



126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 533

H.P. 352

House of Representatives, February 19, 2013

**An Act To Eliminate the Requirement That Local Funding Follow a
Pupil to a Charter School**

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative MacDONALD of Boothbay.
Cosponsored by Representatives: DAUGHTRY of Brunswick, DICKERSON of Rockland,
GRANT of Gardiner, KRUGER of Thomaston, MASTRACCIO of Sanford, McCABE of
Skowhegan, MORIARTY of Cumberland, STUCKEY of Portland.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 20-A MRSA §2408, sub-§2**, as enacted by PL 2011, c. 414, §5, is
3 amended to read:

4 **2. Virtual public charter schools.** The charter contract of a virtual public charter
5 school must require the governing board to:

6 A. Provide each student enrolled in the virtual public charter school with online
7 courses that meet or exceed state standards and all instructional materials required for
8 the student's participation in the school;

9 B. Ensure that the persons who operate the virtual public charter school on a day-to-
10 day basis comply with and carry out all applicable requirements, statutes, regulations,
11 rules and policies of the school;

12 C. Ensure that a parent of each student verifies the number of hours of educational
13 activities completed by the student each school year; and

14 D. Adopt a plan by which the governing board provides:

15 (1) Frequent, ongoing monitoring to ensure and verify that each student is
16 participating in the virtual public charter school, including synchronous contact
17 between teachers and students and between teachers and parents to ensure and
18 verify student participation and learning;

19 (2) Regular instructional opportunities in real time that are directly related to the
20 virtual public charter school's curricular objectives, including, but not limited to,
21 meetings with teachers and educational field trips and outings;

22 (3) Verification of ongoing student attendance in the virtual public charter
23 school;

24 (4) Verification of ongoing student progress and performance in each course as
25 documented by ongoing assessments and examples of student course work; and

26 (5) Administration to all students in a proctored setting of all applicable
27 assessments as required by the State.

28 Nothing in this subsection prohibits a virtual public charter school from reimbursing
29 families of enrolled students for costs associated with their Internet connection for use in
30 the program.

31 Only students enrolled in a virtual public charter school as full-time students may be
32 reported in the virtual public charter school's average pupil count to the department for
33 the purposes of receiving ~~local~~, state and federal funds.

34 **Sec. 2. 20-A MRSA §2413, sub-§2**, as amended by PL 2011, c. 679, §2, is
35 further amended to read:

36 **2. Revenue provisions.** State ~~and local~~ operating funds follow each student to the
37 public charter school attended by the student, except that the school administrative unit of
38 the student's residence may retain up to 1% of the per-pupil allocation described in this
39 subsection to cover associated administrative costs.

1 A. For each public charter school student, the school administrative unit in which the
2 student resides must forward the State's contribution to the per-pupil allocation to the
3 public charter school attended by the student as follows.

4 (1) The per-pupil allocation amount is the EPS per-pupil rate for the school
5 administrative unit in which the student resides, as calculated pursuant to section
6 15676, based on the student's grade level and adjusted as appropriate for
7 economic disadvantage and limited English proficiency pursuant to section
8 15675, subsections 1 and 2. Debt service and capital outlays may not be included
9 in the calculation of these per-pupil allocations. The department shall adopt rules
10 governing how to calculate these per-pupil allocations, including those for career
11 and technical education programs, targeted funds for assessment technology and
12 kindergarten to grade 2 programs. That portion of the EPS per-pupil rate that is
13 the school administrative unit's local contribution to the EPS per-pupil rate may
14 not be included in the per-pupil allocation amount that is forwarded by a school
15 administrative unit to the public charter school attended by the student.

16 (2) For students attending public charter schools, the school administrative unit
17 of residence shall forward the State's contribution to the per-pupil allocations
18 described in subparagraph (1) directly to the public charter school attended.
19 These per-pupil allocations must be forwarded to each public charter school on a
20 quarterly basis, as follows. For each fiscal year, allocations must be made in
21 quarterly payments on September 1st, December 1st, March 1st and June 1st.
22 The September payment must be based on the number of students enrolled or
23 anticipated to be enrolled in the public charter school at the opening of school for
24 that school year, which may not exceed the maximum enrollment approved in the
25 charter contract for that year unless a waiver is obtained from the authorizer. In
26 February of the school year, if the number of students is higher or lower than the
27 number of students at the beginning of the school year, adjustments must be
28 made in the June payment, with 50% of the State's contribution to the annual per-
29 pupil allocation added for additional students or subtracted if the total number of
30 students is lower.

31 (3) For transportation expenses, the average per-pupil expense in each school
32 administrative unit of residence must be calculated and an amount equal to a
33 proportion, up to but not more than 100%, of the State's contribution to that per-
34 pupil allocation amount must be forwarded to the public charter school attended
35 on the same basis as the per-pupil allocations for operating funds. The
36 percentage of that per-pupil expense must be determined by the authorizer of the
37 public charter school and must be based on the cost of transportation services
38 provided by the public charter school to the student.

39 (4) The department shall pay to the public charter school any additional
40 allocation assigned to the public charter school for gifted and talented students
41 pursuant to section 15681-A, subsection 5 in the year in which the allocation is
42 assigned.

43 A school administrative unit is not required to send funds to a public charter school
44 for a student enrolled in the public charter school's preschool or prekindergarten

1 program if the school administrative unit of the student's residence does not offer that
2 program to its own residents.

3 B. The following provisions govern special education funding.

4 (1) For each enrolled special education pupil, a public charter school must
5 receive the average additional allocation calculated by the department under
6 section 15681-A, subsection 2 for each school administrative unit for its special
7 education students. These allocations must be paid on the same basis as the per-
8 pupil allocations for operating funds.

9 (2) The school administrative unit of residence shall pay directly to the public
10 charter school any federal or state aid attributable to a student with a disability
11 attending the public charter school in proportion to the level of services for the
12 student with a disability that the public charter school provides directly or
13 indirectly.

14 (3) The department shall pay to the public charter school any additional
15 allocation assigned to the public charter school because of a high-cost in-district
16 placement in accordance with section 15681-A, subsection 2, paragraph B in the
17 year in which the allocation is assigned.

18 (4) The school administrative unit of residence shall pay to the public charter
19 school any additional allocation assigned to the unit because of a high-cost out-
20 of-district placement in accordance with section 15681-A, subsection 2,
21 paragraph C in the year in which the allocation is assigned to the school
22 administrative unit.

23 (5) If the public charter school in which the student is enrolled was authorized by
24 a local school board or a collaborative of local school boards, the funds under this
25 paragraph must be paid to the local school board that authorized the public
26 charter school or to the designated school board of the collaborative, rather than
27 directly to the public charter school. The local school board or boards that
28 authorized the charter school are responsible for ensuring that special education
29 services are provided to students in that school, pursuant to section 2412,
30 subsection 2, paragraph A.

31 C. Except as otherwise provided in this chapter, the State shall send applicable
32 federal funds directly to public charter schools attended by eligible students. Public
33 charter schools with students eligible for funds under Title I of the federal Elementary
34 and Secondary Education Act of 1965, 20 United States Code, Section 6301 et seq.
35 must receive and use these funds in accordance with federal and state law. During
36 the first year of operation, a public charter school must receive Title I funds on the
37 basis of an estimated enrollment of eligible students, as agreed with its authorizer.

38 D. A public charter school may receive gifts and grants from private sources in any
39 manner that is available to a school administrative unit.

40 E. A public charter school may not levy taxes or issue bonds secured by tax
41 revenues.

42 F. In the event of the failure of the school administrative unit to make payments
43 required by this section, the Treasurer of State shall deduct from any state funds that

1 become due to the school administrative unit an amount equal to the unpaid
2 obligation. The Treasurer of State shall pay over the amount to the public charter
3 school upon certification by the department. The department shall adopt rules to
4 implement the provisions of this paragraph.

5 G. Any money received by a public charter school from any source and remaining in
6 the school's accounts at the end of any budget year remains in the school's accounts
7 for use by the school during subsequent budget years and may not revert to the
8 authorizer or to the State.

9 H. Nothing in this chapter may be construed to prohibit any person or organization
10 from providing funding or other assistance for the establishment or operation of a
11 public charter school. The governing board of a public charter school may accept
12 gifts, donations or grants of any kind made to the school and expend or use such gifts,
13 donations or grants in accordance with the conditions prescribed by the donor except
14 that a gift, donation or grant may not be accepted if subject to a condition that is
15 contrary to any provision of law or term of the charter contract.

16 J. The department may establish a method of transferring funds to public charter
17 schools that is an alternative to the method provided in this subsection.

18 **Sec. 3. 20-A MRSA §2413, sub-§§3 and 4** are enacted to read:

19 **3. Virtual public charter school funding.** State operating funds following a student
20 to a virtual public charter school may be no more than 20% of the State's contribution to
21 the per-pupil allocation amount calculated under subsection 2.

22 **4. At-risk pupil exception.** Notwithstanding subsection 2, paragraph A, local
23 operating funds may follow a student to the public charter school attended by the student
24 if the charter school or virtual public charter school is established solely to address the
25 educational needs of at-risk pupils.

26 **SUMMARY**

27 This bill eliminates the requirement that a school administrative unit's local
28 contribution to the per-pupil allocation follow a student to a public charter school and
29 instead requires only that the State's contribution to the per-pupil allocation follow the
30 student to a public charter school but allows the local contribution to follow a student
31 attending a public charter school established solely to address the needs of at-risk pupils
32 as defined in the Maine Revised Statutes, Title 20-A, section 2401. The bill also limits to
33 20% the State's contribution to the per-pupil allocation that follows a student to a virtual
34 public charter school, except when the virtual public charter school is established solely
35 to address the needs of at-risk pupils.