

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 310

(Senator Kasemeyer, *et al.*)

Budget and Taxation

Ways and Means

Education - Maintenance of Effort Requirement - Process and Factors

This emergency bill expands the factors that the State Board of Education must consider when determining whether to issue a waiver for the county maintenance of effort (MOE) requirement for public schools. The bill also excludes the local share of the foundation program from the MOE amount that may be waived by the State board.

The bill also alters the date by which a county governing body must apply to the State Board of Education for a waiver from the MOE requirement to the earlier of the seventh day following the end of the legislative regular session or May 1. The State Board of Education must then inform the governing body whether the waiver application has been granted or denied no later than 45 days after receipt of an application or by June 1, whichever is earlier.

Fiscal Summary

State Effect: Beginning in FY 2011, MOE waivers may be more frequent due to the increased conditions that the State board must consider when deciding on waivers. Thus, general fund expenditure reductions due to MOE penalties may be less frequent.

Local Effect: Beginning in FY 2011, county (and Baltimore City) governments may receive MOE waivers more frequently, reducing local funding for local school systems but potentially avoiding reductions in State aid due to MOE noncompliance penalties. Excluding the local share of the foundation program from an MOE waiver effectively caps the amount of funds that can be waived by the State board.

Small Business Effect: None.

Analysis

Bill Summary: When determining whether to grant an MOE waiver, the State Board of Education must consider the following factors:

- a broad economic downturn affecting more than one county;
- a county governing body's history of exceeding the MOE requirement;
- the existence of an agreement between a local governing body and a local board of education that a waiver should be granted; and
- significant reductions in State aid to the county and municipalities of the county for the fiscal year for which a waiver is applied.

In addition, the board *must* consider the four factors that the board *may* currently consider according to regulation.

Current Law: According to regulation, the State Board of Education's decision on whether to approve or deny in whole or in part a waiver request must be based on a determination that the county's fiscal condition significantly impedes the county's ability to fund the MOE requirement. The State board may consider the following factors when making this determination:

- external environmental factors such as a loss of a major business or industry;
- a county's tax base;
- rate of inflation relative to growth of student population; and
- the MOE requirement relative to the county's statutory ability to raise revenues.

To receive a waiver from the MOE requirement, a county must apply to the State Board of Education by April 1, and the State board must make a determination by May 15.

Counties that do not receive waivers from the State board and fail to make MOE are penalized by withholding increases in specified State education aid programs.

Background: To be eligible for increases in State education aid under Section 5-202 of the Education Article (the State share of the foundation program, the State's largest aid to education program; the geographic cost of education index; and the supplemental grant), a local jurisdiction must provide at least as much funding per pupil to the local school system as it provided in the previous fiscal year. Chapter 175 of 1996 added a waiver provision that allows counties to request from the State Board of Education a partial or temporary waiver from the MOE requirement. Until fiscal 2010, the waiver option had

never been used, but in spring 2009, three counties (Montgomery, Prince George's, and Wicomico) applied for waivers for fiscal 2010. All three applications were denied by the State Board of Education.

In July 2009, the Joint Legislative Work Group to Study State, County, and Municipal Fiscal Relationships was convened by the President of the Senate and the Speaker of the House of Delegates. The bill implements a recommendation by the group that adjustments be made to the MOE waiver process, including changing the county application deadline, changing the State Board of Education decision deadline, codifying the four factors that the State board currently uses in deciding whether to grant a waiver, and adding several more factors to be considered by the State board.

Local Fiscal Effect: With the addition of factors that the State Board of Education must consider when deciding whether to waive MOE for applying jurisdictions, the bill is likely to make waivers from the MOE requirement more frequent. This may result in reductions to *local* funding for public education, but it may also reduce the number of counties that are penalized through reductions in *State* funding for education.

The bill also establishes a floor for local appropriations to boards of education. In effect, counties would not be able to seek a waiver from the local share of the foundation program and could only pursue waivers from MOE amounts above the local share of the foundation program. In practice, this provision, while setting a cap on the amount of any waiver request, is likely to have very little operational effect since most counties are well above the required local share of the foundation. As an example, fiscal 2010 MOE appropriations are compared to the required local share of the foundation in **Exhibit 1**. As shown in the exhibit, county MOE appropriations collectively surpassed the local share of the foundation by \$2.5 billion. Under the bill, the local share of the foundation, which was \$2.7 billion in fiscal 2010, could not be waived.

Additional Information

Prior Introductions: None.

Cross File: HB 304 (Delegate Jones, *et al.*) - Ways and Means.

Information Source(s): Maryland State Department of Education; Carroll, Harford, and Montgomery counties; Department of Legislative Services

Fiscal Note History: First Reader - February 23, 2010
ncs/mwc

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Exhibit 1
Maintenance of Effort Requirements and Local Share of the Foundation Formula
Fiscal 2010

County	Required MOE	Local Share of Foundation	Amount that Could Be Waived
Allegany	\$27,702,592	\$14,678,295	\$13,024,297
Anne Arundel	553,103,842	302,674,357	250,429,485
Baltimore City	199,427,631	139,971,125	59,456,506
Baltimore	629,418,307	335,127,718	294,290,589
Calvert	98,287,497	47,411,248	50,876,249
Caroline	12,145,724	10,626,441	1,519,283
Carroll	155,271,417	78,572,664	76,698,753
Cecil	68,368,269	39,270,445	29,097,824
Charles	145,091,628	67,333,294	77,758,334
Dorchester	17,034,817	11,557,179	5,477,638
Frederick	228,631,147	113,901,370	114,729,777
Garrett	22,610,922	14,276,274	8,334,648
Harford	208,250,169	103,553,483	104,696,686
Howard	450,473,111	181,904,427	268,568,684
Kent	16,648,957	10,195,946	6,453,011
Montgomery	1,529,565,696	686,579,502	842,986,194
Prince George's	538,104,085	318,101,897	220,002,188
Queen Anne's	47,595,619	29,201,053	18,394,566
St. Mary's	74,139,685	43,650,872	30,488,813
Somerset	8,589,510	5,852,321	2,737,189
Talbot	34,211,041	30,718,267	3,492,774
Washington	86,213,678	52,240,418	33,973,260
Wicomico	50,781,711	28,584,437	22,197,274
Worcester	71,954,064	60,510,680	11,443,384
Total	\$5,273,621,120	\$2,726,493,713	\$2,547,127,407

Source: Department of Legislative Services