

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 909
Appropriations

(Delegate Hinebaugh)

Education – Local Share of Major Education Aid – Nonrecurring Costs
Exclusion

This bill authorizes a local board of education and a county governing body to agree, on or before June 1 of each year, to designate “certain spending” that is in excess of the local share of major education aid as nonrecurring costs that are supplemental to the regular school operating budget and, therefore, excluded from the highest local appropriation that is used to determine maintenance of effort (MOE) for the following year. The Maryland State Department of Education (MSDE) must annually report to the appropriate county governing body on all waiver requests, MOE calculations made by MSDE and the county, MSDE’s decisions regarding waiver requests, the MSDE certification of whether a county has met the requirement, and any other information relating to a county’s request for a waiver and MSDE’s MOE decisions. **The bill takes effect July 1, 2024.**

Fiscal Summary

State Effect: Potential impact on State education aid for two programs based on the local appropriation to public schools. The impact may begin as early as FY 2027, as discussed below. Revenues are not affected.

Local Effect: Potential impact on local appropriations to public schools and State education aid under the guaranteed tax base program and education effort index. The impact may begin as early as FY 2027.

Small Business Effect: None.

Analysis

Current Law:

Blueprint for Maryland's Future and Education Funding Formulas

Blueprint for Maryland's Future legislation, including Chapter 771 of 2019; Chapters 36 and 55 of 2021; and Chapter 33 of 2022 established new programs and updated education funding formulas, to provide additional support for schools serving high concentrations of students living in poverty, including community schools and wraparound services, and increased support for students learning English and students with disabilities.

The majority of direct State aid to public schools (excluding teachers' retirement) is determined by enrollment-based funding formulas generally found in Title 5, Subtitle 2 of the Education Article. Collectively, the formulas account for a uniform base cost per pupil that is necessary to provide general education services to students in every school system and address the additional costs associated with educating three student populations: special education students; students eligible for free and reduced-price meals; and students who are English-language learners. Chapter 36 established additional major education aid programs.

Most State education aid formulas also include 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%.

Guaranteed Tax Base

The guaranteed tax base program is intended to encourage less wealthy jurisdictions to maintain or increase local education tax effort, *i.e.*, local education appropriation as a percent of local tax base. The program provides additional State education aid to counties that have less than 80% of the statewide average wealth per pupil and provide local education funding above the minimum local share required by the foundation program. The program uses local education tax effort and wealth to determine State aid amounts for each eligible school system.

Maintenance of Effort and Local Share

Each year, the county government (including Baltimore City) is required to appropriate funds to the local board of education equivalent to the greater of the MOE requirement or

the local share amount of all wealth-equalized formulas. The per pupil MOE amount is based upon the greater of (1) the prior year full-time equivalent (FTE) enrollment and (2) the three-year moving average of FTE enrollment. The local share amount equals the local share of the foundation formula, compensatory education, English language learner, special education, comparable wage index (CWI), full-day prekindergarten, college and career ready, transitional supplemental instruction (through fiscal 2026), and career ladder grant programs. Also, counties that benefit from the compensatory education State funding floor are required to fund the local share of the concentration of poverty grant programs. However, for some counties, the combined local share across these several programs is subject to adjustments.

Maryland statute indicates that qualifying nonrecurring costs that may be excluded from a county's highest local appropriation, and as defined in regulations adopted by the State Board of Education, must include but are not limited to (1) computer laboratories; (2) technology enhancements; (3) new instructional start-up costs; and (4) books other than classroom textbooks. Maryland regulations (COMAR 13A.02.05.03) provide further details regarding those four types of inclusions and add (5) capital items with a useful life of five years or more that include the cost to acquire fixed assets other than land and buildings; and other unique one-time costs that the local board and county mutually agree to be one-time expenditures.

COMAR also specifies that a county must submit to MSDE between January 1 and March 31 of the prior fiscal year, a written request to exclude qualifying nonrecurring costs that are supplemental to the regular school operating budget. The request must include an explanation of why the cost qualifies as nonrecurring. Before submitting the written request, the county must confer with the local board. The county must send a copy of the written request to the local board. MSDE must inform the local board of education and the county within 30 days from receipt of the written request, but no later than May 1 of the prior fiscal year, whether the nonrecurring costs are approved for exclusion. The county or local board may appeal MSDE's decision to the State Board of Education.

Education Effort Adjustment to Local Share Requirement

Local governments are required to fund the local share of the foundation program and the required local shares for several existing and new funding formula programs. The law also includes a mechanism for establishing a maximum local share that a county must fund each year. This involves "local education effort," which is determined for each county by dividing the county's local share of major education aid by the county's wealth. An "education effort index," which is the local education effort divided by the "State average education effort" is then determined. A "maximum local share" is calculated for each county, which is the county's local wealth multiplied by the State average education effort.

Each county with an education effort above 1.0 for two consecutive years receives relief based upon its “education effort adjustment,” which is the amount by which the calculated local share exceeds the maximum local share. This relief (which results in increases to State aid) is provided to counties within one of three tiers, based on whether the education effort is (1) greater than 1.0 but less than 1.15; (2) at least 1.15 but less than 1.27; or (3) at least 1.27. State relief for the first tier is phased up from 15% of the education effort adjustment in fiscal 2023 to 50% by fiscal 2030. State relief for the second tier is phased up from 20% of the education effort adjustment in fiscal 2023 to 100% by fiscal 2030. State relief for the third tier is 100% beginning in fiscal 2023. However, the education effort adjustment for a county is only allowed to the degree that per pupil MOE is met each year.

Additional Reductions to Local Share

A county may be eligible for a reduction in the required local share of major aid formulas in three additional ways: (1) if a county receives State funds from the guaranteed tax base program, the local share may be reduced by the amount of guaranteed tax base funds, except that for Baltimore City only the amount above \$10 million may be reduced from the local share; (2) if a county receives State funds to support the minimum funding floors of 15% for the foundation and 40% for the targeted programs; and (3) if a county has a CWI of at least 0.13, the local share of CWI may be reduced by 50%. However, in all of these cases, the local share may not be reduced below the required per pupil MOE amount.

State Expenditures: General and special fund expenditures may be altered by substantial amounts beginning as early as fiscal 2027. Specifically, there is an indeterminate impact on State expenditures through the education effort index, beginning as early as fiscal 2027, and under the guaranteed tax base program, beginning as early as fiscal 2028. Both of these components of State aid to public schools are sensitive to annual levels of local appropriations to public schools. The amount and net direction (increase or decrease) cannot be reliably determined at this time, for reasons discussed below.

The bill does not define “certain expenditures” that may be excluded from a county’s highest net local appropriation as a nonrecurring cost in a given fiscal year; therefore, it is assumed that there is no limit as to the nature of the allowable exclusion. The magnitude of exclusions under the bill will depend upon the manner in which the expenditures are determined to be in excess of the local share of major education aid and will be limited by what county governments and their respective local boards of education agree upon. MSDE finds that the bill does not provide MSDE with authority to approve or disapprove of the exclusions under the bill.

Given the bill’s July 1, 2024 effective date and given that the bill allows for exclusions from the highest net local appropriations that must be determined before June 1, additional

exclusions under the bill will be based upon agreements between county governments and their respective local boards of education that occur before June 1, 2025, and before June 1 of subsequent years. It follows that the initial opportunity to make additional exclusions from a county's highest local appropriation under the bill will be within the fiscal 2026 local school board budgets, which in turn means that MOE is not reduced under the bill until fiscal 2027 at the earliest. As mentioned above, this results in impacts on Education Effort Index State expenditures as early as fiscal 2027 and on guaranteed tax base (which is based upon prior year appropriations) as early as fiscal 2028.

Local Fiscal Effect: For reasons discussed above, State aid received by local school systems may be altered, beginning in fiscal 2027, and local appropriations to public schools may be reduced by as early as fiscal 2027. The impact on both State aid and local appropriations will depend upon the magnitude of agreements between county governments and their respective local school boards, and the manner in which the expenditures are determined to be in excess of the local share of major education aid.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 803 (Senator Brooks) - Budget and Taxation.

Information Source(s): Baltimore City Public Schools; Anne Arundel County; Anne Arundel County Public Schools; Baltimore County; Baltimore County Public Schools; Charles County; Garrett County; Montgomery County Public Schools; Maryland Association of Counties; Maryland State Department of Education; Department of Budget and Management; Department of Legislative Services

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