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FISCAL AND POLICY NOTE
Revised

Senate Bill 334

(Senator Madaleno, *et al.*)

Budget and Taxation and Education, Health,
and Environmental Affairs

Ways and Means

The Hunger-Free Schools Act of 2015

This bill alters the enrollment count used to calculate State compensatory education aid in fiscal 2017 and 2018 for local boards of education that participate, in whole or in part, in the U.S. Department of Agriculture (USDA) Community Eligibility Provision (CEP). By December 1, 2015, the Maryland State Department of Education (MSDE), the Department of Budget and Management (DBM), and the Department of Legislative Services (DLS) must report to the Senate Budget and Taxation Committee and the House Appropriations and Ways and Means Committees on specified information related to potential proxies used to represent economically disadvantaged students for the purpose of compensatory education aid formula funding and the impact of CEP on this formula funding program.

The bill takes effect June 1, 2015.

Fiscal Summary

State Effect: General fund expenditures in FY 2017 and 2018 may be affected. The effect of the bill is assumed to be minimal and will depend on CEP participation by local school systems and on the annual change in the free and reduced-price meals (FRPM) enrollment counts for each school system. MSDE, DBM, and DLS can handle reporting requirements using existing resources. Revenues are not affected.

Local Effect: State aid to local school systems may be affected by a minimal amount in FY 2017 and 2018. Local school expenditures are not directly affected.

Small Business Effect: None.

Analysis

Bill Summary: For fiscal 2017 and 2018, the compensatory education enrollment count for local boards of education that participate, in whole or in part, in CEP is the greater of:

(1) the sum of:

- the number of students in CEP participating schools identified by direct certification for the prior fiscal year;
- the number of students identified by the income information provided by the family to the school system on an alternative form developed by MSDE for the prior fiscal year; and
- the number of students eligible for FRPM from any schools not participating in CEP for the prior fiscal year; *or*

(2) the sum of:

- the number of students eligible for FRPM from any schools not participating in CEP for the prior fiscal year; and
- for schools participating in CEP, the result of multiplying the prior fiscal year total enrollment by the percentage of FRPM-eligible students as compared to total enrollment in the year prior to participating in CEP. However, for the purpose of this calculation, schools participating in CEP in the pilot year may use the percentage of FRPM-eligible students during the pilot year.

The report due by December 1, 2015, must cover the research and analysis in the Adequacy of Funding for Education Study relating to the use of FRPM eligibility as a proxy for representing economically disadvantaged students for the purpose of compensatory education aid formula funding, including the proxies used in education formulas in other states and the identification and analysis of alternative indicators. The report must also cover the impact of the CEP on the compensatory education aid program; general trends in FRPM student counts that may be used to compare with FRPM counts for school systems that participate in CEP; preliminary recommendations for revising, or replacing with an alternative, the FRPM proxy used in the compensatory education aid formula; and any proposed changes to the alterations made under the bill to the enrollment count used to calculate compensatory education aid.

Current Law: The Healthy, Hunger Free Kids Act of 2010, in part, amended the federal National School Lunch Act to provide an alternative to household applications for FRPM in high-poverty local educational agencies (LEAs) and schools. This alternative is referred to as CEP. To be eligible, LEAs and schools must meet a minimum level of students directly certified for free meals (40% of enrollment) in the year prior to implementing the

option; agree to serve free lunches and breakfasts to *all* students; and agree to cover with nonfederal funds any costs of providing free meals to all students above amounts provided in federal assistance.

Reimbursement is based on claiming percentages derived from the percentage of students directly certified as increased by use of a multiplier, which is currently set at 1.6 but may range from 1.3 to 1.6 in subsequent years (as determined by USDA). The claiming percentages established for a school in the first year are guaranteed for a period of four school years and may be increased if direct certification percentages rise for that school. An LEA may participate in CEP for all schools in an LEA or only some schools, depending on the eligibility of the individual schools and financial considerations based on the anticipated level of federal reimbursement and other nonfederal support that may be available.

Participating schools that continue to meet the minimum direct certification percentage may immediately begin another four-year cycle after the initial cycle concludes. For participating schools that fall below the minimum percentage at the end of their four-year cycle, there is the possibility to continue to participate for a “grace year.” A participating LEA or school may stop participating in CEP during the four-year cycle by notifying the State agency no later than June 30 of the prior school year.

Funding for the State compensatory education formula is based on local enrollments of FRPM-eligible students and local wealth (as described below).

Background: The State has distributed compensatory aid to local school systems since 1980 to fund programs for students with educational needs resulting from educationally or economically disadvantaged environments. Since fiscal 2004, the aid formula has used the number of students eligible for FRPM. Children from families (1) with incomes at or below 130% of the federal poverty level are eligible for free meals and (2) with incomes no greater than 185% of the federal poverty level are eligible for reduced-price meals.

The State compensatory aid formula uses a per pupil cost that is 0.97 times the per pupil funding level established in the foundation program. This cost is shared by State and local governments. The program level represents half of this cost per FRPM-eligible student, but because (1) the program is wealth equalized based upon wealth per full-time equivalent (FTE) enrollment and (2) each county is guaranteed a minimum of 80% of the program level for each FRPM-eligible student, State aid per FRPM-eligible student varies by county and the State’s share of the program is over 50% (*i.e.*, above the program level). FRPM enrollment in October 2014 is used in the formula to calculate the fiscal 2016 funding amount, which totals \$1.3 billion in the Governor’s proposed budget.

Currently, FRPM eligibility information is collected either by direct certification or by household income applications. Generally, direct certification verifies a student's FRPM eligibility by computer matching data records for various programs (such as Head Start, Even Start, Supplemental Nutrition Assistance Programs, and foster care) with enrollment lists. (The option to send letters to households for the purpose of direct certification has been significantly curtailed.) Thus, direct certification generally requires no additional action from a student's parents or guardians, while household income applications do require their action.

Schools and school systems that qualify for CEP (by matching 40% or more of their student population as eligible for free meals by direct certification) and that opt in to the CEP program can use an alternative method, involving a pre-determined multiplier, to establish the number of FRPM-eligible students. By doing so, however, the school or school system may realize a decrease in the rate of return of household income applications because parents will no longer be required to complete the application to secure FRPMs for their children.

While the 40% direct certification threshold determines eligibility, given the CEP multiplier (which is intended to account for low-income families not captured by direct certification) MSDE advises that schools and school systems with 55% or higher direct certification are far more likely to choose to participate in CEP. Data provided by MSDE indicate that there are presently 366 Maryland schools with direct certification rates of at least 40%, and that 195 of these schools have direct certification rates at or above 55%. Of the 195 schools, 150 are in Baltimore City, 10 are in Wicomico County, 6 are in Dorchester County, and the number of schools is 5 or less in each of 15 additional counties.

Baltimore City Public Schools advised that it has concerns about losing compensatory aid funding (which amounts to about 35% of direct aid to public schools in Baltimore City in for fiscal 2016) if it chooses to participate in CEP and that CEP participation, by reducing the FRPM count for the school system, may also jeopardize some amount of federal assistance for school food programs, especially support for providing fruits and vegetables to students. According to MSDE, the maximum federal reimbursement for free school meals generally (including breakfast and lunch), based on a 180-day school year, amounts to \$925 per child annually. This is about 19% of the amount of State compensatory aid to be received by Baltimore City for each FRPM-eligible student (\$4,788) in fiscal 2016, under current law.

Local school systems in Maryland have been able to participate in the pilot program for CEP beginning with the 2013-2014 school year; CEP is available nationwide beginning with the 2014-2015 school year. MSDE advises that five schools in Washington County and the SEED school (a public residential boarding school serving at-risk students)

participated in the pilot program. Additional schools in Washington and Somerset counties are participating in the 2014-2015 school year.

The Adequacy for Funding Education in Maryland Study currently underway by MSDE in collaboration with DBM and DLS includes a report on proxies other than FRPM that could be used to identify economically disadvantaged students for use in the State compensatory education formula. The consultant's report is due June 30, 2015. The consultant's preliminary findings presented in December 2014 indicate that at least 37 states designate some form of funding for "at-risk" students. Most of these states use FRPM (or free meals alone) as a factor in determining education funding, while 12 states use a range of alternative indicators, including student achievement levels, student mobility, Title I status, parental education levels, and whether the student is in a single parent household or a foster home, among other factors.

State Fiscal Effect: The effect of the bill on State aid to a given local school system in fiscal 2017 and 2018 is assumed to be minimal and will depend upon some level of participation in CEP and whether the school system's overall FRPM count declines in comparison to the prior fiscal year.

To the extent that more counties choose to participate in CEP, FRPM enrollment counts could decline for those school systems and result in a concomitant loss of compensatory aid under current law. This bill provides a floor for the FRPM count for fiscal 2017 and 2018 only, which mitigates the potential loss of FRPM count and, therefore, compensatory aid for school systems that choose to participate in CEP for fiscal 2017 and 2018 only.

The bill does not alter the count of FRPM for schools not participating in CEP, nor does it alter the FRPM count after fiscal 2018. Given available data on the number of schools that will be eligible for CEP participation and on the number of schools with direct certified enrollments at or above 55% eligible for free meals, in the near future, it is likely that increased participation in local jurisdictions other than Baltimore City will be minimal, if any. In turn, the effect on the FRPM count and, therefore, compensatory aid to most local jurisdictions, will be similarly minimal.

In recent years, except for fiscal 2016, the growth in FRPM count has slightly outpaced growth in FTE for Baltimore City Public Schools. The bill will assure, for schools participating in CEP in fiscal 2016, that the FRPM count used to determine compensatory education aid at least keeps pace with the growth in FTE enrollment in fiscal 2017 and 2018. Based on current compensatory aid projections, the floor provided by the bill will prevent a significant decline in State aid to Baltimore City if they participate in CEP, but the bill is not anticipated to result in State aid that is above the currently projected amount. Further, it is not certain that Baltimore City will opt to participate in CEP, or will do so to

a degree that comes close to full participation systemwide. For these reasons, the floor in the bill will likely not result in additional State aid to Baltimore City.

According to MSDE data, Washington County now has 12 public schools that participate in CEP and each of Somerset County's 10 public schools participates in CEP. For both counties, FRPM count has outpaced growth in FTE enrollment in recent years, and this trend is expected to continue in fiscal 2017 and 2018. Consequently, the bill is not likely to significantly alter compensatory education funding for these school systems.

Local Fiscal Effect: As described above, any change in State aid to local school systems is assumed to be minimal and will depend upon some level of participation in CEP and whether a given school system's overall FRPM count declines in comparison to the prior fiscal year. The effect, if any, will be in fiscal 2017 and 2018. School systems that are prompted by the bill to participate in CEP, or increase participation, may also be relieved of administrative costs associated with distribution and collection of eligibility forms.

Additional Information

Prior Introductions: A similar bill, SB 128 of 2014, passed the Senate and received a hearing in the House Appropriations Committee. No further action was taken.

Cross File: HB 965 (Delegate Haynes, *et al.*) - Ways and Means.

Information Source(s): Baltimore City, Wicomico County, Maryland State Department of Education, Department of Legislative Services

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