

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 1227

(Senator Ready)

Budget and Taxation

State Education Aid - Mandated Educational Requirements - County Board Opt-Out

This bill authorizes a local board to opt out of any State educational requirement under the Education Article, or regulations adopted under authority of the Education Article, if less than 45% of the local board's "3-year moving average annual budget" is funded by the State. However, a local board must, in accordance with the Education Article, develop an annual budget. **The bill takes effect July 1, 2018.**

Fiscal Summary

State Effect: The bill is largely procedural, although to the extent that a local board opts out of requirements that put the State out of compliance with federal law, federal revenues may be jeopardized.

Local Effect: Local revenues and expenditures may decrease if eligible local school boards opt out of educational requirements that reduce revenues or expenditures.

Small Business Effect: None.

Analysis

Current Law/Background:

State Aid to Public Schools

The Maryland Constitution requires the General Assembly to establish throughout the State a thorough and efficient system of free public schools, authorizes the State to provide for

the maintenance of this system by taxation or other means, and establishes a School Fund. 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 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%.

Public schools are funded from federal, State, and local sources. In fiscal 2018, local sources account for 47.9% of public school funding in Maryland, and 47.8% comes from the State. The federal government provides 4.3% of fiscal 2018 funding for public schools, predominantly targeted toward supporting economically disadvantaged students and students with disabilities. **Appendix 1** shows the reliance by county on federal, State, and local funds in fiscal 2018. Nine counties – Anne Arundel, Calvert, Carroll, Howard, Kent, Montgomery, Queen Anne's, Talbot, and Worcester – receive less than 45% of funding from the State in fiscal 2018. In general, counties receiving proportionally less State funding and more local funding have higher local wealth and thus receive less State aid under the wealth equalized formulas, as discussed above. The 9 counties receiving less than 45% of funding from the State in fiscal 2018 are among the top 11 ranking counties regarding local wealth per pupil.

State and Local Authorities

The State Board of Education determines the elementary and secondary educational policies of the State and may institute legal proceedings to enforce its statutory authority and the bylaws, rules, and regulations adopted by the State board. The State Superintendent is also responsible for enforcement. If an educational institution or local school board violates any provision of law within the State Superintendent's jurisdiction, the State Superintendent may require the State Comptroller to withhold from that institution or

local board all or any part of an appropriation made by the General Assembly and/or payment from funds budgeted by the State.

The State Superintendent must also receive and examine each report required under the bylaws, rules, and regulations of the State board; examine the expenditures, business methods, and accounts of each county board; and advise each county board about them.

A local board of education must carry out relevant State law and State board bylaws, rules, and regulations and also determine the educational policies of the local school system. Among other duties, each local superintendent of schools must decide all controversies and disputes that involve the rules and regulations of the local board and the proper administration of the county public school system.

State Fiscal Effect: Given wealth equalization of the State and local shares of education funding, beginning in fiscal 2019, several local boards each year will be authorized to opt out of State educational requirements other than those that require formulation of a local school board budget and those that are required by federal law. The bill does not define “educational requirement”; thus, it is assumed that eligible local school boards will be able to opt out of State law relating to, but not limited to:

- the role of local school superintendents and the structure and authority of local boards of education;
- student achievement and testing not required by federal law;
- student attendance and discipline requirements;
- high school graduation requirements;
- student transportation;
- student health, safety, and nutrition;
- athletics and other extracurricular activities;
- the salary of local school system officials;
- professional standards for teachers and collective bargaining; and
- the length of the school year and its beginning and ending dates.

It is further assumed that the local share of teacher retirement costs is *not* considered an educational requirement under the bill; to the extent local boards may opt out of providing their share of teacher retirement costs, State expenditures increase significantly. (Maintenance of effort is also assumed to not be included in the bill since it is a requirement of county governments, not county boards of education.)

Beginning as early as fiscal 2019, to the extent that local board compliance with State requirements is necessary for State receipt of federal funding, and depending on which

local school systems opt out of those requirements, some amount of federal funding may be jeopardized. The effect on State revenues may be substantial, but is difficult to estimate.

The bill does not repeal the authority of the State Superintendent to require the State Comptroller to withhold funding from an educational institution or local school board that violates any provision of law within the State Superintendent's jurisdiction. Therefore, it is assumed that to the extent that a local board decides to substantially opt out of State educational requirements, the State Superintendent may invoke the authority to have a commensurate amount of State funding withheld from that local board.

Local Fiscal Effect: Based upon three-year moving averages of State funding percentages during the fiscal 2014 to 2018 period, it is estimated that at least 9 counties – Anne Arundel, Calvert, Carroll, Howard, Kent, Montgomery, Queen Anne's, Talbot, and Worcester – are authorized in fiscal 2019 to invoke the opt-out authority under the bill and that most, if not all, of these counties will remain eligible for opting out through at least fiscal 2023. Also, Baltimore and Garrett counties may qualify for opting out in one or more years during this period. All told, 11 counties are those shown in Appendix 1 to have the lowest percentages of State funding in fiscal 2018 (from 46.0% to 22.9%). Eligibility to opt out beyond fiscal 2019 will in part depend on whether federal funding in support of public schools in Maryland remains fairly constant or changes substantially. A decrease in federal support would result in an increased percentage of State support, and vice versa.

Eligible local school boards may curtail local expenditures for school systems in eligible counties as a result of opting out of requirements that drive local costs. Those counties with the highest local wealth and, thus, the lowest percentages of current State funding support will have more leeway to reduce local appropriations while still maintaining eligibility to opt out of State requirements. (A substantial reduction in local funding for a county near the 45% State funding threshold may result in exceeding that threshold in the next fiscal year.)

The decision of a local school board to opt out of some portion of State requirements may affect funding for the local school system in the form of federal or State aid that depends on meeting certain requirements and could also potentially result in withholding of State funding, at the State Superintendent's discretion.

The nature and scale of these fiscal effects will depend on the particular opt-out decisions, if any, by eligible local boards and is, therefore, difficult to project.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Carroll and Harford counties; Maryland State Department of Education; Office of the Attorney General; Department of Legislative Services

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mm/rhh

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Appendix 1
Revenue Sources for Public Schools in Fiscal 2018

<u>County</u>	<u>Federal</u>	<u>State</u>	<u>Local</u>		<u>Ranking by Percent State</u>		<u>Ranking by Percent Local</u>		
Allegany	6.4%	69.4%	24.2%	1.	Caroline	74.5%	1.	Worcester	72.6%
Anne Arundel	3.7%	36.7%	59.5%	2.	Wicomico	72.8%	2.	Montgomery	64.6%
Baltimore City	8.0%	70.3%	21.7%	3.	Somerset	72.2%	3.	Talbot	64.4%
Baltimore	4.8%	46.0%	49.2%	4.	Baltimore City	70.3%	4.	Howard	64.2%
Calvert	3.3%	42.6%	54.1%	5.	Allegany	69.4%	5.	Anne Arundel	59.5%
Caroline	7.0%	74.5%	18.6%	6.	Dorchester	65.9%	6.	Kent	56.4%
Carroll	3.4%	42.8%	53.8%	7.	Washington	62.9%	7.	Queen Anne's	55.5%
Cecil	4.2%	57.0%	38.8%	8.	Prince George's	59.2%	8.	Calvert	54.1%
Charles	3.6%	50.4%	46.0%	9.	Cecil	57.0%	9.	Carroll	53.8%
Dorchester	5.7%	65.9%	28.4%	10.	Charles	50.4%	10.	Baltimore	49.2%
Frederick	3.3%	49.0%	47.7%	11.	St. Mary's	49.2%	11.	Garrett	49.2%
Garrett	5.4%	45.4%	49.2%	12.	Frederick	49.0%	12.	Harford	48.6%
Harford	4.0%	47.4%	48.6%	13.	Harford	47.4%	13.	Frederick	47.7%
Howard	2.3%	33.5%	64.2%	14.	Baltimore	46.0%	14.	Charles	46.0%
Kent	5.4%	38.2%	56.4%	15.	Garrett	45.4%	15.	St. Mary's	42.7%
Montgomery	2.9%	32.5%	64.6%	16.	Carroll	42.8%	16.	Cecil	38.8%
Prince George's	4.4%	59.2%	36.4%	17.	Calvert	42.6%	17.	Prince George's	36.4%
Queen Anne's	4.7%	39.8%	55.5%	18.	Queen Anne's	39.8%	18.	Washington	32.1%
St. Mary's	8.1%	49.2%	42.7%	19.	Kent	38.2%	19.	Dorchester	28.4%
Somerset	7.6%	72.2%	20.2%	20.	Anne Arundel	36.7%	20.	Allegany	24.2%
Talbot	5.9%	29.7%	64.4%	21.	Howard	33.5%	21.	Baltimore City	21.7%
Washington	5.0%	62.9%	32.1%	22.	Montgomery	32.5%	22.	Wicomico	21.1%
Wicomico	6.1%	72.8%	21.1%	23.	Talbot	29.7%	23.	Somerset	20.2%
Worcester	4.5%	22.9%	72.6%	24.	Worcester	22.9%	24.	Caroline	18.6%
Total	4.3%	47.8%	47.9%						

Source: Local School Budgets; Department of Legislative Services