

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 855
Ways and Means

(Delegates Walker and Wilson)

Student Health and Fitness Act

This bill requires all public elementary school students to be provided daily programs of physical activity totaling 150 minutes per week, including a *minimum* of 90 minutes per week of physical education. For any of the required minutes not spent in physical education, each elementary school must designate a physical activity leadership team to plan and coordinate opportunities for moderate to vigorous activity (including recess) to make up the remaining time. As applicable, a student's program of physical activity must be consistent with the student's Individualized Education Plan. The State Board of Education must adopt regulations necessary to implement the bill. The bill takes effect October 1, 2013, but a local school system may apply for an extension until July 1, 2016. A local school system that is granted an extension must have a plan to ensure compliance by July 1, 2016.

Fiscal Summary

State Effect: Any additional monitoring of local school systems' physical education programs by the Maryland State Department of Education (MSDE) can be accomplished with existing personnel and resources. General fund expenditures for teachers' retirement increase by an estimated \$2.7 million by FY 2019 (or a similar amount beginning as early as FY 2016).

Local Effect: Local school expenditures in four counties (Allegany, Anne Arundel, Montgomery, and St. Mary's) increase by an estimated \$22.3 million by FY 2017 (and potentially as early as FY 2014) to hire additional physical education teachers for elementary schools. In addition, local school systems may need to lengthen the school day or spend less time on other subjects to provide additional time for physical education and physical activity. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Current Law: Every public school must have a program of physical education that is given in a planned and sequential manner to all students in order to develop their good health and physical fitness and improve their motor coordination and physical skills. The specific curriculum and course of study is set by each local board of education. Maryland regulations require physical education instructional programs to teach students how regular, moderate-to-vigorous physical activity contributes to personal health and enhances cognitive and physical performance on a variety of academic, recreational, and life tasks.

Background: The National Association for Sport and Physical Education (NASPE) finds that children between the ages of 5 and 12 should accumulate at least 60 minutes, and up to several hours, of age-appropriate physical activity on all, or most days of the week. This daily accumulation should include, according to NASPE, moderate and vigorous physical activity with the majority of the time being spent in activity that is intermittent in nature. NASPE further finds that children should participate in several bouts of physical activity lasting 15 minutes or more each day, and that extended periods (periods of two hours or more) of inactivity are discouraged for children, especially during the daytime hours.

A national study by the Center on Education Policy on curriculum and instruction following implementation of the No Child Left Behind Act in 2002 finds that for many school systems, time devoted to tested subjects (including math and English language arts) increased while time devoted to one or more other subjects and activities, including lunch, physical education, and recess was reduced.

MSDE advises that physical education programs in the 24 local school systems vary widely. For example, some elementary schools provide 30 or 40 minutes of physical education per week, while a small percentage of public elementary schools in Maryland may provide as much as 120 or 125 minutes per week. The minimum and maximum amounts of time per week in physical education for elementary schools in each school system are shown in **Exhibit 1**.

Exhibit 1
Minimum and Maximum Minutes Per Week in Physical Education
in Public Elementary Schools
As of March 2013

<u>School System</u>	<u>Minimum</u>	<u>Maximum</u>
Allegany	40	45
Anne Arundel	60	60
Baltimore City	45	100
Baltimore	50	120
Calvert	90	90
Caroline	45	90
Carroll	90	90
Cecil	90	90
Charles	80	120
Dorchester	30	125
Frederick	80	90
Garrett	45	90
Harford	45	90
Howard	90	90
Kent	90	90
Montgomery	40	55
Prince George's	40	90
Queen Anne's	90	120
St. Mary's	45 one week, 90 the next	
Somerset	50	120
Talbot	90	90
Washington	50	100
Wicomico	120 over 6 days	
Worcester	60	90

Source: Maryland State Department of Education

State Expenditures: Teachers' retirement costs are paid by the State based on local school system salaries from the second prior fiscal year. If additional teachers are hired

to teach physical education beginning in fiscal 2014, teachers' retirement costs will increase beginning in fiscal 2016. However, if all local school systems take full advantage of the waiver provisions, costs do not increase until fiscal 2019.

Thus, based on assumptions discussed below, the teacher salary base (excluding benefits) may increase by as much as \$16.9 million annually in fiscal 2014 if no waivers are granted or by \$17.8 million in fiscal 2017 if waivers are granted for each county. Thus, State teachers' retirement expenditures increase by \$3.3 million in fiscal 2016 if no waivers are granted or by \$2.7 million in fiscal 2019 if waivers are granted for each county; the estimate for fiscal 2016 is higher because local contributions are fixed in that year, as described below.

Local Expenditures: The bill's impact on local school systems will depend on current physical education policies, which are determined by the local boards of education. The most significant impact will be on local school systems that provide less than 90 minutes of physical education per week for elementary school students, because those local school systems may need to hire additional physical education teachers to teach the additional classes. Cross-referencing the elementary school data shown in Exhibit 1 with data on the number of elementary schools in each system, it is estimated that one additional physical education teacher may be needed in 242 elementary schools in Allegany (14), Anne Arundel (79), Montgomery (132), and St. Mary's (17) counties in order to meet the 90-minute minimum established in the bill.

Based upon current salary and benefits costs per teacher in affected counties, and accounting for inflation, the total expenditure increase for local school systems amounts to an estimated \$21.1 million for fiscal 2014 if no waivers are granted, including \$1.1 million for Allegany County, \$6.2 million for Anne Arundel County, \$12.5 million for Montgomery County, and \$1.3 million for St. Mary's County. The bill allows local school systems to apply for three-year waivers from the requirements. If waivers are granted for each local school system, county salary and benefits expenditures increase by an estimated \$22.3 in fiscal 2017, including \$1.2 million for Allegany County, \$6.5 million for Anne Arundel County, \$13.2 million for Montgomery County, and \$1.4 million for St. Mary's County. Waivers could enable local school systems to make adjustments to their budgets and identify the most efficient ways to expand physical education programs.

Due to comprehensive pension reform provisions within the Budget Reconciliation and Financing Act of 2011 (Chapter 379, HB 72), local school systems are required to pay a prorated share of the administrative costs of the State Retirement Agency based on the number of their employees who are members of the Teacher Pension System or the Teachers' Retirement System. Chapter 1 of the 2012 first special session (SB 1301) requires local school boards to share in the costs of teachers' retirement by phasing in

school board payments of the annual normal cost over four years and sets out the payment required from each school board for fiscal 2013 through 2016. Beginning in fiscal 2017, local school boards will be responsible for the actual normal cost of pensions for qualifying personnel.

The teacher salary base (excluding benefits) may increase by as much as \$16.9 million annually in fiscal 2014 if no waivers are granted or by \$17.8 million in fiscal 2017 if waivers are granted for each county. However, local retirement contributions are fixed until fiscal 2017 and therefore local retirement costs for fiscal 2016 are not affected by the bill. If waivers are granted for each county, local school system retirement expenditures increase by an estimated \$949,000 in fiscal 2019, or by approximately \$49,900 for Allegany County, \$278,200 for Anne Arundel County, \$561,000 for Montgomery County, and \$59,900 for St. Mary's County.

Elementary school facilities are not expected to be a barrier to requiring 90 minutes per week of physical education. To provide elementary school students with additional time for physical activity, less time may be spent on other priorities, such as instruction in other subjects. It is assumed that this will not affect school finances, although the impact on students is unknown. Alternatively, local school systems could lengthen the school day for elementary school students. Any costs associated with lengthening the school day will depend on how the adjustment is implemented and cannot be accurately determined.

Additional Information

Prior Introductions: HB 168 of 2011 and HB 196 of 2012 each received a hearing in the House Ways and Means Committee, but no further action was taken on either bill.

Cross File: None.

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

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