

Department of Legislative Services  
Maryland General Assembly  
2014 Session

FISCAL AND POLICY NOTE

House Bill 1145  
Ways and Means

(Delegate Kaiser, *et al.*)

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Maintenance of Effort - Qualifying Nonrecurring Costs - Methods of Approval

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This bill requires the State Board of Education, by December 31 of each year, to distribute to local boards of education and county governments documents that include (1) a list of items, programs, or categories of qualifying nonrecurring costs that are exempted from the State's public school maintenance of effort (MOE) requirement and that would be subject to direct administrative approval for the upcoming fiscal year; and (2) an application and instructions for submitting an expenditure for approval that fits within the list. The bill specifies that certain capital items and unique one-time costs that a local board of education and county government mutually agree on are among nonrecurring costs.

The bill takes effect July 1, 2014.

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Fiscal Summary

**State Effect:** To some extent, the bill codifies current practice. The Maryland State Department of Education (MSDE) can convene the required workgroup and make any required administrative procedure changes using existing resources.

**Local Effect:** By providing greater certainty about what items will be excluded from the MOE calculation, the bill may encourage local governments to make certain nonrecurring expenditures that under current law may not be made due to uncertainty surrounding what will be considered qualifying nonrecurring costs.

**Small Business Effect:** None.

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## Analysis

**Bill Summary:** When a local board of education's budget is submitted to the county government, at the request of either the local board or the county government, information must be provided on any agreements, meetings, or negotiations regarding certain cooperation and partnership between the local board and county government.

MSDE must convene a workgroup that includes representatives from the Maryland Association of Boards of Education, the Public School Superintendents' Association of Maryland, and the Maryland Association of Counties to discuss issues relating to qualifying nonrecurring costs. The State Board of Education and MSDE must develop the initial list of specific items, programs, or expenditure categories that would be subject to direct administrative approval as qualifying nonrecurring costs.

The bill states the intent of the General Assembly that the State Board of Education approve start-up costs to implement the Maryland College and Career-Ready Standards (MCCRS) and the Partnership for Assessment of Readiness for College and Careers (PARCC) tests as qualifying nonrecurring costs.

**Current Law:** Each local board of education must submit an annual budget to the county governing body in accordance with major categories established by State law and MSDE's *Financial Reporting Manual for Maryland Public Schools*.

### *Cooperative or Joint Administration of Programs*

A local school board is authorized to enter into an agreement for the cooperative or joint administration of one or more specified types of programs with one or more local school boards, other educational institutions or agencies, and boards of county commissioners or county councils. Such an agreement may relate to personnel, purchasing, accounting, data processing, printing, insurance, building maintenance, and transportation. If the agreement establishes a separate administrative entity to conduct or administer the joint or cooperative undertaking and that administrative entity has certain powers (*e.g.*, to employ individual and to receive and spend money), the agreement must specify certain details (*e.g.*, the duration of the agreement and the purpose, organization, composition, and nature of any separate administrative entity that is established.) Any such administrative entity is limited to administering programs and exercise authorities that are specifically delegated to the entity by the public bodies that are party to the agreement.

A cooperative or joint agreement generally does not relieve a local school board or other party to the agreement of its legal obligations and responsibilities. The agreement for cooperative or joint agreement must be approved by the county governing body and submitted to the Attorney General. If the Attorney General finds the agreement is not in proper form or does not conform to State law, the Attorney General must detail in writing

to the governing body of each public agency involved as to how the proposed agreement fails to meet legal requirements.

### *Maintenance of Effort*

Under the MOE requirement, each county government (including Baltimore City) must provide on a per pupil basis at least as much funding for the local school board as was provided in the prior fiscal year. Statute exempts from the MOE calculation specified nonrecurring costs, the cost of any program that has been shifted from the local school board's operating budget to the county operating budget, and debt service payments for school construction. The Budget Reconciliation and Financing Acts of 2011 and 2012 (Chapter 397 of 2011 and Chapter 1 of the 2012 first special session) provided one-year exemptions from MOE for a county (including Baltimore City) that shifted recurring health care costs for current retirees to the local school board if those costs were reduced the following year. Chapter 647 of 2013 made this exemption permanent.

Among the qualifying nonrecurring costs specified in 13A.02.05.03 of the Code of Maryland Regulations (COMAR) are the two items added in the bill: capital items and unique one-time costs that a local board of education and county government mutually agree on. Under COMAR, local boards must submit requests for nonrecurring costs to MSDE by March 31 each year, and MSDE must notify a county as to whether a cost qualifies as nonrecurring within 30 days or by May 1. A county or local board can appeal to the State board within 15 days of the date of the decision to approve or reject a cost as nonrecurring.

Chapter 6 of 2012 requires a county governing body to apply to the State Board of Education for a waiver from the State's MOE requirement if the county is unable to fund the full MOE amount. If a county does not receive a waiver from the State board, it must fund the full MOE amount or the State will intercept the county's local income tax revenues in the amount by which the county is below MOE and forward the funds to the local school board. Counties that receive waivers and are making above-average education effort may request "rebasing waivers" that allow limited decreases to their annual MOE amounts if they can demonstrate ongoing problems with meeting MOE.

Under Chapter 6, counties have the authority to exceed local tax limitations to fund education. While most provisions of Chapter 6 took effect in May 2012, the requirement that counties with below-average effort escalate their per pupil MOE amount by up to 2.5% takes effect July 1, 2014 (fiscal 2015). For those counties that shifted retiree health care costs and dedicated additional State funds received as a result of the cost shift to school construction, total retiree health care costs are excluded from this escalator provision.

**Background:** Generally, county operating budgets must be adopted by early June, therefore proposed budgets must typically be submitted in March/April. The dates specified by the bill for determining the list of qualified nonrecurring costs align with this typical local budget timeline.

The new State curriculum known as MCCRS, which is aligned with the Common Core State Standards, is intended to reflect college and workplace expectations and is being fully implemented statewide in the 2013-2014 school year. The MCCRS frameworks were accepted by the Maryland State Board of Education in June 2011. In addition, the new assessments aligned with the CCSS, called Partnership for Assessment of Readiness for College and Careers (PARCC), will be field tested in spring 2014 as the State prepares to replace most of the Maryland School Assessment with PARCC in the 2014-2015 school year and most High School Assessments soon thereafter. The PARCC assessments must be administered fully online by the 2017-2018 school year, although MSDE has set a goal to give PARCC fully online by the 2016-2017 school year.

**Local Fiscal Effect:** Codifying qualifying nonrecurring items does not affect local finances. Further, the bill makes clear the intent that start-up costs related to MCCRS and PARCC implementation will be excludable nonrecurring costs; it is likely these costs would, under current law, fall under the type of unique one-time costs that a local board of education and county government may agree on. Therefore, stating this intent may not directly affect required MOE appropriation levels, and thus may not affect local finances.

By providing greater certainty about what items will be excluded from the MOE calculation as nonrecurring costs, the bill may provide local boards of education and county governments with greater certainty in the budgeting process. This may encourage certain expenditures that may not otherwise be authorized due to lack of clarity regarding whether they would be considered qualifying nonrecurring costs and thus not increase the required MOE level in the next year.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland State Department of Education, Public School Construction Program, Department of Legislative Services

**Fiscal Note History:** First Reader - March 5, 2014  
mam/rhh

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