

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1275 (Delegate Lisanti)
 Economic Matters

Maryland Automobile Insurance Fund – Liability Insurance – School Bus Contractors

This bill requires the Maryland Automobile Insurance Fund (MAIF) to offer primary or supplemental insurance coverage to a private contractor for school bus services to a county board of education if that contractor meets all of the existing eligibility requirements for a MAIF policy except for those related to an applicant’s inability to obtain insurance in the private insurance market. The coverage must (1) include at least the minimum required security for motor vehicle insurance policies under State law and (2) equal or exceed the coverage provided to public contractors for school bus services in the county. **The bill takes effect July 1, 2021.**

Fiscal Summary

State Effect: General fund revenues may increase minimally as additional premium tax revenues are collected under the bill. Expenditures are not materially affected.

MAIF Effect: MAIF nonbudgeted expenditures and revenues increase, potentially significantly and correspondingly, as new commercial policies are issued and claims are paid and to the extent that MAIF is required to purchase reinsurance, as discussed below. Additionally, MAIF nonbudgeted expenditures increase by \$200,000 in FY 2022 only for programming costs.

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
NonBud Rev.	-	-	-	-	-
NonBud Exp.	\$200,000	-	-	-	-
Net Effect	(\$200,000)	-	-	-	-

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

Local Effect: Local government expenditures may be affected; however, the direction and magnitude of any such impact cannot be reliably estimated, as discussed below. Revenues are not affected.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary/Current Law:

Maryland Automobile Insurance Fund

Created by the General Assembly in 1972, MAIF is an independent nonbudgeted State agency. Through its Insured Division, MAIF provides automobile liability insurance to residents of the State who are unable to obtain policies in the private insurance market. MAIF is not in direct competition with the private insurance industry. MAIF must issue a policy for motor vehicle liability insurance if an applicant:

- pays a premium and (1) owns a covered vehicle registered with MVA; (2) has a license issued by MVA to drive a covered vehicle; or (3) is a lessee under a “lease not intended as security” as defined by Maryland law;
- does not owe MAIF an unpaid premium (with respect to a policy that has expired or been canceled) or a claim payment obtained by fraud;
- meets specified residency requirements; and
- has (1) made at least two good faith efforts to obtain a policy from two other insurers in a specified manner; (2) had a policy canceled or nonrenewed by an insurer for a reason other than nonpayment of a premium; or (3) had a motor vehicle liability insurance policy but has been uninsured for at least 12 months prior to the start of the MAIF policy (under the bill, a school bus contractor is not required to meet any of these three eligibility requirements).

Policies issued by MAIF must contain the minimum security coverages discussed in the following section; however, when MAIF issues a policy of commercial auto liability insurance, it is expressly authorized to provide coverage in addition to and in excess of those minimums but is not required to do so except to the extent that reinsurance for the additional or excess coverage is available and acceptable to MAIF.

Required Security

Maryland law requires an owner of a motor vehicle that is required to be registered in the State to maintain insurance for the vehicle during the registration period. The security required must provide at least the payment of claims:

- for bodily injury or death arising from an accident of up to \$30,000 for any one person and up to \$60,000 for any two or more persons;
- for property of others damaged or destroyed in an accident of up to \$15,000;
- unless waived or exempt under Chapters 425 and 426 of 2016, for personal injury protection coverage of \$2,500 per person; and
- for uninsured motorist or enhanced uninsured motorist coverage under Chapters 20 and 815 of 2017 (unless waived, the amount equals the amount of liability coverage provided under the policy; if waived, the amount equals the minimum required insurance for liability coverage).

Insurance Requirements for Local School Boards

Each local school board must carry comprehensive liability insurance to protect the board and its agents and employees. The State Board of Education must establish standards for these insurance policies, including a minimum liability coverage of at least \$400,000 for each occurrence. This policy generally covers school buses owned and operated by a local school board.

Pursuant to § 5-518(b) of the Courts and Judicial Proceedings Article, a local school board may raise the defense of sovereign immunity to any amount claimed above the limit of its insurance policy or, if self-insured or a member of a specified insurance pool, above \$400,000. However, a local school board may not raise the defense of sovereign immunity to any claim of \$400,000 or less.

MAIF Fiscal Effect:

Policy Issuance and Reinsurance

MAIF revenues and expenditures increase as MAIF begins to issue liability insurance policies to school bus contractors (1) due to additional policies being issued and corresponding claims being paid and (2) to the extent that MAIF is required to increase policy limits and purchase reinsurance to account for the additional risk associated with the new policies. The precise impact to MAIF depends on many unknown factors, including how many contractors apply for and obtain MAIF policies and what policy limits they choose or are required to purchase and, therefore, cannot be reliably estimated. As shown

in **Appendix 1**, there are approximately 3,500 contractor school buses operating in the State and, as such, the total impact to MAIF's operations and finances could be significant.

MAIF advises that it currently has 154 commercial policies with bodily injury limits of up to \$50,000/\$100,000 (depending on how many people are injured) and 388 commercial policies with limits of up to \$100,000/\$300,000 (depending on how many people are injured). With this number of policies and these limits, MAIF is not required to purchase or rely on reinsurance. Under the bill, however, MAIF may need to purchase reinsurance for its commercial policies due to the significant increase in risk from new policies and higher policy limits.

For example, the bill requires MAIF to offer coverage that equals or exceeds the coverage provided to public contractors for school bus services in a county. MAIF advises that Harford County provides \$1 million in coverage for its school bus contractors, and this level of coverage is substantially higher than MAIF offers for any of its insurance policies, representing significantly more risk than MAIF currently insures. Additionally, MAIF advises that reinsurance is not even available for the coverage it currently offers for commercial policies and, consequently, it may need to increase the minimum coverage requirements for all of its commercial policies.

Any additional costs for MAIF resulting from these changes are likely to be passed on to policy holders through increased premiums resulting in no net impact to MAIF's finances; however, the increase in premiums is likely to be significant.

Programming Costs

MAIF expenditures increase by approximately \$200,000 in fiscal 2022 only for computer programming costs to implement the new types of policies that must be offered under the bill.

Local Expenditures: The local school systems that responded to a request for information for the bill advised that liability insurance for school bus contractors is generally provided through either (1) the school system directly or (2) a [group insurance pool](#) administered by the Maryland Association of Boards of Education (MABE). As such, currently available information suggests that liability insurance costs for school bus contractors are generally borne by local school systems.

As MAIF begins to offer liability insurance coverage to school bus contractors under the bill, local school systems may begin to require contractors to obtain their own insurance policies through MAIF instead of through the school system directly or through a group insurance pool administered by MABE. While this could result in potentially significant insurance cost savings for those local school systems, overall costs for a school system may

actually increase if a contractor requires the school system to pay its new insurance costs as part of the contract. Specifically, the cost to insure a contractor bus through MAIF is likely to be more expensive than through the county or through MABE.

Small Business Effect: Local governments who contract with small businesses to provide school bus services may require contractors to purchase their own insurance policies with MAIF under the bill, increasing costs for those small businesses potentially significantly. Small businesses may increase their prices to account for these increased costs, as noted above.

Additional Comments: MAIF advises, and the Department of Legislative Services concurs, that MAIF cannot likely begin offering commercial insurance policies to school bus contractors by July 1, 2021. Specifically, MAIF anticipates needing between 9 and 12 months to fully implement the bill.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland State Department of Education; Maryland Department of Transportation; Maryland Automobile Insurance Fund; Baltimore City Public Schools; Baltimore County Public Schools; Anne Arundel County Public Schools; Maryland Association of Boards of Education; Department of Legislative Services

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rh/hlb

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Appendix 1
Student Transportation Statistics
Maryland Public Schools

School System	Number of Vehicles			Total Miles Traveled			Pupils Eligible for Transportation			Transportation
	Public	Contracted	Total	Nondisabled	Disabled	Total	Nondisabled	Disabled	Total	Costs
										Total Amount
Allegany	19	85	104	1,144,512	379,584	1,524,096	5,374	245	5,619	\$5,921,892
Anne Arundel	54	571	625	8,578,891	3,120,510	11,699,401	61,399	1,952	63,351	56,750,072
Baltimore City	36	398	434	2,136,194	492,962	2,629,156	29,931	2,980	32,911	47,046,560
Baltimore	670	138	808	10,345,431	5,091,900	15,437,331	80,036	3,980	84,016	69,316,982
Calvert	0	140	140	2,294,382	1,039,986	3,334,368	15,132	346	15,478	14,430,714
Caroline	23	35	58	801,289	176,288	977,577	4,745	100	4,845	4,172,816
Carroll	0	259	259	3,437,125	1,857,947	5,295,072	24,036	487	24,523	21,629,306
Cecil	10	143	153	2,130,694	479,062	2,609,756	13,940	263	14,203	10,745,460
Charles	4	285	289	4,681,416	2,541,322	7,222,738	23,789	845	24,634	27,650,247
Dorchester	8	49	57	772,236	217,591	989,827	4,145	113	4,258	3,882,282
Frederick	355	0	355	4,882,992	2,724,858	7,607,850	29,249	1,073	30,322	21,666,212
Garrett	0	62	62	789,480	182,130	971,610	3,782	44	3,826	4,116,990
Harford	97	334	431	5,433,816	2,174,665	7,608,481	31,643	901	32,544	31,633,212
Howard	0	468	468	2,971,080	2,429,100	5,400,180	41,989	1,709	43,698	39,011,564
Kent	18	10	28	415,413	128,257	543,670	1,630	27	1,657	1,954,490
Montgomery	1,191	0	1,191	10,546,110	9,611,959	20,158,069	98,625	5,930	104,555	115,706,066
Prince George's	1,025	8	1,033	11,779,757	7,938,167	19,717,924	82,406	4,733	87,139	103,469,529
Queen Anne's	14	73	87	1,603,667	489,600	2,093,267	7,642	107	7,749	7,115,765
St. Mary's	13	190	203	2,988,225	1,149,403	4,137,628	17,437	467	17,904	16,752,171
Somerset	0	32	32	664,081	115,254	779,335	2,746	85	2,831	3,074,050
Talbot	41	0	41	707,709	174,889	882,598	4,344	74	4,418	2,689,705
Washington	142	51	193	2,360,569	808,199	3,168,768	19,194	545	19,739	12,246,269
Wicomico	22	106	128	1,754,376	319,308	2,073,684	12,679	194	12,873	9,408,765
Worcester	0	69	69	1,512,469	141,389	1,653,858	6,248	107	6,355	6,886,663
Total State	3,742	3,506	7,248	84,731,914	43,784,330	128,516,244	622,141	27,307	649,448	\$637,277,781

Note: Data for number of school vehicles, miles traveled, and students transported is from fiscal 2019. Student transportation costs is from fiscal 2018.

Source: Maryland State Department of Education; Department of Legislative Services