

Department of Planning and Budget

2022 Fiscal Impact Statement

1. Bill Number: HB356

House of Origin	<input type="checkbox"/> Introduced	<input checked="" type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Tata

3. Committee: Appropriations

4. Title: Public schools; regional charter school divisions.

5. Summary: Authorizes the Board of Education (the Board) to establish regional charter school divisions consisting of at least two but not more than three existing school divisions in regions in any case in which (i) each such local school division is in close proximity and has an enrollment of more than 3,000 students and (ii) at least two such local school divisions have grades three through eight math and English reading Standards of Learning assessment performance in the bottom quartile of the Commonwealth. The bill requires such regional charter school divisions to be supervised by a school board that consists of eight members appointed by the Board and one member appointed by the localities of each of the underlying divisions. The bill authorizes the school board, after a review by the Board, to review and approve public charter school applications in the regional charter school divisions and to contract with the applicant. The bill requires that the state share of Standards of Quality per pupil funding of the underlying school district in which the student resides be transferred to such school.

6. Budget Amendment Necessary: No

7. Fiscal Impact Estimates: Preliminary, see Item 8.

8. Fiscal Implications: This bill authorizes the Board of Education to establish regional charter school divisions in regions in which (i) each such local school division is in close proximity and has an enrollment of more than 3,000 students and (ii) at least two such local school divisions have grades three through eight math and English reading Standards of Learning assessment performance in the bottom quartile of the Commonwealth. The state share of funding for students enrolled in these regional charter schools would be based on each student's division of residence. For those students currently included in the average daily membership (ADM) of their division of residence, the bill should not have an impact on the per pupil share of state funds currently distributed to localities.

For students not currently included in the ADM of their division of residence, there will be an indeterminate state fiscal impact. Private school and home school students enrolling in the regional charter schools will increase state costs since these students currently are not included in ADM and funded through the Standards of Quality. Additionally, any student served by a non-resident school division is counted in the serving division's ADM unless the

serving division receives tuition for that student in excess of the serving division's local share of tuition. The local share of tuition is the local share of the total operational cost per pupil based on the composite index of the serving division.

With the creation of regional charter schools, students currently served by a non-resident division may instead opt to enroll in the regional charter school through their division of residence. The state cost for such students could increase or decrease depending on whether the student's division of residence has a higher per pupil amount and composite index or lower per pupil amount and composite index than the division currently serving the student. Any state fiscal impact resulting from private school, home school, or students currently served by non-resident divisions is indeterminate at this time.

The bill also includes a provision that a public charter school located in a regional charter school division may receive state funding to replace, in whole or in part, the local share of the Standards of Quality per pupil funding of the underlying school division in which the public charter school is physically located. Any such funding would be subject to appropriation, and any state and local fiscal impact is indeterminate at this time.

It is anticipated that the Board of Education and Department of Education can absorb any additional costs resulting from the provisions of this bill.

Any fiscal impact to local school divisions as a result of this bill is indeterminate.

9. Specific Agency or Political Subdivisions Affected: local school divisions, Board of Education, Department of Education

10. Technical Amendment Necessary: Row 205, strike "E" and insert "F".

Row 207, strike "F" and insert "G".

Row 209, strike "G" and insert "H".

Row 216, strike "H" and insert "I".

11. Other Comments: The Virginia Retirement System (VRS) notes that there are considerations unique to charter school staff concerning their eligibility for VRS benefits due to VRS's status as a qualified governmental plan under § 401(a) of the Internal Revenue Code. If charter school personnel are employees of a local school division, they are eligible for VRS benefits. If charter school personnel are employees of a separate charter school entity, they may not be eligible.

Pending federal guidance states that the following conditions must be met in order for charter school employees to be eligible to participate in a VRS retirement plan: the charter school must be nonsectarian and tuition-free; the charter school must be established by and operated under a specific state statute; the participation of charter school staff in a state or local retirement system is expressly required or permitted by law; all financial interests of ownership in the charter school are held by a governmental entity; and either of the following conditions: a) the charter school's governing board is controlled by a governmental body; or, b) the charter school's primary funding is from a governmental body; charter school

employees' rights to accrued benefits under the state or local retirement system are not dependent on whether the charter school continues to participate in the retirement system; and the charter school is part of a local educational agency as defined in 20 U.S.C. § 7801(26) and is subject to significant regulatory control and oversight by a governmental entity.