

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.** Senate Bill 1085

**PRINTER'S NO.** 1597

**AMOUNT**

FY 2013-14 - \$300,000  
FY 2014-15 - (\$43,990,832)

**FUND**

General Fund

**DATE INTRODUCED**

August 27, 2013

**PRIME SPONSOR**

Senator Smucker

**HISTORY OF BILL**

- Referred to EDUCATION, Aug. 27, 2013
- Reported as amended, Oct. 16, 2013
- First consideration, Oct. 16, 2013
- Re-referred to APPROPRIATIONS, Oct. 16, 2013
- (Remarks see Senate Journal Page ....), Oct. 16, 2013
- Re-reported as amended, Nov. 19, 2013

**DESCRIPTION AND PURPOSE OF BILL**

Senate Bill 1085 makes changes related to the governance, operation and financing of charter schools, regional charter schools and cyber charter schools in the Public School Code of 1949. The provisions are as follows:

Agreements with Institutions of Higher Education – Provides that charter school entities and vocational technical schools may enter into a concurrent enrollment agreement with an institution of higher education.

Funding Advisory Committee -- Provides for the Governor to convene an 18 member statewide advisory committee to examine the financing of charter school entities and make a report of its findings and recommendations no later than August 31, 2014. Provides for the Department of Education and Governor’s Budget office to provide administrative support, meeting space and other assistance as required by the committee to carry out its duties. Calls for the committee to utilize the services and expertise of existing personnel and staff of state government whenever possible. Provides that committee members shall not be compensated for their service but shall be reimbursed for travel and necessary expenses. Provides that the Department may utilize \$300,000 from undistributed funds, not expended, encumbered or committed from appropriations for grants and subsidies to provide for the operations of the commission.

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Use of Religious Facilities -- Allows a charter school entity to utilize religious facilities if it covers or removes religious objects.

Trustees and Boards of Trustees -- Provides that a charter school entity trustee is a public official subject to the Ethics Act and required to file an annual statement of financial interest. Prohibits conflicts of interest by a trustee and provides for the removal of a trustee for conviction of a felony and other crimes. Provides for procedures to remove a trustee that neglects to perform the duties required under this act. For a charter school or regional charter school chartered after the effective date of the act, it prohibits an individual from serving as a trustee, if the individual or immediate family member is employed by or is a member of the local board of school directors of the school district or institution of higher education granting the charter. Provides that an employee of a school district or institution of higher education that chartered the charter school or regional charter school may serve as a nonvoting trustee. Prohibits a trustee from being compensated for board duties. Requires a charter school entity board of trustees to have more than five (5) unrelated members and add a parent member to its board.

Administrators -- Provides that a charter school entity administrator is a public employee subject to the Ethics Act and required to file an annual statement of financial interest. Prohibits conflicts of interest by an administrator and provides for the dismissal of an administrator for conviction of a felony and other crimes. Prohibits an administrator from receiving compensation from another charter school entity or education management service provider, unless the administrator has provided the school's board with details of the work to be performed for another entity and receives the permission of the board. Prohibits an administrator or immediate family member from serving as a voting member of the board of trustees of that person's charter school entity.

Debt Service Reporting, Escrow and Withholding -- Requires a charter school entity's board of trustees to report the amount of rental payments due for school building debt or bonds during the fiscal year and hold an amount sufficient to make the necessary payments in escrow. Requires the Secretary to withhold funds due to a charter school entity in the amount necessary to pay debt service if a payment is missed. Provides that payments made by the Secretary on behalf of a charter school entity or to a charter school entity shall not be given priority over debt service obligations needing to be paid on behalf of a school district under Section 633 (Reports to Secretary of Education; Withholding State Appropriations.), Section 785 (Failure to pay Rent or Make Payment; Withholding Appropriations) and 53 Pa C.S. Section 8125(b) (relating to security for tax anticipation notes and sinking fund).

Fund Balance Limits -- Places a limit on the unassigned fund balance a charter school entity may maintain beginning in fiscal year 2013-2014. Unassigned fund balances exceeding the limits are to be refunded to school districts that paid tuition to the school on a pro rata basis. Prohibits using excess fund balances for bonuses or transferring funds to a charter school foundation. The unassigned fund balance limits are as follows:

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Total Budgeted Expenditures	Max Unassigned Fund Balance as a % of Expenditures
Less than or equal to \$11,999,999	12.0%
Between \$12,000,000 and \$11,999,999	11.5%
Between \$13,000,000 and \$13,999,999	11.0%
Between \$14,000,000 and \$14,999,999	10.5%
Between \$15,000,000 and \$15,999,999	10.0%
Between \$16,000,000 and \$16,999,999	9.5%
Between \$17,000,000 and \$17,999,999	9.0%
Between \$18,000,000 and \$18,999,999	8.5%
Greater than or equal to \$19,000,000	8.0%

Establishment of Charter Schools – Provides that the governing board of an institution of higher education primarily domiciled in the Commonwealth may approve a charter school or regional charter school application beginning July 1, 2015. Specifies that an institution with at least 2,000 students that confers a doctoral degree in education may authorize a charter school anywhere in the Commonwealth, an institution with at least 2,000 students that confers a bachelor’s degree in education may authorize a charter in the county which it is located, and an institution with at least 2,000 students that does not confer a bachelor’s degree in education or a doctoral degree in education may authorize a charter school in the school district which it is located. Provides no appeal for a charter that is denied by the governing board of an institution of higher education. Eliminates provisions requiring a charter applicant to obtain the signatures of residents on a petition to appeal a denial to the charter school appeals board. Eliminates provisions requiring a charter school entity’s application be evaluated based on the extent to which the school may serve as a model for other public schools.

Establishment of Charter Schools in the School District of the First Class -- Requires the School Reform Commission to notify a charter applicant that its application has been granted or denied, and if denied, the reason for the denial. Provides that a charter school application denied by the School Reform Commission may appeal the decision to the charter school appeal board.

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Charter School Applications -- Requires the department to create a standard application for charter school applicants and for existing charter school entities to seek renewal of their charters. The application is expanded to require the following information: an organizational chart of the school's proposed governance structure, a description of the roles and responsibilities of the board of trustees, administrators and any other entities shown in the organization chart; a clear description of the method for appointment or election of trustees; standards for board performance; whether or not the entity intends to contract with an educational management services provider, and, if so, specific information regarding the provider and the contract; plans for satisfying criminal history and child abuse clearances; policies regarding truancy and absences; information regarding how the school intends to meet standards; and, whether the school intends to seek accreditation by a national accreditation agency. Provides that a local board of school directors or the governing board of an institution of higher education may not impose additional terms or develop its own in its application.

Charter Terms and Amendments -- Increases the initial term of a charter school entity's charter from three (3) to five (5) years. Allows for a charter school entity to receive a ten (10) year charter renewal subject to meeting the academic quality benchmark established in the performance matrix. Establishes a process for a charter school entity to amend its existing charter agreement.

State Charter School Appeal Board -- Increases the membership on the state charter school appeal board by adding a charter school entity trustee and a charter school entity administrator. Requires the parent appointee to be a parent of a student enrolled in a charter school entity.

Charter School Facilities -- Provides that a charter school entity has the right of first refusal to purchase or lease an existing public school building or spaces in a public school building at or below fair market value. Allows a school district to permit a charter school to operate its school in more than one location. Clarifies that a charter school entity and associated non-profits are tax exempt. Prohibits consumption or sale of alcoholic beverages in a charter school entity and provides for a fine of \$1,000 for the first violation and \$5,000 for a second and subsequent violations.

Charter School Enrollment -- Provides for the Department to develop a standard charter school enrollment form which is to include the student's name, residency information and grade level. Requires a student to submit a completed enrollment form to be qualified for admission. Provides that first preference in admission shall be given to students that reside in the district or districts in which the charter school is physically located. Provides that if a waiting list exists, students are to be selected on a random basis with preference given to parent of a child that participated in the development of the charter, siblings of students presently enrolled and students that reside in the district or districts in which the charter school is physically located. Prohibits a charter school entity from being subject to a cap on enrollment.

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### Commonwealth Retirement Contributions –

Reduces the Commonwealth's contributions on behalf of the charter school employees enrolled in the Public School Employees' Retirement System by fifty percent (50%).

Charter School Funding – Excludes thirty percent (30%) of the employer's share of retirement contributions from the calculation of charter school entity funding. Provides that proceeds of competitive grants from private and public resources or from contributions or donations from private sources are excluded from the calculation of charter school entity funding. Provides for direct payment of state funding to charter school entities in twelve (12) equal monthly payments and establishes procedures to resolve funding disputes. Funds are to be deducted from subsidies due to the student's school district of residence. If there are insufficient payments due to a school district for the department to deduct the funds necessary to make a payment, the school district is required to pay the unpaid balance directly within ten (10) days following the established payment date. Provides that payments to charter school entities shall not be given priority over debt service payments. Provides for a process to resolve funding disputes related to the accuracy of payments. Allows a school district of the first class that has been declared to be in distress to make its payments directly to charter school entities. Allows for the department to recoup funds from a charter school entity when payments are made in error. Requires an intermediate unit or school district to provide services to assist a charter school entity to address the specific needs of its students at the charter schools request and charge the charter school entity no more than it would charge a constituent school district or districts. Allows a charter school entity to accept gifts and prohibits school officials from requiring a gift or donation as a condition of employment, enrollment or continued attendance. Prohibits providing discounts or waiving payments to a school district.

Cyber Charter School Funding – Provides that a cyber charter school shall receive ninety-five (95%) of the amount calculated to be paid by a school district for each student enrolled.

Charter School Financial Reports and Assessments -- Provides local school board directors or the board of an institution of higher education ongoing access to a charter school's financial records, reports, aggregate standardized test scores, and teacher certification and personnel records. Requires a charter school entity form an independent audit committee to annually review a completed certified audit of its operations. Provides for a charter school entity's audit and annual budget to be public documents and available on the Internet. Provides that a charter school entity is subject to audit by the Auditor General. Requires a charter school entity provide its grantor and the department with its annual budget that identifies sources of funding, the amount and use of funds provided by a charter school foundation, all expenditures to education management service providers and the salaries of administrators. Requires a charter school entity and related foundations to make its budget and tax filings available upon request and on the Internet.

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Charter School Teacher Evaluations -- Requires all applications for a charter and renewal to include a system for evaluation of educators. The system is required to include the following: four (4) rating categories for educator performance; and, multiple measures of student performance which shall include but not be limited to, value added assessment system data, student performance on the most recent assessments and goals specific to the charter school's mission.

Charter School Performance Matrix -- Requires the Department to develop a performance matrix to evaluate charter school entity performance within one (1) year of the effective date of the act. The performance matrix is to utilize objective criteria including, but not limited to: the Pennsylvania System of School Assessment Test, Keystone Exams; annual growth as determined by the Pennsylvania Value Added Assessment System; attendance; attrition rates; graduation rates; accreditation; school safety and other measures of school quality. The department is to develop the matrix with input from charter school operators and may contract for consulting services with an entity experienced in developing matrices. In developing the matrix, the Department is required to determine an academic quality benchmark used to qualify a charter school entity for a 10 year charter renewal. Provides that local school boards and institutions of higher education may not adopt a separate matrix and allows for the matrix to be used as a factor in evaluating new charter applications and charter renewals.

Multiple Charter School Organizations -- Provides that two (2) or more charter schools may consolidate and transfer their oversight to the department. Provides that for a charter school to be eligible for consideration it must not have failed to meet student performance standards in in the last two years, meet acceptable standards of fiscal management or audit requirements and meet standards set forth related to the performance matrix. Existing charter schools may consolidate and transfer within ninety (90) days of the effective date of the act. Provides for the Department to develop an application for schools wishing to consolidate. Provides for multiple charter school organizations to use the same system for assessments as school districts.

Effective Dates -- The provisions requiring charter school entities to revise their charters within one (1) year take effect immediately. The provisions related to charter school entity funding and state pension contributions to charter school entities are scheduled to take effect July 1, 2014. All other provisions take effect in sixty (60) days.

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### **FISCAL IMPACT:**

The Department of Education estimates administrative costs related to the operations of the new charter school direct payment provisions to cost \$300,000. This would include start-up costs, staff salaries and benefits and transaction billing and additional hearings related to discrepancies. The Department also estimates that the operations of the statewide charter school funding advisory committee will cost \$250,000 from which the department may utilize \$300,000 from undistributed funds, not expended, encumbered or committed from appropriations for grants and subsidies to provide for the operations of the commission.

The provisions which reduce the requirement for the Commonwealth to make contributions on behalf of charter school entity employees enrolled in the Public School Employees' Retirement System (PSERS) by fifty percent (50%) are estimated to save the Commonwealth \$43,990,832 in FY 2014-15. Future savings will be dependent on charter school entities' salaries and the PSERS employer contribution rate.

The provisions which exclude thirty percent (30%) of the employer's share of retirement contributions from the calculation of charter school entity funding should reduce school districts' obligations to charter school entities by \$43,917,907 related to pension payments made for salaries paid in FY 2014-15. Future savings will be dependent on school districts' salaries and the PSERS employer contribution rate. The provisions that specify proceeds of competitive grants from private and public resources or from contributions or donations from private sources are excluded from the calculation of charter school entity funding will also reduce the amount revenue owed by school districts to charter schools.

It is estimated that the provisions providing for a cyber charter school to receive ninety-five (95%) of the amount calculated to be paid by a school district for each student enrolled will save school districts approximately \$18,728,523.