically present on school premises for a
10 period of time substantially similar to that which other public school students spend
11 on school premises; and
- 12 (13) Is created in accordance with this title and the appropriate county
13 board policy.

14 **(B) A PUBLIC CHARTER SCHOOL MAY RESERVE UP TO 10% OF ITS**
15 **ENROLLMENT FOR THOSE STUDENTS WHOSE PARENTS OR GUARDIANS SUBMIT**
16 **AN APPLICATION UNDER § 9–104(A)(2)(II) OF THIS TITLE.**

17 9–103.

- 18 (a) The primary public chartering authority for the granting of a charter
19 shall be a county board of education.
- 20 (b) **(1)** The secondary public chartering authority for the granting of a
21 charter shall be the State Board acting:

22 **(I)** [in] **IN** its appeal review [capacity] **CAPACITY**; or

23 **(II)** **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION**, as
24 the public chartering authority for a restructured school in accordance with § 9–104(a)
25 of this title.

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

29 **(II) THE STATE BOARD MAY RENEW A CONTRACT WITH A**
30 **FOR-PROFIT ENTITY THAT OPERATES A RESTRUCTURED SCHOOL IF THE**
31 **CONTRACT EXISTED ON JANUARY 1, 2006.**

1 9–104.

2 (a) (1) An application to establish a public charter school shall be
3 submitted 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
5 submitted 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
8 school in the county;

9 (iii) A nonsectarian nonprofit entity;

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

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

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

16 (i) A private school;

17 (ii) A parochial school; or

18 (iii) A home school.

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

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

26 [(ii)] **(5)** For a restructured school:

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

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

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

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

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

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

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

14 9–105.

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

18 (B) **THE STATE BOARD MAY WAIVE THE REQUIREMENT UNDER**
19 **SUBSECTION (A) OF THIS SECTION IF THE INDIVIDUAL PROVIDES AN AREA OF**
20 **EXPERTISE THAT IS NOT A SUBJECT AREA FOR WHICH CERTIFICATION IS**
21 **OFFERED BY THE STATE.**

22 9–106.

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

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

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

31 (1) Audit requirements;

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

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

6 **(D) EXCEPT AS PROVIDED IN § 9–105(B) OF THIS TITLE, A WAIVER MAY**
7 **NOT BE SOUGHT FROM PROVISIONS OF LAW WITHIN THIS TITLE.**

8 **(E) (1) A WAIVER FROM THE RULES, REGULATIONS, OR POLICIES OF**
9 **A COUNTY BOARD MAY BE SOUGHT THROUGH A WRITTEN REQUEST TO A COUNTY**
10 **BOARD.**

11 **(2) A REQUEST MADE UNDER PARAGRAPH (1) OF THIS**
12 **SUBSECTION SHALL BE MADE DURING:**

13 **(I) THE APPLICATION REVIEW PERIOD ESTABLISHED**
14 **UNDER § 9–104 OF THIS SUBTITLE; OR**

15 **(II) ANY ADDITIONAL TIME PERIOD ESTABLISHED BY THE**
16 **COUNTY BOARD AND IN ACCORDANCE WITH THE CHARTER AGREEMENT.**

17 **(3) IF A COUNTY BOARD DENIES A REQUEST FOR A WAIVER**
18 **UNDER PARAGRAPH (1) OF THIS SUBSECTION, AN APPEAL MAY BE MADE TO THE**
19 **STATE BOARD.**

20 9–108.

21 (a) Employees of a public charter school:

22 (1) Are public school employees, as defined in §§ 6–401(d) and 6–501(f)
23 of this article;

24 (2) Are employees of a public school employer, as defined in §§
25 6–401(e) and 6–501(g) of this article, in the county in which the public charter school
26 is located; and

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

29 (b) **(1) [If] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF** a
30 collective bargaining agreement under Title 6, Subtitle 4 or Subtitle 5 of this article is
31 already in existence in the county where a public charter school is located, the
32 employee organization [and], the public charter school, **AND THE COUNTY BOARD**

1 may mutually agree to [negotiate amendments] **DISCUSS SIDE AGREEMENTS** to the
2 existing agreement to address the needs of the particular public charter school.

3 **(2) A SIDE AGREEMENT DISCUSSED UNDER PARAGRAPH (1) OF**
4 **THIS SUBSECTION MAY NOT BE IMPLEMENTED UNLESS THE SIDE AGREEMENT IS**
5 **NEGOTIATED BETWEEN THE EMPLOYEE ORGANIZATION AND THE COUNTY**
6 **BOARD.**

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 amount
11 disbursed to other public schools in the local jurisdiction] **IS IN ACCORDANCE WITH**
12 **THIS SECTION.**

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

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

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

22 **(2) CALCULATE 86% OF THE INITIAL FUNDING FIGURE**
23 **CALCULATED UNDER ITEM (1) OF THIS SUBSECTION TO REACH AN ADJUSTED**
24 **FUNDING FIGURE;**

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

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

1 (D) (1) BEFORE SEPTEMBER 30, AN ESTIMATED ENROLLMENT
2 FIGURE FOR THE PUBLIC CHARTER SCHOOL SHALL BE USED TO DETERMINE
3 THE PUBLIC CHARTER SCHOOL'S ANNUAL FUNDING ALLOCATION, WHICH SHALL
4 BE RECONCILED WHEN THE SEPTEMBER 30 ENROLLMENT COUNT IS AVAILABLE
5 AND THE PUBLIC CHARTER SCHOOL'S ANNUAL FUNDING ALLOCATION SHALL BE
6 ADJUSTED AS APPROPRIATE.

7 (2) IF A COUNTY BOARD'S EXPENDITURES ARE DIFFERENT FROM
8 THE BUDGETED EXPENDITURES FOR THE FISCAL YEAR IN WHICH THE PUBLIC
9 CHARTER SCHOOL IS OPERATING, THE PUBLIC CHARTER SCHOOL'S ANNUAL
10 FUNDING ALLOCATION SHALL BE ADJUSTED AS APPROPRIATE.

11 (3) IF THE PUBLIC CHARTER SCHOOL CANNOT RETURN ANY
12 REQUIRED FUNDS IN THE CURRENT FISCAL YEAR, THE AMOUNT SHALL BE
13 REDUCED FROM THE PUBLIC CHARTER SCHOOL'S ANNUAL FUNDING
14 ALLOCATION IN THE FOLLOWING YEAR.

15 (E) (1) A COUNTY BOARD AND A CHARTER SCHOOL MAY NEGOTIATE
16 FOR THE DISBURSEMENT OF FUNDS TO THE CHARTER SCHOOL IN EXCESS OF
17 THE FUNDS PROVIDED UNDER SUBSECTION (C) OF THIS SECTION.

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

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

24 **9-110.**

25 (A) A PUBLIC CHARTER SCHOOL SHALL REPORT ALL INFORMATION
26 REQUIRED BY THE STATE AND THE COUNTY BOARD IN THE FORMAT REQUIRED
27 BY THE STATE AND THE COUNTY BOARD.

28 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A
29 PUBLIC CHARTER SCHOOL MAY PURCHASE OR RECEIVE THE SERVICES OF A
30 COUNTY BOARD IF THE PUBLIC CHARTER SCHOOL AND THE COUNTY BOARD
31 MUTUALLY AGREE.

32 (C) A PUBLIC CHARTER SCHOOL SHALL USE THE FOLLOWING SERVICES
33 AND INFORMATION TECHNOLOGY SYSTEMS OF THE COUNTY BOARD THAT ARE

1 USED BY OTHER PUBLIC SCHOOLS IN THE COUNTY, WHICH THE COUNTY BOARD
2 SHALL PROVIDE AT NO ADDITIONAL CHARGE TO THE PUBLIC CHARTER SCHOOL:

3 (1) PAYROLL;

4 (2) BUDGETING SYSTEM;

5 (3) AUDITING;

6 (4) STUDENT TRACKING; AND

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

10 **9-111.**

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

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

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

21 (3) IF A COUNTY BOARD APPROVES THE REQUEST SUBMITTED
22 UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE CHARTER SCHOOL AND THE
23 COUNTY BOARD SHALL NEGOTIATE A SYSTEM OF REIMBURSEMENT TO THE
24 CHARTER SCHOOL FOR THE PROVISION OF THESE SERVICES.

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

28 **9-112.**

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

1 **(B) A PUBLIC CHARTER SCHOOL MAY PROVIDE TRANSPORTATION FOR**
2 **ITS STUDENTS.**

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

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

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

19 **(D) THIS SECTION MAY NOT BE CONSTRUED TO AUTHORIZE THE**
20 **REIMBURSEMENT OF PARENTS WHO TRANSPORT THEIR CHILDREN TO A**
21 **CHARTER SCHOOL IN A PERSONAL VEHICLE.**

22 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 July 1, 2008.