Department of Legislative Services

Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 630 (Delegate Levi, *et al.*)
Ways and Means

Restore Respect at School Act

This bill specifies that a parent or guardian is not eligible to receive a tax credit or subtraction modification for dependent care expenses for any dependent who fails to meet specified criteria related to homework completion, student conduct, and classroom attendance. The revenues generated by the denial of these tax benefits must be transferred to the Governor's Office of Crime Control and Prevention (GOCCP). The State Board of Education is required to adopt regulations to implement the bill.

The bill takes effect July 1, 2009 and applies to tax year 2010 and beyond.

Fiscal Summary

State Effect: Special fund revenues increase by $567,500 annually beginning in FY 2011. General fund expenditures increase by $98,900 in FY 2011 for one-time tax form changes and computer programming expenses at the Comptroller's Office.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
SF Revenue	$0	$567,500	$567,500	$567,500	$567,500
GF Expenditure	$0	$98,900	$0	$0	$0
Net Effect	$0	$468,600	$567,500	$567,500	$567,500

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

Local Effect: To the extent that the Comptroller denies dependent care subtraction modifications and does not include local income tax revenues in the amount distributed for crime control and prevention programs, local income tax revenues will increase beginning in FY 2011. Expenditures are not affected.

Small Business Effect: None.

Analysis

Bill Summary: The bill specifies that a parent or guardian who is eligible to claim either the State tax credit or subtraction modification under the State income tax for household and dependent care expenses for any dependent can claim these tax benefits only if the child meets specified criteria related to homework completion, student conduct, and classroom attendance. The Comptroller will deny the dependent care tax credit or subtraction modification claimed on behalf of any child that a county board of education or State Board of Education on appeal determines (1) was age 5 through 20 during the school year and was in a school for more than 90 days in the academic year with an "unlawful" absentee rate of 20% or more; (2) did not complete the minimum amount of homework required, if the local school system has adopted a systemwide minimum homework standard; or (3) is suspended or expelled more than once in the academic year for disrespect, insubordination, or classroom disruption.

The parent or guardian of a student who has an individual education plan may not be denied a tax benefit due to suspension or expulsion of a student as specified by the bill. A parent or guardian is eligible to claim a tax benefit that would have been denied under the bill if the parent or guardian (1) attends a parent conference at the school prior to the student's readmission following successive suspensions; and (2) provides evidence of a community resource program. Individuals with a federal adjusted gross income (FAGI) of $41,001 or less ($20,501 if married filing separately) cannot be denied from claiming the subtraction modification for household dependent care expenses.

The State Board of Education must adopt regulations that establish a process for determining ineligibility and allow for a decision of a county board of education to be appealed to the State board. The revenues generated, as determined by the Comptroller, by the denial of these tax benefits are to be transferred to GOCCP.

The State Board of Education and the Comptroller must report to the General Assembly by December 31, 2013 on the implementation of the bill's provisions.

Current Law: Taxpayers can qualify to claim a federal and State credit and a subtraction modification to offset the child and dependent care expenses incurred for a member of the family to work or look for work as discussed below.

Background: Under Section 21 of the Internal Revenue Code, taxpayers who have earned income and have child and dependent care expenses for qualifying persons are eligible for a credit if the expenses are incurred to enable the taxpayer to be gainfully employed or look for employment. A qualifying person is a child under age 13 who can be claimed as a dependent, a disabled spouse who lived with the individual claiming the credit for more than half the year, or any disabled person not able to care for one's self who can either be claimed as a dependent, or meets all of the requirements necessary to be claimed as a dependent except for specified exceptions. Payments made to certain relatives do not qualify for the tax credit. The amount of expenses eligible for the credit is $3,000 for the first qualifying person and $6,000 for two or more qualifying persons. The maximum value of the credit is 35% of qualifying expenses; subject to a maximum of $1,050 for one qualifying person and $2,100 for two or more qualifying persons. The amount of the credit decreases by 1% for each $2,000 of gross income over $15,000 until adjusted gross income reaches $43,000. The credit is 20% for gross incomes $43,000 and above. The amount of the credit is reduced if an individual receives nontaxable dependent care benefits.

In addition to the federal credit described above, the State provides two tax benefits related to dependent care expenses. Maryland's treatment of dependent care expenses is tied to the federal dependent care credit, in that only expenses allowed in computing the federal dependent care credit are allowed in calculating Maryland's subtraction modification. The State also provides an income tax credit for child and dependent care expenses equal to a maximum value of 32.5% of the federal child and dependent care credit. The maximum allowable FAGI is $50,000 ($25,000 for a married individual filing a separate return). If an individual's FAGI for the taxable year exceeds $41,000, the child and dependent care credit is reduced by 10% for each $1,000 or fraction of $1,000, by which the individual's FAGI exceeds $41,000. For a married individual filing a separate return, if the individual's FAGI for the taxable year exceeds $20,500, the credit is reduced by 10% for each $500, or fraction of $500, by which the individual's FAGI exceeds $20,500.

Maryland also allows an income tax subtraction modification for qualified child and dependent care expenses of up to $3,000 for one dependent or $6,000 for two or more dependents.

State Fiscal Effect: Dependent care tax benefits may be disallowed beginning in tax year 2010. As a result, special fund revenues will increase by $567,500 annually beginning in fiscal 2011. This estimate is based on the following facts and assumptions:

- About 155,000 tax returns with income levels specified by the bill claimed an average dependent care subtraction modification of $2,990 in tax years 2004 through 2006.
- About 38,300 tax returns claimed an average dependent care credit of $172 in tax year 2006.
- One-half of all credits and subtraction modifications claimed are for students attending a public school as specified by the bill.

- 3% of subtraction modifications and 5% of credits will be disallowed under the bill.

The additional revenues will be transferred to GOCCP. The proposed fiscal 2010 State budget includes $101.6 million in funding for GOCCP, of which $90.6 million is general funds. It is assumed that funds provided by denial of tax benefits will provide support for additional crime control and prevention activities and will not supplant existing general fund support for the program.

The Comptroller's Office reports that it will incur a one-time expenditure increase of $98,900 in fiscal 2011 to provide for the recapture of the subtraction modification and tax credit. This includes data processing changes to the SMART income tax return processing and imaging systems and system testing.

Local Fiscal Effect: The bill requires that the Comptroller's Office determines the revenues attributable to the denial of tax benefits and distributes it to a special fund for crime control and prevention programs. If the Comptroller's Office determines that revenues only include State income tax revenues, local income tax revenues will increase by $208,500 beginning in fiscal 2011 as a result of denying subtraction modifications. If the Comptroller's Office determines revenues include local income tax revenues and includes this amount in the annual distribution for crime control and prevention, local income tax revenues will be unchanged.

It is assumed that the additional workload generated at local boards of education can be absorbed within existing budget resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office, Department of Legislative Services

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