

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 404 (Senator Pinsky, *et al.*)
Education, Health, and Environmental Affairs

State Board of Education - State Superintendent of Schools - Appointment

This emergency bill requires the State Board of Education to appoint or reappoint the State Superintendent of Schools with the advice and consent of the Senate by April 1 in the year in which a term begins. By December 1 of the year in which a term ends, the State superintendent must notify the State board whether he or she is a candidate for reappointment. If the State board is unable to appoint or reappoint a State superintendent by April 1 of a year in which a term begins, the Senate does not confirm the appointment or reappointment, or there is a vacancy in the position, then the State board must appoint an interim State superintendent who serves until July 1 or until that individual or a successor is appointed and qualifies. A State superintendent who is appointed or reappointed after being an interim State superintendent may serve a four-year term in addition to any time served as interim State superintendent.

Fiscal Summary

State Effect: Minimal. The State Board of Education can seek the advice and consent of the Senate using existing resources; however, requiring Senate consent for the appointment of the State Superintendent of Schools may increase the compensation requested by candidates for the position. However, any such costs cannot be reliably quantified.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The State superintendent is appointed by the State board for a term of four years beginning on July 1 after the superintendent's appointment and serves until a successor is appointed and qualifies.

The State board must fix the superintendent's salary and pay it from the appropriation for expenses and maintenance of the Maryland State Department of Education.

The State superintendent must (1) be an experienced and competent educator; (2) be a graduate of an accredited college or university; (3) have at least two years of special academic and professional graduate preparation in an accredited college or university; and (4) have at least seven years of experience in teaching and administration.

The State board may remove the superintendent for immorality, misconduct in office, insubordination, incompetency, or willful neglect of duty. Before removing the superintendent, the State board must send the superintendent a copy of the charges against the superintendent and give the superintendent an opportunity within 10 days to request a hearing. If the superintendent requests a hearing within the 10-day period, the State board must hold a hearing, but a hearing may not be set within 10 days after the State board sends the superintendent a notice of the hearing. In addition, the superintendent must have an opportunity to be heard publicly before the State board in the superintendent's own defense, in person or by counsel.

Background: Each state has a chief state school officer (chief) who is responsible for primary and secondary education in the state. Typically the position is called the state superintendent of schools, commissioner of education, or chief education officer. The method of selecting the chief state school officer varies among the states, with some of them elected and some appointed, usually by the governor or the state board of education. In Oregon, the governor is designated in statute as the chief state school officer.

At least 14 states and the District of Columbia require the advice and consent of the legislature to appoint the chief state school officer. These states are Connecticut, Delaware, Iowa, Maine, Minnesota, Mississippi, New Jersey, New Mexico, Oregon, Pennsylvania, South Dakota, Texas, Vermont, and Virginia. Louisiana has a Superintendent of Education who is elected by 2/3 vote of the state board of education, but there is a provision that, should the position become appointed, advice and consent of the Senate would be required. Legislation has been introduced in several other states, including New York and New Hampshire, to require the advice and consent of the legislature. For the selection process of the chief state school officers in all 50 states and the District of Columbia please see, **Appendix – Selection of Chief State School Officers in the 50 States and the District of Columbia.**

Search for a New State Superintendent of Schools

The Maryland State Board of Education has initiated its search for a new State Superintendent of Schools. The State board has retained the services of Hazard, Young, Attea & Associates to assist and counsel them through the multiple phases of the process. Regular updates on the process will be shared during the monthly State board meetings. The 2016 State board meeting dates can be found on the State board's [website](#).

Additional Information

Prior Introductions: None.

Cross File: HB 570 (Delegate Kaiser) – Ways and Means.

Information Source(s): Maryland State Department of Education, Education Commission of the States, Department of Legislative Services

Fiscal Note History: First Reader - February 9, 2016
min/rhh

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**Appendix – Selection of Chief State School Officers in the 50 States
and the District of Columbia**

State	Selection	Legislative Approval
Alabama (AL ST 16-4-1)	Appointed by the State Board	No
Alaska (AK ST 14.07.145)	Appointed by the State Board, approved by the Governor	No
Arizona (AZ Con Art 5 § 1)	Elected	No
Arkansas (AR ST 6-11-102)	Appointed by the State Board, approved by the Governor	No
California (CA Con Art 9 § 2)	Elected	No
Connecticut (C.G.S.A. § 10-3a-6)	Recommended to the Governor by the State Board, with the advice and consent of either house of the General Assembly	Yes – General Assembly
Delaware (14 Del C 102)	Appointed by the Governor, with advice and consent of the Senate	Yes – Senate
District of Columbia (DC ST 38-2601)	Appointed by the Mayor, with advice and consent of the Council	Yes – DC Council
Florida (FL Con Art 9 § 2)	Appointed by the State Board of Education	No
Georgia (GA Con Art 8 § 3)	Elected	No
Hawaii (302A-1101)	Appointed by the State Board of Education	No
Idaho (ID ST 67-1501)	Elected	No
Illinois (IL 5/1A-4)	Appointed by the State Board of Education	No
Iowa (IA ST 256.8)	Appointed by the Governor, with advice and consent of the Senate	Yes – Senate
Kansas (KS ST 72-7601)	Appointed by the State Board of Education	No
Kentucky (KY ST 156.148)	Appointed by the State Board of Education	No

State	Selection	Legislative Approval
Louisiana (LSA RS 17:21)	Appointed by 2/3 vote of the State Board of Education	No – but if the state superintendent of education is made appointive, the appointment is subject to confirmation by the Senate
Maine (20A MRSA 251)	Appointed by the Governor and subject to the advice and consent of a joint standing committee of the legislature	Yes – Joint Committee
Maryland (ED 2-302)	Appointed by the State Board of Education	No
Massachusetts (MA ST 15 § 1F)	Appointed by the Secretary of Education from the recommendation of the State Board	No
Michigan (MI Con Art 8 § 3)	Appointed by the State Board of Education	No
Minnesota (MN ST 127A.06)	Appointed by the Governor, needs consent of the Senate	Yes – Senate
Mississippi (MI ST 37-3-9)	Appointed by the State Board of Education, with advice and consent of the Senate	Yes – Senate
Missouri (MO ST 161.112)	Appointed by the State Board of Education	No
Montana (MT ST 20-3-101)	Elected	No
Nebraska (NE Con Art VII § 4)	Appointed by the State Board of Education	No
Nevada (NV ST 385.150)	Appointed by the Governor from a list created by the State Board	No
New Hampshire (NH ST 21-N:3)	Appointed by the Governor after consultation with the State Board	No
New Jersey (NJ ST 18A:4-21)	Appointed by the Governor, approved by the Senate	Yes – Senate
New Mexico (NM ST 9-24-5)	Appointed by the Governor, approved by the Senate	Yes – Senate
New York (NY ST ED 302 and 305)	Appointed by the State Board of Regents	No

State	Selection	Legislative Approval
North Carolina (NC ST 115C-18)	Elected	No
North Dakota (ND ST 15.1-02-01)	Elected	No
Oklahoma (OK Con Art 6 § 1)	Elected	No
Oregon (OR ST 326.300)	By statute the Governor is the chief school officer; the Governor appoints a deputy chief subject to Senate confirmation	Yes – Senate
Pennsylvania (71 PS 67.1 and 1038)	Appointed by the Governor, approved by the Senate	Yes – Senate
Rhode Island (RI ST 16-60-6)	Appointed by the State Board of Education	No
South Carolina (SC ST 59-3-10)	Elected	No
South Dakota (SD Con Art IV §)	Appointed by the Governor, with advice and consent of the Senate	Yes – Senate
Tennessee (TN ST 4-3-802)	Appointed by the Governor	No
Texas (TX ED 7.051)	Appointed by the Governor, with advice and consent of the Senate	Yes – Senate
Utah (UT ST 53A-1-301)	Appointed by the State Board of Education	No
Vermont (VT ST 3 – 2702)	Appointed by the Governor, with advice and consent of the Senate	Yes – Senate
Virginia (VA ST 22.1-21)	Appointed by the Governor, subject to confirmation by the General Assembly	Yes – General Assembly
Washington (WA ST 29A.04.321)	Elected	No
West Virginia (WV ST 18-3-1)	Appointed by the State Board of Education	No
Wisconsin (WI Con Art 10 § 1)	Elected	No
Wyoming (WY Con Art 4 § 11)	Elected	No

Source: Education Commission of the States; Maryland Department of Legislative Services