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.
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
A BILL ENTITLED

Public Charter School Act of 2003

FOR the purpose of authorizing the county boards of education to be the public chartering authorities for public charter schools in the State; establishing the rights and duties of the county boards as public chartering authorities; enumerating the entities that may or may not apply for a charter; permitting existing public schools to convert to public charter schools under certain circumstances; requiring the county boards to establish an application process for charter schools; specifying certain application requirements; establishing certain procedures for applicants; establishing an appeals process for applicants who have been denied a charter; requiring the State Board to direct a county board to grant a charter under certain circumstances; requiring certain charter agreements between the public charter schools and the county boards; establishing certain rights and duties of public charter schools; establishing an admissions policy for public charter schools; prohibiting the charging of tuition and certain fees at public charter schools; establishing certain requirements for construction and development of facilities for public charter schools; authorizing the State Board of Education or the county boards of education to grant public charter schools certain waivers under certain circumstances; requiring the county boards to provide certain funding for public charter schools; authorizing negotiations between the public charter schools and the county boards concerning certain funding; requiring public charter schools and the parents of students at the schools to provide for transportation of the students attending the schools; authorizing negotiations between the public charter schools and the county boards concerning transportation; requiring a member of the professional staff to hold a certain certification; requiring the county boards to grant initial charters for public charter schools for up to a certain number of years; providing that the county boards may renew charters for subsequent periods for up to a certain number of years; requiring a certain review for renewal of a charter; requiring annual assessments of public charter schools; requiring dissemination of certain reports by charter schools; establishing the conditions for revocation of 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.
SENATE BILL 5

TITLE 9. PUBLIC CHARTER SCHOOL PROGRAM.

9-101.

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

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

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

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

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

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

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

9-102.

(A) THE GENERAL ASSEMBLY FINDS THAT:

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

(I) PROVIDE INNOVATIVE LEARNING OPPORTUNITIES; AND

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

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

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

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

(2) CAN CREATE NEW PROFESSIONAL OPPORTUNITIES FOR TEACHERS; AND
SENATE BILL 5

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.
SENATE BILL 5

9-105.

(A) A COUNTY BOARD SHALL:

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

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

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

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

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

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

9-106.

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

(B) THE APPLICATION FOR A CHARTER SHALL INCLUDE:

(1) THE IDENTITY OF THE APPLICANT OR APPLICANTS;

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

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

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

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

(II) THE METHOD OF APPOINTMENT OR ELECTION OF THE
    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.
(F) IF THE COUNTY BOARD DENIES AN APPLICATION TO ESTABLISH A PUBLIC CHARTER SCHOOL AND THE STATE BOARD REVERSES THE DECISION, THE STATE BOARD SHALL DIRECT THE COUNTY BOARD TO GRANT A CHARTER.

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

(1) THE COUNTY BOARD; OR

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

9-108.

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

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

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

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

9-109.

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

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

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


(3) AUDIT REQUIREMENTS;

(4) A PERFORMANCE AGREEMENT REQUIRING THAT THE ACADEMIC ACHIEVEMENT OF THE STUDENTS ENROLLED AT A PUBLIC CHARTER SCHOOL BE MEASURED ACCORDING TO:
STATE ASSESSMENTS REQUIRED BY THE STATE FOR OTHER PUBLIC SCHOOLS; AND

OTHER ASSESSMENTS MUTUALLY AGREEABLE TO THE COUNTY BOARD AND THE SCHOOL; AND

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

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

9-110.

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

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

9-111.

(A) A PUBLIC CHARTER SCHOOL SHALL:

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

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

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

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

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

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

(C) A PUBLIC CHARTER SCHOOL MAY NOT TAKE ANY ACTION THAT WOULD BE ILLEGAL IF THE ACTION WERE UNDERTAKEN BY A COUNTY BOARD.
(D) UNLESS APPROVED BY THE COUNTY BOARD, A PUBLIC CHARTER SCHOOL MAY NOT CHARGE TUITION OR OTHER FEES THAT ARE NOT CHARGED BY A PUBLIC SCHOOL IN THE COUNTY.

9-112.

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

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

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

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

9-113.

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

(1) PART OF AN EXISTING PUBLIC SCHOOL BUILDING;

(2) A PUBLIC BUILDING OTHER THAN AN EXISTING PUBLIC SCHOOL; OR

(3) ANY OTHER SUITABLE LOCATION.

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

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

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

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

(1) THE FACILITY IS OWNED BY THE COUNTY BOARD; AND

(2) THE COUNTY BOARD REQUESTS THE FUNDS FOR THE FACILITY AS PART OF ITS PUBLIC SCHOOL CONSTRUCTION CAPITAL IMPROVEMENT PROGRAM REQUEST.
9-114.

(A) For a fiscal year, a public charter school shall receive, for each student enrolled in the school, the per pupil basic current expense figure calculated under § 5-202 of this article.

(B) A public charter school may negotiate with the county board for additional funding.

9-115.

(A) A public charter school and the parents or guardians of students who attend the school shall be responsible for the transportation of the students to and from the school.

(B) A public charter school and a county board may negotiate the transportation of students who attend a public charter school.

9-116.

(A) A member of the professional staff of a public charter school shall hold the appropriate Maryland certification.

(B) A certificated or noncertificated employee of a public charter school shall be deemed an employee of the county and shall retain:

(1) The option of joining or remaining a member of the appropriate employee bargaining unit;

(2) All rights and responsibilities that exist under the applicable collective bargaining contract between the county board and the employee representative; and

(3) All employment rights under county, state, and federal law.

9-117.

(A) A person who alleges that a public charter school has violated a provision of this title may file a complaint with the public charter school.

(B) If the complaint is not resolved by the public charter school to the satisfaction of the complainant, the complainant may present the complaint to the county board.

(C) (1) The complainant may appeal the decision of the county board to the state board as provided in § 4-205 of this article.
(2) THE DECISION OF THE STATE BOARD ON AN APPEAL UNDER PARAGRAPH (1) OF THIS SUBSECTION IS FINAL.

9-118.

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

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

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

9-119.

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

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

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

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

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

9-120.

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

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

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

(2) IF THE SCHOOL HAS MATERIALLY VIOLATED A CONDITION, STANDARD, OR PROCEDURE OF THE CHARTER;
SENATE BILL 5

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

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

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

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

(7) FOR OTHER GOOD CAUSE SHOWN.

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

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

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

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

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

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

(9-121.

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

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

HB 131 / Page 5
SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2003.
A BILL ENTITLED

AN ACT concerning

Public Charter School Act of 2003

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

BY adding to
Article - Education
Section 9-101 through 9-106, inclusive, to be under the new title "Title 9.
Maryland 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

TITLE 9. MARYLAND PUBLIC CHARTER SCHOOL PROGRAM.

9-101.

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

(B) THE GENERAL PURPOSE OF THE PROGRAM IS TO ESTABLISH AN
ALTERNATIVE MEANS WITHIN THE EXISTING PUBLIC SCHOOL SYSTEM IN ORDER TO
PROVIDE INNOVATIVE LEARNING OPPORTUNITIES AND CREATIVE EDUCATIONAL
APPROACHES TO IMPROVE THE EDUCATION OF STUDENTS.
IN THIS TITLE, "PUBLIC CHARTER SCHOOL" MEANS A PUBLIC SCHOOL THAT:

(1) IS NONSECTARIAN IN ALL ITS PROGRAMS, POLICIES, AND OPERATIONS;
(2) IS A SCHOOL TO WHICH PARENTS CHOOSE TO SEND THEIR CHILDREN;
(3) IS OPEN TO ALL STUDENTS ON A SPACE-AVAILABLE BASIS AND ADMITS STUDENTS ON A LOTTERY BASIS IF MORE STUDENTS APPLY THAN CAN BE ACCOMMODATED;
(4) IS A NEW PUBLIC SCHOOL OR A CONVERSION OF AN EXISTING PUBLIC SCHOOL;
(5) PROVIDES A PROGRAM OF ELEMENTARY OR SECONDARY EDUCATION OR BOTH;
(6) OPERATES IN PURSUIT OF A SPECIFIC SET OF EDUCATIONAL OBJECTIVES;
(7) IS TUITION-FREE;
(8) IS SUBJECT TO FEDERAL AND STATE LAWS PROHIBITING DISCRIMINATION;
(9) IS IN COMPLIANCE WITH ALL APPLICABLE HEALTH AND SAFETY LAWS; AND
(10) IS CREATED IN ACCORDANCE WITH THIS TITLE AND THE APPROPRIATE COUNTY BOARD POLICY.

THE PRIMARY PUBLIC CHARTERING AUTHORITY FOR THE GRANTING OF CHARTERS SHALL BE THE COUNTY BOARDS OF EDUCATION.

THE SECONDARY PUBLIC CHARTERING AUTHORITY FOR THE GRANTING OF CHARTERS SHALL BE THE STATE BOARD ACTING IN ITS APPEAL REVIEW CAPACITY.

THE STATE BOARD MAY CREATE ADDITIONAL PUBLIC CHARTERING AUTHORITIES.

AN APPLICATION TO ESTABLISH A PUBLIC CHARTER SCHOOL SHALL BE SUBMITTED TO THE COUNTY BOARD OF THE COUNTY IN WHICH THE CHARTER SCHOOL WILL BE LOCATED.
(2) AN APPLICATION TO ESTABLISH A PUBLIC CHARTER SCHOOL MAY BE SUBMITTED TO A COUNTY BOARD BY:

(I) THE STAFF OF A PUBLIC SCHOOL;

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

(III) A NONPROFIT ENTITY;

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

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

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

(I) A PRIVATE SCHOOL;

(II) A PAROCHIAL SCHOOL; OR

(III) A HOME SCHOOL.

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

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

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

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

THE DEPARTMENT SHALL DESIGNATE A STAFF PERSON TO FUNCTION AS A CONTACT PERSON FOR THE MARYLAND PUBLIC CHARTER SCHOOL PROGRAM.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2003.
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.
A BILL ENTITLED

AN ACT concerning Education - Children in Out-of-County Living Arrangements - Informal Kinship Care

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

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

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

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

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

Article - Education

4-122.

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

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

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

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

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

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

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

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

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

(iii) If custody has been awarded to both parents and the parents reside in different counties, both counties shall be considered financially responsible
and shall pay one-half the amount as computed in accordance with subsection (c) of this section, except that if the child receives a public education in a county where a parent resides, this subparagraph shall not apply; or

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

7-101.

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

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

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

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

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

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

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

(IV) "SERIOUS FAMILY HARDSHIP" MEANS:

1. DEATH OF A PARENT OR LEGAL GUARDIAN OF THE CHILD;

2. SERIOUS ILLNESS OF A PARENT OR LEGAL GUARDIAN OF THE CHILD;

3. DRUG ADDICTION OF A PARENT OR LEGAL GUARDIAN OF THE CHILD;
4

SENEATE BILL 32

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

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

THE AFFIDAVIT SHALL BE IN THE FOLLOWING FORM:

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

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

_____DEATH OF FATHER/MOTHER/LEGAL GUARDIAN
_____SERIOUS ILLNESS OF FATHER/MOTHER/LEGAL GUARDIAN
_____DRUG ADDICTION OF FATHER/MOTHER/LEGAL GUARDIAN
_____INCARCERATION OF FATHER/MOTHER/LEGAL GUARDIAN
_____ABANDONMENT BY FATHER/MOTHER/LEGAL GUARDIAN
_____ASSIGNMENT OF A PARENT OR LEGAL GUARDIAN OF A
CHILD TO ACTIVE MILITARY DUTY

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

__________________________
__________________________
__________________________

(IV) MY KINSHIP RELATION TO THE CHILD IS ____________

(V) MY ADDRESS IS:

__________________________
STREET APT. NO.

__________________________
CITY STATE ZIP CODE

(VI) I ASSUMED INFORMAL KINSHIP CARE OF THIS CHILD FOR 24
HOURS A DAY AND 7 DAYS A WEEK ON __________________(DAY/MONTH/YEAR).
(VII) THE NAME AND ADDRESS OF THE LAST SCHOOL THAT THE
CHILD ATTENDED IS: _________________________________________________________________
__________________________________________________________________________

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

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

__________________________________________
SIGNATURE OF AFFIANT

__________________________________________
(DAY/MONTH/YEAR)

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

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

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

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

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

(II) THE RELATIVE PROVIDING INFORMAL KINSHIP CARE SHALL
FILE AN AFFIDAVIT ANNUALLY AT LEAST 2 WEEKS PRIOR TO THE BEGINNING OF THE
SCHOOL YEAR FOR EACH YEAR THE CHILD CONTINUES TO LIVE WITH THE RELATIVE
BECAUSE OF A SERIOUS FAMILY HARDSHIP.
UNLESS THE COURT APPOINTS A GUARDIAN FOR THE CHILD OR
AWARDS CUSTODY OF THE CHILD TO SOMEONE OTHER THAN THE RELATIVE
PROVIDING INFORMAL KINSHIP CARE, THE RELATIVE PROVIDING INFORMAL
KINSHIP CARE SHALL MAKE THE FULL RANGE OF EDUCATIONAL DECISIONS FOR
THE CHILD.

THE RELATIVE PROVIDING INFORMAL KINSHIP CARE SHALL MAKE
REASONABLE EFFORTS TO INFORM THE PARENT OR LEGAL GUARDIAN OF THE CHILD
OF THE INFORMAL KINSHIP CARE RELATIONSHIP.

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

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
July 1, 2003.
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   2003 Regular Session
F1   3lr0441
SB 186/02 - EHE

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
   Kinship Care

3 FOR the purpose of requiring a superintendent of schools of a county to allow a child
4 to attend a public school in a county other than where the child was previously
5 domiciled in Maryland with the child's parent or legal guardian if the child lives
6 with a relative in the county due to a serious family hardship; altering a certain
7 definition; defining certain terms; requiring certain relatives of a child to file
8 certain affidavits and certain supporting documentation under certain
9 circumstances; establishing the contents and form of certain affidavits;
10 requiring certain affidavits to be provided free of charge at certain offices;
11 authorizing certain relatives to make educational decisions for children in their
12 custody; and generally relating to children in out-of-county living
13 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)
SENATE BILL 32

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

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

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

Article - Education

4-122.

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

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

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

[I] [placed] PLACED by a State agency, a licensed child placement agency as provided by § 5-507 of the Family Law Article, or a court in a county other than where the child's parent or legal guardian resides.

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

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

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

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

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

(iii) If custody has been awarded to both parents and the parents reside in different counties, both counties shall be considered financially responsible.
and shall pay one-half the amount as computed in accordance with subsection (c) of this section, except that if the child receives a public education in a county where a parent resides, this subparagraph shall not apply; or

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

7-101.

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

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

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

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

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

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

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

(IV) "SERIOUS FAMILY HARDSHIP" MEANS:

1. DEATH OF A PARENT OR LEGAL GUARDIAN OF THE CHILD;
2. SERIOUS ILLNESS OF A PARENT OR LEGAL GUARDIAN OF THE CHILD;
3. DRUG ADDICTION OF A PARENT OR LEGAL GUARDIAN OF THE CHILD;
SENATE BILL 32

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

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

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

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

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

(3) THE AFFIDAVIT SHALL INCLUDE:

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

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

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

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

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

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

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

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

(IX) NOTICE THAT IF FRAUD OR MISREPRESENTATION IS DISCOVERED DURING AN AUDIT, THE COUNTY SUPERINTENDENT SHALL REMOVE THE CHILD FROM THE COUNTY PUBLIC SCHOOL SYSTEM ROLL; AND
(X) NOTICE THAT ANY PERSON WHO WILLFULLY MAKES A
MATERIAL MISREPRESENTATION IN THE AFFIDAVIT SHALL BE SUBJECT TO A
PENALTY PAYABLE TO THE COUNTY FOR THREE TIMES THE PRO RATA SHARE OF
TUITION FOR THE TIME THE CHILD FRAUDULENTLY ATTENDS A PUBLIC SCHOOL IN
THE COUNTY.

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

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

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

_____DEATH OF FATHER/MOTHER/LEGAL GUARDIAN
_____SERIOUS ILLNESS OF FATHER/MOTHER/LEGAL GUARDIAN
_____DRUG ADDICTION OF FATHER/MOTHER/LEGAL GUARDIAN
_____INCARCERATION OF FATHER/MOTHER/LEGAL GUARDIAN
_____ABANDONMENT BY FATHER/MOTHER/LEGAL GUARDIAN
_____ASSIGNMENT OF A PARENT OR LEGAL GUARDIAN OF A
CHILD TO ACTIVE MILITARY DUTY

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

________________________
________________________
________________________

(IV) MY KINSHIP RELATION TO THE CHILD IS ____________

(V) MY ADDRESS IS:

________________________
STREET
________________________
APT. NO.

CITY         STATE         ZIP CODE

(VI) I ASSUMED INFORMAL KINSHIP CARE OF THIS CHILD FOR 24
HOURS A DAY AND 7 DAYS A WEEK ON __________________(DAY/MONTH/YEAR).
(VII) THE NAME AND ADDRESS OF THE LAST SCHOOL THAT THE CHILD ATTENDED IS: _________________________________________________________________
________________________________________________________________________

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

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

_____________________________________
SIGNATURE OF AFFIANT

_____________________________________
(DAY/MONTH/YEAR)

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

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

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

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

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

(II) THE RELATIVE PROVIDING INFORMAL KINSHIP CARE SHALL FILE AN AFFIDAVIT ANNUALLY AT LEAST 2 WEEKS PRIOR TO THE BEGINNING OF THE SCHOOL YEAR FOR EACH YEAR THE CHILD CONTINUES TO LIVE WITH THE RELATIVE BECAUSE OF A SERIOUS FAMILY HARDSHIP.
(8) UNLESS THE COURT APPOINTS A GUARDIAN FOR THE CHILD OR
AWARDS CUSTODY OF THE CHILD TO SOMEONE OTHER THAN THE RELATIVE
PROVIDING INFORMAL KINSHIP CARE, THE RELATIVE PROVIDING INFORMAL
KINSHIP CARE SHALL MAKE THE FULL RANGE OF EDUCATIONAL DECISIONS FOR
THE CHILD.

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

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

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
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.

Attachment I – SB 66
AN ACT concerning

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

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

BY repealing and reenacting, with amendments,
Article - Tax - General
Section 11-228
Annotated Code of Maryland
(1997 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 - Tax - General

11-228.

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

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

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

(II) "SCHOOL SUPPLY" DOES NOT INCLUDE ANY ELECTRONIC
DEVICE.
SENATE BILL 66

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

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

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

AN ACT concerning Education - County School Board - Authority to Remove County Superintendents

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

BY repealing and reenacting, with amendments,

Article - Education
Section 4-201(c)
Annotated Code of Maryland
(2001 Replacement Volume and 2002 Supplement)

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

BY adding to
Article - Education
Section 4-201(e)
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:
4-201.

An individual may not be appointed as county superintendent unless

(i) Is eligible to be issued a certificate for the office by the State Superintendent;

(ii) Has graduated from an accredited college or university;

and

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

The appointment of a county superintendent is not valid unless approved in writing by the State Superintendent.

If the State Superintendent disapproves an appointment, he shall give his reasons for disapproval in writing to the county board.

The State Superintendent may remove a county superintendent for:

(i) Immorality;

(ii) Misconduct in office;

(iii) Insubordination;

(iv) Incompetency; or

(v) Willful neglect of duty.

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

If the county superintendent requests a hearing within the 10-day period:

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

(ii) The county superintendent shall have an opportunity to be heard publicly before the State Superintendent in his own defense, in person or by counsel.]
(E) A COUNTY BOARD MAY REMOVE A COUNTY SUPERINTENDENT, SUBJECT TO THE TERMS OF THE CONTRACT BETWEEN THE SUPERINTENDENT AND THE COUNTY BOARD OR FOR CAUSE.

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