

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 995

S.P. 340

In Senate, March 12, 2013

**An Act To Establish a Moratorium on the Approval and Operation
of Virtual Public Charter Schools**

(EMERGENCY)

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

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by President ALFOND of Cumberland.
Cosponsored by Senator VALENTINO of York, Representatives: DEVIN of Newcastle,
KORNFIELD of Bangor, Representative MacDONALD of Boothbay and
Senators: BOYLE of Cumberland, JACKSON of Aroostook, MILLETT of Cumberland,
SAVIELLO of Franklin, Representatives: BECK of Waterville, DAUGHTRY of Brunswick.

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** research has found that virtual public charter schools operated in other
4 states have produced mixed results when using federal benchmarks to evaluate the
5 academic performance of students enrolled in virtual public charter schools; and

6 **Whereas,** implementation of Maine's recently enacted charter school law has
7 resulted in significant controversy over the governance and quality of virtual public
8 charter schools; and

9 **Whereas,** this controversy demonstrates the need for a thorough review of state
10 policy to ensure that the authorization and operation of virtual public charter schools
11 proceed in a manner that preserves public confidence that the interests of students, school
12 administrative units and citizens across the State have been given due consideration; and

13 **Whereas,** the protection of the public interests of students, school administrative
14 units and citizens of the State requires that the process for authorizing virtual public
15 charter schools be temporarily interrupted pending the necessary review of the charter
16 school laws; and

17 **Whereas,** in order for the Maine Charter School Commission to review virtual
18 public charter schools and prepare a report in time for submission to the 126th
19 Legislature, the review needs to be initiated as soon as possible; and

20 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
21 the meaning of the Constitution of Maine and require the following legislation as
22 immediately necessary for the preservation of the public peace, health and safety; now,
23 therefore,

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

25 **Sec. 1. 20-A MRSA §2401, sub-§11,** as enacted by PL 2011, c. 414, §5, is
26 repealed and the following enacted in its place:

27 **11. Virtual public charter school.** "Virtual public charter school" means a public
28 charter school that:

29 A. Offers education services predominantly through an online program;

30 B. Enrolls students on a part-time basis; and

31 C. Provides a program of secondary education for grades 9 to 12.

32 **Sec. 2. 20-A MRSA §2405, sub-§8, ¶E** is enacted to read:

33 E. Notwithstanding any other provisions of this chapter, the commission may not
34 authorize a virtual public charter school under the provisions of this chapter until this
35 paragraph is repealed.

1 **Sec. 3. 20-A MRSA §2406, sub-§2, ¶H**, as enacted by PL 2011, c. 414, §5, is
2 amended to read:

3 H. With respect to a proposed public charter school that intends to contract with an
4 education service provider for a limited scope of education or management services,
5 in addition to the other requirements of this subsection, the request for proposals must
6 require applicants to:

- 7 (1) Explain how and why the education service provider was selected;
- 8 (2) Provide evidence of the education service provider's success in serving
9 student populations similar to the targeted population, including demonstrated
10 academic achievement as well as successful management of nonacademic school
11 functions if applicable;
- 12 (3) Provide information on the proposed duration of the service contract; roles
13 and responsibilities; scope of services and resources to be provided by the
14 education service provider; performance evaluation measures and timelines;
15 compensation structure, including clear identification of all fees to be paid to the
16 education service provider; methods of contract oversight and enforcement;
17 investment disclosure; and conditions for renewal and termination of the contract;
- 18 (4) Provide a draft of the proposed service contract;
- 19 (5) Explain the relationship between the governing board, the school's leadership
20 and management team and the education service provider, specifying how the
21 governing board and the school's leadership and management team will monitor
22 and evaluate the performance of the education service provider, the internal
23 controls that will guide the relationship and how the governing board and the
24 school's leadership and management team will ensure fulfillment of performance
25 expectations;
- 26 (6) Provide a statement of assurance that the governing board and the school's
27 leadership and management team is legally and operationally independent from
28 the education service provider; and
- 29 (7) Disclose and explain any existing or potential conflicts of interest between
30 the governing board, the school's leadership and management team and the
31 education service provider or any affiliated business entities.

32 Nothing in this paragraph prohibits a virtual public charter school from entering into
33 a contract with an education service provider that is a public or private nonprofit
34 entity for education design, implementation or comprehensive management of the
35 virtual public charter school program.

36 **Sec. 4. 20-A MRSA §2407, sub-§3**, as enacted by PL 2011, c. 414, §5, is
37 amended to read:

38 **3. Start-up schools; virtual public charter schools.** An application for a start-up
39 public charter school or a virtual public charter school may be submitted by a nonprofit,
40 nonreligious organization. If the organizers of a start-up public charter school or a virtual
41 public charter school have been affiliated with a previous school or education program,

1 they must form a separate nonprofit organization in this State to be eligible for state and
2 federal grants.

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

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

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

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

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

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

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

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

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

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

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

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

32 Only students enrolled in a virtual public charter school as ~~full-time~~ part-time students
33 may be reported in the virtual public charter school's average pupil count to the
34 department for the purposes of receiving local, state and federal funds. The average pupil
35 count must be based on the number of part-time students enrolled in a virtual public
36 charter school and must be reported as the number of full-time equivalent students
37 participating in a virtual public charter school's program.

38 **Sec. 6. Moratorium on operations of virtual public charter schools.**
39 Notwithstanding the Maine Revised Statutes, Title 20-A, chapter 112 or any other law to
40 the contrary and regardless of whether the Maine Charter School Commission has

1 approved, authorized or executed a contract for a virtual public charter school prior to the
2 effective date of this section, a virtual public charter school that has not commenced
3 operations as of the effective date of this section may not commence operations until
4 expressly authorized by the Legislature.

5 **Sec. 7. Review.** The Maine Charter School Commission shall review the
6 requirements of the Maine Revised Statutes, Title 20-A, chapter 112 and the virtual
7 public charter school models that have been implemented in other states and shall
8 develop a model for virtual public charter schools that will best serve the academic and
9 developmental needs of Maine students. The virtual public charter school model
10 developed must apply only to part-time students in grades 9 to 12 and must place
11 emphasis on effective models of blended learning for high school students that integrate
12 online and on-site instruction. For the purposes of this section, the term "blended
13 learning" means learning associated with a formal education program in which a student
14 learns, at least in part, through face-to-face instruction facilitated by a teacher in a
15 classroom setting away from the student's home and, at least in part, through the online
16 delivery of content and instruction outside of the classroom with the student having some
17 control over the time, place, path or pace of the student's learning.

18 **Sec. 8. Report.** The Maine Charter School Commission shall submit a report on
19 the review of virtual public charter schools required by section 7 to the Joint Standing
20 Committee on Education and Cultural Affairs no later than December 1, 2013. The
21 report must include the commission's findings and recommendations and any necessary
22 implementing legislation regarding the authorization and operation of virtual public
23 charter schools in the State. The committee is authorized to report out a bill to the
24 Second Regular Session of the 126th Legislature related to the recommendations included
25 in this report.

26 **Emergency clause.** In view of the emergency cited in the preamble, this
27 legislation takes effect when approved.

28 SUMMARY

29 This emergency bill provides that the Maine Charter School Commission may not
30 authorize the operation of any virtual public charter school until the Legislature enacts
31 legislation that expressly authorizes the operation of virtual public charter schools in the
32 State. The moratorium applies to the operations of any virtual public charter school that
33 has not commenced operations as of the effective date of this legislation, regardless of
34 whether the commission has approved, authorized or executed a contract for the virtual
35 public charter school.

36 The bill amends the definition of "virtual public charter school" to specify that virtual
37 public charter schools provide education services through an online learning program that
38 enrolls students on a part-time basis in grades 9 to 12. The bill also requires the Maine
39 Charter School Commission to review the law and the virtual public charter school
40 models that have been implemented in other states and develop a virtual public charter
41 school model that will best serve the learning needs of students. The virtual public

1 charter school model developed must apply only to part-time students in grades 9 to 12
2 and must place emphasis on blended learning models for high school students.

3 The Maine Charter School Commission is directed to report its findings,
4 recommendations and any necessary implementing legislation with respect to the
5 authorization or operation of virtual public charter schools to the Joint Standing
6 Committee on Education and Cultural Affairs no later than December 1, 2013 and
7 authorizes the joint standing committee to report out a bill to the Second Regular Session
8 of the 126th Legislature related to the recommendations included in this report.