

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 627

(Senator Eckardt, *et al.*)

Budget and Taxation

Rules and Executive Nominations

Education - Maintenance of Effort Requirement - Alteration and Study

This bill excludes from the State's public school maintenance of effort (MOE) requirement the cost to provide building features required under accessibility laws. The State Board of Education, in collaboration with county governments and local boards of education, must conduct a specified study and report findings and recommendations by December 1, 2015.

The bill takes effect June 1, 2015.

Fiscal Summary

State Effect: The State board can conduct the required study using existing resources. Because penalties for failure to meet MOE requirements have not been assessed in the past, it is anticipated that State revenues are not affected.

Local Effect: County governments are afforded greater budget flexibility by guaranteeing that costs associated with providing building features required under accessibility laws are excluded from public school MOE requirements.

Small Business Effect: None.

Analysis

Bill Summary: The State board, in collaboration with county governments and local boards of education, must study the use of leases and other alternative financing mechanisms for school facilities and buildings by county boards of education and the feasibility of a year-round process for approving county requests to exclude nonrecurring costs from MOE. The study must include examination of (1) changes necessary to existing

law to encourage collaboration between county governing bodies and county boards of education in using leases and alternative financing mechanisms and (2) whether and when the fixed cost of a lease or other financing mechanism should be included or excluded in a county's MOE calculation. The study must also include consideration of (1) the budget schedules of counties and school boards whose budget processes fall after existing application deadlines and (2) changes to existing law to make the application process more flexible and useful for county governing bodies and local boards of education. The State board must report findings and recommendations to the Senate Budget and Taxation Committee and the House Ways and Means Committee by December 1, 2015.

Current Law: Under the MOE requirement, each county government (including Baltimore City) must provide on a per pupil basis at least as much funding for the local school board as was provided in the prior fiscal year. Statute exempts from the MOE calculation qualifying nonrecurring costs as approved by the Maryland State Department of Education (MSDE), the cost of any program that has been shifted from the local school board's operating budget to the county operating budget, and debt service payments for school construction. The Budget Reconciliation and Financing Acts of 2011 and 2012 (Chapter 397 of 2011 and Chapter 1 of the 2012 first special session) provided one-year exemptions from MOE for a county (including Baltimore City) that shifted recurring health care costs for current retirees to the local school board if those costs were reduced the following year. Chapter 647 of 2013 made this exemption permanent, and also excluded recurring retiree health costs from MOE if they resulted in additional State aid that was dedicated to public school construction.

Chapter 6 of 2012 requires a county governing body to apply to the State board for a waiver from the State's MOE requirement if the county is unable to fund the full MOE amount. If a county does not receive a waiver from the State board, it must fund the full MOE amount or the State will intercept the county's local income tax revenues in the amount by which the county is below MOE and forward the funds to the local school board. Counties that receive waivers and are making above-average education effort may request "rebasement waivers" that allow limited decreases to their annual MOE amounts if they can demonstrate ongoing problems with meeting MOE.

Also under Chapter 6 of 2012, beginning in fiscal 2015, a county that has an education effort below the five-year statewide average education effort must increase its MOE payment to the local school board in years when the wealth base per pupil is increasing. The required increase is the lesser of the increase in a county's per pupil wealth, the average statewide increase in per pupil local wealth, or 2.5%. This provision ensures an increase in the amount a county provides to the local school board concomitant with an increase in county wealth.

Under current law, a county governing body is not authorized to reduce appropriations after a local board of education's budget is approved. A county's MOE requirement for a given year is based upon the highest local appropriation to its school operating budget for the prior fiscal year. Each local board of education must submit its proposed budget to its county governing body not less than 45 days before the date for levying local taxes, or on an earlier date on or after March 1, as requested by the county fiscal authority. Each county must submit its approved budget to the State Superintendent of Schools no later than 7 days after approval of the budget, or June 30, whichever is earlier. No later than 15 days after receipt of the county's approved budget, the State Superintendent must certify whether the county has met State funding requirements and must notify the county and county board of certification.

Maryland Accessibility Code (MAC) requires the Department of Housing and Community Development (DHCD) to adopt by regulation a State building code to make buildings and facilities accessible and usable by individuals with disabilities to the extent feasible. MAC is enforceable by local governments or any other governmental units with authority over buildings or facilities. Federal law governs many of the buildings and facilities covered by MAC and also governs some buildings and facilities which are not covered by MAC. For example, the federal Americans with Disabilities Act requires owners of existing buildings to make changes that are "readily achievable to accommodate individuals with disabilities." DHCD regulations specify that, to the extent that federal law is more restrictive, federal law applies.

Background: As of January 2015, the State board has certified that the school appropriations of all 24 counties have met the fiscal 2015 MOE requirement. The State board granted an MOE waiver in the amount of \$2.9 million regarding Baltimore City's fiscal 2015 appropriation. The waiver request, agreed to by the city government and the Baltimore City Public School System, eliminates (beginning with fiscal 2015) the ongoing effect on MOE from a fiscal 2013 budgeting error made by Baltimore City. The budgeting error resulted from the city's use of an incorrect (high) enrollment figure for determining the required MOE total for fiscal 2013.

Beginning in fiscal 2015, a county that has an education effort below the five-year statewide average education effort must increase its MOE payment to the local school board in years when its local wealth base is increasing. Statewide per pupil local wealth declined slightly from fiscal 2014 to 2015 and again from fiscal 2015 to 2016. Therefore, no jurisdiction has been required to increase its MOE appropriation in fiscal 2015 or 2016 under this provision.

Additional Information

Prior Introductions: None.

Cross File: HB 1079 (Delegate Shoemaker, *et al.* - Ways and Means) is listed as a cross file, but the bills are not identical.

Information Source(s): Montgomery County, Department of Budget and Management, Maryland State Department of Education, Maryland Association of Counties, Department of Legislative Services

Fiscal Note History: First Reader - March 4, 2015
md/rhh Revised - Senate Third Reader - April 7, 2015

Analysis by: Scott P. Gates

Direct Inquiries to:
(410) 946-5510
(301) 970-5510