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(PRE-FILED)

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By: Delegates Hixson, Taylor, Cummings, Hurson, Busch, Guns, Rawlings, and Vallario

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Introduced and read first time: January 10, 1996

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 12, 1996

CHAPTER ____

1 AN ACT concerning

2 ~~Education - School System Performance Audit~~ **Annual Budgets, Performance Audits, and**
3 **Compliance**

4 FOR the purpose of making certain annual school budget requirements applicable to
5 Baltimore City; requiring county boards of education to include certain information
6 with their budgets; requiring county boards to make certain reports after taking
7 certain actions; requiring the Maryland State Department of Education to contract
8 for a performance audit of a county school system at the request of the county
9 governing body under certain circumstances; defining a certain term; providing that
10 the cost of the performance audit shall be shared equally between the county
11 governing body and the county school board; allowing county governing bodies and
12 county boards to agree on performance audits; providing for certain reports;
13 defining certain terms; excluding certain costs from the calculation of certain local
14 primary and secondary education funding requirements under certain
15 circumstances; providing that the State Board of Education may grant certain
16 waivers under certain conditions; repealing certain obsolete language; and generally
17 relating to the annual budgets of the county boards of education, performance
18 audits of county school systems, and certain primary and secondary education
19 funding requirements.

20 ~~BY adding to~~

21 ~~Article - Education~~

22 ~~Section 5-108.1~~

23 ~~Annotated Code of Maryland~~

24 ~~(1992 Replacement Volume and 1995 Supplement)~~

25 BY repealing and reenacting, with amendments,

2

1 Article - Education
 2 Section 5-101(a) and (b), 5-103(d), 5-105(c), 5-202(b)(3), and 5-205
 3 Annotated Code of Maryland
 4 (1992 Replacement Volume and 1995 Supplement)

5 BY adding to
 6 Article - Education
 7 Section 5-108.1 and 5-109(d) and (e)
 8 Annotated Code of Maryland
 9 (1992 Replacement Volume and 1995 Supplement)

10 BY repealing
 11 Article - Education
 12 Section 5-101(f) and 5-103(e)
 13 Annotated Code of Maryland
 14 (1992 Replacement Volume and 1995 Supplement)

15 BY renumbering
 16 Article - Education
 17 Section 5-101(c) through (e), (g), and (h), respectively
 18 to be Section 5-101(b) through (f), respectively
 19 Annotated Code of Maryland
 20 (1992 Replacement Volume and 1995 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article - Education**

24 5-101.

25 (a) [This section does not apply to Baltimore City.

26 (b)] (1) Subject to the rules and regulations of the State Board andwith the
 27 advice of the county superintendent, each county board shall prepare anannual budget
 28 according to:

29 (i) The major categories listed in this section; and

30 (ii) Any other major category required by the State Board.

31 (2) In addition to the information required by this section, the county fiscal
 32 authorities may require the county board to provide details to the service areas and
 33 activities levels in the account structure within the "Financial Reporting Manual for
 34 Maryland Public Schools."

35 (3) WITH THE ANNUAL BUDGET, EACH COUNTY BOARD SHALL
 36 PROVIDE:

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1 (I) THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS
2 INCLUDED WITHIN EACH MAJOR CATEGORY; AND

3 (II) A DESCRIPTION OF ANY FUND BALANCES OR OTHER MONEYS
4 HELD BY ANY OUTSIDE SOURCE, INCLUDING AN INSURER, THAT ARE
5 UNDESIGNATED OR UNRESERVED AND ARE UNDER THE DIRECTION AND CONTROL
6 OF THE COUNTY BOARD.

7 5-103.

8 (d) If a county council or board of county commissioners does not approve the
9 amount requested in the budget that is more than the amount required by § 5-202 of this
10 title[, it]:

11 (1) THE COUNTY COUNCIL OR BOARD OF COUNTY COMMISSIONERS
12 shall indicate in writing, within 15 days after the adoption of the budget, which major
13 categories of the annual budget have been reduced and the reason for the reduction; AND

14 (2) THE COUNTY BOARD SHALL SUBMIT TO THE COUNTY GOVERNING
15 BODY, WITHIN 30 DAYS AFTER THE ADOPTION OF THE BUDGET, A REPORT
16 INDICATING HOW THE ALTERATIONS TO THE BUDGET WILL BE IMPLEMENTED,
17 ACCOMPANIED BY REASONABLE SUPPORTING DETAIL AND ANALYSIS.

18 5-105.

19 (c) (1) A transfer may be made within the major categories without recourse to
20 the county commissioners or county council except that a report of the transfer shall be
21 submitted to the county commissioners or county council [at] WITHIN 15 DAYS AFTER
22 the end of each month.

23 (2) A transfer between major categories shall be made only with the
24 approval of the county commissioners or county council.

25 (3) If the county commissioners or county council fail to take action on a
26 request for transfer between major categories within 30 days after the receipt of a written
27 request substantiating the transfer, the failure to take action constitutes approval.

28 (4) A COUNTY BOARD SHALL SUBMIT TO THE COUNTY GOVERNING
29 BODY A REPORT WITHIN 15 DAYS AFTER THE END OF EACH MONTH IF DURING THAT
30 MONTH THE COUNTY BOARD TAKES ANY ACTION THAT WOULD COMMIT THE
31 COUNTY BOARD TO SPEND MORE FOR THE CURRENT FISCAL YEAR IN ANY MAJOR
32 CATEGORY THAN THE AMOUNT APPROVED IN THE ANNUAL BUDGET FOR THAT
33 CATEGORY.

34 (5) A REPORT UNDER PARAGRAPH (4) OF THIS SUBSECTION SHALL
35 INCLUDE A NARRATIVE EXPLANATION OF THE ACTION TAKEN, INDICATING ANY
36 REQUEST FOR TRANSFER BETWEEN CATEGORIES THAT MAY BECOME NECESSARY
37 FOR THE FISCAL YEAR AS A RESULT OF THE ACTION.

38 5-108.1.

39 (A) IN THIS SECTION, "PERFORMANCE AUDIT" MEANS AN ASSESSMENT OF AN
40 ENTITY'S OR PROGRAM'S PRACTICES TO DETERMINE WHETHER THE ENTITY OR

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1 PROGRAM IS OPERATING ECONOMICALLY AND EFFICIENTLY AND WHETHER
2 CORRECTIVE ACTIONS FOR IMPROVING ITS PERFORMANCE ARE APPROPRIATE.

3 (B) IN THE ABSENCE OF AN AGREEMENT BETWEEN A COUNTY GOVERNING
4 BODY AND A COUNTY SCHOOL BOARD, THE DEPARTMENT AT THE REQUEST OF THE
5 COUNTY GOVERNING BODY SHALL CONTRACT FOR A PERFORMANCE AUDIT OF THE
6 COUNTY PUBLIC SCHOOL SYSTEM TO ADDRESS THE ISSUES RAISED IN THE
7 COUNTY'S REQUEST.

8 (C) THE DEPARTMENT SHALL MAKE REASONABLE EFFORTS TO ENSURE
9 THAT A PERFORMANCE AUDIT UNDER THIS SECTION IS COMPLETED AND THE
10 RESULTS OF THE AUDIT ARE MADE AVAILABLE TO THE COUNTY BOARD IN TIME TO
11 BE CONSIDERED BY THE COUNTY BOARD IN THE PREPARATION OF ITS BUDGET FOR
12 THE NEXT FISCAL YEAR.

13 (D) THE COST OF A PERFORMANCE AUDIT UNDER THIS SECTION SHALL BE
14 SHARED EQUALLY BETWEEN THE COUNTY GOVERNING BODY AND THE COUNTY
15 BOARD.

16 (E) A PERFORMANCE AUDIT ~~UNDER~~ FOR WHICH THE DEPARTMENT
17 CONTRACTED UNDER SUBSECTION (B) OF THIS SECTION:

18 (1) SHALL BE CONDUCTED IN ACCORDANCE WITH GENERALLY
19 ACCEPTED GOVERNMENT AUDITING STANDARDS; AND

20 (2) MAY NOT INCLUDE AN ASSESSMENT OR EVALUATION OF A COUNTY
21 BOARD'S EFFORTS TO MEET THE STANDARDS OF THE MARYLAND SCHOOL
22 PERFORMANCE PROGRAM.

23 (F) THIS SECTION DOES NOT PREVENT A COUNTY GOVERNING BODY AND A
24 COUNTY SCHOOL BOARD FROM MAKING AN AGREEMENT TO PERFORM OR
25 CONTRACT FOR A PERFORMANCE AUDIT OF SCHOOL BOARD FUNCTIONS,
26 INCLUDING AN AGREEMENT INVOLVING THE SCOPE OF THE PERFORMANCE AUDIT
27 OR THE RESPONSIBILITY FOR THE FUNDING OF THE PERFORMANCE AUDIT.

28 5-109.

29 (D) (1) AT THE REQUEST OF THE COUNTY GOVERNING BODY MADE IN
30 WRITING AT LEAST 30 DAYS BEFORE THE REPORTING DEADLINE, THE COUNTY
31 BOARD OR SUPERINTENDENT SHALL REPORT TO THE COUNTY GOVERNING BODY
32 ON OR BEFORE NOVEMBER 1 AND MARCH 1 OF EACH FISCAL YEAR ON THE SCHOOL
33 SYSTEM'S OPERATIONS, INCLUDING ANY ADJUSTMENT MADE TO THE APPROVED
34 ANNUAL BUDGET.

35 (2) A REPORT UNDER THIS SUBSECTION SHALL BE MADE AVAILABLE
36 TO ALL INTERESTED PERSONS.

37 (E) (1) AT THE REQUEST OF THE COUNTY BOARD MADE IN WRITING AT
38 LEAST 30 DAYS BEFORE THE REPORTING DEADLINE THE COUNTY GOVERNING
39 BODY SHALL REPORT TO THE COUNTY BOARD ON OR BEFORE NOVEMBER 1 AND
40 MARCH 1 OF EACH FISCAL YEAR ON THE COUNTY'S FISCAL STATUS FOR THE
41 IMMEDIATE FISCAL YEAR AND THE SUBSEQUENT FISCAL YEAR.

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1 (2) A REPORT UNDER THIS SUBSECTION SHALL BE MADE AVAILABLE
 2 TO ALL INTERESTED PERSONS.

3 5-202.

4 (b) (3) (I) IN THIS PARAGRAPH, "ENROLLMENT" MEANS THE FULL-TIME
 5 EQUIVALENT ENROLLMENT USED IN CALCULATING THE CURRENT EXPENSE AID
 6 FOR A COUNTY.

7 (II) To be eligible to receive the State share of basic current expenses:

8 [(i)] 1. The county governing body shall levy an annual tax sufficient
 9 to provide an amount of revenue for elementary and secondary public education purposes
 10 equal to the product of the wealth of the county and a local contribution rate determined
 11 for each fiscal year; and

12 [(ii) 1.1] 2. [The] SUBJECT TO THE PROVISIONS OF § 5-205 OF
 13 THIS SUBTITLE, THE county governing body shall appropriate local funds to the school
 14 operating budget in an amount no less than the greater of the product of the [full-time
 15 equivalent] enrollment [used in calculating the current expense aid] for the current
 16 fiscal year and the local appropriation on a per pupil basis for the prior fiscal year or the
 17 highest local appropriation to the school operating budget in the prior fiscal year.

18 [2.1 (III) 1. [For] EXCEPT AS PROVIDED IN SUB-
 19 SUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, FOR purposes of this paragraph, the local
 20 appropriation on a per pupil basis for the prior fiscal year for a county is derived by
 21 dividing the county's highest local appropriation to its school operating budget for the
 22 prior fiscal year by the [full-time equivalent] enrollment [used to calculate the current
 23 expense aid for the county] for the prior fiscal year. For example, the calculation of the
 24 current expense aid for fiscal year 1985 shall be based on the highest local appropriation
 25 for the school operating budget for a county for fiscal year 1984. Program shifts between
 26 a county operating budget and a county school operating budget may not be used to
 27 artificially satisfy the requirements of this paragraph.

28 2. FOR PURPOSES OF THIS PARAGRAPH, THE CALCULATION
 29 OF THE COUNTY'S HIGHEST LOCAL APPROPRIATION TO ITS SCHOOL OPERATING
 30 BUDGET FOR THE PRIOR FISCAL YEAR SHALL EXCLUDE:

31 A. A NONRECURRING COST THAT IS SUPPLEMENTAL TO THE
 32 REGULAR SCHOOL OPERATING BUDGET, IF THE EXCLUSION HAS BEEN APPROVED
 33 BY THE STATE SUPERINTENDENT IN ACCORDANCE WITH REGULATIONS ADOPTED
 34 BY THE STATE BOARD; AND

35 B. A COST OF A PROGRAM THAT HAS BEEN SHIFTED FROM
 36 THE COUNTY SCHOOL OPERATING BUDGET TO THE COUNTY OPERATING BUDGET.

37 5-205.

38 (a) After notification from the State Superintendent that a county is not
 39 complying with the provisions of the State program of public education, the State
 40 Comptroller shall withhold any installment due the county from the General State School
 41 Fund.

1 **(b) (1) If the Superintendent finds that a county is not complying with the**
2 **maintenance of local effort provisions of § 5-202 of this article or that a county fails to**
3 **meet the requirements of Title 5, Subtitle 4 of this article, the Superintendent shall notify**
4 **the county of such noncompliance.**

5 **(2) If a county disputes the finding within 30 days of the issuance of such**
6 **notice, the dispute shall be promptly referred to the State Board of Education which shall**
7 **make a final determination.**

8 **(3) Upon receipt of certification of noncompliance by the Superintendent or**
9 **the State Board, as the case may be, the Comptroller shall suspend, until notification of**
10 **compliance is received, payment of any funds due the county for the current fiscal year, as**
11 **provided under § 5-202 of this article which are appropriated in the General State School**
12 **Fund, to the extent that the State's aid due the county in the current fiscal year under that**
13 **section in the Fund exceeds the amount which the county received in the prior fiscal year.**

14 **(C) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION OR § 5-202 OF THIS**
15 **SUBTITLE, THE STATE BOARD OF EDUCATION, AFTER A PUBLIC HEARING, AND IN**
16 **ACCORDANCE WITH ITS REGULATIONS, MAY GRANT A COUNTY A WAIVER FROM**
17 **THE PROVISIONS OF THIS SECTION OR § 5-202 OF THIS SUBTITLE.**

18 **SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 5-101(f) and**
19 **5-103(e) of Article - Education of the Annotated Code of Maryland be repealed.**

20 **SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 5-101(c)**
21 **through (e), (g), and (h), respectively, of Article - Education of the Annotated Code of**
22 **Maryland be renumbered to be Section(s) 5-101(b) through (f), respectively.**

23 **SECTION 2- 4. AND BE IT FURTHER ENACTED, That this Act shall take effect**
24 **July 1, 1996.**