

SENATE BILL 894

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2004 Regular Session
4lr2853
CF 4lr3192

By: **Senators Currie, DeGrange, Jones, Kasemeyer, Kittleman, Lawlah,
McFadden, Munson, and ~~Ruben~~ Ruben, Hogan, Brinkley, Stoltzfus, and
Kramer**

Introduced and read first time: February 26, 2004
Assigned to: Rules
Re-referred to: Budget and Taxation, March 5, 2004

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: April 2, 2004

CHAPTER _____

1 AN ACT concerning

2 **Education Fiscal Accountability and Oversight Act of 2004**

3 FOR the purpose of requiring the State Superintendent and the State Department of
4 Education to monitor the financial status of each county board of education and
5 report to the Governor and General Assembly on a ~~quarterly~~ biannual basis;
6 requiring the local superintendent or chief executive officer of a local school
7 system to file a certain ~~quarterly~~ biannual report and to make a certain
8 attestation; providing that if a local school system does not file a certain annual
9 audit, the State Superintendent shall take certain action; providing that if a
10 local school system has a deficit, the State Superintendent shall immediately
11 notify the Governor, ~~and the General Assembly,~~ and the county governing
12 authority and shall require a local school system to develop a certain corrective
13 action plan, to file monthly status reports and to include certain information in
14 certain ~~quarterly~~ biannual reports; requiring the State Superintendent to
15 include certain information ~~in~~ on a local school system deficit in certain
16 quarterly reports; providing that if a local school system fails to comply with
17 certain requirements, the State Superintendent shall notify the State
18 Comptroller who shall be required to withhold certain funds until receiving a
19 certain notice from the State Superintendent; revising the dates for submission
20 of certain plan updates to the Department; requiring county boards of education
21 to include certain information in certain plan updates; requiring the State
22 Superintendent to annually review certain information and to file a certain
23 report; requiring the Legislative Auditor to appoint professional staff to conduct
24 audits of local school systems; requiring the Office of Legislative Audits to
25 conduct a certain audit of each local school system within a certain time period;

1 authorizing the employees of the Office of Legislative Audits to have access to
 2 certain information; requiring the Office of Legislative Audits to provide certain
 3 information to a local school system; requiring a certain centralized audit by a
 4 certain time period; requiring certain school systems to be included in a certain
 5 group of audits; and generally relating to the State Superintendent of Schools
 6 and the State Department of Education and fiscal accountability and oversight
 7 of local school systems.

8 BY adding to
 9 Article - Education
 10 Section 5-114
 11 Annotated Code of Maryland
 12 (2001 Replacement Volume and 2003 Supplement)

13 BY repealing and reenacting, with amendments,
 14 Article - Education
 15 Section 5-401
 16 Annotated Code of Maryland
 17 (2001 Replacement Volume and 2003 Supplement)

18 BY adding to
 19 Article - State Government
 20 Section 2-1219(c) and 2-1220(f)
 21 Annotated Code of Maryland
 22 (1999 Replacement Volume and 2003 Supplement)

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

25 **Article - Education**

26 5-114.

27 (A) IN THIS SECTION, "DEFICIT" MEANS A NEGATIVE FUND BALANCE IN THE
 28 GENERAL FUND OF 1% OR MORE OF GENERAL FUND REVENUE AT THE END OF THE
 29 FISCAL YEAR.

30 [(A)] (B) THE STATE SUPERINTENDENT AND THE DEPARTMENT SHALL:

31 (1) MONITOR THE FINANCIAL STATUS OF EACH LOCAL SCHOOL SYSTEM;
 32 AND

33 (2) REPORT ON A ~~QUARTERLY~~ BIENNIAL BASIS THE FINANCIAL STATUS
 34 OF EACH LOCAL SCHOOL SYSTEM TO THE GOVERNOR AND, IN ACCORDANCE WITH §
 35 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

1 [(B)] (C) A LOCAL SUPERINTENDENT OR CHIEF EXECUTIVE OFFICER OF A
2 LOCAL SCHOOL SYSTEM SHALL:

3 (1) FILE A ~~QUARTERLY BIENNIAL~~ REPORT ON THE FINANCIAL STATUS
4 OF THE LOCAL SCHOOL SYSTEM WITH THE SUPERINTENDENT ANY COUNTY
5 GOVERNING BODY ON OR BEFORE JUNE 30 AND DECEMBER 31 OF EACH FISCAL
6 YEAR; AND

7 (2) ATTEST TO THE ACCURACY OF EACH ~~QUARTERLY BIENNIAL~~ REPORT
8 WHEN THE REPORT IS SUBMITTED TO THE SUPERINTENDENT AND COUNTY
9 GOVERNING BODY.

10 [(C)] (D) IF A LOCAL SCHOOL SYSTEM DOES NOT FILE THE ANNUAL AUDIT
11 RESULTS IN A TIMELY MANNER WITH THE STATE SUPERINTENDENT AS REQUIRED
12 BY § 5-109 OF THIS TITLE, THE STATE SUPERINTENDENT SHALL:

13 (1) IMMEDIATELY NOTIFY:

14 (I) THE DEPARTMENT OF LEGISLATIVE SERVICES;

15 (II) THE COUNTY GOVERNING BODY; AND

16 (III) THE LOCAL BOARD AND LOCAL SUPERINTENDENT OR CHIEF
17 EXECUTIVE OFFICER OF THE LOCAL SCHOOL SYSTEM; AND

18 (2) ORDER THAT THE AUDIT REPORT BE FILED WITHIN 10 DAYS.

19 [(D)] (E) (1) A LOCAL SCHOOL SYSTEM MAY NOT CARRY ~~AN OPERATING~~
20 ~~BUDGET A~~ DEFICIT AS REPORTED IN THE ANNUAL AUDIT UNDER § 5-109 OF THIS
21 TITLE.

22 (2) IF A LOCAL SCHOOL SYSTEM HAS A DEFICIT ~~OF ANY AMOUNT~~, THE
23 STATE SUPERINTENDENT SHALL IMMEDIATELY NOTIFY THE GOVERNOR ~~AND~~, THE
24 GENERAL ASSEMBLY, AND COUNTY GOVERNING BODY AND SHALL REQUIRE THE
25 LOCAL SCHOOL SYSTEM TO:

26 (I) DEVELOP AND SUBMIT FOR APPROVAL A CORRECTIVE ACTION
27 COST CONTAINMENT PLAN WITHIN 15 DAYS;

28 (II) FILE MONTHLY STATUS REPORTS WITH THE STATE
29 SUPERINTENDENT AND COUNTY GOVERNING BODY DEMONSTRATING ACTIONS
30 TAKEN TO CLOSE THE DEFICIT AND THE EFFECT OF THE ACTIONS TAKEN ON THE
31 DEFICIT; AND

32 (III) INCLUDE INFORMATION ON THE CORRECTIVE ACTION COST
33 CONTAINMENT PLAN, ACTIONS TAKEN TO CLOSE THE DEFICIT, AND STATUS OF THE
34 DEFICIT IN THE ~~QUARTERLY BIENNIAL~~ FINANCIAL STATUS REPORTS FILED WITH
35 THE STATE SUPERINTENDENT AND COUNTY GOVERNING BODY.

1 (3) THE STATE SUPERINTENDENT SHALL INCLUDE INFORMATION ON
 2 ANY LOCAL SCHOOL SYSTEM DEFICIT, CORRECTIVE ACTION COST CONTAINMENT
 3 PLAN, ACTIONS TAKEN TO CLOSE A LOCAL SCHOOL SYSTEM DEFICIT, AND STATUS OF
 4 ANY LOCAL SCHOOL SYSTEM DEFICIT IN ~~THE QUARTERLY FINANCIAL~~ A QUARTERLY
 5 REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY, IN ACCORDANCE WITH §
 6 2-1246 OF THE STATE GOVERNMENT ARTICLE.

7 ~~(E)~~ (F) IF A LOCAL SCHOOL SYSTEM FAILS TO COMPLY WITH THE
 8 REQUIREMENTS OF THIS SECTION, THE STATE SUPERINTENDENT SHALL NOTIFY
 9 THE STATE COMPTROLLER, WHO SHALL WITHHOLD 10% OF THE NEXT INSTALLMENT
 10 AND EACH SUBSEQUENT INSTALLMENT DUE THE LOCAL SCHOOL SYSTEM FROM THE
 11 GENERAL STATE SCHOOL FUND UNTIL THE STATE SUPERINTENDENT NOTIFIES THE
 12 COMPTROLLER THAT THE LOCAL SCHOOL SYSTEM IS IN FULL COMPLIANCE WITH
 13 THE REQUIREMENTS OF THIS SECTION.

14 5-401.

15 (a) (1) In this section the following words have the meanings indicated.

16 (2) "Local performance standards" means standards for student and
 17 school performance developed by a county board.

18 (3) "Plan" means a comprehensive master plan.

19 (4) "State performance standards" means standards for student and
 20 school performance approved by the State Board.

21 (b) (1) Each county board shall develop and implement a comprehensive
 22 master plan that describes the goals, objectives, and strategies that will be used to
 23 improve student achievement and meet State performance standards and local
 24 performance standards in each segment of the student population.

25 (2) (i) Each county board shall submit a plan to the Department on or
 26 before October 1, 2003.

27 (ii) At least 60 days before submitting a plan to the Department, a
 28 county board shall provide a copy of the plan to the:

29 1. County council and if applicable, county executive; or

30 2. County commissioners.

31 (3) Subject to subsection (h) of this section, the plan shall:

32 (i) Extend for a 5-year period beginning with the 2003-2004
 33 school year; and

34 (ii) Be updated ANNUALLY by the county board on or before [July
 35 1] AUGUST 15 of each year.

1 (4) (I) THE BOARD SHALL SUBMIT WITH THE UPDATE REQUIRED
2 UNDER PARAGRAPH (3)(II) OF THIS SUBSECTION A DETAILED SUMMARY OF HOW THE
3 BOARD'S CURRENT YEAR APPROVED BUDGET AND INCREASES IN EXPENDITURES
4 OVER THE PRIOR YEAR ARE CONSISTENT WITH THE MASTER PLAN.

5 (II) BY OCTOBER 1 OF EACH YEAR, THE COUNTY BOARD SHALL
6 SUPPLEMENT THE UPDATE WITH A SUMMARY OF HOW THE BOARD'S ACTUAL PRIOR
7 YEAR BUDGET AND ADDITIONAL EXPENDITURES IN THE PRIOR YEAR'S BUDGET
8 ALIGNED WITH THE MASTER PLAN.

9 (c) The plan shall include:

10 (1) Goals and objectives as required under subsections (d) through (f) of
11 this section that are aligned with State performance standards and local performance
12 standards;

13 (2) Implementation strategies for meeting goals and objectives;

14 (3) Methods for measuring progress toward meeting goals and objectives;

15 (4) Time lines for implementation of the strategies for meeting goals and
16 objectives;

17 (5) Time lines for meeting goals and objectives;

18 (6) A description of the alignment of the county board's budget with
19 goals, objectives, and strategies for improving student achievement;

20 (7) The impact of the proposed goals, objectives, and implementation
21 strategies on public school facilities and capital improvements that may be needed to
22 implement the plan; and

23 (8) Any other information required by the State Superintendent.

24 (d) The plan shall include goals, objectives, and strategies regarding the
25 performance of:

26 (1) Students requiring special education, as defined in § 5-209 of this
27 title;

28 (2) Students with limited-English proficiency, as defined in § 5-208 of
29 this title;

30 (3) Prekindergarten students;

31 (4) Kindergarten students;

32 (5) Gifted and talented students, as defined in § 8-201 of this article;

33 (6) Students enrolled in career and technology courses;

1 (7) Students failing to meet, or failing to make progress toward meeting,
2 State performance standards, including any segment of the student population that
3 is, on average, performing at a lower achievement level than the student population
4 as a whole; and

5 (8) Any other segment of the student population identified by the State
6 Superintendent.

7 (e) With regard to subsection (d)(7) of this section, the plan shall include
8 strategies to address any disparities in achievement identified for any segment of the
9 student population.

10 (f) (1) (i) The State Superintendent shall review each plan to determine
11 whether the plan complies with the requirements of subsections (b) through (e) of this
12 section.

13 (ii) If the State Superintendent determines that a plan does not
14 comply with the requirements of subsections (b) through (e) of this section, the State
15 Superintendent may require specific revisions to the plan.

16 (2) (i) The State Superintendent may review the content of each plan
17 to assess whether the plan will have the effect of improving student achievement and
18 increasing progress toward meeting State performance standards.

19 (ii) If the State Superintendent determines that a plan will not
20 have the effect of improving student achievement and increasing progress toward
21 meeting State performance standards, the State Superintendent may require specific
22 revisions to the plan.

23 (3) A county board may not implement a plan unless it has been
24 approved by the State Superintendent.

25 (g) (1) A county board may submit a preexisting management plan to the
26 Department as the county board's plan under subsection (b) of this section.

27 (2) If the State Superintendent determines that the preexisting
28 management plan meets the requirements set forth in this section, the State
29 Superintendent shall approve the preexisting management plan as the county board's
30 plan.

31 (H) (1) THE STATE SUPERINTENDENT ANNUALLY SHALL REVIEW HOW
32 EACH COUNTY BOARD'S CURRENT YEAR APPROVED BUDGET AND ACTUAL PRIOR
33 YEAR BUDGET ALIGN WITH THE MASTER PLAN AND ANY UPDATES TO THE MASTER
34 PLAN. THIS REVIEW MAY BE BASED ON THE INFORMATION REQUIRED TO BE
35 SUBMITTED BY THE COUNTY BOARD UNDER SUBSECTION (B)(4) OF THIS SECTION
36 AND ANY OTHER INFORMATION REQUIRED BY THE STATE SUPERINTENDENT.

37 (2) THE STATE SUPERINTENDENT ANNUALLY SHALL REPORT THE
38 RESULTS OF THE BUDGET REVIEW BY DECEMBER 1 TO THE GOVERNOR, THE COUNTY

1 GOVERNING BODY, AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE,
2 THE GENERAL ASSEMBLY.

3 [(h)] (I) (1) If a school system fails to demonstrate progress toward
4 improving student achievement and meeting State performance standards in each
5 segment of the student population during a school year, the State Superintendent
6 shall review the content of the plan [and], any updates to the plan, AND THE
7 RESULTS OF THE ANNUAL REVIEW REQUIRED UNDER SUBSECTION (H)(1) OF THIS
8 SECTION to assess whether the plan will have the effect of improving student
9 achievement and increasing progress toward meeting State performance standards.

10 (2) If the State Superintendent determines that a plan will not have the
11 effect of improving student achievement and increasing progress toward meeting
12 State performance standards, the State Superintendent shall require specific
13 revisions to the plan.

14 [(i)] (J) The State Superintendent shall advise the Governor and the General
15 Assembly concerning the distribution of State funds to a county that fails to make
16 progress toward improving student achievement and meeting State performance
17 standards in each segment of the student population.

18 [(j)] (K) The State Board may withhold State funds from a county board if:

19 (1) A school system fails to demonstrate annual progress toward
20 improving student achievement and meeting State performance standards in each
21 segment of the student population; and

22 (2) Fails to develop a plan that meets the requirements of subsections (b)
23 through (g) of this section or take any action required by the State Superintendent
24 under this section.

25 [(k)] (L) (1) The State Superintendent shall review academic intervention
26 programs and behavior modification programs to identify best practices.

27 (2) The State Superintendent shall periodically report on the best
28 practices to the State Board, the county boards, the Governor, and, subject to §
29 2-1246 of the State Government Article, the General Assembly.

30 [(l)] (M) (1) Subject to paragraph (2) of this subsection, the Department
31 shall adopt regulations as necessary to implement this section.

32 (2) The Department shall consult with county superintendents and
33 county boards before promulgating proposed regulations to implement this section.

34 [(m)] (N) The Department may provide technical assistance to county boards
35 in developing and implementing a plan.

36 [(n)] (O) The Governor shall include an appropriation for the Department in
37 the State budget for each fiscal year in amount sufficient to cover the costs associated
38 with implementing this section.

Article - State Government

2 2-1219.

3 (C) WITH THE APPROVAL OF THE EXECUTIVE DIRECTOR, THE LEGISLATIVE
4 AUDITOR SHALL APPOINT PROFESSIONAL STAFF TO CONDUCT AUDITS OF LOCAL
5 SCHOOL SYSTEMS IN ACCORDANCE WITH § 2-1220(F) OF THIS SUBTITLE.

6 2-1220.

7 (F) (1) AT LEAST ONCE EVERY 3 YEARS, THE OFFICE OF LEGISLATIVE
8 AUDITS SHALL CONDUCT ~~A~~ AUDITS OF EACH LOCAL SCHOOL SYSTEM TO EVALUATE
9 THE EFFECTIVENESS AND EFFICIENCY OF THE FINANCIAL MANAGEMENT AND
10 FINANCIAL PRACTICES AUDIT OF EACH THE LOCAL SCHOOL SYSTEM TO REVIEW THE
11 USE OF FUNDING PROVIDED IN ACCORDANCE WITH §§ 5-202 AND 5-205 THROUGH
12 5-210 OF THE EDUCATION ARTICLE.

13 (2) ~~THE AUDIT SHALL INCLUDE A REVIEW OF:~~

14 (i) ~~THE ADEQUACY OF THE LOCAL SCHOOL SYSTEM'S MASTER~~
15 ~~PLAN AND WHETHER THE MASTER PLAN CONTAINS SUFFICIENT DETAIL TO ALLOW A~~
16 ~~DETERMINATION THAT THE ADDITIONAL EDUCATION AID HAS BEEN USED BY THE~~
17 ~~LOCAL SCHOOL SYSTEM.~~

18 1. ~~IN A MANNER CONSISTENT WITH THE MASTER PLAN; AND~~

19 2. ~~FOR PURPOSES THAT WILL ACHIEVE IDENTIFIABLE AND~~
20 ~~MEASURABLE GOALS IN THE MASTER PLAN; AND~~

21 (ii) ~~THE USE OF THE ADDITIONAL STATE AID PROVIDED FOR~~
22 ~~EDUCATION AND THE EXTENT TO WHICH THE FUNDS HAVE BEEN USED TO PROVIDE~~
23 ~~IMPROVEMENT IN THE DIRECT EDUCATIONAL SERVICES AND PROGRAMS FOR~~
24 ~~STUDENTS IN THE LOCAL SCHOOL SYSTEM.~~

25 (2) THE AUDITS MAY BE PERFORMED CONCURRENTLY OR SEPARATELY.

26 (3) THE EMPLOYEES OF THE OFFICE OF LEGISLATIVE AUDITS SHALL
27 HAVE ACCESS TO AND MAY INSPECT THE RECORDS, INCLUDING THOSE THAT ARE
28 CONFIDENTIAL BY LAW, OF ANY LOCAL SCHOOL SYSTEM TO PERFORM THE AUDITS
29 AUTHORIZED UNDER THIS SECTION.

30 (4) THE OFFICE OF LEGISLATIVE AUDITS SHALL PROVIDE INFORMATION
31 REGARDING THE AUDIT PROCESS TO THE LOCAL SCHOOL SYSTEM BEFORE THE
32 AUDIT IS CONDUCTED.

33 SECTION 2. AND BE IT FURTHER ENACTED, That the Office of Legislative
34 Audits shall conduct a centralized audit of the master plans to determine overall
35 compliance with § 5-401 of the Education Article, and the results shall be submitted
36 to the Joint Audit Committee. The Office of Legislative Audits shall conduct the
37 centralized audit by December 1, 2004.

1 SECTION 3. AND BE IT FURTHER ENACTED, That the first group of audits
2 required under § 2-1220(f)(1) of the State Government Article shall include audits of
3 any local school system with a negative fund balance in the general fund of 1% or
4 more of general fund revenue in either of the prior 2 fiscal years.

5 SECTION ~~2.~~4. AND BE IT FURTHER ENACTED, That this Act shall take
6 effect July 1, 2004.