

Department of Legislative Services
 Maryland General Assembly
 2015 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 595 (The President, *et al.*) (By Request - Administration)
 Education, Health, and Environmental Affairs Ways and Means
 and Budget and Taxation

Public Charter School Improvement Act of 2015

This Administration bill alters State law regarding the establishment and operation of public charter schools. The bill alters existing requirements for public charter schools. It also establishes new requirements and authorizes certain options for targeting specified student populations when making student placements at a public charter school. The bill provides greater flexibility in operations to certain eligible public charter schools that have existed for at least five years and meet specified conditions. The role of the Maryland State Board of Education as a chartering authority is eliminated and its authority in appeals is clarified. The Maryland State Department of Education (MSDE) in consultation with the Department of Legislative Services (DLS), must contract for a study of the amount of funding provided to public charter schools and other public schools by local school system.

The bill takes effect June 1, 2015.

Fiscal Summary

State Effect: General fund expenditures increase by \$312,400 in FY 2016, which includes \$250,000 for consultants to complete the required study and \$62,400 in administrative cost at MSDE. The FY 2016 State budget includes \$250,000 for the study contingent on enactment of this bill. Future year expenditures total \$59,200 in FY 2017 and \$67,500 in FY 2020. Revenues are not affected.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	312,400	59,200	61,900	64,600	67,500
Net Effect	(\$312,400)	(\$59,200)	(\$61,900)	(\$64,600)	(\$67,500)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Though the bill provides greater flexibility in student placement and operations for certain public charter schools, the bill is not anticipated to significantly alter the trends under current law regarding the number of public charter schools in the State or per pupil funding of public schools in the State. Thus, the bill is not expected to substantially alter local board of education expenditures. To the extent that a school system does not submit data requested by MSDE for the funding study, 10% of its bi-monthly payment from the State may be withheld until the data is provided.

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary:

Student Lotteries and Placement in Public Charter Schools

A public charter school may give greater weight to a student in a lottery in accordance with an application submitted to the public chartering authority if the student is (1) eligible for free and reduced-price meals; (2) a student with disabilities; (3) a student with limited English proficiency; (4) homeless, as defined under federal law; or (5) a sibling of a currently enrolled student in the public charter school for which the sibling is applying. A sibling of a currently enrolled student or of a student admitted through the lottery process may be given priority to any spaces that become available in a public charter school throughout the year.

Subject to the approval of the public chartering authority, a public charter school may designate a geographic attendance area, within which the median income is equal to or less than the median income of the county and from which student placement in the school is guaranteed to up to 35% of its available space. Following the filling of these slots, the public charter school must hold a districtwide lottery. The public charter school must take reasonable steps to maintain the intended ratio of students from the geographic attendance area to other students as part of the initial cohort of students accepted via the lottery. If the results of the lottery do not fill all of the slots at the public charter school, the school may draw more students from the geographic attendance area than the intended percentage.

A county board of education may waive the lottery requirements for a public school that has been converted to a public charter school and wants to provide guaranteed placement to students who live within the geographic attendance area established by the county board. To be eligible, a school must be (1) low performing; (2) above the county average percentage of students who are eligible for free and reduced-price meals; and (3) meet a

strategic need of the local school system that must include one of the following: serving a high-need population; increasing student performance; increasing enrollment; or increasing student diversity. A public charter school that was approved before May 31, 2015, to convert from a traditional public school may provide guaranteed placement to students who live within the geographic attendance area established by the county board and subject to county board of education approval. Furthermore, it may continue to do so upon renewal of its charter.

Subject to the approval of a public chartering authority, a public charter school may provide placement to up to 35% of the students who attended a public charter school during the previous school year operated by the same operator. To qualify for such authorization, the operator must operate two or more public charter schools in the county and, when combined, the public charter schools must form an integrated multi-year academic program.

Finally, if a waiver is granted by the State board, a public charter school on a federal military base may admit students of parents not assigned to the base to at least 35% of its total available space as part of the initial cohort of students in a grade. In addition, the public charter school must take reasonable steps to maintain the 35% to 65% ratio, and must admit all students on a lottery basis.

Operating Flexibility for Certain Charter Schools in Existence for Five Years

Expanded operating flexibility is afforded to a public charter school that has been in existence for at least five years and demonstrates to the county board a history of sound fiscal management and student achievement that exceeds the average in the local jurisdiction on statewide assessments and other measures developed by the State board. The State board must develop standards and criteria by which a public charter school must be assessed by the county board. A public charter school may appeal a decision of the county board that the school is not eligible to participate in the program to the State board. If an eligible public charter school and the county board reach mutual agreement regarding an alternative means by which the public charter school will meet the intent of the policies of the local school system, an eligible public charter school is exempt from:

- textbook, instructional programs, curriculum, professional development, and scheduling requirements;
- a requirement to establish a school community council;
- except for a Title I school, a requirement to establish a school improvement plan;
- except for a school with a school activity fund, a requirement to provide school activity fund disclosure statements; and
- except for prekindergarten classes, class size or staffing ratios.

A principal may not be assigned to an eligible public charter school without the written consent of that school. Also, a staff member who wants to work in an eligible school must be assigned or transferred to that school if the staff member expresses this in writing and the public charter school expresses in writing that it wants the staff member to work there, if there is an existing vacancy. However, nothing in this program may take precedence over an agreement of a local bargaining unit in a local school system.

Chartering Authority

The bill repeals the State board's role as a primary or secondary public chartering authority. The sole public chartering authority is a county board of education. The bill clarifies that if a county board denies an application to establish a public charter school, and the State board reverses the decision, the State board must remand the matter to the county board; may direct the county board to grant a charter; and may, if necessary, mediate in order to implement the charter.

Application/Granting of Charter

Review of an application must be in accordance with the county board's application procedures. A public chartering authority may approve an application for a public charter school on a contingent basis, based on the ability of the public charter school to meet any timelines established for the securing of a facility; and final approval of the public chartering authority of the suitability of the facility that is ultimately secured. A decision of a county board relating to a geographic attendance area or guaranteed placement is severable from the rest of an application and may not be appealed to the State board. A staffing model may be included in an application. A charter may not be granted to a fully online school. A county board may consider the utilization rate of surrounding school sites and buildings when authorizing a public charter school to occupy a school site or building.

An application to establish a public charter school must include:

- a plan to provide a rigorous program of instruction, including an equivalent method for satisfying any requirements from which the charter school operator intends to seek a waiver; and
- a description of how a weighted admissions lottery or guaranteed student placement will be implemented.

A public charter school may apply to the State board or county board, as appropriate, for a waiver from provisions of law and regulation governing other public schools, except those provisions relating to (1) audit requirements; (2) measurement of student academic achievement; or (3) the health, safety, or civil rights of students and employees of the public

charter school. If a waiver is denied, the appropriate board must provide to the public charter school, in writing, the reason for denial.

Certification

The requirement that a member of the professional staff of a public charter school must hold the appropriate Maryland certification is repealed. Instead, the professional staff must be subject to the same certification provisions for professional staff as other public schools.

Collective Bargaining Agreements

The bill includes a county board of education (along with a public charter school and the employee organization under current law) in the process to negotiate amendments to existing collective bargaining agreements to address the needs of a particular public charter school, and clarifies that such amendments may relate to work days, work hours, school year, procedures for transfer that are consistent with the instructional mission of the school, and extra duty assignments.

County Public Charter School Policies and MSDE Duties

The bill clarifies that each county public charter school policy must be provided to the State board. The policy must be made available on request and be posted on the website of the county board of education. A designated MSDE staff person must provide technical assistance to public charter school operators, gather information from public charter schools in the State regarding innovative approaches to education and best practices, and share this information with other public schools in the State. MSDE must submit an annual report to the General Assembly regarding any updates or amendments made to local public charter school policies and implementation of the Public Charter School Program.

Public School Funding and Expenditures Study

MSDE, in consultation with DLS, must contract for a study of the amount of funding provided to public charter schools and other public schools by local school systems. The purpose of the study is to calculate the average operating expenditures by each local school system for students enrolled in a public school that is not a public charter school or stand-alone special education school, to be aggregated at the State level to serve as the baseline for determining commensurate funding for all public schools.

The study must include a review of school system and school level expenditures disaggregated by specified categories, as well as the value of services being provided to public schools, and the potential availability of innovative financing for public charter school facilities that would not directly affect the State budget. The study must also include

an assessment of the need to collect, on an ongoing basis, central office and school level expenditure data. Local school systems and public charter schools must provide data requested by MSDE for the study; 10% of certain funding installments may be withheld from those that do not comply with this requirement. By October 31, 2016, MSDE and DLS must submit a report on the study to the Governor; the Senate Education, Health, and Environmental Affairs Committee; and the House Ways and Means Committee.

Current Law: The general purpose of the Maryland Public Charter School Program is to establish an alternative means within the existing public school system in order to provide innovative learning opportunities and creative educational approaches to improve the education of students. A local board of education must disburse to a public charter school an amount of county, State, and federal money for elementary, middle, and high school students that is commensurate with the amount disbursed to other public schools in the local jurisdiction.

Chartering Authority and Establishing a Public Charter School

The local board of education is the primary public chartering authority for public charter schools; the State Board of Education is a secondary public chartering authority when acting in its appeal review capacity or as the public chartering authority for a restructured school. An application to establish a public charter school in a county must be submitted to the local board of education. If the local board of education denies the application, the applicant can appeal the decision to the State Board of Education. Public school staff, parents or guardians of public school students, nonsectarian nonprofit entities, or nonsectarian institutions of higher education in the State can apply to establish a public charter school. Private, parochial, or home schools are not eligible to become a public charter school.

Public Charter School Rules and Local Board of Education Charter School Policy

In general, a public charter school must comply with all the provisions of law and regulation governing other public schools. A public charter school must comply with all applicable health and safety laws. A public charter school may seek a waiver of these requirements through an appeal to the State board. A waiver may not be granted relating to audit requirements; student assessments; or health, safety, and civil rights of students and employees of the public charter school.

A public chartering authority may not grant a charter to a public charter school whose operation would be inconsistent with any public policy initiative, court order, or federal improvement plan governing special education that is applicable to the State. The State board must provide technical assistance to the operators of a public charter school to help the school meet the requirements of federal and State laws.

Each local board of education must develop a public charter school policy and submit it to the State Board of Education. The policy must include guidelines and procedures regarding (1) evaluation of public charter schools; (2) revocation of a charter; (3) reporting requirements; and (4) financial, programmatic, or compliance audits of public charter schools.

Student Enrollment

Public charter schools must be nonsectarian and open to all students on a space-available basis. Public charter schools cannot discriminate in their enrollment policies or charge tuition to students. However, the State Board of Education may grant a waiver from the requirement that a public charter school be open to all students on a space-available basis to a charter school that is located on a federal military base; the school must admit students with parents who are not assigned to the base to at least 35% of its total available space and must admit all students on a lottery basis.

Public Charter School Employees

Professional staff members of a public charter school must hold the appropriate Maryland certification. Public charter school employees remain public school employees. If a collective bargaining agreement is already in existence in the county where a public charter school is located, the employee organization and the public charter school may mutually agree to negotiate amendments to the existing agreement to address the needs of the particular public charter school.

Title I of ESEA

Title I of ESEA provides financial assistance to local educational agencies and schools with high numbers or high percentages of children from low-income families to help ensure that all children meet challenging state academic standards. Schools enrolling at least 40% of children from low-income families are eligible to use Title I funds for schoolwide programs designed to upgrade their entire educational programs to improve achievement for all students, particularly the lowest-achieving students.

Teacher Certification

In general, each teacher employed by a local school system of Maryland must hold a professional certificate in the teacher's area of major assignment, as specified in the Code of Maryland Regulations. A teacher should not be assigned to teach more than two classes outside the teacher's area of certification. If a local school system finds it necessary to assign a teacher to teach more than two classes outside the teacher's area of certification,

the teacher must retain the professional certificate. For each consecutive year after the first year that a teacher is assigned to teach more than two classes outside the teacher's area of certification, the teacher must earn at least six semester hours per year toward certification in the out-of-area assignment before continuing the assignment. MSDE must monitor the assignment practices of local school systems on a periodic basis.

Except for teacher certification tests, the State Superintendent of Schools has the authority to waive the specific requirements in regulations for a certificate in an individual case if the State Superintendent of Schools determines, after thorough investigation, that the applicant's preparation or experience, or both, are adequate to justify a waiver. Renewal requirements for any professionally certificated employee may be waived without regard to renewal requirements specified in regulations if the (1) renewal is recommended by the local superintendent of schools and (2) professionally certificated employee is 55 years old or older; or employed for at least 25 years in public school service or approved nonpublic school service.

Surplus School Site or Building

If, with the approval of the State Superintendent of Schools, a local board of education determines that a school site or building no longer is needed for school purposes, and after the county commissioners or county council have provided the required notice, the local board must inform the public charter schools in the jurisdiction that the school site or building is available for occupation and use by a public charter school on the terms determined by the local board. A public charter school that occupies or uses a school site or building under this provision of the law may not sell, dispose of, or otherwise transfer the school site or building.

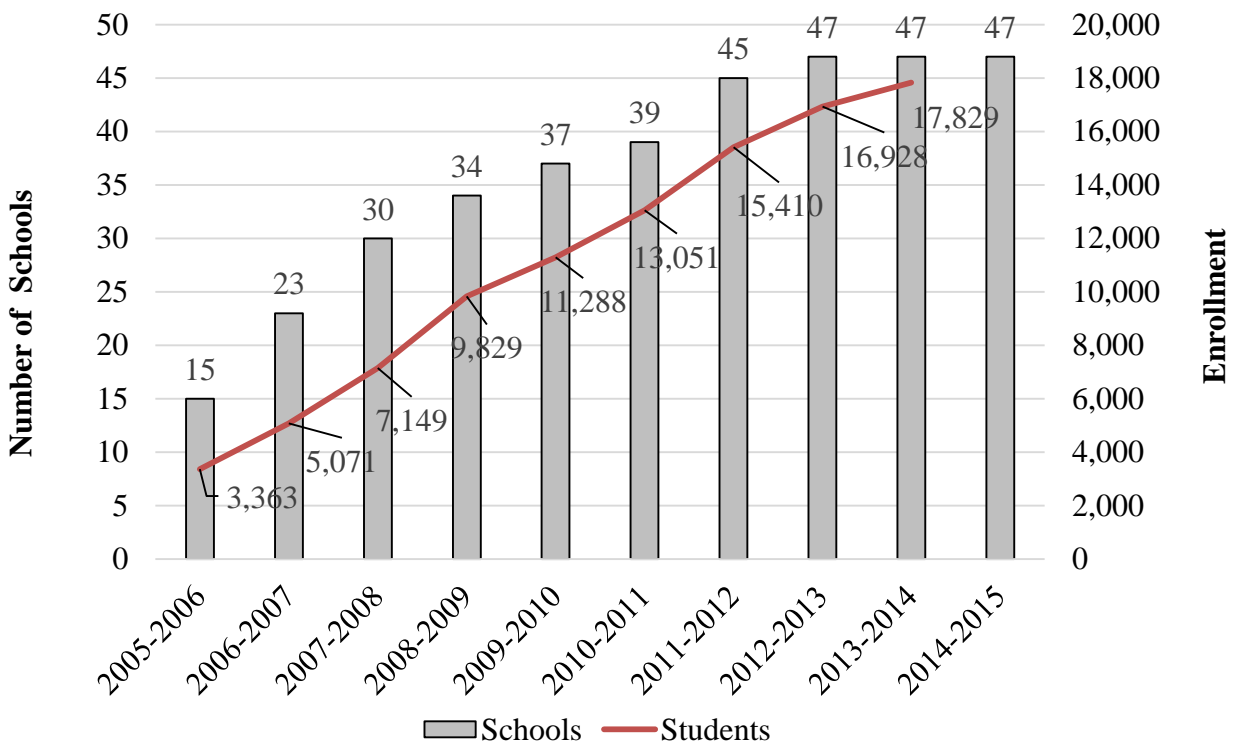
Each local board of education must establish a procedure to determine which public charter school may occupy and use an available school site or building if more than one public charter school notifies the local board of an interest in occupying and using a school site or building. Any portion of a building or property occupied and used by a public charter school must be exempt from property taxes for the duration of the occupation and use of the building or property as a public charter school. Charter schools located in public school buildings are eligible to receive State school construction funds if the project is requested by the school board and the local share of costs for the project is funded by the county government.

Background: The Maryland Public Charter School Program has grown from serving 3,363 students during the 2005-2006 school year, the first year in which charter schools were operational in accordance with the law, to serving 17,839 students during the 2013-2014 school year. Further, despite some closures along the way, the number of charter schools has grown from 15 charter schools during the 2005-2006 school year to

47 charter schools during the 2014-2015 school year. However, it is worth noting that despite the continued growth in enrollment, the net number of charter schools (47) has not changed since the 2012-2013 school year. **Exhibit 1** shows the number of charter schools in the State and the number of students served by charter schools over the course of the past 10 years.

Although nine different counties have had at least one charter school at some point over the last 10 years, the vast majority of charter schools have been located in Baltimore City. For the 2014-2015 school year, charter schools are located in Baltimore City (31); Anne Arundel County (2); Frederick County (3); Prince George’s County (10); and St. Mary’s County (1).

Exhibit 1
Public Charter Schools in Maryland
2005-2006 School Year to 2014-2015 School Year



Note: Data does not include transformation schools in Baltimore City Public Schools. Enrollment figures for the 2014-2015 school year are not available.

Source: Maryland State Department of Education

State Fiscal Effect: General fund expenditures increase by \$312,400 in fiscal 2016, which includes \$250,000 for consultants to complete the required study and \$62,400 in administrative cost at MSDE. The bill requires MSDE in consultation with DLS to contract for a study of the amount of funding provided to public charter schools and other public schools by local school system. Based on prior studies, DLS projects that the cost for the consultant contract will total approximately \$250,000. Based on the October 31, 2016 due date for the final report, approximately \$187,500 (three-quarters) of the total cost is likely to be expended in fiscal 2016 and \$62,500 in fiscal 2017. The fiscal 2016 State budget restricts \$250,000 for the study contingent on enactment of this bill and the approval of the Governor to use the funds for their restricted purpose. The Department of Budget and Management has indicated that the restricted funds will be released for fiscal 2016.

In addition, the bill expands MSDE's ongoing responsibilities regarding public charter schools. MSDE must develop review criteria to determine eligibility for operational flexibility among existing public charter schools. MSDE will need to provide additional technical assistance to local school systems and charter school operators, document practices and innovations at public charter schools, and write the required annual report.

MSDE estimates that it will require two additional full-time education specialists to fulfill these additional ongoing responsibilities, at a cost of approximately \$189,200 in fiscal 2016, increasing to approximately \$222,000 by fiscal 2020. However, DLS finds that meeting the specific requirements of the bill will require an additional half position beginning in fiscal 2016, resulting in additional general fund expenditures of approximately \$62,400 in fiscal 2016. Future year expenditures increase by \$59,200 in fiscal 2017, which reflects the elimination of one-time expenses, and \$67,500 in fiscal 2020.

Additional Information

Prior Introductions: None.

Cross File: HB 486 (The Speaker, *et al.*) (By Request - Administration) - Ways and Means.

Information Source(s): Maryland State Department of Education, Maryland State Retirement Agency, Public School Construction Program, Department of Legislative Services

Fiscal Note History: First Reader - February 25, 2015
md/rhh Revised - Senate Third Reader - April 8, 2015
Revised - Enrolled Bill - May 19, 2015

Analysis by: Scott P. Gates

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Public Charter School Expansion and Improvement Act of 2015

BILL NUMBER: SB595/HB486

PREPARED BY: Governor's Legislative Office

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS