



# HOUSE COMMITTEE ON APPROPRIATIONS

## FISCAL NOTE

HOUSE BILL NO. 97

PRINTERS NO. 1503

PRIME SPONSOR: Reese

### COST / (SAVINGS)

FUND	FY 2016/17	FY 2017/18
General Fund	\$0	See "Fiscal Impact."

#### SUMMARY:

House Bill 97 makes extensive changes to the Public School Code concerning charter schools. Its effective dates vary by provision.

#### ANALYSIS:

This legislation makes extensive revisions and additions to provisions relating to charter schools found throughout the Public School Code. Below is a list of the sections of the School Code added or significantly amended by this legislation, including an analysis of the fiscal impact where necessary.

**Section 126 Advertising** – This new section prohibits any paid media advertisements by a public school entity from referring to tuition or transportation as free and instead requires such ads to state that the costs are paid by taxpayer dollars.

**Section 1313.2 Transfer of Attendance Records to Another School Entity or Nonpublic School** – This new section concerns the transfer of attendance records to another school entity or nonpublic school. It requires a certified copy of a student's attendance record be transmitted to the school entity or nonpublic school by the school entity or nonpublic school of origin whenever a student transfers within the Commonwealth. The transfer of records must take place in accordance with the provisions established in the section, and must include a student's unexcused absences.

**Section 1525 Agreements with Institutions of Higher Education** – Expands the scope of this section beyond school districts to include charter schools, regional charter schools, cyber charter schools and area vocational-technical schools.

**Sections 1602-B, 1611-B and 1613-B Dual Enrollment** – Changes to these sections allow charter school entity students to participate in a dual enrollment program with an institution of higher education, but clarifies that revenues received by a school district for dual enrollment purposes are not to be included in a school district's budgeted total expenditure per average daily membership for purposes of calculating the district's per-student charter school payment.

**Section 1703-A Definitions** – Definitions are added or changed for the following terms: Administrator, Assessment, Charter school entity, Charter school foundation, Chief administrator, Community college, Cyber charter school, Educational management service provider, Immediate family member, Local board of school directors, Nonrelated, School district of residence, School performance profile, State System institution.

**Section 1704-A Charter School Funding Advisory Commission** -- This new section creates the Charter School Funding Advisory Commission, a 14-member commission charged with exploring funding issues related to charter school entities, and making recommendations to the General Assembly and the Governor.

**Section 1715-A Charter School Entity Requirements** – Several changes are made in this section concerning requirements placed on charter school entities and their administrators. It places tight limitations on when charter school administrators can perform work for another entity, includes detailed prohibitions against nepotism relating to charter school entities, and adds rules concerning conflicts of interest for charter school entity trustees and employees, and the dismissal of charter school administrators.

**Section 1716-A Powers of Board of Trustees** – Changes to this section include prohibiting compensation for charter school board members for their duties as board members and the placing of additional controls on charter school entity auditing, governance, and oversight.

**Section 1716.1-A Payment of Indebtedness by Charter School Entities** -- This new section makes changes concerning charter school entity debt. Charter schools must annually hold in escrow an amount sufficient to pay its annual amount due. If a charter school fails to pay principal or interest due, the bank or bond trustee must notify the board of trustees of its obligation and immediately notify the Secretary of Education and, in the case of a charter school or regional charter school, the local board of school directors. The Secretary must also withhold from any payment due the charter school entity an amount necessary to pay the indebtedness due.

**Section 1717-A Establishment of Charter School** – Changes are made to this section concerning open meetings and best practices.

**Section 1719-A Contents of Application** -- This legislation also makes changes to the School Code designed to improve the chartering process. It requires the Department of Education (PDE) to develop an application form that must be used by all initial and renewal charter applicants, school boards and the Department. Detailed requirements for the form are enumerated in this section.

**Section 1720-A Term and Form of Charter** -- Allows charters to be granted for an initial term of 5 years, followed by 10-year renewal terms for those charter school entities that satisfy an academic quality benchmark established by the State Board, and 5-year renewal terms for those charter school entities that do not satisfy the benchmark. Also provides that, beginning in the 6th year of any 10-year renewal term, the charter of any charter school entity that fails for 2 consecutive years to satisfy the academic quality benchmark shall be subject to review by its authorizer. This section also establishes a charter amendment process.

**Section 1721-A State Charter School Appeal Board** – Changes to this section expand the current membership of the State Charter School Appeal Board within PDE from 7 members to 10 by adding to the panel an administrator of a charter school entity, a trustee of a charter school entity, and a principal of a public school not operated under the charter school provisions of the Public School Code. They also clarify the description of the parent member of the panel to require the parent to have a child who is enrolled in a charter school entity.

**Section 1722-A Facilities** – Changes in this section give charter school entities the right of first refusal to purchase or lease, for educational purposes only, a public school building or part of a public school building which is no longer in use by the school entity, subject to certain requirements and conditions. In addition, they prohibit the availability of alcoholic beverages for consumption, purchase or sale in any charter school entity facility, subject to the Secretary’s imposition of a fine of \$1,000 for the first violation, \$5,000 for the second violation, and revocation of the charter for the third violation.

**Section 1723-A Admission and Enrollment Requirements** – Changes to this section concern charter school entity admission and enrollment requirements and preferences.

**Section 1725-A Funding for Charter School Entities** – Changes are made to the charter school funding formulas. For regular education students at cyber charter schools only, for the 2017-2018 school year and continuing until the earlier of the end of the 2018-2019 school year or the enactment of a new formula, the per-student rate is set at an amount calculated by permitting a school district to deduct all budgeted expenditures permitted to be deducted under current law, plus the following additional deductions: the actual total amount the school district paid to cyber charter schools for the prior school year; tax assessment and collection services; and 30% of operation and maintenance of plant services.

In a school district in a city of the first class, savings resulting from changes in the cyber charter school funding formula for the 2017-2018 and 2018-2019 school years must be used for school-based services that may include early childhood education, tutoring services, educational enrichment programs, reducing class size, reducing or eliminating fees to participate in after-school programs, expanding access to the arts, and library services.

The process for charter school payment calculation and dispute resolution is further clarified. The Secretary of Education must review school district calculations of payments to charter schools for errors and require districts to correct the errors. If a school district or charter school entity files notice of a dispute with the Secretary, the Secretary must hold a hearing within 30 days, make a determination within 30 days of the hearing, and require the substantially prevailing party’s reasonable legal fees be paid by the other party. Decisions of the Secretary may be appealed to Commonwealth Court.

**Section 1728-A Annual Reports and Assessments** – Changes to this section add reporting and assessment requirements on charter school entities, including an annual independent audit.

**Section 1729-A Causes for Nonrenewal or Termination** – Changes to this section involve the circumstances under which PDE may require the removal of a charter school administrator or member of the entities' board of trustees before a charter school entity's charter will be renewed. The removal would be for violation of enumerated laws.

**Section 1729.1-A Evaluation of Educators** – this new section adds requirements for teacher evaluations at charter school entities.

**Section 1729.2-A Multiple Charter School Organizations** – Changes to this section describe the conditions and requirements for two or more high-performing charter schools to consolidate into a Multiple Charter School Organization that will be managed by a single board of trustees and a single administrator.

**Section 1731.1-A Fund Balance Limits** – This new section places limits on the unassigned fund balances and reserves of charter school entities, similar to those placed on school districts. Any excess over the established limit must be returned to those school districts that paid tuition to the charter school entity.

**Section 1731.2-A Performance Matrix** -- This new section requires the State Board of Education, in consultation with an advisory committee composed of representatives of PDE, charter school entities, institutions of higher education with experience in oversight of charter schools, and school district personnel to create a performance matrix to measure and assess the academic performance of charter school entities, through regulations promulgated under the Regulatory Review Act.

**Section 1732-A Provisions Applicable to Charter Schools and Regional Charter Schools** – Changes to this section make charter schools, regional charter schools, and cyber charter schools subject to numerous provisions of law to which they are not currently subject.

**Section 1733-A Effect on Existing Charter School Entities** – This new section clarifies how the changes in this legislation will affect existing charter school entities.

**Section 1741-A Powers and Duties of Department** – Changes in this section make Charter School Appeal Board documents subject to the "Right-to-Know Law."

**Section 1742-A Assessment and Evaluation** – In this section, provisions are added under which school districts, intermediate units, community colleges, and State System of Higher Education Universities must provide cyber charter schools with reasonable access to their facilities for the administration of standardized tests.

**Section 1743-A Cyber Charter School Requirements and Prohibitions** – Changes to this section allow the parent or guardian of more than one child enrolled in the same cyber charter school to elect not to receive a separate computer, monitor and printer for each enrolled child.

**Section 1745-A Establishment of Cyber Charter School** – This section provides that changes in this legislation do not preclude school districts and intermediate units from offering online

instruction that is not recognized as a cyber charter school, and allows local boards of school directors and intermediate units to establish cyber charter schools pursuant to the procedures and requirements of the Charter School Law. It also clarifies that a cyber charter school student's violation of the compulsory attendance law will subject the student to penalties under Section 1333 of the School Code.

**FISCAL IMPACT:**

Members of the Charter School Funding Advisory Commission will receive no compensation for their services, but will be reimbursed by PDE for travel and other reasonable expenses incurred in connection with their service as members. Whenever possible, the Commission must use the services and expertise of existing personnel and staff of state government. The General Assembly is charged with providing administrative support, meeting space, and any other assistance required by the Commission to carry out its duties. It is expected the expenses of this Commission will be minimal and can be absorbed within the currently available and budgeted funds of PDE and the General Assembly.

Changes to the cyber charter school funding formula will have no adverse impact on Commonwealth funds. However, increasing the expenditures school districts may deduct when calculating payments to cyber charter schools will save school districts money by reducing their payments to those schools. It is estimated these savings could be as much as \$27 million per fiscal year.

Some of the additional responsibilities from this legislation placed on school districts and charter schools could have a fiscal impact on those entities. However, the extent of this impact will vary greatly based on the individual circumstances of each school district and charter school.

It is estimated that other duties and responsibilities assigned to PDE in this legislation will have a minimal fiscal impact that can be absorbed within the currently available and budgeted funds of the Department.

**PREPARED BY:** Jeff Miller  
House Appropriations Committee (R)

**DATE:** April 24, 2017

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*