

Department of Legislative Services
 Maryland General Assembly
 2004 Session

FISCAL AND POLICY NOTE

Senate Bill 559 (Senator Pinsky, *et al.*)
 Education, Health, and Environmental Affairs

Student Health Promotion Act of 2004

This bill requires the State Board of Education (SBE) to: (1) enhance physical education programs for public school students; and (2) adopt and disseminate a model policy regarding vending machines in public schools. The bill prohibits vending machines in public elementary schools and requires timing devices to be used on vending machines in public middle and high schools to ensure that schools comply with time restrictions imposed by the bill.

The bill takes effect August 1, 2004.

Fiscal Summary

State Effect: General fund expenditures would increase by an estimated \$60,600 in FY 2005 to aid with the development and coordination of enhanced physical education programs. Future year expenditures reflect annualization, regular salary increases, and inflation. Revenues would not be affected.

(in dollars)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	60,600	76,200	80,400	84,800	89,600
Net Effect	(\$60,600)	(\$76,200)	(\$80,400)	(\$84,800)	(\$89,600)

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

Local Effect: Local school system revenues could decrease if contracts with vendors become more limited. Once the student physical education certification process is established by the Maryland State Department of Education, local school expenditures would increase by an estimated \$1.8 million annually to coordinate and track the process.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill requires SBE to develop criteria for physical education that include a broad range of activities on and off school grounds and establish a certification process for students who meet the criteria. Health education provided in public schools must include instruction in the importance of physical activity.

The bill requires each local board of education to adopt and implement a policy regarding vending machines by July 1, 2005. The policies must include the requirement that vending machines maintain a balance between food of minimal nutritional value and other foods and must encourage a reduction in student consumption of food of minimal nutritional value on school premises. The policies must also require schools to keep records of the proceeds collected from vending machine sales and to submit contracts with vending machine vendors to the local school board. Vending machine contracts must be available for public review and may not exceed a term of three years. Finally, contracts cannot prohibit students and school employees from disparaging the goods or services of the party contracting with the school. If a school violates the policies established by the local board of education, the school is prohibited from renewing an existing contract or entering into a new contract. By December 31, 2004, SBE must develop a model policy for local boards of education to use as they develop their policies.

The bill prohibits vending machines in public elementary schools. Vending machines may not be operated in public middle schools until the end of the school day and may not be operated in public high schools until the end of the last lunch period. These rules do not apply to vending machines located in teachers' lounges and other areas where students are not permitted.

Current Law: Every public school must have a program of physical education that is given in a planned and sequential manner to all students in order to develop their good health and physical fitness and improve their motor coordination and physical skills. State regulations require regular physical education classes for students in kindergarten through grade eight. To be eligible for graduation, a student must take at least one semester of physical education in high school.

School breakfasts and lunches supported by State and federal funds must meet specific nutritional standards. In order to receive funding through the school nutrition programs, local school systems must sign written agreements to deny students access to vending machines that sell foods of minimal nutritional value before the end of the final lunch

period of the day. State policies define foods of minimal nutritional value as soda water, water ice, chewing gum, certain candies, and candy-coated popcorn.

Background: Many schools and school systems in Maryland and other states have turned to vending machine sales in order to raise additional school revenue. As the number of obese and overweight children has increased, a concern has been raised about the foods that are commonly sold in vending machines, as well as the lack of adequate physical education programs. According to a briefing prepared by the National Conference of State Legislatures, two states, Delaware and California, have recently enacted legislation to improve the nutritional standards of food sold or served to students. The briefing also notes that recent studies suggest that academic achievement is positively correlated with nutrition and physical activity.

State Expenditures: General fund expenditures would increase by an estimated \$60,629 in fiscal 2005, which accounts for the bill's August 1, 2004 effective date and a 60-day start-up delay. This estimate reflects the cost of hiring an education specialist to develop criteria for enhanced physical education programs and a certification process for students who meet the criteria for the enhanced programs. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	\$55,041
Operating Expenses	<u>5,588</u>
Total FY 2005 State Expenditures	\$60,629

Future year expenditures reflect: (1) full salaries with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Local Revenues: Many local school systems, including the three largest systems, Baltimore, Montgomery, and Prince George's counties, allow school administrators to raise revenues by contracting with vending and soda machine companies. The supplemental revenue is often used to support extra-curricular activities in schools. Annual vending machine revenues are estimated at \$5,000 to \$20,000 for schools that independently contract with vending machine vendors. There are approximately 460 middle and high schools in Maryland. If one-half of these schools have contracts that allow them to receive vending machine proceeds, annual revenues would range from \$1.2 million to \$4.6 million per year.

In the smallest school system in the State, Kent County, the local school system has contracted as a whole with a vending machine supplier. The system receives a portion of vending machine sales plus \$13,000 annually and free supplies for certain school events.

It is assumed that policies established by local boards of education would attempt to minimize any reduction in contract revenues. However, some provisions in the law, such as the three-year limit on vending machine contracts, could reduce the value of future contracts. The bill could also affect existing contracts, but in the absence of more detailed information about current contracts, the lost revenues cannot be reliably estimated.

Local Expenditures: Local school expenditures could increase to provide personnel to monitor and track the student physical education certification required in the bill. Assuming each local school system would need one to two additional full-time employees, depending on the size of the system, local school expenditures would increase by an estimated \$1.8 million annually.

It is assumed that local boards of education could develop, adopt, implement, and enforce vending machine policies with existing resources.

Additional Information

Prior Introductions: SB 396 of 2003 and SB 680 of 2002 would have required local boards of education to develop and adopt policies regarding vending machines for the purpose of encouraging a reduction in student consumption of foods of minimal nutritional value. The 2003 bill received an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee, and the 2002 bill was not reported out of the same committee. SB 435 of 2001 would have placed limitations on vending machine contracts and required local school systems to develop policies encouraging a reduction in student consumption of foods of minimal nutritional value. The bill received a favorable with amendments report from the Senate Economic and Environmental Affairs Committee but was not approved by the full Senate.

Cross File: None.

Information Source(s): Maryland State Department of Education, Department of Health and Mental Hygiene, Department of Legislative Services

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Analysis by: Mark W. Collins

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

