

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: HB346

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Davis

3. Committee: Finance and Appropriations

4. Title: College partnership laboratory schools; application and establishment.

5. Summary: Permits any public institution of higher education or a nonprofit private institution of higher education whose primary purpose is to provide collegiate, graduate, or professional education and not to provide religious training or theological education to apply to the Board of Education (the Board) to establish a college partnership laboratory school as a new school or through the conversion of all or part of an existing school. Under current law, only public and private institutions of higher education that operate approved teacher education programs are permitted to apply to the Board to establish such a school and no explicit provision is made for the conversion of an existing school. The bill permits college partnership laboratory schools to enter into a memorandum of understanding with any individual or entity to provide apprenticeships, career training, faculty training and support, and equipment, resource, and curriculum support, and such individual or entity shall have no management or governing authority over the college partnership laboratory school. Additionally, the bill permits college partnership laboratory schools to enter into agreements to establish specialty schools in academic disciplines such as science, technology, engineering, mathematics, and computer science (STEM+C), language arts, or the performing arts. The bill requires the Board, in reviewing college partnership laboratory school applications, to give substantial preference to any application from a historically black college or university, any application to establish a college partnership laboratory school in an underserved community, which the bill defines as a geographical area that is served by public schools in which a high percentage of students are eligible to receive free or reduced-price lunch, as determined by the Board, and any joint application submitted by an institution of higher education in partnership with one or more local school boards. The bill requires a student enrolled at a college partnership laboratory school to be considered a student of the local school division in which the college partnership laboratory school is located for the purposes of calculating average daily membership and distribution of local, state, and federal funding. The provisions of the bill are not effective unless supported by an appropriation included in a general appropriation act passed in 2022 by the General Assembly that becomes law.

6. Budget Amendment Necessary: Yes, a language amendment under Item 137 of HB/SB 30 if the intent is for college partnership laboratory schools to receive Standards of Quality per pupil funding and other Direct Aid formula funding; and, under Item 136 of HB/SB 30 if

funding is provided by the General Assembly for the College Partnership Laboratory School Fund.

7. **Fiscal Impact Estimates:** Indeterminate, see Item 8.

8. **Fiscal Implications:**

Department of Education & Board of Education: The Department of Education (DOE) indicates that the agency may require additional staff support in the future to administer the application and approval process and the state and federal funding provisions impacting college partnership lab schools. Any such support depends on the growth in the number of lab schools operating in Virginia in future years and is indeterminate at this time. For DOE to implement the funding provisions properly, the agency may need to make changes to its accounting, budgeting, and data systems. If state funds for enrollment-based educational programs are intended to be distributed to lab schools, DOE notes that state administrative costs can be minimized by requiring local school divisions to transfer the state share of funding for such students to the lab schools as opposed to DOE making payments directly to the lab schools.

The additional work required by the Board of Education can be supported with existing agency resources.

Direct Aid to Public Education: The state fiscal impact under Direct Aid to Public Education (Direct Aid) is indeterminate at this time.

Pursuant to this legislation, a college partnership laboratory school (lab school) is a public school established by a public institution of higher education or by a nonprofit private institution of higher education. The lab school is governed by its own board, and that governing board is under the control of the institution of higher education that establishes the school. Pursuant to § 22.1-349.3, Code of Virginia, a lab school is a local education agency, but a lab school is not a school division. Further, a lab school is not a charter school as defined by the Code of Virginia. Pursuant to §§ 22.1-212.5-22.1-212.7 of the Code, a charter school is a public school established by contract between a local school board and the management committee of the charter school. Public charter schools are located within a school division and under the authority of a local school board. Alternatively, a lab school is under the authority of the institution of higher education, and a lab school is not affiliated with a school division unless the lab school elects to form a collaborative partnership with a local school division.

While each school division in Virginia is a local education agency, not all local education agencies are school divisions. Under existing law, school divisions are supported by the state Standards of Quality (SOQ) per pupil funding and other Direct Aid formula funding appropriated under State Education Assistance Programs in Item 137 of HB/SB 30, 2022 General Assembly Session; however, local education agencies that are not school divisions do not receive such funding unless otherwise permitted by law.

The provisions of the bill do not clearly stipulate how state, local, and other funds are expected to support lab school operations. Paragraph G. of § 22.1-349.10 requires students served in lab schools to be enrolled in the school division in which the lab school is located for purposes of calculating average daily membership (ADM) pursuant to the Standards of Quality (SOQ) and distribution of local, state, and federal funding. This provision would generate state per pupil funding (and the required local shares) for students served in lab schools counted in the March 31 ADM of the school division where the lab school is located. However, this language does not specify that any such funds would follow the student to the lab school where they are served or that the funds would be paid into the College Partnership Laboratory School Fund established by § 22.1-349.2, Code of Virginia. It is not clear if the intent of this language is for the state and local SOQ per pupil funding to support the students attending lab schools, or to ensure that local school divisions do not lose state and local SOQ per pupil funding for students attending a lab school located within the division. If the intent is for the SOQ funding to follow the student to the lab school, additional language is necessary. If the intent is that school divisions do not lose funding for students who leave the division to attend a lab school, then the state may be double-funding these students if other state funding sources are provided to support lab school students (e.g., state appropriations to the College Partnership Laboratory School Fund or to public institutions of higher education).

Existing language in paragraph C. of § 22.1-349.10 requires the proportionate share of state and federal funds allocated for students with disabilities and school personnel assigned to special education programs, as well as the proportionate share of funds allocated under other federal or state categorical aid programs, to be directed to lab schools enrolling such students. This provision suggests that funds for students with disabilities and categorical funds would be paid directly to the lab schools. The specific state and federal funding sources to be directed to lab schools would need to be identified. Most state categorical aid programs (Categorical Programs, Incentive Programs, and Lottery-funded Programs) are not based on ADM. Additionally, since most federal funds are distributed only on a reimbursement basis and are not distributed on a per pupil basis, such funds would be available to lab schools only as applicable.

Further, it is not clear how or if any funds provided to a lab school from the College Partnership Laboratory School Fund, from the institution of higher education, or from any other sources would be expected to supplement or supplant any state funding provided under the SOQ per pupil funding and other Direct Aid formula funding.

It is possible that the availability of lab schools may increase public school enrollment of students not previously enrolled, such as home school and private school students. Such students are not included in per pupil Direct Aid state appropriations, and their public school enrollment would create a state fiscal impact among the various per pupil Direct Aid funding sources. Any actual fiscal impact resulting from increases in public school enrollment is indeterminate at this time.

Section 22.1-349.6:1 requires lab school contracts to include a provision requiring 100 percent of funding in the first year, 80 percent of funding in the second year, and 60 percent of funding in the third year to be escrowed in the College Partnership Laboratory School

Fund. However, the bill is unclear regarding the timing and specific sources of funding to be paid into the Fund, and whether the institution of higher education establishing the lab school is solely responsible for making such payments into the Fund. Subaccounts may need to be established within the Fund in order to keep separate the payments made into the Fund on behalf of each operating lab school. Additionally, existing language in § 22.1-349.10 authorizes each lab school to apply for and receive available funds from the College Partnership Laboratory School Fund and § 22.1-349.2 requires expenditures and disbursements from the Fund to be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Superintendent of Public Instruction; therefore, it is not clear whether a lab school would need to apply for the funds held in escrow in the Fund on its behalf.

State Council of Higher Education for Virginia: The bill requires college partnership laboratory schools to work with the State Council of Higher Education for Virginia (SCHEV) to develop programs that may award college credits upon obtaining the appropriate certification and accreditation. SCHEV considers this work within the scope of its normal program approval process and does not anticipate a fiscal impact.

Public Institutions of Higher Education: Any fiscal impact to public institutions of higher education is indeterminate at this time and would depend on the terms of the college partnership laboratory school agreement. Existing language in § 22.1-349.9 states that lab school personnel are employees of the institution of higher education that establishes the school. It is not clear what funding sources would support these lab school employees.

9. Specific Agency or Political Subdivisions Affected: Department of Education, Board of Education, State Council of Higher Education for Virginia, public institutions of higher education, local school divisions/local governments

10. Technical Amendment Necessary: No

11. Other Comments: This bill is identical to SB598ES1.

The Virginia Retirement System (VRS) notes that the structure of these schools will determine whether or not staff meet federal Internal Revenue Service requirements to be eligible for VRS benefits. Since § 22.1-349.9, Code of Virginia states that lab school personnel are employees of the institution of higher education that establishes the school, their benefits likely would be the same as those of other employees at the same institution of higher education. Therefore, employees of lab schools established by private institutions of higher education would not be eligible for VRS benefits since private institutions of higher education are not public employers eligible for VRS benefits. However, there are other factors that must be considered on a case by case basis. Whether employees of lab schools established by public institutions of higher education are eligible for the same retirement benefits available to other employees of the institution of higher education would have to be examined in more detail, since that may only reflect one of several factors that would be considered.