SB 899

Department of Legislative Services

Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 899 (The President)(By Request - Administration)

Education, Health, and Environmental Affairs Ways and Means

Education Reform Act of 2010

This emergency Administration bill extends the probationary period of employment (nontenure) for local school certificated employees from two years to three years, requires that nontenured certificated employees be evaluated annually and be assigned mentors promptly if they are not on track to qualify for tenure, and requires that student growth data be used in teacher and principal performance evaluations. The new tenure policy only applies to an employee with a date of employment that begins on July 1, 2010, or later.

The State Board of Education must establish a program to support locally negotiated incentives for highly effective classroom teachers and principals to work in public schools that are (1) in improvement, corrective action, or restructuring; (2) categorized by the local school system as a Title I school; or (3) in the highest 25% of schools in the State based on a ranking of the percentage of students who receive free and reduced price meals.

Fiscal Summary

State Effect: General fund expenditures may increase significantly beginning as early as FY 2011, depending on the program of support for negotiated incentives established by the State board. If awarded, federal Race to the Top (RTTT) funds could be used in FY 2011 to 2015 to support some of the costs of the program; however, any funding provided for this initiative may take away funding from other priorities.

Local Effect: Local school system revenues and expenditures increase for the incentive program beginning as early as FY 2011. School system expenditures for teacher mentors increase beginning in FY 2011 due to the requirement that mentors be provided to nontenured teachers if they are not on track to achieve tenure. School expenditures may also increase for professional development and for any portion of negotiated incentives that local school systems are responsible for supporting. If awarded, federal RTTT funds may be used to offset some of the local costs.

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary:

Probationary Period

The probationary period for a certificated public school employee is increased to three years rather than requiring a two-year probationary period with the possibility of a one-year extension for a third year. A local board of education must evaluate annually a nontenured certificated employee based on established performance evaluation criteria. Certificated employees include teachers, principals, and any other public school employees that require a certificate.

A tenured employee who moves to another local school system in the State may be tenured after only one year of probationary employment if the employee's final evaluation in the prior school system was satisfactory or better and the lapse in service between the two school systems is no longer than one year. A second year of probationary employment may be required by the receiving school system if the employee's performance evaluation does not qualify the employee for tenure and the employee demonstrates a strong potential for improvement.

Mentor Program

If a nontenured certificated employee is not on track to qualify for tenure at any formal evaluation point, a mentor must be promptly assigned to the employee to provide comprehensive guidance and instruction. Additional professional development must also be provided to the employee as appropriate. In addition, a local board may assign a mentor to a nontenured certificated employee at any time during their employment.

The State board is required to adopt regulations that establish standards for effective mentoring. Before December 31, 2010, each local school system must submit to the State board a description of its teacher mentoring program, including data relating to the number of mentors who have been assigned, the number of teachers to whom the mentors have been assigned, and how, if at all, the effectiveness of the mentoring program is measured.

Performance Evaluations

The State board must adopt regulations that establish general standards for performance evaluations for certificated teachers and principals that include observations, clear standards, rigor, and claims and evidence of observed instruction, as well as model performance evaluation criteria. Before these regulations are proposed, the State board must solicit information and recommendations from each local school system and convene a meeting to discuss this information and recommendations.

Each local board of education must, in turn, establish performance evaluation criteria that are based on these general standards and are mutually agreed upon by the local school system and the exclusive employee representative. Mutual agreement is not governed by State public school employee collective bargaining laws. The performance evaluation criteria must include data on student growth as a significant component and may not be based solely on an existing or newly created single examination or assessment. However, an existing or newly created single examination may be used as one of multiple measures of student growth. In addition, no single criterion can account for more than 35% of the total performance evaluation criteria. If a school system and the exclusive employee representative fail to mutually agree on the criteria, the State board's model performance evaluation criteria take effect six months after the final regulations establishing the model criteria are adopted.

Incentive Program

The incentive program for highly effective classroom teachers and principals established by the State board may include financial incentives, leadership changes, or other incentives. The State board must adopt guidelines to implement the program. Local school systems may employ more stringent standards than those established by the guidelines.

During the 2010-2011 and the 2011-2012 school years, stipends awarded under this program may be based on whether the teacher has obtained certification from the National Board for Professional Teaching Standards.

Current Law: The probationary period for a certificated public school employee is two years from the date of employment. A probationary period for a certificated employee in a public school system may be extended for a third year if the certificated employee does not qualify for tenure at the end of the second year based on established performance evaluation criteria and if the employee demonstrates strong potential for improvement. In that case, a mentor must be assigned to the employee. The employee must be evaluated again at the end of the third year.

According to regulations, a teacher mentor has to hold an advanced professional certificate; demonstrate knowledge of or training in adult learning theory and peer coaching techniques; demonstrate a knowledge base and skills to address the performance evaluation criteria and outcomes to be met by each mentee; and possess a positive reference from a current or recent building principal or supervisor that addresses the instruction, management, human relations, and communication skills of the mentor applicant. Further, a mentor may not mentee more than 15 teachers without a waiver, regularly perform administrative duties, or participate in the formal evaluation of a mentee.

Public school employee evaluation policies are generally set by local boards of education and can be the subject of collective bargaining with employee organizations.

Chapter 600 of 1999 established the Quality Teacher Incentives program to provide stipends for classroom teachers who are certified by the National Board for Professional Teaching Standards. It also provides a stipend to every classroom teacher who holds an advanced professional certificate and teaches in a public school identified by the State board as a school having comprehensive need. Among other changes to the program, the stipend was reduced to $1,500 from $2,000 per eligible teacher by the Budget Reconciliation and Financing Act of 2009 (Chapter 487). The fiscal 2011 State budget includes $4.2 million for the program.

Background: The federal American Recovery and Reinvestment Act of 2009 (ARRA) established RTTT, a $4 billion competitive education grant program. A number of states have made changes to their education laws to better position themselves to compete for grant funds. RTTT seeks to encourage and reward states that are implementing significant reforms around four specific areas:

- adopting *standards and assessments* that prepare students to succeed in college and the workplace and to compete in the global economy;
- building *data systems* that measure student growth and success and inform teachers and principals about how they can improve instruction;
- recruiting, developing, rewarding, and retaining *effective teachers and principals*, especially where they are needed most; and
- turning around the *lowest-achieving schools*.

Based on the four reform areas, the RTTT scoring rubric includes 19 criteria and one competitive priority that collectively add up to 500 points. Several of these criteria account for a large number of points; others account for a comparatively small portion of a state's score. In addition, there are four invitational priorities that states are invited to address in their application, but they will not receive any additional points for doing so. Using these criteria, the U.S. Secretary of Education will determine which states receive grants and the amounts of the grants.

The greatest proportion of points, 28% or 138 points, is allocated to various aspects of providing high-quality teachers and leaders. From this total, 15 points are allocated to designing and implementing rigorous, transparent, and fair evaluation system for teachers and principals that differentiate effectiveness using multiple rating categories that take into account data on student growth as a significant factor. Additional points (28) are allocated to using these evaluations to inform important decisions, including whether to grant tenure. Fifteen points are allocated to ensuring the equitable distribution of teachers and principals in high poverty or high minority schools.

Maryland is eligible for up to $250 million of RTTT funds. Round 1 applications were due in January 2010. In March 2010, the U.S. Department of Education announced that Delaware and Tennessee will receive RTTT awards based on their Round 1 applications. Maryland decided to apply in Round 2 in order to strengthen its application, which is due in June 2010.

In December 2009, Maryland did not receive a grant from the Bill and Melinda Gates Foundation to assist with the RTTT application. Among the eight criteria used by the Gates Foundation to determine grant winners, which are similar to criteria the U.S. Department of Education will use to judge applications, are that a state must grant teacher tenure after three or more years; have policies or grants that encourage highly effective teachers to teach in schools with high proportions of disadvantaged students; and allow for the linkage or use of student achievement data in teacher evaluations. This bill addresses these three criteria that Maryland did not meet or that could be strengthened to be more competitive with other states.

In accordance with ARRA, the U.S. Department of Education will obligate all RTTT funds to states by September 30, 2010. States will then have a four-year period from the time of the award in which to implement their plans and spend their grant money. At least 50% of the total grant a state receives must be distributed to local school systems. Local school systems and local teachers' union leaders must commit to implementing a state's plan in order to receive grant funds.

President Obama's proposed fiscal 2011 federal budget makes the Race to the Top program permanent and provides $1.4 billion in addition to the initial ARRA allocation to the program.

Title I, Part A is a federal program that provides financial assistance to local school systems and schools with high percentages of low-income children to support the academic achievement of disadvantaged students. All 24 local school systems in the State receive Title I funds, which are distributed to high poverty schools within their districts so the schools can provide additional academic support and learning opportunities.

State Expenditures: The bill requires the State board to establish a program to support negotiated incentives for highly effective classroom teachers and principals who work in public schools. The cost of the program will depend on the program established by the State board, when the program is implemented, the incentives that are negotiated, and the proportion of funding for incentives that is provided by the State.

For illustrative purposes only, an estimated $11.2 million may be needed to support modest incentive programs for teachers and principals working in public schools that are (1) in improvement, corrective action, or restructuring; (2) categorized by the local school system as a Title I school; or (3) in the highest 25% of schools in the State based on a ranking of the percentage of students who receive free and reduced price meals. This estimate is based on the information and assumptions detailed below.

- Currently about 40% of schools (558 schools) meet at least one of the eligibility conditions, as illustrated in **Exhibit 1**.

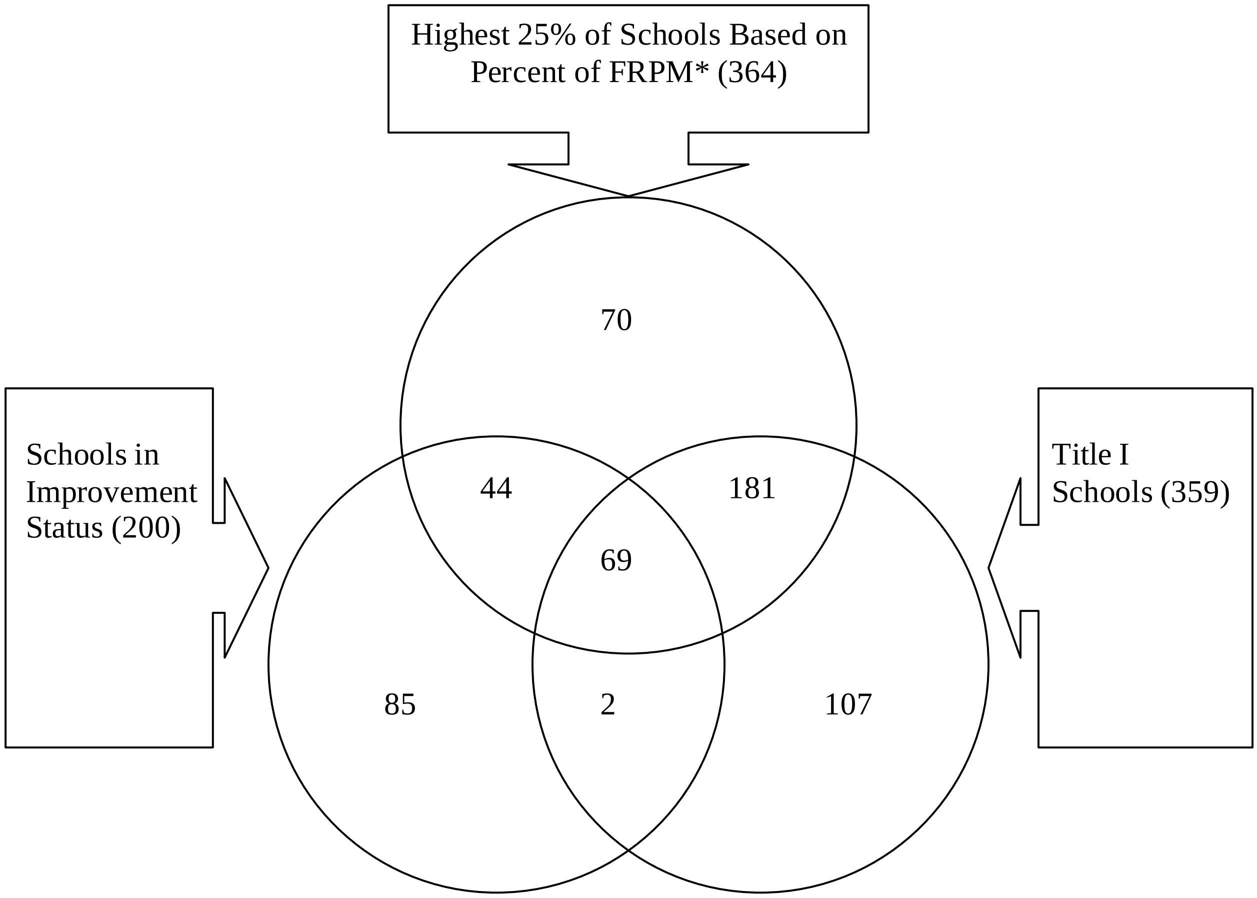
- Although a local school system may employ more stringent qualifying standards, it is assumed that all eligible schools will participate.

- It is assumed that even a relatively modest incentive program may cost an estimated $20,000 per school. This could support $1,000 stipends for 20 teachers, larger bonuses to bring in new school leadership, or some other form of negotiated incentives.

- If incentive programs costing an average of $20,000 are implemented at all 558 schools that are currently eligible, expenditures will increase by $11.2 million as early as fiscal 2011.

The actual cost of the program in fiscal 2011 and in future years will vary depending on negotiated incentives and the actual number of teachers and principals who qualify for incentives each year. The bill gives local school systems the option of employing more stringent standards to determine if a school qualifies for the incentive program. It is assumed that, if State funds are used to support the program, local school systems will not employ more stringent standards.

Exhibit 1
Schools Potentially Eligible for the Incentive Program 2009-2010



Note: The SEED School of Maryland is not included.
*Students eligible for free and reduced price meals.
Source: Maryland State Department of Education; Department of Legislative Services

The bill also enhances requirements for teacher mentoring. It is assumed, however, that the enhanced mentoring programs will be supported with local school system expenditures or perhaps with federal funds if the State receives RTTT funds and funding for mentoring is included as part of the State's RTTT application.

Local Effect: Assuming State funds are used to support the incentive program, local school system revenues and expenditures increase accordingly. Actual revenues and expenditures will depend on the program established by the State board and negotiated by the local school system. **Exhibit 2** shows the distribution of schools that would be eligible for the incentive program in the 2009-2010 school year. Most of the schools are in Baltimore City and Prince George's County. The bill allows local school systems to employ more stringent standards to determine if a school qualifies for the incentive program; however, it is assumed that local school systems will not employ more stringent standards if State funds are used to finance the program.

Exhibit 2
Schools Potentially Eligible for the Incentive Program by County
2009-2010

County	Schools Potentially Eligible for Incentive Program	County	Schools Potentially Eligible for Incentive Program
Allegany	10	Harford	14
Anne Arundel	24	Howard	11
Baltimore City	177	Kent	4
Baltimore	63	Montgomery	36
Calvert	7	Prince George's	116
Caroline	6	Queen Anne's	3
Carroll	6	Saint Mary's	5
Cecil	10	Somerset	7
Charles	7	Talbot	2
Dorchester	6	Washington	11
Fredrick	7	Wicomico	14
Garrett	8	Worcester	4
Total	**558**		

Source: Maryland State Department of Education; Department of Legislative Services

Local school system expenditures for mentor teachers may increase due to the requirement that mentors be provided to nontenured certificated employees who, at any formal evaluation point, are not on track to qualify for tenure. According to State regulations, teachers who serve as mentors must meet certain qualifications and may only mentor 15 teachers at a time. It is assumed that many schools will have enough qualified teachers to meet the mentoring requirement; however, additional qualified teachers may need to be hired or assigned to schools with a large number of nontenured teachers. MSDE advises that the lowest performing schools typically have the largest number of new nontenured teachers. The average cost for a mentor teacher is expected to be approximately $80,000 to $100,000 per year. If mentoring is included in the State's RTTT application, these costs may be at least partially covered by RTTT funds for the four-year grant period. After that, any costs associated with additional mentors will need to be covered by local school systems.

Local school system expenditures may also increase to provide additional professional development to nontenured teachers and to support a share of the negotiated incentives for certain employees.

Additional Information

Prior Introductions: None.

Cross File: HB 1263 (The Speaker, *et al.*) (By Request - Administration) - Ways and Means.

Information Source(s): Maryland State Department of Education; Caroline, Carroll, and Harford counties; U.S. Department of Education; *Education Week*; Bill and Melinda Gates Foundation; Department of Legislative Services

Fiscal Note History: First Reader - March 2, 2010
mpc/mwc Revised - Senate Third Reader - April 1, 2010
Revised - Clarification - April 2, 2010
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Education Reform Act of 2010

BILL NUMBER: SB 899

PREPARED BY: Department of Education

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

__X__ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

___ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.