

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1215
Appropriations

(Delegate Marriott)

Budget and Taxation

Baltimore City Public School System

This bill places a one-year moratorium on State-imposed school restructuring in Baltimore City. The State Board of Education and the State Superintendent of Schools are prohibited from imposing a major restructuring of the governance structure of a public school in Baltimore City or removing a public school from the direct control of the Baltimore City Board of School Commissioners. The prohibition applies retroactively to any action in furtherance of restructuring that was taken by the State board and the State superintendent on or after March 28, 2006. The prohibition terminates May 30, 2007.

The bill also increases the maximum aggregate principal amount of bonds that the Baltimore City Board of School Commissioners may issue from \$75 million to \$100 million.

The bill takes effect June 1, 2006.

Fiscal Summary

State Effect: An April 5, 2006 letter from the U.S. Department of Education (USDE) states that enactment of the bill could put \$171 million in federal Title I funds “in potential jeopardy.” An April 3, 2006 letter from the Attorney General of Maryland (AG) notes that the bill “would not impair the State Board’s ability to carry out its responsibilities under No Child Left Behind” and concludes that there would be no impact on federal funds.

Local Effect: According to USDE, local school revenues from federal Title I grants could decrease in FY 2007. Baltimore City school revenues and expenditures could increase by up to \$25 million in FY 2007 due to the increased bond authority. School system debt service expenditures would increase by an estimated \$2.4 million annually beginning in FY 2008.

Small Business Effect: Minimal.

Analysis

Current Law: The federal No Child Left Behind Act (NCLB) requires states to track student progress in school systems and individual schools and to intervene when schools and school systems are not meeting established academic standards. Each year, based on student test results and other school measures, states must determine whether each public school is making adequate yearly progress (AYP) towards ensuring that all students meet academic performance standards. Initially, the steps that must be taken when a school fails to make AYP involve giving students the opportunity to transfer out of the underperforming school or providing additional tutoring opportunities to disadvantaged students at the school. Individual schools are subject to more severe actions, corrective action and restructuring, when the less intensive interventions fail to improve student performance.

In Maryland, State regulations govern the processes that are used to identify schools as they progress through the school improvement statuses required by NCLB. Once a school is identified for restructuring, the final stage in the progression, the local school system must develop a plan for an alternative governance structure. The plan must be approved by the State board and must be implemented at the beginning of the next school year. The alternative governance structure may include:

- reopening the school as a public charter school;
- replacing school staff relevant to the failure to meet standards;
- entering into a contract with an entity to operate the school; or
- any other restructuring effort that makes fundamental reform and has substantial promise of enabling students in the school to meet standards.

The regulations do not specifically address the next steps if a school implementing a restructuring plan does not improve.

Actions must also be taken against school systems that fail as a whole to meet State standards. State regulations require the State Board of Education, upon a recommendation by the State Superintendent of Schools or upon its own motion, to identify a local school system for corrective action if it does not make AYP for two consecutive years after being identified for school improvement. Before identifying a school system for corrective action, the State board must: (1) give the local school system the opportunity to review the data leading to the designation; (2) give the local school system an opportunity to provide evidence if the system believes the designation is erroneous; and (3) make a final determination about the school system's status.

The State superintendent and the State board must continue to provide technical assistance to a school system in corrective action and must take at least one of the following actions:

- defer, reduce, or redirect State and federal funds;
- order the school system to implement a curriculum aligned with the voluntary State curriculum;
- order the school system to replace principals and executive officers with qualified personnel approved by the State superintendent and the State board;
- remove schools from the direct control of the local school system and establish alternative governance structures for the schools;
- order a reorganization of the local school system that groups schools under the direct supervision of an executive officer approved by the State superintendent;
- through a court proceeding, appoint a receiver or trustee to administer the affairs of the local school system in place of the local superintendent of schools and the local board of education; or
- with legislative authorization, abolish or restructure the local school system.

The Baltimore City Board of School Commissioners may issue bonds with an aggregate principal amount of up to \$75 million. Bond proceeds may be used to finance or refinance the costs associated with any school construction or improvement project in the city.

State Revenues: According to a letter from USDE, enactment of this bill could jeopardize \$171 million in federal Title I funds based on noncompliance with NCLB. The USDE letter notes that, under NCLB, local school districts are responsible for restructuring schools that fail to make AYP for five or more years. If a state education agency determines that a local district has failed to carry out this responsibility, the state agency must take corrective actions as appropriate and consistent with state law. The letter also states that, to the extent that the Maryland State Department of Education (MSDE) “cannot carry out its responsibilities under NCLB to restructure persistently low-performing schools ..., [MSDE] puts its Title I funds in potential jeopardy.” Most Title I funding, approximately \$163 million in fiscal 2007, passes through the State budget and is distributed to local school systems.

The Attorney General of Maryland has also examined this bill and claims that federal funds would not be jeopardized by its enactment. An April 3, 2006 letter from the AG states that there are numerous options for school restructuring and corrective action available to local school systems and the State Board of Education, and that the bill only precludes some of the available options. Further, the Baltimore City Public School

System (BCPSS) is not prohibited from implementing any of the restructuring options; the bill only prohibits the State board from imposing a major restructuring of BCPSS schools. The AG’s letter also notes that the bill only applies for one year. The AG concludes, therefore, that the bill would not impact the State’s federal funding under NCLB.

Local Fiscal Effect: The bill could impact federal Title I funds and would impact bond revenues and expenditures and debt service expenditures for BCPSS.

Title I Funding

The majority of the \$171 million in Title I funding that USDE claims would be jeopardized, approximately \$163 million, goes to local school systems to support schools with high proportions of impoverished students. **Exhibit 1** shows the preliminary calculations of fiscal 2007 Title I funding allocations for the local school systems. The largest allocation, \$53.7 million, goes to Baltimore City. The Maryland AG has advised that the bill would not jeopardize these funds.

Exhibit 1
Preliminary Calculations of Title I Funding
Fiscal 2007

Allegany	\$2,570,480	Harford	\$3,810,733
Anne Arundel	8,468,032	Howard	1,945,190
Baltimore City	53,669,926	Kent	489,131
Baltimore	18,556,276	Montgomery	20,150,810
Calvert	1,221,236	Prince George's	26,832,382
Caroline	1,075,264	Queen Anne's	647,003
Carroll	1,233,545	St. Mary's	2,018,556
Cecil	2,102,910	Somerset	1,133,606
Charles	2,828,518	Talbot	729,491
Dorchester	1,334,754	Washington	3,429,984
Frederick	2,734,984	Wicomico	3,343,912
Garrett	1,231,902	Worcester	1,390,268

Source: Maryland State Department of Education

Baltimore City Bond Funding

BCPSS bond revenues and expenditures could increase by up to \$25 million in fiscal 2007 if the additional bonding authority is used in one year. Annual debt service costs for Baltimore City will increase by an estimated \$2.4 million per year beginning in fiscal 2008. This estimate assumes a 5% annual interest rate and a 15-year term of maturity on the bonds. According to the board of school commissioners, the board has a bond rating of Aa1 from Moody's and AA+ from Standard and Poor's.

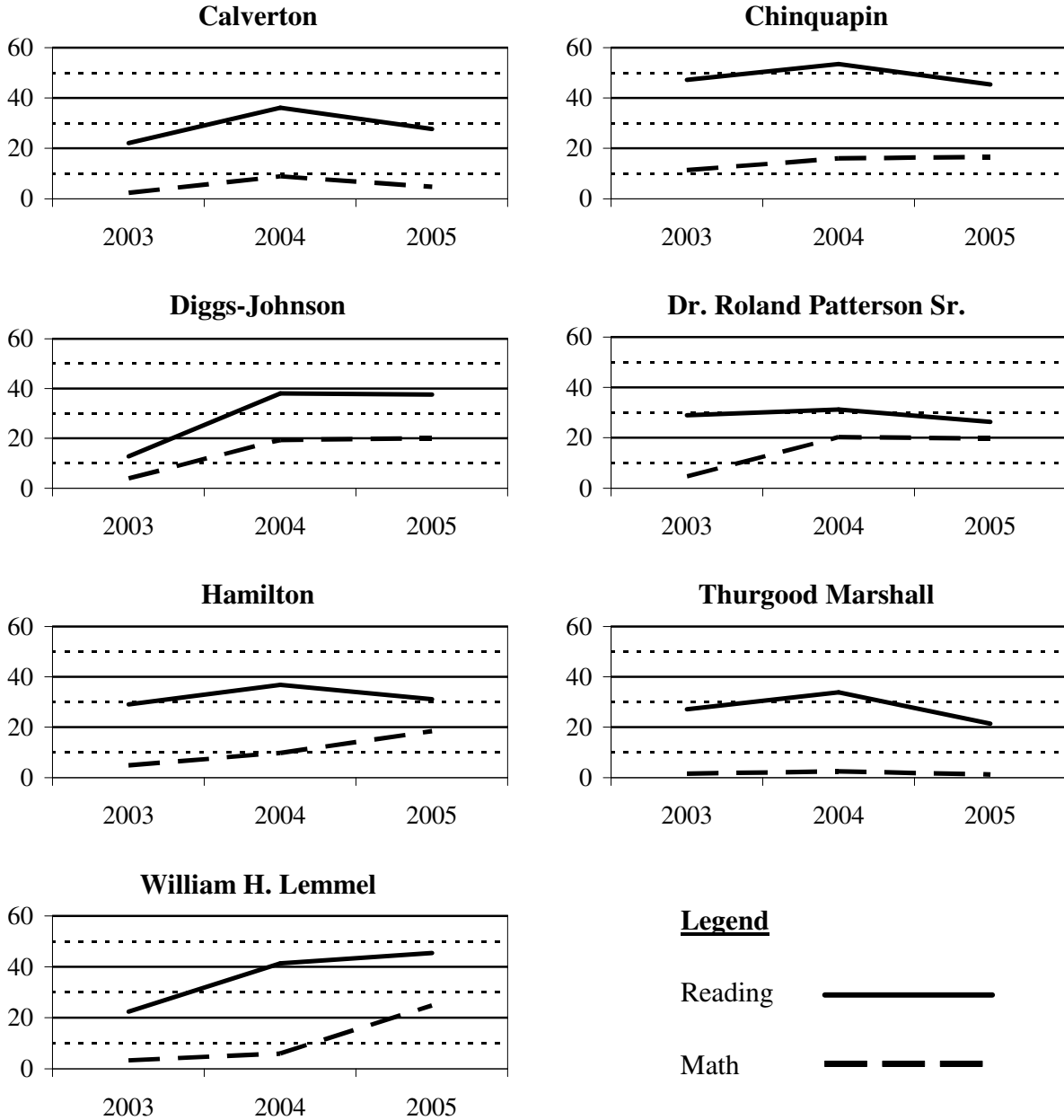
The Baltimore City Board of School Commissioners advises that bond proceeds would be used to aid with the city's school closing and consolidation efforts. Schools that will be receiving additional students need renovations in order to accommodate the new students.

Background: On March 29, 2006, the State Board of Education voted to require significant changes to the governance structures of seven middle schools in Baltimore City and to have a third party manage four high schools in the city under the direction of MSDE. According to the timetable established by the State board, the new governance structures will be implemented for the 2007-2008 school year. The Baltimore City board has plans to close 2 of the 11 schools subject to State board action; Southwestern High School #412 is currently being phased out and will close in June 2007 and Dr. Roland Patterson, Sr. Academy (middle school) is scheduled to close in August 2008.

Baltimore City is the only local school system in Maryland in corrective action; however, Prince George's County is in Year 2 of school improvement and seven other school systems (Allegany, Cecil, Charles, Dorchester, Kent, St. Mary's, and Somerset counties) are in Year 1 of school improvement. There are a total of 233 schools in Maryland that are in one of the NCLB improvement statuses, including 92 in Baltimore City. Of the 233 schools, 80 are in restructuring status: 66 in Baltimore City (one Edison school), 13 in Prince George's County, and one in Baltimore County.

Under the plan approved by the State Board of Education, each of seven identified middle schools will have to either engage a third party to manage the school or become a public charter school. Test results from the last three years for eighth grade students at the seven middle schools are displayed in **Exhibit 2** and show that the percentage of eighth graders at the schools who scored at the proficient or advanced levels on the Maryland School Assessment (MSA) generally decreased or did not improve substantially from 2004 to 2005. Statewide, 66% of eighth grade students scored at the proficient or advanced levels on the reading MSA and 52% scored at the proficient or advanced levels on the mathematics MSA.

Exhibit 2
Percent of Eighth Grade Students Scoring at the Proficient or Advanced Levels
2003 to 2005

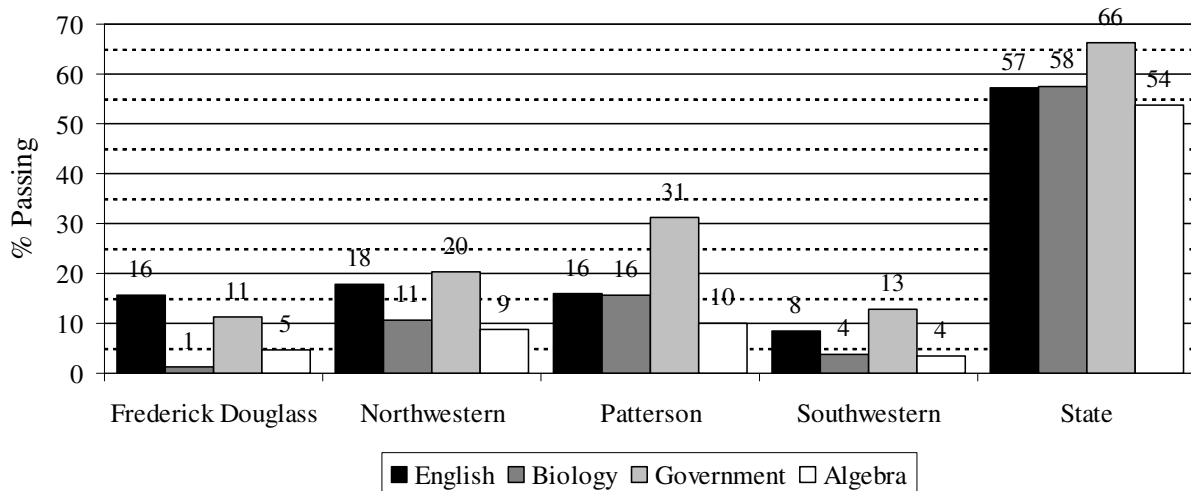


Source: Maryland Report Card, Maryland State Department of Education

The State board's plan also requires MSDE to engage a third party to manage four Baltimore City high schools. Maryland high school assessment (HSA) results for the four high schools are compared to statewide HSA results in **Exhibit 3**. Beginning with HB 1215 / Page 6

the students who entered ninth grade in fall 2005, HSAs will be used to determine whether students graduate from high school. As shown in the exhibit, each of the high schools identified for State takeover has a significant percentage of students who did not pass the HSAs last school year, and the percentage of students passing the tests at each school is significantly lower than the statewide average.

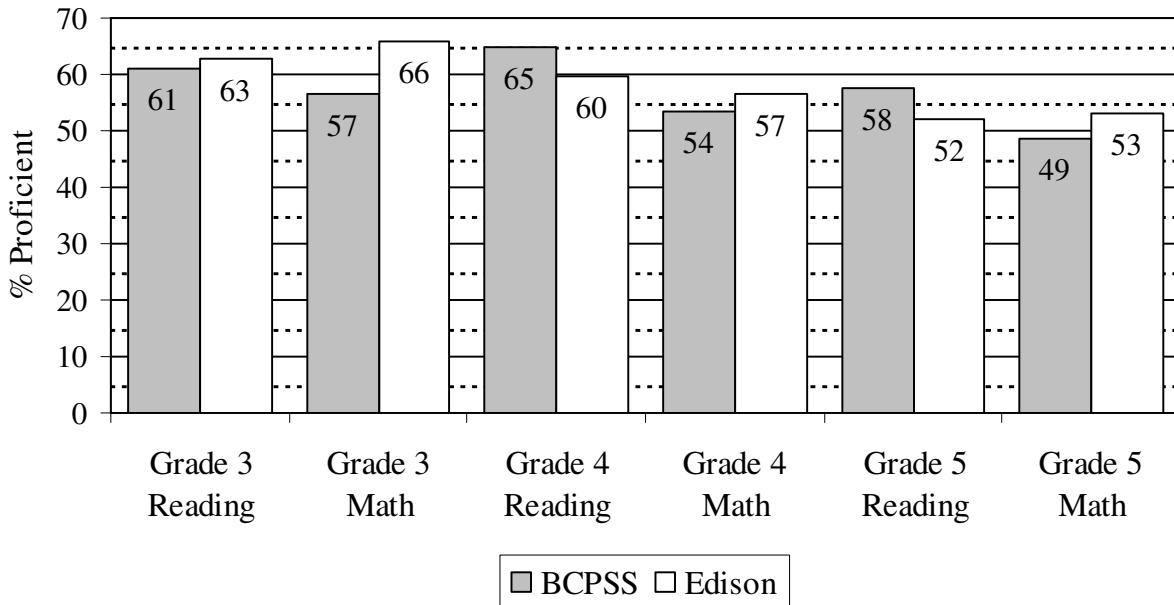
Exhibit 3
Percentage of Students Passing the High School Assessments
2005



Source: Maryland Report Card, Maryland State Department of Education

NCLB was enacted in January 2002, and although the Act requires the eventual restructuring of schools that fail to meet standards, the *Baltimore Sun* has reported that actions taken by the State Board of Education represent the first time a state has taken over a school under NCLB. In Maryland, however, the State board reconstituted three Baltimore City elementary schools in 2000, and MSDE contracted with Edison Schools, Inc., a national for-profit company, to manage and operate the schools. Edison continues to operate the schools, and a comparison of MSA results in the Edison elementary schools and other Baltimore City elementary schools is shown in **Exhibit 4**. The exhibit shows that the three Edison schools did not perform significantly better than BCPSS elementary schools on the 2005 MSAs. In the 2004-2005 school year, the three Edison schools all made AYP while two-thirds of the BCPSS elementary schools met this standard.

Exhibit 4
Percentage of Students Scoring at the Proficient or Advanced Levels
BCPSS and Edison Schools
2005



Source: Maryland Report Card, Maryland State Department of Education

A document from the Education Commission of the States tracks implementation of NCLB in the 50 states and notes that for schools in restructuring status there are 27 states that do not allow for state takeovers, 36 states that do not allow third-party operators of public schools, and 38 states that prohibit schools from being closed and reopened as charter schools.

Chapter 559 of 2000 gave the Baltimore City Board of School Commissioners the authority to issue up to \$25 million in bonds. In 2002, Chapter 459 increased the bond ceiling to \$75 million, the current level. Baltimore City remains the only local board of education in Maryland that has the authority to issue debt. The board advises that it is currently paying debt service of approximately \$7.5 million annually on the bonds it has issued.

Bonds issued by the board of school commissioners use a State intercept; the State pays the debt service and subtracts the payments from the State education aid that is owed to the board. The bonding authority granted to the board is separate from the State's public

school construction program. Baltimore City does not need State approval to use bond funds and does not receive a State match for the funds.

The Task Force to Study Public School Facilities conducted an assessment of the conditions and adequacy of the State's public schools in fall 2003 and concluded that \$570.6 million was needed to bring school facilities in Baltimore City up to existing federal, State, and local standards. This was the second-highest figure among Maryland's 24 local school systems, behind only Prince George's County (\$778.2 million).

Additional Information

Prior Introductions: None.

Cross File: SB 914 (Senator McFadden) – Budget and Taxation.

Information Source(s): Baltimore City, Maryland State Department of Education, U.S. Department of Education, Attorney General's Office, Education Commission of the States, Department of Legislative Services

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nas/rhh Revised - Enrolled Bill - April 7, 2006

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