

Department of Legislative Services
 Maryland General Assembly
 2001 Session

FISCAL NOTE

House Bill 1375
 Ways and Means

Delegates Finifter and Hixson)

Schools - Individuals with Disabilities - Accessibility

This bill requires State schools to ensure that all programs and essential areas of a public or private school or higher education institution are accessible to individuals with disabilities by January 1, 2004. The bill is effective June 1, 2001.

Fiscal Summary

State Effect: General fund expenditures would increase by \$245,400 in FY 2002 to hire contractual employees to assist with implementing and interpreting the bill. Out-year expenditures reflect inflation and the cost of contractual services. This does not reflect significant capital costs.

(in dollars)	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	245,400	85,400	87,000	88,700	90,400
Net Effect	(\$245,400)	(\$85,400)	(\$87,000)	(\$88,700)	(\$90,400)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Potential significant local school expenditures to make all programs and common areas of primary and secondary schools accessible to disabled individuals.

Small Business Effect: Meaningful. Small businesses that operate private schools would be required to renovate facilities if they are not accessible to the disabled. Small businesses involved in the construction trades would benefit from contracts to renovate facilities.

Analysis

Bill Summary: By October 1, 2001, each county board of education, private school, governing body of a college or university, and the Maryland State Board of Education (MSDE) must consult with individuals with disabilities and other specified parties and determine the extent to which all programs and essential areas of their respective schools are not accessible to disabled individuals. The bill defines essential areas as a classroom, bathroom, health facility, gym, theater, library, athletic field, road, walk or passageway, or other common grounds. Programs covered by the bill include classroom instruction, an athletic activity, recreation, meetings, a community activity, or any other activity open to the general public.

By January 1, 2002, all schools must, in consultation with disabled individuals and other parties specified by the bill, develop a plan to make all programs and essential areas accessible to individuals with disabilities by January 1, 2004. A person who willfully violates the provisions of the bill is guilty of a misdemeanor and on conviction for each violation is subject to a fine not exceeding \$500 for each day that the violation exists or imprisonment not exceeding three months or both.

The Department of Housing and Community Development (DHCD) is responsible for making decisions regarding interpretation of the legislation.

Current Law: The federal Americans with Disabilities Act (ADA) requires school districts to make school programs readily accessible to people with disabilities when the program is viewed in its entirety. They do not have to make all of their existing classroom buildings accessible if all programs offered in inaccessible buildings are also available in other accessible schools. Any facility constructed before January 26, 1992 is considered an existing facility under ADA. New construction or major renovations of existing buildings must meet ADA requirements or uniform federal accessibility standards (UFAST), as well as similar State code requirements, which require that all parts of the school be accessible.

Schools can make programs accessible through reassignment of services to an accessible location, reassignment of aides, buying or relocating equipment, and structural changes. School districts must also ensure that programs in the parochial school that are receiving federal funds through the district are accessible.

State Expenditures: Given the comprehensive scope of the bill, the State's share of construction or renovation costs to bring all public schools in compliance is expected to be significant as MSDE anticipates that very few schools in the State would be in compliance with the legislation. The State now provides 50% to 90% of eligible

construction costs for primary and secondary schools through the capital program. The fiscal 2002 capital program includes \$245.5 million for public school construction and improvements.

As there are over 1,300 public school buildings in the State, the cost of renovating these buildings and other common areas such as sidewalks to comply with the provisions of this bill could be substantial.

St. Mary's College indicates that it currently does not schedule classes or activities in nonaccessible areas when an individual with a disability is enrolled and that it is working on a transition plan to make all facilities accessible. The college advises that compliance with the bill would likely cost over \$1 million and commented that the bill would require renovations of buildings prior to planned major renovations that will include improved accessibility. The University System of Maryland commented that compliance with the bill would cost almost \$1 million.

General fund expenditures would increase by \$245,357 in fiscal 2002 to enable DHCD and MSDE to hire contractual employees to implement the provisions of the bill. Annual expenditures for contractual services and supplies would be approximately \$86,435 plus inflation.

DHCD advises that it will need \$133,644 in fiscal 2002 and approximately \$79,550 annually to hire: (1) a full-time contractual administrator to develop the regulations, interpret the applicability of the law, and handle any initial violations; (2) a consultant with expertise in this area to advise on regulations and violations; and (3) a part-time contractual Attorney General (Grade 21) to help write the regulations and handle most of the responsibility for violations. DHCD currently has 11 assistant attorney generals; however, it advises that none has expertise in Title II of the Americans with Disabilities Act, which governs school accessibility. It further advises that it would likely terminate all contractual services at the end of fiscal 2006.

MSDE advises that in order to meet the schedule outlined by the bill, it would need \$109,158 to hire four full-time and one part-time contractual architects in fiscal 2002 only to work with public and private schools in developing plans for making all buildings accessible. Up to 2,651 primary and secondary school buildings (1,375 public and 1,276 private) will need to be evaluated, according to MSDE.

Local Expenditures: Local school board expenditures would increase significantly to cover the costs of engineering, design, and construction related to making all school buildings accessible in the time frame specified by the bill. The level of increase cannot be reliably estimated until it is known what changes will need to be made; however, the

Department of Legislative Services advises that the cost could place a significant strain on local capital budgets.

Additional Comments: The Maryland Independent College and University Association (MICUA) advises that the bill would have a significant impact on institutions' operations and budgets, particularly in the required time frame and that institutions are not financially prepared to accomplish the required inventory by January 1, 2004. It cites one institution's compliance cost as \$8 to \$11 million. The deadline would also delay existing projects and capital plans, and displace educational and research programs planned in the space that would require renovation. MICUA notes that most if not all of its institutions comply with ADA regulations.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Housing and Community Development, Maryland State Department of Education, ADA National Access for Public Schools Project, St. Mary's College, University System of Maryland, Maryland Higher Education Commission, Maryland Independent College and University Association, Department of Legislative Services

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