

Baltimore County Public Schools

KEY SCHOOL LEGISLATION JANUARY 28, 2003

SB 5 (HB 11) SB 75 Public Charter School Act of 2003

These bills represent a re-introduction of legislation that has failed to pass during recent Sessions. These bills would enable local boards of education to grant charters that establish public charter schools. Staff members of a public school, parents or guardians of public school students, and public institutions of higher education may submit an application to establish a public charter school. Private, parochial, and home schools are not eligible to become a public charter school. Public charter schools would receive funds from the local board in the amount of the per pupil basic current expense figure. In addition, the local board and the public charter school can negotiate for additional funding.

The State Board of Education is required to submit an evaluation report of the Public Charter School Program to the General Assembly. This bill takes effect July 1, 2003.

Attached you will find an extensive analysis of this concept as composed by the Department of Legislative Services last Session.

We have been advised that the Governor favors Charter School legislation; however, we do not know if these bills represent his thoughts, and perhaps an Administration bill might be forthcoming.

Therefore, no recommendation is presently being made to the Board.

SB 32 Education – Children in Out-of-County Living Arrangements – Informal Kinship Care

This year's legislation is the outcome of staff collaboration with Senator Delores Kelley to expedite the provision of educational services to children experiencing "hardships" and as a result of living in a "kinship care" arrangement.

This bill requires a county school superintendent to allow a student whose parent or guardian resides in another school district to attend the local public school system if the student is living with a relative within the school district due to a serious family hardship. The student's relative must be providing informal kinship care to the student. The student's relative must sign a sworn affidavit that includes the student's old and new addresses and defines the family hardship and provide supporting documentation verifying the serious family hardship. The affidavit must be filed annually, and if a change in the care of the student occurs, the relative must notify the local school system in writing within 30 days of the change. Unless a court appoints a different guardian for the student, the student's relative providing informal kinship care shall make educational decisions for the student.

The bill also allows the county receiving the student to collect payments from the county transferring the student.

Since the printing of the bill, we have suggested a clarifying amendment to hardship #6 on pages 4 and 5 of the bill.

Support is recommended for SB 32 with amendment.

SB 66 Sales and Use Tax – Annual Back-to-School Tax-Free Week

This legislation, sponsored by Baltimore County Senators Brochin and Klausmeier, would add specified “school supplies” to the exemption from sales taxes during the “tax-free week for back-to-school shopping” in Maryland.

Support is recommended.

SB 81 Education – County School Board – Authority to Remove County Superintendents

Following the action of the State Superintendent of Schools to block the dismissal of their Superintendent by the Prince George’s County Board of Education, several local boards have sought a change in State law to allow a local board authority to dismiss a Superintendent exclusive of any actions by the State Superintendent or Board.

This legislation would make that statutory clarification and allow removal subject to the terms of the contract between the Superintendent and the County Board or for cause.

Staff members do not suggest recommendations in matters of this nature.

BALTIMORE COUNTY PUBLIC SCHOOLS

Date: January 28, 2003

TO: BOARD OF EDUCATION

FROM: Dr. Joe A. Hairston, Superintendent

SUBJECT: Consideration of School Legislation – Senate Bill 5

ORIGINATOR: George P. Poff, Jr., Assistant to the Superintendent,
Governmental Relations

RECOMMENDATION

That the Board consider, but take no action at this time,
Senate Bill 5 (House Bill 11) and Senate Bill 75
Charter Schools

SB 5 (HB 11) SB 75 Charter Schools

SB 5 (HB 11) and SB 75 is a re-introduction of legislation that has failed to pass during recent Sessions. These bills would enable local boards of education to grant charters that establish public charter schools. Staff members of a public school, parents or guardians of public school students, and public institutions of higher education may submit an application to establish a public charter school. Private, parochial, and home schools are not eligible to become a public charter school. Public charter schools would receive funds from the local board in the amount of the per pupil basic current expense figure. In addition, the local board and the public charter school can negotiate for additional funding. The State Board of Education is required to submit an evaluation report of the Public Charter School Program to the General Assembly. This bill takes effect July 1, 2003.

Attached you will find an extensive analysis of this concept as composed by the Department of Legislative Services last Session.

We have been advised that the Governor favors Charter School legislation; however, we do not know if these bills represent his thoughts, and perhaps an Administration bill might be forthcoming. Therefore, no recommendation is presently being made to the Board.

Attachment I – SB 5
Attachment II – SB 75
Attachment III - Fiscal Note from last year's legislation

SENATE BILL 5

Unofficial Copy
F1
HB 131/02 - W&M

2003 Regular Session
3lr0463
CF 3lr0419

(PRE-FILED)

By: **Senators Greenip, Kittleman, Mooney, and Brinkley**

Requested: November 19, 2002

Introduced and read first time: January 8, 2003

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Public Charter School Act of 2003**

3 FOR the purpose of authorizing the county boards of education to be the public
4 chartering authorities for public charter schools in the State; establishing the
5 rights and duties of the county boards as public chartering authorities;
6 enumerating the entities that may or may not apply for a charter; permitting
7 existing public schools to convert to public charter schools under certain
8 circumstances; requiring the county boards to establish an application process
9 for charter schools; specifying certain application requirements; establishing
10 certain procedures for applicants; establishing an appeals process for applicants
11 who have been denied a charter; requiring the State Board to direct a county
12 board to grant a charter under certain circumstances; requiring certain charter
13 agreements between the public charter schools and the county boards;
14 establishing certain rights and duties of public charter schools; establishing an
15 admissions policy for public charter schools; prohibiting the charging of tuition
16 and certain fees at public charter schools; establishing certain requirements for
17 construction and development of facilities for public charter schools; authorizing
18 the State Board of Education or the county boards of education to grant public
19 charter schools certain waivers under certain circumstances; requiring the
20 county boards to provide certain funding for public charter schools; authorizing
21 negotiations between the public charter schools and the county boards
22 concerning certain funding; requiring public charter schools and the parents of
23 students at the schools to provide for transportation of the students attending
24 the schools; authorizing negotiations between the public charter schools and the
25 county boards concerning transportation; requiring a member of the
26 professional staff to hold a certain certification; specifying certain rights for
27 employees of public charter schools; establishing a general grievance and
28 appeals process for certain persons; requiring the county boards to grant initial
29 charters for public charter schools for up to a certain number of years; providing
30 that the county boards may renew charters for subsequent periods for up to a
31 certain number of years; requiring a certain review for renewal of a charter;
32 requiring annual assessments of public charter schools; requiring dissemination
33 of certain reports by charter schools; establishing the conditions for revocation of
34 the charters, as well as an appeals process; permitting county boards to recover

certain property from former public charter schools; specifying the rights of students at public charter schools; authorizing the county boards to recover certain unspent funds from public charter schools; authorizing the State Board, in consultation with the county boards, to adopt regulations pertaining to public charter schools; defining a certain term; requiring the State Board to submit an evaluation and report concerning public charter schools by a certain date; and generally relating to the establishment of public charter schools in the State.

BY repealing and reenacting, without amendments,
Article - Education
Section 1-101(d), (e), (f), and (l)
Annotated Code of Maryland
(2001 Replacement Volume and 2002 Supplement)

BY adding to
Article - Education
Section 9-101 through 9-121, inclusive, to be under the new title "Title 9. Public Charter School Program"
Annotated Code of Maryland
(2001 Replacement Volume and 2002 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
MARYLAND, That the Laws of Maryland read as follows:

Article - Education

1-101.

(d) "County board" means the board of education of a county and includes the Baltimore City Board of School Commissioners.

(e) (1) "County superintendent" means the county superintendent of schools of a county.

(2) "County superintendent" includes the Chief Executive Officer of the Baltimore City Board of School Commissioners and the Chief Executive Officer of the New Prince George's County Board of Education.

(f) "Department" means the State Department of Education.

(l) "State Board" means the State Board of Education.

1 TITLE 9. PUBLIC CHARTER SCHOOL PROGRAM.

2 9-101.

3 IN THIS TITLE, "PUBLIC CHARTER SCHOOL" MEANS A PUBLIC SCHOOL THAT:

4 (1) IS CREATED IN ACCORDANCE WITH § 9-103 OF THIS TITLE
5 AUTHORIZING THE GRANTING OF CHARTERS TO SCHOOLS;

6 (2) IS DEVELOPED AS A NEW PUBLIC SCHOOL OR IS ADAPTED FROM AN
7 EXISTING PUBLIC SCHOOL UNDER THIS TITLE;

8 (3) IS OPERATED UNDER COUNTY BOARD AND STATE BOARD
9 SUPERVISION AND DIRECTION;

10 (4) HAS A SPECIFIC ACADEMIC FOCUS AND SET OF EDUCATIONAL
11 GOALS ON WHICH THE APPLICANT AND THE AUTHORIZED PUBLIC CHARTERING
12 AGENCY AGREE;

13 (5) PROVIDES A PROGRAM OF ELEMENTARY OR SECONDARY
14 EDUCATION, OR BOTH; AND

15 (6) IS NONSECTARIAN IN ITS PROGRAMS, ADMISSIONS POLICIES,
16 EMPLOYMENT PRACTICES, AND ALL OTHER OPERATIONS AND IS NOT AFFILIATED
17 WITH A SECTARIAN SCHOOL OR RELIGIOUS INSTITUTION.

18 9-102.

19 (A) THE GENERAL ASSEMBLY FINDS THAT:

20 (1) PUBLIC CHARTER SCHOOLS, AS PART OF THE PROGRAM OF PUBLIC
21 EDUCATION OFFERED IN THE STATE, CAN:

22 (I) PROVIDE INNOVATIVE LEARNING OPPORTUNITIES; AND

23 (II) SERVE AS A MODEL FOR THE IMPLEMENTATION OF NEW
24 EDUCATIONAL APPROACHES; AND

25 (2) THESE INNOVATIVE LEARNING OPPORTUNITIES AND NEW
26 EDUCATIONAL APPROACHES CAN LEAD TO IMPROVEMENT IN THE EDUCATION OF
27 STUDENTS.

28 (B) THE GENERAL ASSEMBLY FURTHER FINDS THAT PUBLIC CHARTER
29 SCHOOLS:

30 (1) INCREASE THE EDUCATIONAL CHOICES AVAILABLE TO PARENTS
31 AND STUDENTS;

32 (2) CAN CREATE NEW PROFESSIONAL OPPORTUNITIES FOR TEACHERS;
33 AND

1 (3) CAN BE VEHICLES FOR EDUCATIONAL RESEARCH AND
2 DEVELOPMENT.

3 9-103.

4 (A) THE PUBLIC CHARTERING AUTHORITY FOR THE ESTABLISHMENT OF
5 PUBLIC CHARTER SCHOOLS IS THE COUNTY BOARD.

6 (B) AS THE PUBLIC CHARTERING AUTHORITY, A COUNTY BOARD:

7 (1) MAY GRANT CHARTERS THAT ESTABLISH PUBLIC CHARTER
8 SCHOOLS;

9 (2) SHALL MAKE AVAILABLE FOR DISSEMINATION INFORMATION
10 CONCERNING THE ESTABLISHMENT, CURRICULUM, AND OPERATION OF PUBLIC
11 CHARTER SCHOOLS IN THE COUNTY;

12 (3) MAY REVOKE A CHARTER GRANTED UNDER THIS TITLE OR PLACE A
13 PUBLIC CHARTER SCHOOL ON PROBATIONARY STATUS; AND

14 (4) SHALL PROVIDE INSTRUCTIONAL AND FISCAL SUPERVISION TO A
15 PUBLIC CHARTER SCHOOL.

16 9-104.

17 (A) AN APPLICATION TO ESTABLISH A PUBLIC CHARTER SCHOOL MAY BE
18 SUBMITTED TO A COUNTY BOARD BY:

19 (1) THE STAFF OF A PUBLIC SCHOOL;

20 (2) THE PARENTS OR GUARDIANS OF STUDENTS WHO ATTEND THE
21 PUBLIC SCHOOLS IN THE COUNTY;

22 (3) A PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE; OR

23 (4) ANY COMBINATION OF THE STAFF OF A PUBLIC SCHOOL, THE
24 PARENTS OR GUARDIANS OF STUDENTS WHO ATTEND THE PUBLIC SCHOOLS IN THE
25 COUNTY, AND A PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE.

26 (B) AN APPLICANT MAY ENGAGE THE SERVICES OF A NONPROFIT
27 CORPORATION IN THE ESTABLISHMENT OF A PUBLIC CHARTER SCHOOL.

28 (C) A COUNTY BOARD MAY NOT GRANT A CHARTER UNDER THIS TITLE TO:

29 (1) A PRIVATE SCHOOL;

30 (2) A PAROCHIAL SCHOOL; OR

31 (3) A HOME SCHOOL.

1 9-105.

2 (A) A COUNTY BOARD SHALL:

3 (1) DETERMINE WHETHER TO ALLOW EXISTING PUBLIC SCHOOLS
4 LOCATED IN THE COUNTY TO APPLY TO CONVERT TO A PUBLIC CHARTER SCHOOL;
5 AND

6 (2) ESTABLISH POLICIES AND REGULATIONS RELATING TO STUDENTS
7 WHO ATTEND A PUBLIC SCHOOL BEING CONSIDERED FOR CONVERSION.

8 (B) SUBJECT TO SUBSECTION (A) OF THIS SECTION, AN EXISTING PUBLIC
9 SCHOOL MAY APPLY TO CONVERT TO A PUBLIC CHARTER SCHOOL IF:

10 (1) AT LEAST TWO-THIRDS OF THE STAFF OF THE EXISTING PUBLIC
11 SCHOOL AND AT LEAST TWO-THIRDS OF THE PARENTS OR GUARDIANS OF STUDENTS
12 WHO ATTEND THE EXISTING PUBLIC SCHOOL SIGN A PETITION REQUESTING
13 CONVERSION;

14 (2) THE PETITION CALLS FOR AN ELECTION BY SECRET BALLOT
15 CONDUCTED BY THE COUNTY BOARD TO DETERMINE IF THE SCHOOL SHOULD
16 BECOME A PUBLIC CHARTER SCHOOL; AND

17 (3) AT LEAST TWO-THIRDS OF THE STAFF OF THE EXISTING PUBLIC
18 SCHOOL AND AT LEAST TWO-THIRDS OF THE PARENTS OR GUARDIANS OF STUDENTS
19 WHO ATTEND THE EXISTING PUBLIC SCHOOL VOTE TO SUPPORT THE CONVERSION
20 OF THE SCHOOL TO A PUBLIC CHARTER SCHOOL.

21 9-106.

22 (A) A COUNTY BOARD SHALL DEVELOP AN APPLICATION PROCESS FOR
23 PUBLIC CHARTER SCHOOLS IN THE COUNTY.

24 (B) THE APPLICATION FOR A CHARTER SHALL INCLUDE:

25 (1) THE IDENTITY OF THE APPLICANT OR APPLICANTS;

26 (2) THE PROPOSED NAME OF THE SCHOOL, WHICH SHALL CONTAIN THE
27 TERM "PUBLIC CHARTER SCHOOL";

28 (3) TO THE EXTENT POSSIBLE, THE LOCATION AND A DESCRIPTION OF
29 THE SCHOOL FACILITY;

30 (4) THE PROPOSED STRUCTURE OF THE GOVERNING BOARD OF THE
31 SCHOOL, INCLUDING:

32 (I) THE QUALIFICATIONS FOR MEMBERS OF THE BOARD; AND

33 (II) THE METHOD OF APPOINTMENT OR ELECTION OF THE
34 MEMBERS;

1 (5) WITH REGARD TO THE PURPOSE OF THE PUBLIC CHARTER SCHOOL:
2 (I) THE ACADEMIC FOCUS AND EDUCATIONAL GOALS OF THE
3 SCHOOL; AND
4 (II) THE PROPOSED CURRICULUM OF THE SCHOOL;
5 (6) A DESCRIPTION OF AND JUSTIFICATION FOR ANY WAIVER OF STATE
6 OR LOCAL REGULATIONS THAT THE SCHOOL INTENDS TO REQUEST;
7 (7) THE AGE OR GRADE RANGE OF STUDENTS TO BE ENROLLED;
8 (8) THE SCHOOL CALENDAR AND SCHOOL DAY SCHEDULE;
9 (9) A DESCRIPTION OF STAFF RESPONSIBILITIES;
10 (10) A DESCRIPTION OF THE PROCEDURES TO BE IMPLEMENTED TO
11 ENSURE SIGNIFICANT PARENT AND COMMUNITY INVOLVEMENT IN THE PLANNING
12 AND THE OPERATION OF THE PUBLIC CHARTER SCHOOL;
13 (11) THE FINANCIAL PLAN FOR THE PUBLIC CHARTER SCHOOL;
14 (12) THE ADMISSIONS POLICY; AND
15 (13) ANY OTHER INFORMATION THAT THE COUNTY BOARD OR THE STATE
16 BOARD REQUIRES.
17 9-107.

18 (A) A COMPLETED APPLICATION TO ESTABLISH A PUBLIC CHARTER SCHOOL
19 SHALL BE SUBMITTED TO THE COUNTY BOARD OF THE COUNTY IN WHICH THE
20 PUBLIC CHARTER SCHOOL WILL BE LOCATED AT LEAST 425 DAYS BEFORE THE DATE
21 ON WHICH THE APPLICANT WISHES TO OPEN THE SCHOOL.

22 (B) (1) THE COUNTY BOARD SHALL REVIEW THE APPLICATION AND RENDER
23 A DECISION WITHIN 120 DAYS OF RECEIPT OF THE APPLICATION.

24 (2) THE COUNTY BOARD MAY DELAY RENDERING A DECISION FOR AN
25 ADDITIONAL 60 DAYS FOR CAUSE.

26 (3) THE COUNTY BOARD MAY USE THE SERVICES OF AN OUTSIDE
27 AGENCY IN THE EVALUATION OF THE APPLICATION.

28 (C) IF THE COUNTY BOARD DENIES AN APPLICATION TO ESTABLISH A PUBLIC
29 CHARTER SCHOOL, THE COUNTY BOARD SHALL INCLUDE WITH THE DENIAL THE
30 REASONS FOR THE DENIAL.

31 (D) IF THE APPLICATION IS DENIED, THE APPLICANT MAY APPEAL THE
32 DECISION TO THE STATE BOARD.

33 (E) THE DECISION OF THE STATE BOARD IS FINAL.

1 (F) IF THE COUNTY BOARD DENIES AN APPLICATION TO ESTABLISH A PUBLIC
2 CHARTER SCHOOL AND THE STATE BOARD REVERSES THE DECISION, THE STATE
3 BOARD SHALL DIRECT THE COUNTY BOARD TO GRANT A CHARTER.

4 (G) AN APPLICANT THAT IS DENIED A CHARTER MAY REAPPLY FOR A
5 CHARTER AFTER 1 YEAR FROM THE DECISION OF:

6 (1) THE COUNTY BOARD; OR

7 (2) THE STATE BOARD, IF THE DENIAL WAS APPEALED TO THE STATE
8 BOARD.

9 9-108.

10 (A) (1) THE STATE BOARD MAY GRANT A WAIVER TO A PUBLIC CHARTER
11 SCHOOL FROM SPECIFIC STATE EDUCATION REGULATIONS AND REQUIREMENTS.

12 (2) THE COUNTY BOARD MAY GRANT A WAIVER TO A PUBLIC CHARTER
13 SCHOOL FROM SPECIFIC LOCAL EDUCATION REGULATIONS AND REQUIREMENTS.

14 (B) A PUBLIC CHARTER SCHOOL MAY BE GRANTED A WAIVER UNDER
15 SUBSECTION (A) OF THIS SECTION IF THE SCHOOL DEMONSTRATES THAT A WAIVER
16 WILL ADVANCE THE EDUCATIONAL GOALS AND OBJECTIVES OF THE SCHOOL.

17 (C) THE STATE BOARD OR A COUNTY BOARD MAY NOT WAIVE A REGULATION
18 OR REQUIREMENT PERTAINING TO THE CIVIL RIGHTS OR THE HEALTH AND SAFETY
19 OF A STUDENT.

20 9-109.

21 (A) A CHARTER THAT IS GRANTED BY A COUNTY BOARD TO A PUBLIC
22 CHARTER SCHOOL SHALL CONSTITUTE A CONTRACT BETWEEN THE SCHOOL AND
23 THE COUNTY BOARD.

24 (B) THE CHARTER SHALL INCLUDE ALL AGREEMENTS BETWEEN THE PUBLIC
25 CHARTER SCHOOL AND THE COUNTY BOARD, INCLUDING:

26 (1) ANY WAIVERS OF SPECIFIC STATE AND LOCAL EDUCATION
27 REGULATIONS OR REQUIREMENTS GRANTED TO THE SCHOOL;

28 (2) MATTERS RELATING TO THE OPERATION OF THE SCHOOL,
29 INCLUDING BUDGETING, CURRICULUM, THE ACQUISITION OF REAL PROPERTY, THE
30 RECEIPT AND DISBURSEMENT OF FUNDS, DEBT POLICIES, AND THE SOLICITATION
31 OF GIFTS AND GRANTS;

32 (3) AUDIT REQUIREMENTS;

33 (4) A PERFORMANCE AGREEMENT REQUIRING THAT THE ACADEMIC
34 ACHIEVEMENT OF THE STUDENTS ENROLLED AT A PUBLIC CHARTER SCHOOL BE
35 MEASURED ACCORDING TO:

1 (I) STATE ASSESSMENTS REQUIRED BY THE STATE FOR OTHER
2 PUBLIC SCHOOLS; AND

3 (II) OTHER ASSESSMENTS MUTUALLY AGREEABLE TO THE COUNTY
4 BOARD AND THE SCHOOL; AND

5 (5) A DESCRIPTION OF INNOVATIVE LEARNING PROGRAMS TO BE
6 IMPLEMENTED AND THE EDUCATIONAL RESEARCH OPPORTUNITIES TO BE
7 IMPLEMENTED.

8 (C) A PUBLIC CHARTER SCHOOL AND A COUNTY MAY AMEND THE TERMS OF
9 THE CONTRACT ONLY BY WRITTEN MUTUAL AGREEMENT.

10 9-110.

11 (A) A PUBLIC CHARTER SCHOOL SHALL EXIST WITHIN THE SCHOOL DISTRICT
12 THAT IS GOVERNED BY THE COUNTY BOARD THAT ISSUED THE CHARTER TO THE
13 SCHOOL.

14 (B) A PUBLIC CHARTER SCHOOL SHALL OPERATE UNDER THE DIRECT
15 SUPERVISION OF THE COUNTY BOARD IN ACCORDANCE WITH THE CHARTER
16 GRANTED TO THE SCHOOL AND THE PROVISIONS OF LAW GOVERNING OTHER
17 PUBLIC SCHOOLS IN THE COUNTY.

18 9-111.

19 (A) A PUBLIC CHARTER SCHOOL SHALL:

20 (1) BE OPEN TO ALL STUDENTS IN THE COUNTY ON A SPACE AVAILABLE
21 BASIS; AND

22 (2) SELECT STUDENTS TO ATTEND BY THE USE OF A LOTTERY IF MORE
23 STUDENTS APPLY FOR ENROLLMENT IN THE SCHOOL THAN THERE ARE SPACES
24 AVAILABLE.

25 (B) A PUBLIC CHARTER SCHOOL SHALL GIVE PRIORITY IN ENROLLMENT TO:

26 (1) A SIBLING OF A STUDENT WHO ATTENDS THE SCHOOL;

27 (2) IF AN EXISTING PUBLIC SCHOOL CONVERTS TO A PUBLIC CHARTER
28 SCHOOL UNDER § 9-105 OF THIS TITLE, A STUDENT WITHIN THE SCHOOL
29 ATTENDANCE AREA AS DETERMINED BY THE COUNTY BOARD; AND

30 (3) IF A SCHOOL IS ESTABLISHED BY A PARENT OR GUARDIAN OF A
31 CHILD WHO ATTENDS A PUBLIC SCHOOL IN THE COUNTY, THE CHILD OF THAT
32 PARENT OR GUARDIAN.

33 (C) A PUBLIC CHARTER SCHOOL MAY NOT TAKE ANY ACTION THAT WOULD BE
34 ILLEGAL IF THE ACTION WERE UNDERTAKEN BY A COUNTY BOARD.

1 (D) UNLESS APPROVED BY THE COUNTY BOARD, A PUBLIC CHARTER SCHOOL
2 MAY NOT CHARGE TUITION OR OTHER FEES THAT ARE NOT CHARGED BY A PUBLIC
3 SCHOOL IN THE COUNTY.

4 9-112.

5 (A) A COUNTY BOARD MAY NOT REQUIRE A STUDENT IN THE COUNTY TO
6 ENROLL IN A PUBLIC CHARTER SCHOOL.

7 (B) A STUDENT MAY WITHDRAW FROM A PUBLIC CHARTER SCHOOL AT ANY
8 TIME.

9 (C) A STUDENT AT A PUBLIC CHARTER SCHOOL SHALL BE SUBJECT TO THE
10 SAME DISCIPLINARY RULES AND REGULATIONS AS A STUDENT AT A PUBLIC SCHOOL.

11 (D) IF A STUDENT IS EXPELLED FROM A PUBLIC CHARTER SCHOOL, THE
12 REMAINING FUNDS ALLOCATED BY THE COUNTY BOARD FOR THE STUDENT FOR THE
13 CURRENT ACADEMIC YEAR SHALL REVERT TO THE COUNTY BOARD.

14 9-113.

15 (A) SUBJECT TO THE APPROVAL OF THE COUNTY BOARD, A PUBLIC CHARTER
16 SCHOOL MAY BE LOCATED IN:

- 17 (1) PART OF AN EXISTING PUBLIC SCHOOL BUILDING;
18 (2) A PUBLIC BUILDING OTHER THAN AN EXISTING PUBLIC SCHOOL; OR
19 (3) ANY OTHER SUITABLE LOCATION.

20 (B) (1) UNLESS A WAIVER IS GRANTED TO A PUBLIC CHARTER SCHOOL
21 UNDER § 9-108 OF THIS TITLE, THE FACILITY THAT CONTAINS THE SCHOOL SHALL
22 CONFORM TO THE REGULATIONS FOR PUBLIC SCHOOL FACILITIES.

23 (2) A WAIVER OF HEALTH OR SAFETY REGULATIONS FOR THE FACILITY
24 MAY NOT BE GRANTED.

25 (C) A PUBLIC CHARTER SCHOOL MAY NOT CONSTRUCT A FACILITY WITH
26 PUBLIC FUNDS.

27 (D) A PUBLIC CHARTER SCHOOL MAY NOT RECEIVE PUBLIC FUNDS FOR
28 CAPITAL IMPROVEMENTS TO THE FACILITY IN WHICH THE SCHOOL IS LOCATED
29 UNLESS:

- 30 (1) THE FACILITY IS OWNED BY THE COUNTY BOARD; AND
31 (2) THE COUNTY BOARD REQUESTS THE FUNDS FOR THE FACILITY AS
32 PART OF ITS PUBLIC SCHOOL CONSTRUCTION CAPITAL IMPROVEMENT PROGRAM
33 REQUEST.

1 9-114.

2 (A) FOR A FISCAL YEAR, A PUBLIC CHARTER SCHOOL SHALL RECEIVE, FOR
3 EACH STUDENT ENROLLED IN THE SCHOOL, THE PER PUPIL BASIC CURRENT
4 EXPENSE FIGURE CALCULATED UNDER § 5-202 OF THIS ARTICLE.

5 (B) A PUBLIC CHARTER SCHOOL MAY NEGOTIATE WITH THE COUNTY BOARD
6 FOR ADDITIONAL FUNDING.

7 9-115.

8 (A) A PUBLIC CHARTER SCHOOL AND THE PARENTS OR GUARDIANS OF
9 STUDENTS WHO ATTEND THE SCHOOL SHALL BE RESPONSIBLE FOR THE
10 TRANSPORTATION OF THE STUDENTS TO AND FROM THE SCHOOL.

11 (B) A PUBLIC CHARTER SCHOOL AND A COUNTY BOARD MAY NEGOTIATE THE
12 TRANSPORTATION OF STUDENTS WHO ATTEND A PUBLIC CHARTER SCHOOL.

13 9-116.

14 (A) A MEMBER OF THE PROFESSIONAL STAFF OF A PUBLIC CHARTER SCHOOL
15 SHALL HOLD THE APPROPRIATE MARYLAND CERTIFICATION.

16 (B) A CERTIFICATED OR NONCERTIFICATED EMPLOYEE OF A PUBLIC
17 CHARTER SCHOOL SHALL BE DEEMED AN EMPLOYEE OF THE COUNTY AND SHALL
18 RETAIN:

19 (1) THE OPTION OF JOINING OR REMAINING A MEMBER OF THE
20 APPROPRIATE EMPLOYEE BARGAINING UNIT;

21 (2) ALL RIGHTS AND RESPONSIBILITIES THAT EXIST UNDER THE
22 APPLICABLE COLLECTIVE BARGAINING CONTRACT BETWEEN THE COUNTY BOARD
23 AND THE EMPLOYEE REPRESENTATIVE; AND

24 (3) ALL EMPLOYMENT RIGHTS UNDER COUNTY, STATE, AND FEDERAL
25 LAW.

26 9-117.

27 (A) A PERSON WHO ALLEGES THAT A PUBLIC CHARTER SCHOOL HAS
28 VIOLATED A PROVISION OF THIS TITLE MAY FILE A COMPLAINT WITH THE PUBLIC
29 CHARTER SCHOOL.

30 (B) IF THE COMPLAINT IS NOT RESOLVED BY THE PUBLIC CHARTER SCHOOL
31 TO THE SATISFACTION OF THE COMPLAINANT, THE COMPLAINANT MAY PRESENT
32 THE COMPLAINT TO THE COUNTY BOARD.

33 (C) (1) THE COMPLAINANT MAY APPEAL THE DECISION OF THE COUNTY
34 BOARD TO THE STATE BOARD AS PROVIDED IN § 4-205 OF THIS ARTICLE.

1 (2) THE DECISION OF THE STATE BOARD ON AN APPEAL UNDER
2 PARAGRAPH (1) OF THIS SUBSECTION IS FINAL.

3 9-118.

4 (A) A COUNTY BOARD SHALL DEVELOP PROCEDURES FOR THE RENEWAL OF A
5 CHARTER GRANTED UNDER THIS TITLE.

6 (B) (1) A COUNTY BOARD SHALL GRANT AN INITIAL CHARTER FOR A PUBLIC
7 CHARTER SCHOOL ESTABLISHED UNDER THIS TITLE FOR A PERIOD OF UP TO 4
8 YEARS.

9 (2) A COUNTY BOARD MAY RENEW A CHARTER FOR SUBSEQUENT
10 PERIODS OF UP TO 5 YEARS.

11 9-119.

12 (A) (1) A COUNTY BOARD SHALL CONDUCT AN ANNUAL ASSESSMENT OF A
13 PUBLIC CHARTER SCHOOL TO DETERMINE IF THE SCHOOL IS MEETING THE
14 EDUCATIONAL GOALS ESTABLISHED UNDER ITS CHARTER.

15 (2) THE ANNUAL ASSESSMENT BY THE COUNTY BOARD SHALL BE BASED
16 ON THE MEASURES IDENTIFIED IN THE PERFORMANCE AGREEMENT UNDER §
17 9-109(B) OF THIS TITLE.

18 (B) (1) TO FACILITATE THE ANNUAL ASSESSMENT UNDER SUBSECTION (A)
19 OF THIS SECTION, A PUBLIC CHARTER SCHOOL SHALL SUBMIT AN ANNUAL FISCAL
20 REPORT AND STUDENT PERFORMANCE REPORT TO THE COUNTY BOARD AT A TIME
21 AND IN A FORM PRESCRIBED BY THE COUNTY BOARD.

22 (2) THE PUBLIC CHARTER SCHOOL SHALL MAKE THE REPORT
23 AVAILABLE TO THE PARENTS OR GUARDIANS OF STUDENTS ENROLLED IN THE
24 SCHOOL.

25 (C) A COUNTY BOARD SHALL HAVE ACCESS TO THE FACILITIES AND TO THE
26 RECORDS OF A PUBLIC CHARTER SCHOOL CHARTERED BY THE COUNTY BOARD.

27 9-120.

28 (A) A COUNTY BOARD SHALL DEVELOP PROCEDURES FOR THE REVOCATION
29 OF A CHARTER GRANTED UNDER THIS TITLE.

30 (B) A COUNTY BOARD MAY REVOKE THE CHARTER OF A PUBLIC CHARTER
31 SCHOOL OR PLACE THE SCHOOL ON PROBATIONARY STATUS:

32 (1) IF THE SCHOOL HAS NOT FULFILLED A CONDITION IMPOSED BY THE
33 COUNTY BOARD IN CONNECTION WITH THE GRANTING OF THE CHARTER;

34 (2) IF THE SCHOOL HAS MATERIALLY VIOLATED A CONDITION,
35 STANDARD, OR PROCEDURE OF THE CHARTER;

1 (3) IF THE SCHOOL HAS VIOLATED ANY PROVISION OF THIS TITLE, OF
2 ANY REGULATION ADOPTED UNDER THIS TITLE, OR OF ANY OTHER LAW THAT
3 RELATES TO A PUBLIC CHARTER SCHOOL;

4 (4) IF THE SCHOOL FAILS TO MEET GENERALLY ACCEPTED STANDARDS
5 OF FISCAL MANAGEMENT;

6 (5) IF THE SCHOOL FAILS TO MEET THE STUDENT ACADEMIC
7 PERFORMANCE REQUIREMENTS CONTAINED IN THE CHARTER;

8 (6) IF TWO-THIRDS OF THE FACULTY AND INSTRUCTIONAL SUPPORT
9 PERSONNEL AT THE SCHOOL REQUEST THAT THE CHARTER BE REVOKED; OR

10 (7) FOR OTHER GOOD CAUSE SHOWN.

11 (C) (1) IF THE COUNTY BOARD PLACES A PUBLIC CHARTER SCHOOL ON
12 PROBATIONARY STATUS, THE COUNTY BOARD SHALL ESTABLISH A DATE BY WHICH
13 THE SCHOOL SHALL IMPLEMENT A REMEDIAL PLAN.

14 (2) IF THE COUNTY BOARD FINDS THAT THE SCHOOL HAS NOT
15 IMPLEMENTED A SATISFACTORY REMEDIAL PLAN BY THE ESTABLISHED DATE, THE
16 COUNTY BOARD MAY REVOKE THE CHARTER.

17 (D) A PUBLIC CHARTER SCHOOL MAY APPEAL THE REVOCATION OF THE
18 CHARTER BY THE COUNTY BOARD TO THE STATE BOARD.

19 (E) (1) THE STATE BOARD SHALL RENDER ITS DECISION WITHIN 90 DAYS OF
20 THE RECEIPT OF THE APPEAL.

21 (2) THE DECISION OF THE STATE BOARD IS FINAL.

22 (F) WHEN A CHARTER IS REVOKED, THE COUNTY BOARD MAY RECOVER THE
23 PROPERTY OF THE PUBLIC CHARTER SCHOOL THAT IS OWNED OR PROVIDED BY THE
24 COUNTY BOARD FOR OTHER PUBLIC SCHOOL PURPOSES.

25 9-121.

26 IN CONSULTATION WITH THE COUNTY BOARDS, THE STATE BOARD SHALL
27 ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS TITLE.

28 SECTION 2. AND BE IT FURTHER ENACTED, That not later than October 1,
29 2006, based on information gathered from the county boards of education, the
30 Baltimore City Board of School Commissioners, members of the educational
31 community, and the public, the State Board of Education shall submit to the General
32 Assembly, in accordance with § 2-1246 of the State Government Article, a report on
33 and an evaluation of the public charter school program. The report shall include a
34 recommendation on the advisability of the continuation, modification, expansion, or
35 termination of the program.

Analysis

Bill Summary: Local boards of education are granted chartering authority for the establishment of public charter schools. Public charter schools can be located in a part of an existing public school building, public buildings, and any other suitable location. An existing public school is eligible to become a public charter school if at least two-thirds of the staff and two-thirds of the parents of children attending the school sign a petition and vote in support of the school becoming a public charter school. In addition, a local board must approve whether a public school can become a charter school. Public charter schools are valid for a four-year period and may be renewed by the local board for subsequent five-year periods.

A public charter school must be open to all students in the county on a space-available basis and may not discriminate in its admission policies or practices. Enrollment preference may be granted to siblings of a student who attends the charter school, a student within the school attendance area if an existing public school converts to a charter school, and the child of a parent or guardian who establishes a charter school. The State Board of Education or a local board of education may exempt a public charter school from certain education regulations or requirements, except those pertaining to civil rights, student health, and student safety.

Public charter schools may not charge students tuition and cannot construct school facilities with public funds. Public charter schools and the student's parents are responsible for providing transportation services, however, a public charter school and a local board of education can negotiate an agreement for transporting students. In addition, the bill establishes certain personnel requirements for public charter schools.

Current Law: Local boards of education have the authority to establish public charter schools. However, there is currently no enabling State statute.

Background: The Maryland State Department of Education (MSDE) issued guidelines governing the establishment of public charter schools in 1997. Currently, there are no public charter schools operating in Maryland. However, there are a few schools in Baltimore City that are similar to charter schools.

Legislation enacted in 1998 established a task force to recommend legislation that would allow Maryland public charter schools to qualify and compete for start-up funds under the Federal Charter School Grant Program. This grant program is open to states that have enacted a state law authorizing the granting of charters to schools. As Maryland currently has no authorizing legislation, the task force identified the provisions that should be contained in such a law.

Charter school legislation has been enacted in 36 states, the District of Columbia, and Puerto Rico. The Center for Education Reform estimates that 2,073 charter schools will operate in the 2000-2001 school year serving approximately 520,000 students. This represents approximately 1% of all public school students. Arizona has the most charter schools (408) serving 95,000 students. California has 261 charter schools serving 122,000 students, followed by Texas (182) serving 38,000 students and Michigan (181) serving 53,000 students. Virginia has one charter school serving 30 students.

According to the U.S. Department of Education, approximately 48% of charter school students were white compared to 59% of public school enrollment. Black students comprise 24% of charter school enrollment, and Hispanic students comprise 21%. Charter schools in several states (Connecticut, Illinois, Louisiana, Massachusetts, Michigan, Minnesota, New Jersey, North Carolina, and Texas) enroll a much higher percentage of minority students than all public schools in those states. In addition, charter schools enroll a slightly higher percentage of students eligible for free and reduced-price lunch than do public schools (39% versus 37%).

Across the country charter school laws vary considerably; some states such as Arizona grant maximum autonomy to charter schools, while other states such as Georgia provide schools with limited authority. For example, in Arizona, charter schools are legally independent entities with complete waivers from district and state regulations. In Georgia, however, charter schools are considered part of the school district and are granted less freedom over budgets and personnel. While different in many ways, certain characteristics are common for all charter schools. Charter schools cannot charge tuition, must be nonsectarian, are subject to federal and state laws prohibiting discrimination, and must comply with all health and safety laws. In addition, most charter schools can negotiate and contract for facilities and services, acquire real property, receive and disburse funds, incur temporary debt, and operate as a business or corporation.

State Fiscal Effect: State funding for public schools could increase to the extent that establishing public charter schools encourages private school students to return to the public school system. Nationally, charter schools enroll only about 1% of public school students. Assuming public charter schools in Maryland experience similar trends, approximately 8,500 students could be enrolled in public charter schools. If a portion of these students comes from private schools, State education funding will increase. Currently 14% of students in Maryland attend private schools.

Local Fiscal Effect: A local board must provide the public charter school with funds in the amount of the per pupil basic current expense figure. In addition, the local board and the public charter school can negotiate for additional funding. In fiscal 2003, the per

pupil basic current expense figure totals \$4,291. Under this bill, each public charter school would be guaranteed this amount (the actual dollar amount increases each year). This amount is approximately \$4,100 less than the estimated fiscal 2003 average per pupil operating expenditures for public schools. Since public charter schools cannot charge tuition and the State has not provided charter schools with start-up or facility expenses, it is assumed that additional funding would be required to adequately finance public charter schools.

Teachers and other professional staff at a public charter school must hold the appropriate State certification, and certificated and noncertificated employees of a public charter school would remain employees of the local board. Requiring public charter schools to hire only certificated teachers could prevent the charter school from realizing lower instructional costs, which is needed in order to cover start-up expenses, facilities costs, new academic programs, and administrative costs. The required State local funding under this bill for public charter schools accounts for only 51% of the average operating costs at existing public schools. This does not include the potential cost for capital facilities, which the State is prohibited from funding under this bill.

Additional Comments: Even with the availability of State and local funds, public charter schools may still incur financial difficulties. Based on a study by the National Conference of State Legislatures, locating and paying for adequate school facilities pose significant barriers to charter schools. According to this report, new charter schools rarely have a financial track record or assets that enable them to secure loans to lease or buy buildings. In addition, many charter schools do not have access to local district funds available for capital improvements (buildings and major improvements), nor do they have the ability to issue bonds. Accordingly, most charter schools must use a portion of their operating funds to purchase and maintain school facilities.

Like similar legislation in other states, this bill prohibits public charter schools from using public funds to construct school facilities and does not provide any funding for facility acquisition or school start-up costs that could assist public charter schools to become operational. In addition, this bill requires public charter schools to conform to the regulations governing traditional public school facilities, unless a waiver is granted. This could eliminate potential facility sites for public charter schools, thus increasing costs. In many states, charter schools are located in commercial office and retail space and other facilities that may not conform to public school standards. Another major fiscal issue involves start-up costs.

According to a report by the Education Commission of the States, most charter schools have initial cash-flow problems because they do not receive any state or local money until the school year begins. Charter schools often have to take out loans for operating

and start-up expenses. Further, it can be difficult for a charter school to access or receive federal categorical funds during its first year, because funding for some federal programs is based on prior year enrollment. To alleviate this problem, some states, such as Massachusetts, have made an exception for charter schools by allowing them to qualify for federal categorical funds based on actual enrollment of eligible children during the first year.

Additional Information

Prior Introductions: A similar bill was introduced at the 1998 session as HB 999. The bill was amended in the House Ways and Means Committee and resulted in a task force to study public charter schools. At the 1999 session, HB 116 was introduced and received a favorable with amendments report by the House Ways and Means Committee and was adopted with floor amendments by the full House. In the Senate, HB 116 received a favorable with amendments report by the Economic and Environmental Affairs Committee and was approved by the full Senate. An agreement was never reached by both the House and Senate. At the 2000 session, HB 526 was introduced and received a favorable with amendments report by the House Ways and Means Committee and was adopted by the full House. The bill was referred to interim study by the Senate Economic and Environmental Affairs Committee. At the 2001 session, HB 29 was introduced and received a favorable with amendments report by the House Ways and Means Committee and was adopted by the full House. In the Senate, HB 29 received a favorable with amendments report by the Economic and Environmental Affairs Committee and was approved by the full Senate. An agreement was never reached by both the House and Senate.

Cross File: None.

Information Source(s): United States Department of Education, National Conference of State Legislatures, Education Commission of the States, Maryland State Department of Education, Department of Legislative Services

Fiscal Note History: First Reader - January 21, 2002
mam/jr Revised - House Third Reader - March 26, 2002

Analysis by: Hiram L. Burch Jr.

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 July 1, 2003.

SENATE BILL 75

Unofficial Copy
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SB 213/02 - EHE

2003 Regular Session
3lr0658

By: **Senators Dyson, Colburn, DeGrange, Frosh, Giannetti, Harris, Hooper,
Kittleman, Lawlah, Mooney, and Stone**

Introduced and read first time: January 20, 2003

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Public Charter School Act of 2003**

3 FOR the purpose of establishing the Maryland Public Charter School Program;
4 adding a certain definition; establishing certain authority in certain boards;
5 specifying certain charter school application requirements; prohibiting a county
6 board from granting a charter to certain schools; requiring a county board to
7 review an application to establish a charter school and render a decision within
8 a certain time period; establishing a certain appeals process; establishing a
9 certain certification requirement; requiring county boards to develop a certain
10 policy; establishing a certain liaison for the Program; and generally relating to
11 the Maryland Public Charter School Program.

12 BY adding to

13 Article - Education

14 Section 9-101 through 9-106, inclusive, to be under the new title "Title 9.

15 Maryland Public Charter School Program"

16 Annotated Code of Maryland

17 (2001 Replacement Volume and 2002 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article - Education**

21 TITLE 9. MARYLAND PUBLIC CHARTER SCHOOL PROGRAM.

22 9-101.

23 (A) THERE IS A MARYLAND PUBLIC CHARTER SCHOOL PROGRAM.

24 (B) THE GENERAL PURPOSE OF THE PROGRAM IS TO ESTABLISH AN
25 ALTERNATIVE MEANS WITHIN THE EXISTING PUBLIC SCHOOL SYSTEM IN ORDER TO
26 PROVIDE INNOVATIVE LEARNING OPPORTUNITIES AND CREATIVE EDUCATIONAL
27 APPROACHES TO IMPROVE THE EDUCATION OF STUDENTS.

1 9-102.

2 IN THIS TITLE, "PUBLIC CHARTER SCHOOL" MEANS A PUBLIC SCHOOL THAT:

3 (1) IS NONSECTARIAN IN ALL ITS PROGRAMS, POLICIES, AND
4 OPERATIONS;

5 (2) IS A SCHOOL TO WHICH PARENTS CHOOSE TO SEND THEIR
6 CHILDREN;

7 (3) IS OPEN TO ALL STUDENTS ON A SPACE-AVAILABLE BASIS AND
8 ADMITS STUDENTS ON A LOTTERY BASIS IF MORE STUDENTS APPLY THAN CAN BE
9 ACCOMMODATED;

10 (4) IS A NEW PUBLIC SCHOOL OR A CONVERSION OF AN EXISTING
11 PUBLIC SCHOOL;

12 (5) PROVIDES A PROGRAM OF ELEMENTARY OR SECONDARY
13 EDUCATION OR BOTH;

14 (6) OPERATES IN PURSUIT OF A SPECIFIC SET OF EDUCATIONAL
15 OBJECTIVES;

16 (7) IS TUITION-FREE;

17 (8) IS SUBJECT TO FEDERAL AND STATE LAWS PROHIBITING
18 DISCRIMINATION;

19 (9) IS IN COMPLIANCE WITH ALL APPLICABLE HEALTH AND SAFETY
20 LAWS; AND

21 (10) IS CREATED IN ACCORDANCE WITH THIS TITLE AND THE
22 APPROPRIATE COUNTY BOARD POLICY.

23 9-103.

24 (A) THE PRIMARY PUBLIC CHARTERING AUTHORITY FOR THE GRANTING OF
25 CHARTERS SHALL BE THE COUNTY BOARDS OF EDUCATION.

26 (B) THE SECONDARY PUBLIC CHARTERING AUTHORITY FOR THE GRANTING
27 OF CHARTERS SHALL BE THE STATE BOARD ACTING IN ITS APPEAL REVIEW
28 CAPACITY.

29 (C) THE STATE BOARD MAY CREATE ADDITIONAL PUBLIC CHARTERING
30 AUTHORITIES.

31 9-104.

32 (A) (1) AN APPLICATION TO ESTABLISH A PUBLIC CHARTER SCHOOL SHALL
33 BE SUBMITTED TO THE COUNTY BOARD OF THE COUNTY IN WHICH THE CHARTER
34 SCHOOL WILL BE LOCATED.

1 (2) AN APPLICATION TO ESTABLISH A PUBLIC CHARTER SCHOOL MAY BE
2 SUBMITTED TO A COUNTY BOARD BY:

3 (I) THE STAFF OF A PUBLIC SCHOOL;

4 (II) A PARENT OR GUARDIAN OF A STUDENT WHO ATTENDS A
5 PUBLIC SCHOOL IN THE COUNTY;

6 (III) A NONPROFIT ENTITY;

7 (IV) AN INSTITUTION OF HIGHER EDUCATION IN THE STATE; OR

8 (V) ANY COMBINATION OF PERSONS SPECIFIED IN ITEMS (I)
9 THROUGH (IV) OF THIS PARAGRAPH.

10 (3) A COUNTY BOARD MAY NOT GRANT A CHARTER UNDER THIS TITLE
11 TO:

12 (I) A PRIVATE SCHOOL;

13 (II) A PAROCHIAL SCHOOL; OR

14 (III) A HOME SCHOOL.

15 (4) THE COUNTY BOARD SHALL REVIEW THE APPLICATION AND RENDER
16 A DECISION WITHIN 120 DAYS OF RECEIPT OF THE APPLICATION.

17 (B) IF THE COUNTY BOARD DENIES AN APPLICATION TO ESTABLISH A PUBLIC
18 CHARTER SCHOOL, THE APPLICANT MAY APPEAL THE DECISION TO THE STATE
19 BOARD, IN ACCORDANCE WITH § 4-205(C) OF THIS ARTICLE.

20 9-105.

21 A MEMBER OF THE PROFESSIONAL STAFF OF A PUBLIC CHARTER SCHOOL
22 SHALL HOLD THE APPROPRIATE MARYLAND CERTIFICATION.

23 9-106.

24 (A) EACH COUNTY BOARD SHALL DEVELOP A PUBLIC CHARTER SCHOOL
25 POLICY AND SUBMIT IT TO THE STATE BOARD.

26 (B) THE DEPARTMENT SHALL DESIGNATE A STAFF PERSON TO FUNCTION AS
27 A CONTACT PERSON FOR THE MARYLAND PUBLIC CHARTER SCHOOL PROGRAM.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
29 effect October 1, 2003.

BALTIMORE COUNTY PUBLIC SCHOOLS

DATE: January 28, 2003

TO: BOARD OF EDUCATION

FROM: Dr. Joe A. Hairston, Superintendent

SUBJECT: Consideration of School Legislation – Senate Bill 32

ORIGINATOR: George P. Poff, Jr. Assistant to the Superintendent,
Governmental Relations

RECOMMENDATION

That the Board consider support of Senate Bill 32,
Kinship Care – Education

SB 32 Education – Children in Out-of-County Living Arrangements – Informal Kinship Care

This year's legislation is the outcome of staff collaboration with Senator Delores Kelley to expedite the provision of educational services to children experiencing "hardships" and as a result of living in a "kinship care" arrangement.

This bill requires a county school superintendent to allow a student whose parent or guardian resides in another school district to attend the local public school system if the student is living with a relative within the school district due to a serious family hardship. The student's relative must be providing informal kinship care to the student. The student's relative must sign a sworn affidavit that includes the student's old and new addresses and defines the family hardship and provide supporting documentation verifying the serious family hardship. The affidavit must be filed annually, and if a change in the care of the student occurs, the relative must notify the local school system in writing within 30 days of the change. Unless a court appoints a different guardian for the student, the student's relative providing informal kinship care shall make educational decisions for the student.

The bill also allows the county receiving the student to collect payments from the county transferring the student.

Since the printing of the bill, we have suggested a clarifying amendment to hardship #6 on pages 4 and 5 of the bill.

Attachment I – SB 32

Attachment II – Suggested Amendment

SENATE BILL 32

Unofficial Copy
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SB 186/02 - EHE

2003 Regular Session
3lr0441

By: **Senators Kelley, Hollinger, Britt, Colburn, Conway, Della, Giannetti,
Gladden, Grosfeld, Hooper, Jacobs, Jones, Lawlah, Mooney, Stoltzfus,
and Teitelbaum**

Introduced and read first time: January 13, 2003

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Education - Children in Out-of-County Living Arrangements - Informal**
3 **Kinship Care**

4 FOR the purpose of requiring a superintendent of schools of a county to allow a child
5 to attend a public school in a county other than where the child was previously
6 domiciled in Maryland with the child's parent or legal guardian if the child lives
7 with a relative in the county due to a serious family hardship; altering a certain
8 definition; defining certain terms; requiring certain relatives of a child to file
9 certain affidavits and certain supporting documentation under certain
10 circumstances; establishing the contents and form of certain affidavits;
11 requiring certain affidavits to be provided free of charge at certain offices;
12 authorizing certain relatives to make educational decisions for children in their
13 custody; and generally relating to children in out-of-county living
14 arrangements who live with relatives who provide informal kinship care.

15 BY renumbering
16 Article - Education
17 Section 7-101(c)
18 to be Section 7-101(d)
19 Annotated Code of Maryland
20 (2001 Replacement Volume and 2002 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article - Education
23 Section 4-122(a) and 7-101(b)
24 Annotated Code of Maryland
25 (2001 Replacement Volume and 2002 Supplement)

26 BY adding to
27 Article - Education
28 Section 7-101(c)

1 Annotated Code of Maryland
2 (2001 Replacement Volume and 2002 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That Section(s) 7-101(c) of Article - Education of the Annotated Code of
5 Maryland be renumbered to be Section(s) 7-101(d).

6 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
7 read as follows:

8 **Article - Education**

9 4-122.

10 (a) (1) In this section the following words shall have the meanings indicated.

11 (2) "Local current expense per student" means all expenditures made by
12 a county from county appropriations, except State, federal, and other aid, for public
13 elementary and secondary education in the prior fiscal year, divided by the full-time
14 equivalent enrollment, as defined in § 5-202(a) of this article.

15 (3) "Child in an out-of-county living arrangement" means a child who is:

16 (I) [placed] PLACED by a State agency, a licensed child placement
17 agency as provided by § 5-507 of the Family Law Article, or a court in a county other
18 than where the child's parent or legal guardian [resides. Child in an out-of-county
19 living arrangement does not include a child] RESIDES; OR

20 (II) [living] DOMICILED with a [relative, stepparent or a person
21 exercising temporary care, custody or control over a child at the request of a parent or
22 guardian of the child] RELATIVE WHO EXERCISES CARE, CUSTODY, AND CONTROL
23 OVER THE CHILD 24 HOURS A DAY AND 7 DAYS A WEEK AND WHO PROVIDES
24 INFORMAL KINSHIP CARE, AS DEFINED IN § 7-101 OF THIS ARTICLE, FOR THE CHILD.

25 (4) "Service providing local education agency" means the local education
26 agency for the county where a child in an out-of-county living arrangement is placed.

27 (5) "Financially responsible county" means the county where the parent
28 or legal guardian of a child in an out-of-county living arrangement resides. If the
29 parents of the child live apart, the financially responsible county is:

30 (i) The county where the parent who has been awarded custody of
31 the child resides;

32 (ii) If custody has not been awarded, the county where the parent
33 with whom the child lives when not in a foster care [home] HOME, IN THE HOME OF
34 AN INFORMAL KINSHIP CARE PROVIDER, or residential facility resides;

35 (iii) If custody has been awarded to both parents and the parents
36 reside in different counties, both counties shall be considered financially responsible

1 and shall pay one-half the amount as computed in accordance with subsection (c) of
2 this section, except that if the child receives a public education in a county where a
3 parent resides, this subparagraph shall not apply; or

4 (iv) If custody has been awarded to both parents and one parent
5 resides in a county and the other resides out-of-state, the county shall be considered
6 the financially responsible county.

7 7-101.

8 (b) (1) Except as provided in § 7-301 of this title and in paragraph (2) of this
9 subsection, each child shall attend a public school in the county where the child is
10 domiciled with the child's [parent or guardian] PARENT, GUARDIAN, OR RELATIVE
11 PROVIDING INFORMAL KINSHIP CARE, AS DEFINED IN SUBSECTION (C) OF THIS
12 SECTION.

13 (2) Upon request and in accordance with a county board's policies
14 concerning residency, a county superintendent may allow a child to attend school in
15 the county even if the child is not domiciled in that county with the child's parent or
16 guardian.

17 (3) If a child fraudulently attends a public school in a county where the
18 child is not domiciled with the child's parent or guardian, the child's parent or
19 guardian shall be subject to a penalty payable to the county for the pro rata share of
20 tuition for the time the child fraudulently attends a public school in the county.

21 [(4) Nothing in this section alters the requirements for out-of-county
22 placements contained in § 4-122 and Title 8, Subtitles 3 and 4 of this article or in any
23 other State or federal law.]

24 (C) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
25 MEANINGS INDICATED.

26 (II) "INFORMAL KINSHIP CARE" MEANS A LIVING ARRANGEMENT IN
27 WHICH A RELATIVE OF A CHILD, WHO IS NOT IN THE CARE, CUSTODY, OR
28 GUARDIANSHIP OF THE LOCAL DEPARTMENT OF SOCIAL SERVICES, PROVIDES FOR
29 THE CARE AND CUSTODY OF THE CHILD DUE TO A SERIOUS FAMILY HARDSHIP.

30 (III) "RELATIVE" MEANS AN ADULT RELATED TO THE CHILD BY
31 BLOOD OR MARRIAGE WITHIN THE FIFTH DEGREE OF CONSANGUINITY.

32 (IV) "SERIOUS FAMILY HARDSHIP" MEANS:

- 33 1. DEATH OF A PARENT OR LEGAL GUARDIAN OF THE CHILD;
- 34 2. SERIOUS ILLNESS OF A PARENT OR LEGAL GUARDIAN OF
35 THE CHILD;
- 36 3. DRUG ADDICTION OF A PARENT OR LEGAL GUARDIAN OF
37 THE CHILD;

1 4. INCARCERATION OF A PARENT OR LEGAL GUARDIAN OF
2 THE CHILD;

3 5. ABANDONMENT BY A PARENT OR LEGAL GUARDIAN OF
4 THE CHILD; OR

6 6. ASSIGNMENT OF A PARENT OR LEGAL GUARDIAN OF A
7 CHILD TO ACTIVE MILITARY DUTY.

7 (2) (1) A COUNTY SUPERINTENDENT SHALL ALLOW A CHILD WHO IS A
8 RESIDENT OF THIS STATE TO ATTEND A PUBLIC SCHOOL IN A COUNTY OTHER THAN
9 THE COUNTY WHERE THE CHILD IS DOMICILED WITH THE CHILD'S PARENT OR
10 LEGAL GUARDIAN IF THE CHILD LIVES WITH A RELATIVE PROVIDING INFORMAL
11 KINSHIP CARE IN THE COUNTY AND THE RELATIVE VERIFIES THE INFORMAL
12 KINSHIP CARE RELATIONSHIP THROUGH A SWORN AFFIDAVIT.

13 (II) THE AFFIDAVIT SHALL BE ACCOMPANIED BY SUPPORTING
14 DOCUMENTATION OF ONE OR MORE SERIOUS FAMILY HARDSHIPS AND, WHERE
15 POSSIBLE, THE TELEPHONE NUMBER AND ADDRESS OF ANY AUTHORITY WHO CAN
16 VERIFY THE ASSERTIONS IN THE AFFIDAVIT.

17 (3) THE AFFIDAVIT SHALL INCLUDE:

18 (I) THE NAME AND DATE OF BIRTH OF THE CHILD;

19 (II) THE NAME AND ADDRESS OF THE CHILD'S PARENT OR LEGAL
20 GUARDIAN;

21 (III) THE NAME AND ADDRESS OF THE RELATIVE PROVIDING
22 INFORMAL KINSHIP CARE;

23 (IV) THE DATE THE RELATIVE ASSUMED INFORMAL KINSHIP CARE;

24 (V) THE NATURE OF THE SERIOUS FAMILY HARDSHIP AND WHY IT
25 RESULTED IN INFORMAL KINSHIP CARE;

26 (VI) THE KINSHIP RELATION TO THE CHILD OF THE RELATIVE
27 PROVIDING INFORMAL KINSHIP CARE;

28 (VII) THE NAME AND ADDRESS OF THE SCHOOL THE CHILD
29 PREVIOUSLY ATTENDED;

30 (VIII) NOTICE THAT THE COUNTY SUPERINTENDENT MAY VERIFY
31 THE FACTS GIVEN BY THE RELATIVE PROVIDING INFORMAL KINSHIP CARE IN THE
32 AFFIDAVIT AND CONDUCT AN AUDIT OF THE CASE AFTER THE CHILD HAS BEEN
33 ENROLLED IN THE COUNTY PUBLIC SCHOOL SYSTEM;

34 (IX) NOTICE THAT IF FRAUD OR MISREPRESENTATION IS
35 DISCOVERED DURING AN AUDIT, THE COUNTY SUPERINTENDENT SHALL REMOVE
36 THE CHILD FROM THE COUNTY PUBLIC SCHOOL SYSTEM ROLL; AND

1 (X) NOTICE THAT ANY PERSON WHO WILLFULLY MAKES A
2 MATERIAL MISREPRESENTATION IN THE AFFIDAVIT SHALL BE SUBJECT TO A
3 PENALTY PAYABLE TO THE COUNTY FOR THREE TIMES THE PRO RATA SHARE OF
4 TUITION FOR THE TIME THE CHILD FRAUDULENTLY ATTENDS A PUBLIC SCHOOL IN
5 THE COUNTY.

6 (4) THE AFFIDAVIT SHALL BE IN THE FOLLOWING FORM:

7 (I) I, THE UNDERSIGNED, AM OVER EIGHTEEN (18) YEARS OF AGE
8 AND COMPETENT TO TESTIFY TO THE FACTS AND MATTERS SET FORTH HEREIN.

9 (II) _____ (NAME OF CHILD), WHOSE DATE OF BIRTH IS
10 _____, IS LIVING WITH ME BECAUSE OF THE FOLLOWING SERIOUS FAMILY
11 HARDSHIP: (CHECK EACH THAT IS APPLICABLE)

12 _____ DEATH OF FATHER/MOTHER/LEGAL GUARDIAN

13 _____ SERIOUS ILLNESS OF FATHER/MOTHER/LEGAL GUARDIAN

14 _____ DRUG ADDICTION OF FATHER/MOTHER/LEGAL GUARDIAN

15 _____ INCARCERATION OF FATHER/MOTHER/LEGAL GUARDIAN

16 _____ ABANDONMENT BY FATHER/MOTHER/LEGAL GUARDIAN

17 _____ ASSIGNMENT OF A PARENT OR LEGAL GUARDIAN OF A
18 CHILD TO ACTIVE MILITARY DUTY

19 (III) THE NAME AND LAST KNOWN ADDRESS OF THE CHILD'S
20 PARENT(S) OR LEGAL GUARDIAN IS:

21 _____
22 _____
23 _____

24 (IV) MY KINSHIP RELATION TO THE CHILD IS _____

25 (V) MY ADDRESS IS:

26 _____
27 STREET APT. NO.

28 _____
29 CITY STATE ZIP CODE

30 (VI) I ASSUMED INFORMAL KINSHIP CARE OF THIS CHILD FOR 24
31 HOURS A DAY AND 7 DAYS A WEEK ON _____ (DAY/MONTH/YEAR).

1 (VII) THE NAME AND ADDRESS OF THE LAST SCHOOL THAT THE
2 CHILD ATTENDED IS: _____
3 _____

4 (VIII) THE COUNTY SUPERINTENDENT MAY VERIFY THE FACTS
5 CONTAINED IN THE FOREGOING AFFIDAVIT AND CONDUCT AN AUDIT ON A
6 CASE-BY-CASE BASIS AFTER THE CHILD HAS BEEN ENROLLED IN THE COUNTY
7 PUBLIC SCHOOL SYSTEM. IF THE COUNTY SUPERINTENDENT DISCOVERS FRAUD OR
8 MISREPRESENTATION, THE CHILD SHALL BE REMOVED FROM THE COUNTY PUBLIC
9 SCHOOL SYSTEM ROLL.

10 (IX) I SOLEMNLY AFFIRM UNDER THE PENALTIES OF PERJURY
11 THAT THE CONTENTS OF THE FOREGOING ARE TRUE TO THE BEST OF MY
12 KNOWLEDGE, INFORMATION, AND BELIEF.

13 _____
14 SIGNATURE OF AFFIANT

15 _____
16 (DAY/MONTH/YEAR)

17 (X) ANY PERSON WHO WILLFULLY MAKES A MATERIAL
18 MISREPRESENTATION IN THIS AFFIDAVIT SHALL BE SUBJECT TO A PENALTY
19 PAYABLE TO THE COUNTY FOR THREE TIMES THE PRO RATA SHARE OF TUITION FOR
20 THE TIME THE CHILD FRAUDULENTLY ATTENDS A PUBLIC SCHOOL IN THE COUNTY.

21 (5) (I) INSTRUCTIONS THAT EXPLAIN THE NECESSITY FOR BOTH AN
22 AFFIDAVIT AND SUPPORTING DOCUMENTATION OF THE SERIOUS FAMILY HARDSHIP
23 RESULTING IN INFORMAL KINSHIP CARE SHALL BE ATTACHED TO AFFIDAVIT FORMS
24 THAT COMPLY WITH SUBSECTION (C)(4) OF THIS SECTION.

25 (II) THE AFFIDAVIT FORMS, WITH ATTACHED INSTRUCTIONS,
26 SHALL BE MADE AVAILABLE FREE OF CHARGE AT THE OFFICES OF EACH COUNTY
27 BOARD OF EDUCATION, EACH LOCAL DEPARTMENT OF SOCIAL SERVICES, AND EACH
28 LOCAL AREA AGENCY ON AGING.

29 (6) IF A CHANGE OCCURS IN THE CARE OR IN THE SERIOUS FAMILY
30 HARDSHIP OF THE CHILD, THE RELATIVE PROVIDING INFORMAL KINSHIP CARE FOR
31 THE CHILD SHALL NOTIFY THE LOCAL SCHOOL SYSTEM IN WRITING WITHIN 30 DAYS
32 AFTER THE CHANGE OCCURS.

33 (7) (I) AN INFORMAL KINSHIP CARE AFFIDAVIT MAY BE FILED
34 DURING A SCHOOL YEAR.

35 (II) THE RELATIVE PROVIDING INFORMAL KINSHIP CARE SHALL
36 FILE AN AFFIDAVIT ANNUALLY AT LEAST 2 WEEKS PRIOR TO THE BEGINNING OF THE
37 SCHOOL YEAR FOR EACH YEAR THE CHILD CONTINUES TO LIVE WITH THE RELATIVE
38 BECAUSE OF A SERIOUS FAMILY HARDSHIP.

1 (8) UNLESS THE COURT APPOINTS A GUARDIAN FOR THE CHILD OR
2 AWARDS CUSTODY OF THE CHILD TO SOMEONE OTHER THAN THE RELATIVE
3 PROVIDING INFORMAL KINSHIP CARE, THE RELATIVE PROVIDING INFORMAL
4 KINSHIP CARE SHALL MAKE THE FULL RANGE OF EDUCATIONAL DECISIONS FOR
5 THE CHILD.

6 (9) THE RELATIVE PROVIDING INFORMAL KINSHIP CARE SHALL MAKE
7 REASONABLE EFFORTS TO INFORM THE PARENT OR LEGAL GUARDIAN OF THE CHILD
8 OF THE INFORMAL KINSHIP CARE RELATIONSHIP.

9 (10) THE PARENT OR LEGAL GUARDIAN OF A CHILD IN AN
10 OUT-OF-COUNTY LIVING ARRANGEMENT SHALL HAVE FINAL DECISION MAKING
11 AUTHORITY REGARDING THE EDUCATIONAL NEEDS OF THE CHILD.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 July 1, 2003.

George P. Poff, Jr.

*Assistant to the Superintendent
Governmental Relations
Baltimore County Public Schools*

*6901 Charles Street
Towson, Maryland 21204-3711
410-887-4300
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DATE: January 21, 2003

TO: Susan Taylor
Senator Delores Kelley

FAX: 410-841-3399

RE: SB 32

PAGES: 1

Suggestion for new wording on page 4, lines 5, 6 and page 5, lines 17, 18:

CALL UP TO ACTIVE MILITARY DUTY OF BOTH PARENTS/GUARDIANS OR
OF A SINGLE PARENT/GUARDIAN IN A SINGLE PARENT/GUARDIAN
HOUSEHOLD.

SENATE BILL 32

Unofficial Copy
F1
SB 186/02 - EHE

2003 Regular Session
3lr0441

By: **Senators Kelley, Hollinger, Britt, Colburn, Conway, Della, Giannetti,
Gladden, Grosfeld, Hooper, Jacobs, Jones, Lawlah, Mooney, Stoltzfus,
and Teitelbaum**

Introduced and read first time: January 13, 2003

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Education - Children in Out-of-County Living Arrangements - Informal**
3 **Kinship Care**

4 FOR the purpose of requiring a superintendent of schools of a county to allow a child
5 to attend a public school in a county other than where the child was previously
6 domiciled in Maryland with the child's parent or legal guardian if the child lives
7 with a relative in the county due to a serious family hardship; altering a certain
8 definition; defining certain terms; requiring certain relatives of a child to file
9 certain affidavits and certain supporting documentation under certain
10 circumstances; establishing the contents and form of certain affidavits;
11 requiring certain affidavits to be provided free of charge at certain offices;
12 authorizing certain relatives to make educational decisions for children in their
13 custody; and generally relating to children in out-of-county living
14 arrangements who live with relatives who provide informal kinship care.

15 BY renumbering
16 Article - Education
17 Section 7-101(c)
18 to be Section 7-101(d)
19 Annotated Code of Maryland
20 (2001 Replacement Volume and 2002 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article - Education
23 Section 4-122(a) and 7-101(b)
24 Annotated Code of Maryland
25 (2001 Replacement Volume and 2002 Supplement)

26 BY adding to
27 Article - Education
28 Section 7-101(c)

1 Annotated Code of Maryland
2 (2001 Replacement Volume and 2002 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That Section(s) 7-101(c) of Article - Education of the Annotated Code of
5 Maryland be renumbered to be Section(s) 7-101(d).

6 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
7 read as follows:

8 **Article - Education**

9 4-122.

10 (a) (1) In this section the following words shall have the meanings indicated.

11 (2) "Local current expense per student" means all expenditures made by
12 a county from county appropriations, except State, federal, and other aid, for public
13 elementary and secondary education in the prior fiscal year, divided by the full-time
14 equivalent enrollment, as defined in § 5-202(a) of this article.

15 (3) "Child in an out-of-county living arrangement" means a child who is:

16 (I) [placed] PLACED by a State agency, a licensed child placement
17 agency as provided by § 5-507 of the Family Law Article, or a court in a county other
18 than where the child's parent or legal guardian [resides. Child in an out-of-county
19 living arrangement does not include a child] RESIDES; OR

20 (II) [living] DOMICILED with a [relative, stepparent or a person
21 exercising temporary care, custody or control over a child at the request of a parent or
22 guardian of the child] RELATIVE WHO EXERCISES CARE, CUSTODY, AND CONTROL
23 OVER THE CHILD 24 HOURS A DAY AND 7 DAYS A WEEK AND WHO PROVIDES
24 INFORMAL KINSHIP CARE, AS DEFINED IN § 7-101 OF THIS ARTICLE, FOR THE CHILD.

25 (4) "Service providing local education agency" means the local education
26 agency for the county where a child in an out-of-county living arrangement is placed.

27 (5) "Financially responsible county" means the county where the parent
28 or legal guardian of a child in an out-of-county living arrangement resides. If the
29 parents of the child live apart, the financially responsible county is:

30 (i) The county where the parent who has been awarded custody of
31 the child resides;

32 (ii) If custody has not been awarded, the county where the parent
33 with whom the child lives when not in a foster care [home] HOME, IN THE HOME OF
34 AN INFORMAL KINSHIP CARE PROVIDER, or residential facility resides;

35 (iii) If custody has been awarded to both parents and the parents
36 reside in different counties, both counties shall be considered financially responsible

1 and shall pay one-half the amount as computed in accordance with subsection (c) of
2 this section, except that if the child receives a public education in a county where a
3 parent resides, this subparagraph shall not apply; or

4 (iv) If custody has been awarded to both parents and one parent
5 resides in a county and the other resides out-of-state, the county shall be considered
6 the financially responsible county.

7 7-101.

8 (b) (1) Except as provided in § 7-301 of this title and in paragraph (2) of this
9 subsection, each child shall attend a public school in the county where the child is
10 domiciled with the child's [parent or guardian] PARENT, GUARDIAN, OR RELATIVE
11 PROVIDING INFORMAL KINSHIP CARE, AS DEFINED IN SUBSECTION (C) OF THIS
12 SECTION.

13 (2) Upon request and in accordance with a county board's policies
14 concerning residency, a county superintendent may allow a child to attend school in
15 the county even if the child is not domiciled in that county with the child's parent or
16 guardian.

17 (3) If a child fraudulently attends a public school in a county where the
18 child is not domiciled with the child's parent or guardian, the child's parent or
19 guardian shall be subject to a penalty payable to the county for the pro rata share of
20 tuition for the time the child fraudulently attends a public school in the county.

21 [(4) Nothing in this section alters the requirements for out-of-county
22 placements contained in § 4-122 and Title 8, Subtitles 3 and 4 of this article or in any
23 other State or federal law.]

24 (C) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
25 MEANINGS INDICATED.

26 (II) "INFORMAL KINSHIP CARE" MEANS A LIVING ARRANGEMENT IN
27 WHICH A RELATIVE OF A CHILD, WHO IS NOT IN THE CARE, CUSTODY, OR
28 GUARDIANSHIP OF THE LOCAL DEPARTMENT OF SOCIAL SERVICES, PROVIDES FOR
29 THE CARE AND CUSTODY OF THE CHILD DUE TO A SERIOUS FAMILY HARDSHIP.

30 (III) "RELATIVE" MEANS AN ADULT RELATED TO THE CHILD BY
31 BLOOD OR MARRIAGE WITHIN THE FIFTH DEGREE OF CONSANGUINITY.

32 (IV) "SERIOUS FAMILY HARDSHIP" MEANS:

- 33 1. DEATH OF A PARENT OR LEGAL GUARDIAN OF THE CHILD;
- 34 2. SERIOUS ILLNESS OF A PARENT OR LEGAL GUARDIAN OF
35 THE CHILD;
- 36 3. DRUG ADDICTION OF A PARENT OR LEGAL GUARDIAN OF
37 THE CHILD;

1 4. INCARCERATION OF A PARENT OR LEGAL GUARDIAN OF
2 THE CHILD;

3 5. ABANDONMENT BY A PARENT OR LEGAL GUARDIAN OF
4 THE CHILD; OR

6 6. ASSIGNMENT OF A PARENT OR LEGAL GUARDIAN OF A
7 CHILD TO ACTIVE MILITARY DUTY.

7 (2) (1) A COUNTY SUPERINTENDENT SHALL ALLOW A CHILD WHO IS A
8 RESIDENT OF THIS STATE TO ATTEND A PUBLIC SCHOOL IN A COUNTY OTHER THAN
9 THE COUNTY WHERE THE CHILD IS DOMICILED WITH THE CHILD'S PARENT OR
10 LEGAL GUARDIAN IF THE CHILD LIVES WITH A RELATIVE PROVIDING INFORMAL
11 KINSHIP CARE IN THE COUNTY AND THE RELATIVE VERIFIES THE INFORMAL
12 KINSHIP CARE RELATIONSHIP THROUGH A SWORN AFFIDAVIT.

13 (II) THE AFFIDAVIT SHALL BE ACCOMPANIED BY SUPPORTING
14 DOCUMENTATION OF ONE OR MORE SERIOUS FAMILY HARDSHIPS AND, WHERE
15 POSSIBLE, THE TELEPHONE NUMBER AND ADDRESS OF ANY AUTHORITY WHO CAN
16 VERIFY THE ASSERTIONS IN THE AFFIDAVIT.

17 (3) THE AFFIDAVIT SHALL INCLUDE:

18 (I) THE NAME AND DATE OF BIRTH OF THE CHILD;

19 (II) THE NAME AND ADDRESS OF THE CHILD'S PARENT OR LEGAL
20 GUARDIAN;

21 (III) THE NAME AND ADDRESS OF THE RELATIVE PROVIDING
22 INFORMAL KINSHIP CARE;

23 (IV) THE DATE THE RELATIVE ASSUMED INFORMAL KINSHIP CARE;

24 (V) THE NATURE OF THE SERIOUS FAMILY HARDSHIP AND WHY IT
25 RESULTED IN INFORMAL KINSHIP CARE;

26 (VI) THE KINSHIP RELATION TO THE CHILD OF THE RELATIVE
27 PROVIDING INFORMAL KINSHIP CARE;

28 (VII) THE NAME AND ADDRESS OF THE SCHOOL THE CHILD
29 PREVIOUSLY ATTENDED:

30 (VIII) NOTICE THAT THE COUNTY SUPERINTENDENT MAY VERIFY
31 THE FACTS GIVEN BY THE RELATIVE PROVIDING INFORMAL KINSHIP CARE IN THE
32 AFFIDAVIT AND CONDUCT AN AUDIT OF THE CASE AFTER THE CHILD HAS BEEN
33 ENROLLED IN THE COUNTY PUBLIC SCHOOL SYSTEM;

34 (IX) NOTICE THAT IF FRAUD OR MISREPRESENTATION IS
35 DISCOVERED DURING AN AUDIT, THE COUNTY SUPERINTENDENT SHALL REMOVE
36 THE CHILD FROM THE COUNTY PUBLIC SCHOOL SYSTEM ROLL; AND

1 (X) NOTICE THAT ANY PERSON WHO WILLFULLY MAKES A
2 MATERIAL MISREPRESENTATION IN THE AFFIDAVIT SHALL BE SUBJECT TO A
3 PENALTY PAYABLE TO THE COUNTY FOR THREE TIMES THE PRO RATA SHARE OF
4 TUITION FOR THE TIME THE CHILD FRAUDULENTLY ATTENDS A PUBLIC SCHOOL IN
5 THE COUNTY.

6 (4) THE AFFIDAVIT SHALL BE IN THE FOLLOWING FORM:

7 (I) I, THE UNDERSIGNED, AM OVER EIGHTEEN (18) YEARS OF AGE
8 AND COMPETENT TO TESTIFY TO THE FACTS AND MATTERS SET FORTH HEREIN.

9 (II) _____ (NAME OF CHILD), WHOSE DATE OF BIRTH IS
10 _____, IS LIVING WITH ME BECAUSE OF THE FOLLOWING SERIOUS FAMILY
11 HARDSHIP: (CHECK EACH THAT IS APPLICABLE)

12 _____ DEATH OF FATHER/MOTHER/LEGAL GUARDIAN

13 _____ SERIOUS ILLNESS OF FATHER/MOTHER/LEGAL GUARDIAN

14 _____ DRUG ADDICTION OF FATHER/MOTHER/LEGAL GUARDIAN

15 _____ INCARCERATION OF FATHER/MOTHER/LEGAL GUARDIAN

16 _____ ABANDONMENT BY FATHER/MOTHER/LEGAL GUARDIAN

17 _____ ASSIGNMENT OF A PARENT OR LEGAL GUARDIAN OF A
18 CHILD TO ACTIVE MILITARY DUTY

19 (III) THE NAME AND LAST KNOWN ADDRESS OF THE CHILD'S
20 PARENT(S) OR LEGAL GUARDIAN IS:

21 _____
22 _____
23 _____

24 (IV) MY KINSHIP RELATION TO THE CHILD IS _____

25 (V) MY ADDRESS IS:

26 _____
27 STREET APT. NO.

28 _____
29 CITY STATE ZIP CODE

30 (VI) I ASSUMED INFORMAL KINSHIP CARE OF THIS CHILD FOR 24
31 HOURS A DAY AND 7 DAYS A WEEK ON _____ (DAY/MONTH/YEAR).

1 (VII) THE NAME AND ADDRESS OF THE LAST SCHOOL THAT THE
2 CHILD ATTENDED IS: _____
3 _____

4 (VIII) THE COUNTY SUPERINTENDENT MAY VERIFY THE FACTS
5 CONTAINED IN THE FOREGOING AFFIDAVIT AND CONDUCT AN AUDIT ON A
6 CASE-BY-CASE BASIS AFTER THE CHILD HAS BEEN ENROLLED IN THE COUNTY
7 PUBLIC SCHOOL SYSTEM. IF THE COUNTY SUPERINTENDENT DISCOVERS FRAUD OR
8 MISREPRESENTATION, THE CHILD SHALL BE REMOVED FROM THE COUNTY PUBLIC
9 SCHOOL SYSTEM ROLL.

10 (IX) I SOLEMNLY AFFIRM UNDER THE PENALTIES OF PERJURY
11 THAT THE CONTENTS OF THE FOREGOING ARE TRUE TO THE BEST OF MY
12 KNOWLEDGE, INFORMATION, AND BELIEF.

13 _____
14 SIGNATURE OF AFFIANT

15 _____
16 (DAY/MONTH/YEAR)

17 (X) ANY PERSON WHO WILLFULLY MAKES A MATERIAL
18 MISREPRESENTATION IN THIS AFFIDAVIT SHALL BE SUBJECT TO A PENALTY
19 PAYABLE TO THE COUNTY FOR THREE TIMES THE PRO RATA SHARE OF TUITION FOR
20 THE TIME THE CHILD FRAUDULENTLY ATTENDS A PUBLIC SCHOOL IN THE COUNTY.

21 (5) (I) INSTRUCTIONS THAT EXPLAIN THE NECESSITY FOR BOTH AN
22 AFFIDAVIT AND SUPPORTING DOCUMENTATION OF THE SERIOUS FAMILY HARDSHIP
23 RESULTING IN INFORMAL KINSHIP CARE SHALL BE ATTACHED TO AFFIDAVIT FORMS
24 THAT COMPLY WITH SUBSECTION (C)(4) OF THIS SECTION.

25 (II) THE AFFIDAVIT FORMS, WITH ATTACHED INSTRUCTIONS,
26 SHALL BE MADE AVAILABLE FREE OF CHARGE AT THE OFFICES OF EACH COUNTY
27 BOARD OF EDUCATION, EACH LOCAL DEPARTMENT OF SOCIAL SERVICES, AND EACH
28 LOCAL AREA AGENCY ON AGING.

29 (6) IF A CHANGE OCCURS IN THE CARE OR IN THE SERIOUS FAMILY
30 HARDSHIP OF THE CHILD, THE RELATIVE PROVIDING INFORMAL KINSHIP CARE FOR
31 THE CHILD SHALL NOTIFY THE LOCAL SCHOOL SYSTEM IN WRITING WITHIN 30 DAYS
32 AFTER THE CHANGE OCCURS.

33 (7) (I) AN INFORMAL KINSHIP CARE AFFIDAVIT MAY BE FILED
34 DURING A SCHOOL YEAR.

35 (II) THE RELATIVE PROVIDING INFORMAL KINSHIP CARE SHALL
36 FILE AN AFFIDAVIT ANNUALLY AT LEAST 2 WEEKS PRIOR TO THE BEGINNING OF THE
37 SCHOOL YEAR FOR EACH YEAR THE CHILD CONTINUES TO LIVE WITH THE RELATIVE
38 BECAUSE OF A SERIOUS FAMILY HARDSHIP.

1 (8) UNLESS THE COURT APPOINTS A GUARDIAN FOR THE CHILD OR
2 AWARDS CUSTODY OF THE CHILD TO SOMEONE OTHER THAN THE RELATIVE
3 PROVIDING INFORMAL KINSHIP CARE, THE RELATIVE PROVIDING INFORMAL
4 KINSHIP CARE SHALL MAKE THE FULL RANGE OF EDUCATIONAL DECISIONS FOR
5 THE CHILD.

6 (9) THE RELATIVE PROVIDING INFORMAL KINSHIP CARE SHALL MAKE
7 REASONABLE EFFORTS TO INFORM THE PARENT OR LEGAL GUARDIAN OF THE CHILD
8 OF THE INFORMAL KINSHIP CARE RELATIONSHIP.

9 (10) THE PARENT OR LEGAL GUARDIAN OF A CHILD IN AN
10 OUT-OF-COUNTY LIVING ARRANGEMENT SHALL HAVE FINAL DECISION MAKING
11 AUTHORITY REGARDING THE EDUCATIONAL NEEDS OF THE CHILD.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 July 1, 2003.

BALTIMORE COUNTY PUBLIC SCHOOLS

DATE: January 28, 2003

TO: BOARD OF EDUCATION

FROM: Dr. Joe A. Hairston, Superintendent

SUBJECT: Consideration of School Legislation – Senate Bill 66

ORIGINATOR: George P. Poff, Jr., Assistant to the Superintendent,
Governmental Relations

RECOMMENDATION

That the Board consider support of Senate Bill 66,
Tax-Free Week

SB 66 Sales and Use Tax – Annual Back-to-School Tax-Free Week

This legislation, sponsored by Baltimore County Senators Brochin and Klausmeier, would add specified “school supplies” to the exemption from sales taxes during the “tax-free week for back-to-school shopping” in Maryland.

Support is recommended.

SENATE BILL 66

Unofficial Copy
Q4
SB 29/02 - B&T

2003 Regular Session
3lr0235

By: **Senators Hafer, Astle, Brochin, Dyson, Forehand, Gladden, Hooper,
Jacobs, Jones, Klausmeier, Lawlah, McFadden, and Middleton**

Introduced and read first time: January 20, 2003

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Sales and Use Tax - Annual Back-to-School Tax-Free Week**

3 FOR the purpose of designating a certain week in certain calendar years to be a
4 tax-free week during which a certain sales and use tax exemption will apply;
5 altering a certain sales and use tax exemption to include certain school supplies;
6 defining a certain term; and generally relating to the designation of a certain
7 tax-free week in the State.

8 BY repealing and reenacting, with amendments,
9 Article - Tax - General
10 Section 11-228
11 Annotated Code of Maryland
12 (1997 Replacement Volume and 2002 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - Tax - General**

16 11-228.

17 (a) (1) In this section[, "accessory items"] THE FOLLOWING WORDS HAVE
18 THE MEANINGS INDICATED.

19 (2) "ACCESSORY ITEMS" includes jewelry, watches, watchbands,
20 handbags, handkerchiefs, umbrellas, scarves, ties, headbands, and belt buckles.

21 (3) (I) "SCHOOL SUPPLY" INCLUDES AN ITEM PURCHASED FOR USE IN
22 THE CLASSROOM, FOR SCHOOLWORK COMPLETED IN SCHOOL, OR FOR ANY SCHOOL
23 ACTIVITY.

24 (II) "SCHOOL SUPPLY" DOES NOT INCLUDE ANY ELECTRONIC
25 DEVICE.

1 (b) (1) The week [from August 10, 2001 through August 16, 2001] THAT
2 BEGINS ON THE SECOND FRIDAY IN AUGUST AND ENDS ON THE FOLLOWING
3 THURSDAY IN AUGUST EACH YEAR shall be a tax-free week for back-to-school
4 shopping in Maryland during which the exemption under paragraph (2) of this
5 subsection shall apply.

6 (2) During the tax-free week for back-to-school shopping established
7 under paragraph (1) of this subsection, the sales and use tax does not apply to the sale
8 of ANY SCHOOL SUPPLY OR any item of clothing or footwear, excluding accessory
9 items, if the taxable price of the SCHOOL SUPPLY OR item of clothing or footwear is
10 less than \$100.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 July 1, 2003.

BALTIMORE COUNTY PUBLIC SCHOOLS

DATE: January 28, 2003

TO: BOARD OF EDUCATION

FROM: Dr. Joe A. Hairston, Superintendent

SUBJECT: Consideration of School Legislation – Senate Bill 81

ORIGINATOR: George P. Poff, Jr., Assistant to the Superintendent,
Governmental Relations

RECOMMENDATION

That the Board be advised of Senate Bill 81,
Authority to Remove County Superintendents

SB 81 Education – County School Board – Authority to Remove County Superintendents

Following the action of the State Superintendent of Schools to block the dismissal of their Superintendent by the Prince George's County Board of Education, several local boards have sought a change in State law to allow a local board authority to dismiss a Superintendent exclusive of any actions by the State Superintendent or Board.

This legislation would make that statutory clarification and allow removal subject to the terms of the contract between the Superintendent and the County Board or for cause.

Staff members do not suggest recommendations in matters of this nature.

Attachment I – SB 81

SENATE BILL 81

Unofficial Copy
F1

2003 Regular Session
3lr0266

By: **Senators Kittleman, Greenip, Harris, Mooney, and Schrader**

Introduced and read first time: January 21, 2003

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Education - County School Board - Authority to Remove County**
3 **Superintendents**

4 FOR the purpose of repealing certain provisions of law relating to the authority of the
5 State Superintendent of Schools to approve the appointment or removal of a
6 county superintendent of schools; authorizing a county board of education to
7 remove a county superintendent under certain circumstances; making a stylistic
8 change; and generally relating to the authority of a county school board to
9 remove a county superintendent.

10 BY repealing and reenacting, with amendments,
11 Article - Education
12 Section 4-201(c)
13 Annotated Code of Maryland
14 (2001 Replacement Volume and 2002 Supplement)

15 BY repealing
16 Article - Education
17 Section 4-201(e)
18 Annotated Code of Maryland
19 (2001 Replacement Volume and 2002 Supplement)

20 BY adding to
21 Article - Education
22 Section 4-201(e)
23 Annotated Code of Maryland
24 (2001 Replacement Volume and 2002 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That the Laws of Maryland read as follows:

Article - Education

2 4-201.

3 (c) [(1)] An individual may not be appointed as county superintendent unless
4 [he] THE INDIVIDUAL:

5 [(i)] (1) Is eligible to be issued a certificate for the office by the
6 State Superintendent;

7 [(ii)] (2) Has graduated from an accredited college or university;
8 and

9 [(iii)] (3) Has completed 2 years of graduate work at an accredited
10 college or university, including public school administration, supervision, and
11 methods of teaching.

12 [(2)] The appointment of a county superintendent is not valid unless
13 approved in writing by the State Superintendent.

14 (3) If the State Superintendent disapproves an appointment, he shall
15 give his reasons for disapproval in writing to the county board.]

16 [(e) (1) The State Superintendent may remove a county superintendent for:

17 (i) Immorality;

18 (ii) Misconduct in office;

19 (iii) Insubordination;

20 (iv) Incompetency; or

21 (v) Willful neglect of duty.

22 (2) Before removing a county superintendent, the State Superintendent
23 shall send him a copy of the charges against him and give him an opportunity within
24 10 days to request a hearing.

25 (3) If the county superintendent requests a hearing within the 10-day
26 period:

27 (i) The State Superintendent promptly shall hold a hearing, but a
28 hearing may not be set within 10 days after the State Superintendent sends the
29 county superintendent a notice of the hearing; and

30 (ii) The county superintendent shall have an opportunity to be
31 heard publicly before the State Superintendent in his own defense, in person or by
32 counsel.]

1 (E) A COUNTY BOARD MAY REMOVE A COUNTY SUPERINTENDENT, SUBJECT
2 TO THE TERMS OF THE CONTRACT BETWEEN THE SUPERINTENDENT AND THE
3 COUNTY BOARD OR FOR CAUSE.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2003.