

OFFICE OF POLICY AND LEGAL ANALYSIS

Date: March 13, 2021

To: Committee on Innovation, Development, Economic Advancement and Commerce

From: Samuel Senft, Legislative Analyst

LD 380 “An Act To Change the Statutory Cap on Virtual Public Charter School Enrollment” (Pouliot)

SUMMARY

This bill changes the maximum total enrollment at all virtual public charter schools from 1,000 students to 2% of the total statewide enrollment for the grade levels served by the virtual public charter schools.

TESTIMONY

Proponents:

- Virtual charter schools are an important option for public school in Maine because they provide an option for students with medical and social needs and for high performing athletes and performers.
- The 1000 person cap is arbitrary.
- Some students do not do well in a typical school setting. Online charter schools can help many of these students be successful.
- All caps should be removed in favor of parent choice
- Right now not everyone who can benefit from virtual charter schools is able to
- The Charter Commission has very rigorous standards
- Lifting caps does not mean an immediate expansion; the Commission carefully considers requests for expansion.
- Public charter schools are public schools.
- The curriculum at the virtual charter schools is carefully constructed and implemented
- MEVA students are meeting academic goals and the school has the capacity for expansion.
- For rural students, distance to a brick and mortar school can be an issue and virtual charter schools are a good option.
- Waitlists for the virtual schools have grown exponentially in past year. MCA’s waitlist was 55 in Feb 2020 and 350 in Sept.
- The virtual schools were able to weather the COVID crisis well.
- The cap has no relationship to student outcomes.

Opponents:

- Increasing the cap to 2% of the student population could draw more kids out of public schools; if kids need virtual learning, should be handled by public schools
- The cap of 1000 is reasonable. 2% of the population would equal an estimated 3,500 students.
- The third party evaluation done for the Charter Commission in 2020 showed that the virtual school had the lowest mastery rates and lowest graduation rates (58% and 60%).
- Increasing caps would only further destabilize the public school funding situation.
- Maine Connection Academy’s 2019-2020 analysis showed that the school did not meet targets in 5 criteria. The Maine Virtual Academy did not show deficiencies but it has recently.

- School improvement takes times; the virtual charter schools should focus on kids already enrolled. The goal is to limit transiency.

Neither For Nor Against

- Pandemic has put families in position of having to make some hard choices
- DOE states show that 4% of the 172,000 PK-12 students in the state were not enrolled this past fall.
- Fall 2020 figures show charter schools with 2,662 students; enrollment grew this year by 431 students (19%) with 562 on waiting lists
- Commission does place enrollment limits
- This issue needs further study and review.

INFORMATION REQUESTS:

- *It was asked how many virtual charter schools exist in Maine, what their current enrollments are, and how many students are on the waiting list*

There are two virtual charter schools in Maine:

- Maine Connections Academy (opened 2014): 458 students enrolled
- Maine Virtual Academy (opened 2015): 430 students enrolled

There is a waiting list of 278 students

- *It was asked what the 2% was derived from*
 - The 2% means 2% of students enrolled statewide in grade 7-12.
- *It was asked if the virtual schools are for profit*
 - Both schools are considered public charter schools. However, both are affiliated with for profit entities. Maine Virtual Academy is associated by Stride, Inc. and Maine Connections Academy is associated with Connections Education, LLC..
- *The data underlying the virtual school monitoring reports was requested.*
 - Please see the attached document from the Maine Charter School Commission, entitled “MCSC Virtual School MAP Data Analysis Report SY1920”

ADDITIONAL INFORMATION:

- Current statute at [20-A MRSA §2404](#) (also attached)
- LD 513, *An Act To Limit the Number of Students and Prevent the Addition of Grade Levels at Virtual Public Charter Schools* was introduced in the 129th. It received an OTPA/OTPA/ONTP vote out of committee, passed the House and Senate and was sent to the Governor, who allowed the bill to become law without signature on June 9, 2019. The enacted law is [here](#). The bill as amended established the 1,000 student cap on virtual school enrollment.
- Monitoring reports:
 - [Maine Virtual Academy Annual Monitoring Report 2019-2020](#)

- [Maine Connections Academy Annual Monitoring Report 2019-2020](#)
- Older reports: <https://www.maine.gov/csc/reports/annual-monitoring>
- [Third-Party Evaluation Report on the Virtual Charter Schools \(December 2020\)](#)
- White Barn Report on the Maine Virtual Academy (January 2019) (Attached)

POTENTIAL ISSUES

- The bill language is ambiguous as to the student pool from which the 2% figure is calculated. It is unclear on its face as to which grades are included, whether the 2% is calculated statewide or districtwide and at what point in time the 2% is calculated (annual, quarterly?).

OTHER CONSIDERATIONS:

- See also the related bill, LD 430, *An Act To Provide for School Choice and Online Learning Opportunities in Response to the COVID-19 Pandemic*

FISCAL IMPACT: Not yet determined

20-A MRSA §2404. Public charter school eligibility; enrollment

1. **Eligibility.** Any student residing in the State is eligible to apply to a public charter school.
2. **Enrollment.** A public charter school shall enroll students in accordance with this subsection.
 - A. Public charter school organizers shall include all segments of the populations served by the existing noncharter public schools in their area in their recruitment efforts.
 - B. A public charter school shall enroll all students who wish to attend the school, unless the number of students exceeds the enrollment capacity of a program, class, grade level or building.
 - C. Except as provided in [paragraphs H, I and K](#), if capacity is insufficient to enroll all students who wish to attend the school, the public charter school shall select students through a random selection process. A list maintained to fill potential vacancies may be carried over to the succeeding year.
 - D. For a school administrative unit with an enrollment of 500 or fewer students, a public charter school, unless authorized by a school administrative unit, may not enroll more than 5% of a school administrative unit's noncharter public school students per grade level in each of the first 3 years of the public charter school's operation, except that if 5% of a school administrative unit's noncharter public school students per grade level is less than one, a public charter school may enroll one student of the school administrative unit per grade level in each of the first 3 years.
 - E. For a school administrative unit with an enrollment of more than 500 students, a public charter school, unless authorized by a school administrative unit, may not enroll more than 10% of a school administrative unit's noncharter public school students per grade level in each of the first 3 years of the public charter school's operation.

- F. A public charter school may limit enrollment to pupils within a given age group or grade level and may be organized around a special emphasis, theme or concept as stated in the school's application for a charter contract pursuant to [section 2407](#).
- G. A public charter school authorized by a local school board or by a collaborative among local school boards and any noncharter public school converting partially or entirely to a public charter school shall adopt and maintain a policy that gives enrollment preference to pupils who reside within a school administrative unit whose school board authorizes that public charter school or within the former attendance area of that noncharter public school.
- H. A public charter school shall give enrollment preference to pupils enrolled in the public charter school the previous school year and to siblings of pupils already enrolled in the public charter school.
- I. A public charter school may give enrollment preference to children of a public charter school's founders, governing board members and full-time employees, as long as they constitute no more than 10% of the school's total student population.
- J. A public charter school may enroll students from outside the State if space is available.

3. Discrimination prohibited. A public charter school may not discriminate on the basis of race, ethnicity, national origin, religion, gender, sexual orientation, income level, disabling condition, proficiency in the English language or academic or athletic ability, except that nothing in this subsection may be construed to limit the formation of a public charter school that is dedicated to focusing education services on at-risk pupils, students with disabilities and students who pose such severe disciplinary problems that they warrant a specific education program.

4. Maximum virtual public charter school enrollment. The total enrollment at all virtual public charter schools authorized by the commission may not exceed 1,000 students.