

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 536
Ways and Means

(Delegate Boteler, *et al.*)

Education - Public Charter Schools - Virtual Learning Programs

This bill expands the definition of a public charter school to include a virtual learning program that requires students to meet attendance requirements and any other requirements imposed by the local school system applicable to a location outside a school building that are necessary for the delivery of a virtual learning program as specified. Accordingly, the bill exempts virtual learning programs from certain provisions of public charter school law regarding physical presence in the school. A “virtual learning program” of instruction provides a significant portion of its curriculum and instruction to its students by teachers in an interactive learning environment through the Internet or other electronic means. **The bill takes effect July 1, 2019.**

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.

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. Any local costs associated with approving additional charters are assumed to be offset by fees for processing applications.

Small Business Effect: Small businesses that provide virtual learning equipment and services may benefit.

Analysis

Current Law:

Public Charter Schools

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.

The local board of education is the public chartering authority within a county. Public charter schools must be nonsectarian and, with exceptions, open to all students on a space-available basis and admit students on a lottery basis if more students apply than can be accommodated. If granted a waiver, a public charter school located within a federal military base may designate as much as 65% of its enrollment for students whose parents are assigned to the base.

Public charter schools cannot discriminate in their enrollment policies or charge tuition to students. A local school system must serve students with disabilities attending charter schools in the same manner as the public agency serves students with disabilities in its other schools, in accordance with applicable federal and State law. A public charter school must require students to be physically present on school premises for a period of time substantially similar to that which other public school students spend on school premises.

An application to establish a public charter school may be submitted to a county board by the staff of a public school, a parent of a student who attends a public school in the county, a nonsectarian nonprofit entity, a nonsectarian institution of higher education in the State, or any combination of these. A public chartering authority may not grant a charter to a private school, a parochial school, a homeschool, or a school that operates fully online.

Virtual Learning

Under Chapter 743 of 2010, a local board of education is authorized to establish a virtual school, subject to the approval of the Maryland State Department of Education (MSDE). A student who is eligible for enrollment in a public school in the State may enroll in a virtual school. Enrolled students must be provided with a sequential curriculum approved by the State Board of Education and regular assessments. A virtual school must provide the parents or guardians of enrolled students with instructional materials, including

software, and information on the closest public facility that offers access to a computer, printer, and Internet connection.

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.

MSDE must develop, or review and approve, online courses and services. MSDE must also (1) develop standards for teachers and other school system employees for the offering of courses or services on the Internet or through other developing technologies and (2) review courses and courseware to assure quality and alignment with the Maryland content standards and other appropriate standards.

A local board of education may request that MSDE develop, or review and approve, online courses and services. MSDE may delegate this responsibility to a local board of education. If MSDE delegates this authority to a local board, the local board must request approval of the online course from MSDE once it has completed the development or the review and approval. A local board may impose reasonable fees to be paid by the vendor to cover the cost of reviewing and approving online courses and services and must remit 15% of the fees collected to MSDE. The State Board of Education may set reasonable fees for developing or reviewing online courses and services and for processing approvals for online courses and services.

Background: According to a [2016 National Alliance for Public Charter Schools \(NAPCS\) report](#), the first *full-time* virtual charter public schools opened in the late 1990s and, as of August 2014, there were 135 full-time virtual charter schools operating in 23 states and Washington, DC – about twice as many as in 2008; these schools were serving approximately 180,000 students. Though NAPCS supports authorization of virtual charter schools, it indicates that studies have found that “[c]ompared to traditional public school students, full-time virtual charter school students have much weaker academic growth overall.”

Virtual charter schools can present difficulties with respect to tracking school enrollment and attendance, and thus for determining appropriate State and local funding. According to various sources, including the *Washington Post*, a virtual charter school in Ohio, Electronic Classroom of Tomorrow (ECOT), closed abruptly in January of 2018 after the State ordered ECOT to repay \$80 million because the school was being paid based on inflated enrollment reports.

It should be noted, however, that the bill does not repeal the provision of current law that prohibits a public chartering authority in Maryland from granting a charter to a school that operates fully online. The bill instead specifies that a *significant portion* of a virtual learning program's curriculum and instruction is provided through the Internet or other electronic means.

State Fiscal Effect: 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. There are nearly 30,000 homeschooled students in the State. Private schools enrolled approximately 94,600 students in kindergarten through grade 12 during the 2017-2018 school year (excluding publicly funded nonpublic school students).

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 2019, State aid per full-time equivalent student was approximately \$7,600; however, the amount of State per pupil aid varied by local school system from about \$4,000 for Talbot County to about \$13,000 for Somerset County.

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. It is assumed 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 appropriations for public schools averaged about \$7,500 in fiscal 2019, ranging from about \$2,600 in Caroline County to \$13,600 in Worcester County. However, another mechanism to determine funding may need to be determined due to the nature of virtual learning programs.

The Maryland Association of Counties advises that the award of charters to virtual learning programs may help to alleviate school construction costs for local school systems. Given the backlog of school construction requests across the State, it is assumed there is no immediate impact.

Additional Information

Prior Introductions: A similar bill, HB 926 of 2014, received a hearing in the House Ways and Means Committee, but no further action was taken on the bill.

Cross File: None.

Information Source(s): Baltimore City Public Schools; Maryland Association of Counties; Maryland State Department of Education; National Alliance for Public Charter Schools; *Washington Post*; Department of Legislative Services

Fiscal Note History: First Reader - February 20, 2019
mag/rhh

Analysis by: Scott P. Gates

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