

Department of Legislative Services
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FISCAL AND POLICY NOTE
First Reader

Senate Bill 618 (Senator Serafini)
Education, Health, and Environmental Affairs

Education - Achievement School District - Establishment

This bill establishes a statewide “Achievement School District” (ASD) and a nine-member Achievement School Board appointed by the State Board of Education that oversees the ASD. The ASD is separate and distinct from a local school district in the State; is not confined to a specific geographic boundary; and may be composed of any public school or public school district in the State for which student achievement ranks in the lowest 5% of public schools in the State. The ASD is considered a local educational agency for the same purposes and to the same extent as all other local school systems in the State.

Fiscal Summary

State Effect: State education aid to local school systems may be significantly altered beginning in FY 2019; the degree and direction of change cannot be determined without additional legislation and/or regulations. Also beginning in FY 2019, general fund expenditures increase to support ASD operations; the cost cannot be reliably estimated but the Governor is required to provide sufficient funding. State retirement costs increase beginning in FY 2021.

Local Effect: State and local revenues directed to the 24 existing local school systems decrease by approximately \$307 million in FY 2019 and by \$335 million by FY 2022, offset by commensurate decreases in school system expenditures, as well as equivalent increases in revenues and expenditures for ASD schools under the bill. The effect will vary considerably by county. Statewide, centralized costs for administration and transportation increase at the local level; funding and expenditures at the school level may decrease accordingly. Total local retirement expenditures increase beginning in FY 2021. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary: The purpose of the ASD is to transform into high-quality public schools all public schools from throughout the State that have been determined by the State to enroll students whose aggregate academic performance ranks in the lowest 5% of the public schools in the State.

Achievement School Board, Headmaster, and Achievement School District Employees

The State Board of Education must appoint a nine-member Achievement School Board to oversee and administer the ASD. The members of the Achievement School Board are appointed statewide from the general public and must possess demonstrated records of civic and professional engagement. (The bill does not specify the length of a board members term or procedures for replacement or reappointment of members.) The Achievement School Board must select an individual to serve as Headmaster of the ASD.

The Headmaster must be an individual the Achievement School Board deems to be highly qualified and to possess a demonstrated track record for producing results in a context that is comparable and relevant to the purposes of the ASD. The Headmaster must have significant autonomy to administer the ASD but is subject to the oversight of the Achievement School Board. The Headmaster is responsible for the administration, management, and operation of each public school within the ASD. The Headmaster must employ as principals, teachers, and noninstructional personnel to staff the ASD only individuals that are deemed highly qualified; these employees may include those employed at a public school that is absorbed into the ASD.

Transfer of Public Schools into the Achievement School District

Each public school in the State for which, during each of two consecutive school years or during two of three consecutive school years, the State Board of Education has determined that the aggregate student achievement of the students enrolled in the school ranks in the lowest 5% of public schools in the State must be absorbed into and become a part of the ASD. On approval of the State Board of Education, the local school system must transfer the governance of the public school from the local school system to the ASD. A local school system must cooperate fully with the State Board of Education and the ASD to facilitate a smooth transition of a public school into the ASD.

The ASD may not delay the transfer of a public school to the ASD longer than the beginning of the school year next succeeding the year during which the school is accepted

for transfer to the ASD. After transfer into the ASD, the public school is governed by the regulations, policies, and procedures established by the Achievement School Board.

Reversion of a Public School to the Local School System

Once a public school attains and maintains a satisfactory achievement rating for five consecutive years, the State Board of Education, after soliciting input from citizens of the jurisdiction, may (for up to five years) revert the public school back to the local school system, unless the public school is a charter school, or revert the public school to another form of governance. (The bill does not indicate what must occur after this five-year period.)

School Facilities

The ASD may use a public school building and all facilities and property that are part of a public school and recognized as part of the facilities or assets of the public school before it is absorbed into the ASD. The ASD must have access to any additional facilities that typically were available to a public school and its students, faculty, and staff before its absorption by the ASD. Use of the facilities by a public school in the ASD must be unrestricted and free of charge. The ASD is responsible for routine maintenance and repairs necessary to maintain the facilities in good condition and for paying all utilities at the facilities used for the absorbed school. Any tangible assets added by the ASD to a public school building or facility must remain at the public school building or facility if the public school is returned to local governance.

Funding for the Achievement School District

For each student from a local jurisdiction enrolled in the ASD, the local school board must pay directly to the ASD the local share of the foundation program, and the State must pay directly to the ASD the State share of the foundation program. Payments must be paid in the same manner and at the same time State education funding program payments are made to local school systems. The Governor must include sufficient funds in the annual State budget to support the operations of the ASD. The ASD may receive donations and grants from any source, including available federal funding.

Current Law:

Local School Systems

In general, the local boards of education and the local superintendents appointed by the boards control educational matters and policymaking within the school districts and oversee the day-to-day operation of public schools. The local boards are not agencies or

departments of county or State government; however, they are quasi-State agencies and are considered State agencies for some purposes and units of county government for other purposes stipulated in State law. While the State Board of Education has the “last word on any matter concerning educational policy or the administration of the system of public education” (*Board of Education of Prince George’s County v. Waeldner*, 298 Md. 354, 360 (1984)), the local boards have relative autonomy in the management of the schools.

State Aid to Public Schools

The great majority of direct State aid to public schools (excluding teachers’ retirement) is determined by funding formulas found in Title 5, Subtitle 2 of the Education Article. Together with some more recent enactments, these funding formulas were set forth in the Bridge to Excellence in Public Schools Act (Chapter 288 of 2002). The formulas are in part based on the adequacy model, which entails three components. The first is a uniform base cost per pupil that is necessary to provide general education services to students in every school system. The second component of adequacy involves adjustments for the additional costs associated with educating three at-risk student populations: special education students, students eligible for free and reduced-price meals, and students with limited English proficiency. The third component of adequacy is an adjustment that accounts for differences in the local costs of educational resources.

The majority of State education aid formulas (including the foundation formula) also entail wealth equalization across counties, compensating for differences in local wealth by providing less aid per pupil to the more wealthy counties and more aid per pupil to the less wealthy counties. Although on the whole most State aid formulas are designed to have the State pay roughly one-half of program costs, the State’s share for the less wealthy counties is higher than 50%, and the State’s share for more wealthy counties is lower than 50%.

Background: A recent report from Public Impact indicates that Michigan, Nevada, Tennessee, and Virginia each have implemented a statewide “turnaround” district. The report indicates that the Tennessee Achievement School District was modeled on the Louisiana’s Recovery School District (RSD). According to its 2016 annual report, the Louisiana State legislature created the RSD in 2003, and expanded the role and responsibilities of the RSD through legislation in 2005, following Hurricane Katrina. The RSD comprises 59 autonomous charter schools, predominantly in New Orleans.

State Fiscal Effect: The Governor’s proposed fiscal 2018 budget includes \$6.4 billion for State aid to local school systems. It is assumed that, accounting for inflation and enrollment growth, State aid for public schools will continue to be provided at similar levels under the bill. Given the October 1, 2017 effective date of the bill, it is assumed that changes in State aid to public schools will begin with the 2018-2019 school year, or fiscal 2019.

However, the bill raises a number of implementation questions that make a fiscal estimate difficult. Because of the magnitude of annual State aid for education, and given that much of this aid is sensitive to relative wealth per pupil, the bill may alter annual State aid on the order of millions of dollars. The magnitude and direction of change to State education are difficult to determine.

It is assumed that additional regulations and/or legislation will be necessary to clarify certain aspects of law that are critical to determining the amount of State aid to each local school system. Under current law, there is a one-to-one relationship regarding a county (including Baltimore City) and its local school system. This lends considerable clarity to (1) the enrollment count and (2) local wealth associated with each of the 24 local school systems – both being central factors in determining the allocation of State aid to each public school system, and to a lesser extent in determining total State aid to public schools. The bill specifies State and local funding with respect to the foundation program for the ASD, and indicates that the ASD is considered a local education agency, for the same purposes and to the same extent as other local school systems in the State. However, it is not certain if, or how, local wealth and enrollment will be defined for this twenty-fifth local school system for the purposes of determining State aid through other major programs, including compensatory education aid, special education aid, and aid for students with limited English proficiency, or if the mandate that the Governor provides sufficient funds for the ASD will be met in terms of these formula programs.

Based on fall 2016 enrollment, and assuming that the ASD will comprise approximately 5% or more (because a school transferred to the ASD remains with the ASD for at least five years) of public school students statewide, the ASD will become at least the seventh largest local school system out of 25 in the State. Total funding for the ASD cannot be estimated precisely. It is, however, estimated that the combined State and local shares of the foundation program will total \$6.1 billion in fiscal 2019. Assuming that approximately 5% of the State share of the foundation program will be directed to the ASD, \$154 million will be diverted from existing local school systems (based on the share of low-ranking schools in each county) to the ASD in fiscal 2019. Based on inflation in the per pupil foundation amount and enrollment growth, this estimate grows to \$168 million by fiscal 2022.

General fund expenditures increase beginning in fiscal 2019 for ASD operations. The fiscal impact cannot be reliably estimated, but the bill requires the Governor to provide sufficient funding in the annual budget for ASD operations.

The bill also increases State retirement aid beginning in fiscal 2021. By adding an additional administrative unit for local school system governance, it is assumed that the overall impact will be to increase these costs for local school systems in addition to new ASD operational spending.

Local Fiscal Effect: As discussed above, assuming that approximately 5% of the State and local share of the foundation program will be directed to the ASD, \$307 million will be diverted from existing local school systems (based on the share of low-ranking schools in each county) to the ASD in fiscal 2019. Based on inflation in the per pupil foundation amount and enrollment growth, this estimate grows to \$335 million by fiscal 2022. Accordingly, county-based local school system revenues and expenditures (which must generally be maintained from year to year on a per pupil basis) are reduced in equal amounts statewide. As noted above, the bill may also alter the projected balance of wealth per pupil across counties, thus having varying effects on State aid to local schools on a county-by-county basis.

It is assumed that the net effect of the bill on the number of teachers and other employees at the school level is minimal. However, the addition of an extra school administrative unit – the Headmaster and other centralized administration employees – results in a net increase in staffing costs at the local school system level. This in turn either diverts resources from the school level or adds to overall funding needs.

In addition, though full cooperation is required (and assumed under this analysis), there will be substantial legal, logistical, and other transactional costs related to the transfer of a school – including the public school building, students, and potentially many of the school’s teachers and other employees – from a county-based local school system to the ASD. For reasons discussed above, overall local retirement costs may increase beginning in fiscal 2021. Finally, it is not known what particular student transportation needs will be faced by the ASD in any given year, but it is anticipated that the bill will decrease efficiencies associated with local school system operations, thus driving up costs on a statewide basis.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Public Impact; Baltimore City; Dorchester County; Maryland State Department of Education; Department of Budget and Management; Department of Legislative Services

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Analysis by: Scott P. Gates

Direct Inquiries to:
(410) 946-5510
(301) 970-5510