

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

House Bill 869

(Delegate Hixson, *et al.*)

Ways and Means

Budget and Taxation

Education - Maintenance of Effort - Penalty

This bill delays the penalty for a county's failure to meet the public schools maintenance of effort (MOE) requirement until the fiscal year after county funding is below the MOE amount.

The bill takes effect June 1, 2011.

Fiscal Summary

State Effect: Any general fund savings resulting from the imposition of a future MOE penalty will be delayed for one year. The State has never imposed an MOE penalty.

Local Effect: A reduction in State education aid due to an MOE penalty will occur the year after county funding for the local school system falls below the MOE level. This avoids simultaneous reductions in State and county funding for local school systems and gives local school systems an additional year to prepare for reductions in State education aid resulting from MOE penalties.

Small Business Effect: None.

Analysis

Current Law: Under the public schools MOE requirement, each county (and Baltimore City) must provide to the local board of education an amount of funding that is at least the greater of: (1) the amount of per pupil funding that was provided to the local school system in the previous fiscal year; and (2) the local share of the foundation program. A county may request a waiver of the MOE requirement from the State Board

of Education, and the State board may grant the waiver based on a determination that the county's fiscal condition significantly impedes its ability to fund the requirement.

Counties that do not receive waivers from the State board and fail to make MOE are penalized by withholding increases in State education aid programs established under Section 5-202 of the Education Article: the State share of the foundation program, the geographic cost of education index, and the supplemental grant. The penalty is imposed in the same year that a county does not provide the minimum MOE amount.

Background: Chapter 175 of 1996 established the waiver provision that allows counties to request from the State Board of Education a partial or temporary waiver from the MOE requirement. The waiver process had never been tested until spring 2009, when three counties (Montgomery, Prince George's, and Wicomico) requested fiscal 2010 waivers. All three waivers were denied, and Montgomery and Prince George's counties ultimately failed to meet MOE. Due to the methodology the State board employed to calculate the MOE penalty, however, only Montgomery County was faced with a fiscal 2010 MOE penalty. Chapters 73 and 74 of 2010 waived the penalty for Montgomery County and also required a legislative study of the calculation and application of the penalty provision. Current law requires the State to withhold any increase in State funding from a local school system where the county does not meet the MOE requirement, thus imposing a "double penalty" on the local school system by withholding State aid in the same year that county funding falls short of the MOE goal.

In spring 2010, the State board was faced with a second consecutive year of waiver requests from Montgomery and Wicomico counties. The board granted the requests this time, but also urged the General Assembly to assess some potential flaws in the MOE requirements. The State board identified several parts of the law that it recommends reviewing, including the penalty provision for not meeting MOE, the calculation of next year's MOE amount if the board denies a waiver, the calculation of next year's MOE amount when a county exceeds the current year's required amount, and the lack of an inflation factor in the MOE calculation.

State Fiscal Effect: State funding under Section 5-202 of the Education Article represents \$2.9 billion in fiscal 2011 or just over half of all State education aid. Annual funding increases for individual local school systems under the Section 5-202 programs vary depending on inflation, enrollment, local wealth measures, and budget decisions made by the General Assembly. Annual funding increases can range from nothing at all (generally for systems with declining enrollments and increasing wealth) to tens of millions of dollars (for larger systems with increasing enrollments and decreasing wealth). The bill delays MOE penalties by one year but does not alter the penalty amounts that the State imposes. Any reductions in State general fund expenditures

resulting from the penalties, therefore, will be put off for a year but will not ultimately affect total State spending.

The State has never actually imposed an MOE penalty on a local school system.

Local Fiscal Effect: If MOE penalties are imposed, local school revenues from State aid will decrease the year after the MOE violation. This will avoid the “double penalty” that could occur under current law and also gives local school systems additional time to prepare for any decreases in State funding.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Department of Education; Harford, Montgomery, and Talbot counties; Montgomery County Public Schools; Maryland Association of Counties; Department of Legislative Services

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