

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 465 (Delegate Kullen)
Ways and Means

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, 2008.

Fiscal Summary

State Effect: Any additional administrative requirements for the Maryland State Department of Education 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 for public charter schools could decrease by an estimated \$7.6 million beginning in FY 2009 for school systems that have charter schools. Future year savings could increase with inflation and with growth in charter school enrollments. Local school revenues would not be affected.

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 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 the local board 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. The State Board of Education has interpreted this to mean that a charter school must receive 98% of the per pupil expenditures for the local school system, and the Maryland Court of Appeals has upheld the State board's authority to establish the charter school funding mechanism.

Background: The Public Charter School Act of 2003 was established as a means to provide innovative learning opportunities and creative educational approaches. In the 2007-2008 school year, 30 charter schools are operating in the State including one in Frederick County that predates the State's charter school law. Charter school enrollments have increased significantly over the last two years, climbing from 3,363 in the 2005-2006 school year to 7,149 in the current school year. The number of charter schools and charter school students in each of the six systems with at least one charter school are shown in **Exhibit 1**.

Exhibit 1
Number of Charter Schools and Charter School Students
2007-2008 School Year

<u>School System</u>	<u>Schools</u>	<u>Students</u>
Anne Arundel	1	219
Baltimore City	22	5,520
Frederick	1	291
Harford	1	78
Prince George's	4	879
St. Mary's	<u>1</u>	<u>162</u>
Total	30	7,149

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 arguing that the level of funding provided by the local boards of education was too low. 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. The State board's decision was appealed by the Baltimore City and Prince George's County boards of education, beginning a string of court appeals that ended in the Maryland Court of Appeals. In a 7-2 decision, the Court of Appeals in July 2007 upheld the State board's authority to establish a model for charter school funding, effectively setting the 98% formula adopted by the board as the statewide standard.

A survey conducted by the Department of Legislative Services 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 remaining school system expenditures that were attributed to individual schools ranged from 65% to 96%, with all but one response falling between 74% and 96%. A summary of the survey responses provided by each local school system is shown in **Exhibit 2**. Using the results of the survey, DLS concluded that, on average, 84% to 86% of total school system expenditures support individual schools or students. The other 14% to 16% support systemwide costs such as central office administrators, adult education services, maintenance and utilities costs at administrative buildings, warehouse services, and major information technology systems.

MSDE received an \$18.2 million federal grant for charter schools in June 2007 that it expects to award to charter school applicants over the next three years. MSDE notes that all of the charter schools currently operating in Maryland plus four more that have been approved by local boards of education have received funds from the previous federal grant that will terminate in August 2008. MSDE 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.

Exhibit 2
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 employees' salaries to school-level spending.

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

Local Expenditures: Local school expenditures for public charter schools could decrease by an estimated \$7.6 million or more each year beginning in fiscal 2009. This estimate is based on fiscal 2008 budget data and reflects current-year charter school enrollments and a projected difference of \$1,058 per student between the 98% formula established by the State Board of Education and the formula established in this bill. The specific information and assumptions used in calculating this estimate are stated below.

- Local school systems have budgeted approximately \$546 million in federal funds for fiscal 2008, almost all of which is restricted funds. Under the State board's 98% formula and the formula established in the bill, charter schools are allocated any federal or restricted funds they are eligible to receive. It is assumed, therefore, that the amount of federal funds distributed to charter schools would not be significantly altered by the bill.
- Direct State education aid and local funding for education total more than \$9.7 billion in fiscal 2008, approximately \$11,500 per student in prekindergarten through grade 12.
- The State board's formula would require 98% of the State and local funds, approximately \$11,270 per student, to be provided directly to charter schools.
- In calculating the formula established in the bill, funds for special education, student transportation, contingencies, and reserve funds are excluded from the initial calculation of charter school allocations.
- In general, local school systems do not budget any spending for contingencies or reserves. It is assumed that these exclusions would have no impact on the calculation of the formula specified in the bill.
- Student transportation and special education categories make up roughly 20% of budgeted school spending, or an estimated \$2,300 of the \$11,500 total budgeted per pupil in fiscal 2008. Student transportation and special education would still be provided for charter school students as needed, but the services could either be provided by a local school system or a charter school could provide the services and be reimbursed by the school system. Either way, the local school system is paying for the services. Although the costs for special education and student transportation could vary among charter schools due to different needs and student populations, it is expected that the average costs for these services at charter schools would not be significantly different from the average costs for these services at traditional public schools. Local school systems, therefore, would

spend approximately \$2,300 per charter school student for these services, the same amount that would be spent if the students were enrolled in traditional public schools.

- The remaining \$9,200 per student (\$11,500 less \$2,300 for special education and student transportation) would be subject to the 86% distribution specified in the bill. This would result in an estimated \$7,912 per student that would be distributed directly to charter schools.
- Summing the \$7,912 in direct payments to charter schools and the \$2,300 in special education and transportation services or reimbursements, local school systems would be spending approximately \$10,212 per charter school student. Relative to the State board’s formula (\$11,270 per pupil), this represents a savings of \$1,058 per student. The calculation is summarized in **Exhibit 3**.

Exhibit 3
Estimated Reduction in Per Pupil Charter School Costs
Based on Fiscal 2008

Average State and Local Spending Per Student*	\$11,500
Current Law	
Estimated Spending Per Charter School Pupil (98%)	\$11,270
House Bill 465	
Less Special Education and Transportation (est. 20%)	(\$2,300)
Remaining Funds	9,200
86% Distribution	7,912
Plus Cost of Services/Reimbursements	2,300
Estimated Spending Per Charter School Pupil	\$10,212
Average Difference Per Pupil	(\$1,058)

*Fiscal 2008 excluding teachers’ retirement payments.

Using current-year charter school enrollments in the six school systems with charter schools, the potential savings for each system is estimated in **Exhibit 4**. The exhibit shows that total school expenditures for charter schools could decrease by \$7.6 million, including more than \$5.8 million in Baltimore City.

Exhibit 4
Potential Savings by School System

<u>School System</u>	<u>2007-2008 Enrollment</u>	<u>Potential Savings</u>
Anne Arundel	219	\$231,702
Baltimore City	5,520	5,840,160
Frederick	291	307,878
Harford	78	82,524
Prince George's	879	929,982
St. Mary's	<u>162</u>	<u>171,396</u>
Total	7,149	\$7,563,642

In future fiscal years, the possible savings for local school systems with charter schools would increase with any increases in charter school enrollments and inflation in per pupil spending. School systems would also retain the authority to provide more funding for charter schools if they elect to do so.

Additional Information

Prior Introductions: An identical bill, SB 669 of 2007, was heard by the Senate Education, Health, and Environmental Affairs Committee but no further action was taken on the bill. SB 293 of 2006 received a favorable report from Education, Health, and Environmental Affairs but was not approved by the full Senate.

Cross File: None.

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

Fiscal Note History: First Reader - March 9, 2008
ncs/rhh

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