

Department of Legislative Services  
Maryland General Assembly  
2014 Session

FISCAL AND POLICY NOTE

House Bill 926  
Ways and Means

(Delegate Smigiel, *et al.*)

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Education - Public Charter Schools - Virtual Learning Programs Authority

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This bill includes the establishment of a virtual learning program in the definition of public charter school. A “virtual learning program” is defined as a program of instruction that provides a significant portion of its curriculum and delivers a significant portion of its instruction to its students by teachers in an interactive learning environment through the Internet or other electronic means. Virtual learning programs are not obligated to meet the requirement that students be physically present on school premises; however, a virtual learning program must require students to meet attendance requirements and meet any other requirements imposed by the local school system applicable to a location outside of a school building that are necessary for the delivery of a virtual learning program, including requirements for equipment, materials, and telephone and Internet service. An application for a public charter school must be submitted to the local board of education in the jurisdiction in which the charter school will either be located *or* will serve its students.

The bill takes effect July 1, 2014.

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Fiscal Summary

**State Effect:** State expenditures through the State education funding formulas may increase to the extent that the bill encourages students who are currently homeschooled or enrolled in a private school to enroll in a virtual public charter school. Due to the existing online courses and services approval process, Maryland State Department of Education (MSDE) special fund revenues and expenditures increase by a commensurate amount based on MSDE’s fee schedule.

**Local Effect:** Local school system expenditures may increase to the extent that the bill encourages students who are currently homeschooled or enrolled in a private school to enroll in a virtual public charter school. Local school system funding directed toward traditional public schools may be directed toward virtual public charter schools. If MSDE delegates the responsibility to review and approve virtual learning program courses, local school system revenues and expenditures will increase.

**Small Business Effect:** None.

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## Analysis

**Current Law:** In general, a public charter school must comply with all the provisions of law and regulation governing other public schools. At a public charter school, students must be physically present on school premises for a period of time substantially similar to that which other public school students spend on school premises.

Public charter schools in the State are open to all students on a space-available basis and must admit students on a lottery basis if more students apply than can be accommodated (unless the school is located on a federal military base).

A local board of education must disburse to a public charter school an amount of county, State, and federal money for elementary, middle, and secondary students that is commensurate with the amount disbursed to other public schools in the local jurisdiction. The State Board of Education or local board of education may give surplus educational materials, supplies, furniture, and other equipment to a public charter school.

Full-time equivalent student enrollment counts used in the State education aid formulas include all kindergarten through grade 12 students enrolled in each local school system on September 30 of the preceding school year, less out-of-state students attending Maryland schools and discounted for part-time students.

MSDE must provide Maryland virtual learning opportunities that include (1) offering a distance learning program to provide Maryland public school students with equal opportunities to develop a strong academic foundation; (2) offering expanded educational choices not otherwise available to students through online courses and services; and (3) expanding the professional development opportunities available to educational staff in Maryland public schools through online courses and services.

Credit-bearing online courses provided to students by a local school system are subject to MSDE approval by a committee to ensure that the course meets instructional standards and is in compliance with the technology standards outlined in Section 508 of the

Rehabilitation Act of 1973, Maryland accessibility regulations, and the Web Content Accessibility Guidelines 2.0 Level AA. Noncredit-bearing courses and blended courses provided to students by a local school system do not require MSDE approval.

There are three options for obtaining review and approval of credit-bearing online courses and professional development courses.

A vendor may request an MSDE review of an online credit-bearing course or professional development course. MSDE review must be conducted by a panel of at least three content experts, one of whom must be a reviewer trained to conduct such reviews. MSDE review must include an assessment of the accessibility of the course. A vendor seeking MSDE approval of an online or professional development course must pay a nonrefundable fixed fee of \$1,400 to MSDE to cover the cost of a review. MSDE reserves the right to review previously approved courses every three years. MSDE reserves the right to determine which courses will be reviewed based on student and local school system need.

A vendor may request a local school system review of an online credit-bearing course or professional development course. The local school system review must be conducted by a panel of at least three content experts, one of whom must be a reviewer trained to conduct such reviews as designated by MSDE. The local school system review must include an assessment of the accessibility of the course. A local school system may establish a reasonable fee to cover the cost of a review. After conducting the review, the local school system must submit its review and recommendation for approval to MSDE for final approval. To cover the cost of the final review, the local school system must submit to MSDE 15% of the fee it collected from the vendor. The local school system reserves the right to determine which courses will be reviewed based on student need.

Finally, a vendor may request an MSDE-Approved Reviewing Program review of an online credit-bearing course or a professional development course that includes an assessment of the accessibility of the course. After the review is completed, the MSDE-Approved Reviewing Program must submit the review documentation to MSDE. The vendor must pay a fee of \$360 to MSDE to cover the cost of the final review.

Upon review and approval by the State Board of Education, in fiscal 2016 and any subsequent year thereafter, MSDE may increase the vendor fees set forth in regulation by no more than 20% each year. If MSDE increases the fee, it must publish the increase on its website at <http://marylandpublicschools.org/MSDE>.

**Background:** According to the National Alliance for Public Charter Schools, 34 states and the District of Columbia have laws in place in 2014 that allow for the operation of virtual charter schools. However, only 30 of the 34 states have virtual charter schools in

operation. Student enrollment in virtual charter schools accounts for approximately 1% of total public school enrollment in the 30 states with virtual charter schools. Arizona has the highest percentage of students enrolled in a virtual charter school, at 3.9%.

Virtual charter schools can make State and local education funding difficult to predict because, unlike traditional schools, they can grow and shrink rapidly. Another difficulty in predicting funding is that students who are homeschooled or enrolled in private schools may transfer to a virtual charter school. In addition, states that use enrollment counts to distribute education funding, such as Maryland, have found traditional local schools underfunded due to the large number of students that do not complete the virtual charter school classes that they enrolled in and, thus, transferred back to a traditional local school.

Legislators in Maine are considering a yearlong moratorium on virtual charter schools. Illinois enacted a one-year moratorium on virtual charter schools outside Chicago last year. In a report from February 21, 2014, the Illinois State Charter School Commission recommended that Illinois should allow virtual charter schools to exist; however, state policies must first be amended to reflect an appropriate oversight structure. Thus, the moratorium should be extended until December 31, 2016, to allow development of such a structure.

**State Expenditures:** Assuming a virtual program is approved as a public charter school by a local school system, State expenditures through the State education funding formulas increase to the extent that the bill encourages students who are currently homeschooled or enrolled in a private school to enroll in a virtual public charter school. The amount of any increase cannot be determined. During the 2012-2013 school year, there were approximately 24,300 homeschooled students in the State. Nonpublic schools enrolled approximately 98,600 students in kindergarten through grade 12 during the 2013-2014 school year. MSDE will need to develop regulations to clarify how students enrolled in virtual learning programs will be included in the September 30 enrollment counts that are used to distribute State education aid. Potentially every student enrolled in a virtual learning program could count as a full-time equivalent student. In fiscal 2014, State aid per full-time equivalent student was approximately \$7,200; however, the amount of State aid varies by local school system.

**Local Expenditures:** Local school system expenditures may increase if students currently homeschooled or enrolled in private schools decide to enroll in a virtual public charter school.

Assuming that, like other public charter schools, virtual learning programs will receive per-student funding that is commensurate with the amount disbursed to other public schools in the local jurisdiction. Per-pupil local funding for public schools averaged

\$6,693 in fiscal 2014, ranging from \$2,563 in Caroline County to \$12,048 in Worcester County. These estimates exclude teachers' retirement payments, capital outlays, and debt service. However, another mechanism to determine funding may need to be determined due to the nature of virtual learning programs.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland State Department of Education, National Alliance for Public Charter Schools, Department of Legislative Services

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