

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 609

(Senator Ferguson, *et al.*)

Education, Health, and Environmental Affairs

Ways and Means

Public Charter Schools - School Sites and Buildings - Availability for Occupation
and Use

This bill exempts any portion of a building or property occupied and used by a public charter school from property taxes as long as the public charter school occupies and uses the building and operates as a nonprofit organization. The bill also establishes new procedures for the disposition of excess school property and buildings, including procedures that, with the approval of a county council or county commissioners, make excess school property and buildings available for use by charter schools in the county.

The bill takes effect July 1, 2011.

Fiscal Summary

State Effect: Potential minimal decrease in special fund revenues for the Annuity Bond Fund due to the exemption from State property taxes of privately owned buildings leased to nonprofit charter schools. Due to the limited number of public charter schools in the State that will be affected by the bill, the decrease in revenues is expected to total only \$20,000 annually.

Local Effect: Local property tax revenues may decrease by approximately \$230,000 beginning in FY 2012. Jurisdictions affected include Baltimore City, and Anne Arundel, Baltimore, Frederick, Prince George's, and St. Mary's counties, as well as the City of Frederick. Also, potential foregone revenue from the disposition of vacant, surplus school buildings. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Minimal.

Analysis

Bill Summary: When a county school board determines, with the approval of the State Superintendent, that any land, school site, or building owned by the board is no longer needed for school purposes, it must notify the county commissioners or county council of its determination. Within 30 days, the county commissioners or county council must notify the board if the property is an integral component of an existing economic development plan that will significantly benefit the county, or whether the county commissioners or county council have no existing plans for the property.

If the county commissioners or county council have no plans for the property, the county school board must notify public charter schools in the county that vacant public school buildings are available for their occupation and use on terms established by the board. Each county school board must establish procedures for determining which public charter school may occupy a vacant school building if more than one public charter school expresses interest in occupying and using the building. A public charter school that occupies or uses a school site or building provided under the bill may not sell, dispose of, or otherwise transfer the school site or building.

If the county commissioners or county council give notice that the land is needed for an economic development plan, or if neither the county nor public charter schools in the county have use for the property, the property must be transferred to the county commissioners or county council to be used, sold, leased or otherwise disposed of, except by gift, under current law.

Current Law:

Property Taxes and Exemptions

State property tax revenues are credited to the Annuity Bond Fund, which is dedicated to paying debt service on State-issued debt.

Schools and other educational institutions owned by nonprofit organizations are exempt from State and local property taxes. However, privately owned property that is leased to a school or educational institution, even if it operates as a nonprofit organization, is subject to State and local property taxes. Publicly owned property that is leased to a

school or educational institution is not subject to property taxes if the lessee is a nonprofit organization.

Public Charter Schools

Public charter schools are public schools that operate under the supervision of a chartering authority in the State and, with certain exceptions, in accordance with the laws and regulations that govern other public schools. Local school boards must give public charter schools a per-student amount of county, State, and federal money that is commensurate to the amount given to other public schools in the same jurisdiction. The State Board of Education or a local board may give surplus educational materials, supplies, furniture, and other equipment to a public charter school.

Disposition of Vacant School Buildings

In most jurisdictions, a vacant school building that is found by the local school board to no longer be needed for school purposes (subject to approval by the State Superintendent of Schools) must be transferred to the local governing authority, which may use, sell, lease, or otherwise dispose of the building. Additional procedures apply in Baltimore County. In Cecil County, the local school board may, with the approval of the State Superintendent, transfer any of its property to a public community college.

Background: In Maryland, public charter schools must use the per pupil amounts they receive for operational expenses and funds from other sources to pay for capital expenses. There are 44 public charter schools in the State, distributed as follows: 34 in Baltimore City; 5 in Prince George's County; 2 in Anne Arundel County; and 1 each in Baltimore, Frederick, and St. Mary's counties. All public charter schools in Maryland operate as nonprofit organizations.

According to the National Alliance for Public Charter Schools, public charter schools in 13 states and the District of Columbia receive some manner of state facilities aid, which can include discretionary grants, loans, per pupil allocations, and other support such as access to vacant school buildings. California has a charter school revolving loan fund that allows charter schools to receive loans for as much as \$250,000; schools can use these loans for any start-up costs, including facilities. Utah has a charter school revolving loan fund that provides loans to charter schools for the costs of constructing, renovating, and purchasing charter school facilities.

States with statutory requirements to provide per pupil aid to assist charter schools with their facility costs are eligible for the federal State Facilities Incentive Grant program. The program provides federal funds to match nonfederal dollars used by a state to fund

charter school facilities on a per pupil basis. Grants are for five years and states pay an increasing share of the costs of the program.

State Fiscal Effect: The State will lose property tax revenues from any privately owned building that is used and occupied by a nonprofit charter school. As noted above, the vast majority (34 of 44) of public charter schools are located in Baltimore City. Baltimore City Public Schools (BCPS) advises that 20 of those schools operate in board-owned buildings. Of the remaining 14 schools, 6 operate in city-owned buildings, 1 operates in a nonexempt building, and 2 are partially exempt. Tax records for the remaining schools could not be located. Of the remaining 10 public charter schools in the State, 4 operate in tax-exempt buildings, all of them in Prince George's County. Therefore, there are no more than 10 public charter schools that currently operate in nontax-exempt properties. The amount of lost State property tax revenue from these facilities is considered to be minimal at approximately \$20,000. To the extent that any of the public charter schools currently operating in exempt buildings decide to lease private space, their new facilities would not be subject to property taxes under this bill.

Local Fiscal Effect: Local property tax revenues may decrease by approximately \$230,000 beginning in fiscal 2012. Jurisdictions affected include Baltimore City, and Anne Arundel, Baltimore, Frederick, Prince George's, and St. Mary's counties, as well as the City of Frederick. In addition, these jurisdictions may realize a loss in revenue from the disposition of vacant, surplus school buildings.

Property Tax Exemption

Baltimore City

There are 34 public charter schools in Baltimore City. Twenty six of these schools are tax exempt as they are owned by either the city government, the school board, or the State. One school – the Green School of Baltimore – is not exempt and two other schools – the Baltimore International Academy and the Crossroads School – have partial exemptions. The State Department of Assessments and Taxation was unable to locate land records for five schools. The total fiscal 2012 assessment for the Green School of Baltimore and for the nonexempt portions of the other two schools is \$2.9 million. As a result, property tax revenues in Baltimore City will decrease by \$64,650 beginning in fiscal 2012.

Anne Arundel County

There are two public charter schools that lease property in Anne Arundel County – the Chesapeake Science Point School and the Monarch Academy Public Charter School. These properties are located in Hanover and Glen Burnie, respectively. Chesapeake

Science Point consists of a 41,393 square foot structure on 3.4 acres, and has a fiscal 2012 assessment of approximately \$4.3 million. Monarch Academy consists of a 55,185 square foot structure on 5.0 acres, and has a fiscal 2012 assessment of approximately \$4.0 million. Property tax revenues in Anne Arundel County will decrease by \$72,874 beginning in fiscal 2012.

Baltimore County

There is one public charter school in Baltimore County – the Imagine Discovery Public Charter School. The property has a fiscal 2012 assessment of \$696,400. Due to the property tax exemption proposed by the bill, property tax revenues will decrease by approximately \$7,700 annually in Baltimore County beginning in fiscal 2012.

Frederick County

There is one public charter school in Frederick County – the Monocacy Valley Montessori Public Charter School. The property is located in Frederick City and has a fiscal 2012 assessment of approximately \$2.2 million. Due to the property tax exemption proposed by the bill, property tax revenues will decrease by approximately \$23,600 annually in Frederick County and by approximately \$14,400 in the City of Frederick beginning in fiscal 2012, based on current county and municipal tax rates.

Prince George's County

There are five public charter schools in Prince George's County, but only one – Imagine-Foundations Public Charter School – is not currently tax exempt. The property has a fiscal 2012 assessment of \$1.7 million. Due to the property tax exemption proposed by the bill, property tax revenues will decrease by approximately \$21,900 annually in Prince George's County beginning in fiscal 2012.

St. Mary's County

There is one public charter school in St. Mary's County – the Chesapeake Public Charter School. The real property account is located in Lexington Park and consists of a 58,828 square foot structure on 5.9 acres, and has a fiscal 2011 assessment of approximately \$4.4 million. The school occupies and leases 66.7% of the property. Due to the property tax exemption, property tax revenues in St. Mary's County will decrease by \$24,900.

Disposition of Vacant School Buildings

Jurisdictions with charter schools that have vacant school buildings that are not part of a county's economic development plan may forego revenue from the sale or lease of those

buildings because they have to offer the building to one or more charter schools. BCPS advises that it currently has two vacant school buildings. Under current law, it may, with approval from the State Superintendent, determine that they are no longer needed for school purposes and then transfer them to the City Council for disposal. BCPS has not made that necessary determination, and advises that it has not disposed of any vacant school buildings in at least the last three years. Baltimore and Prince George's counties also have declining enrollment trends over the last five years, but it is not known if they have vacant school buildings.

Additional Information

Prior Introductions: None.

Cross File: HB 530 (Delegate Rosenberg, *et al.*) - Ways and Means.

Information Source(s): Baltimore City; Anne Arundel, Frederick, Montgomery, and St. Mary's counties; Maryland State Department of Education; State Department of Assessments and Taxation; Department of Legislative Services

Fiscal Note History: First Reader - March 1, 2011
ncs/mwc Revised - Senate Third Reader - March 29, 2011

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