

Department of Legislative Services

Maryland General Assembly

2020 Session

FISCAL AND POLICY NOTE

First Reader

(Senator Ellis)

Education, Health, and Environmental Affairs and Budget and Taxation

Legal Holiday - Maryland Emancipation Day - Establishment

This bill establishes Maryland Emancipation Day as a State legal holiday on November 1; accordingly, it is also established as a public school holiday, a bank holiday, and a State employee holiday on November 1.

Fiscal Summary

State Effect: Expenditures (all funds) increase significantly, likely by several million dollars, beginning in FY 2021 due to overtime expenses related to providing employees with an additional State employee holiday. Potential minimal increase in public work contract expenditures due to prevailing wage overtime requirements for legal holidays.

Local Effect: Local annual expenditures for operating public schools are not materially affected. Revenues are not affected. The bill does not directly affect local operations, as local governments are not required to grant leave to their employees as a result of the bill. Potential minimal increase in public work expenditures due to prevailing wage overtime requirements for legal holidays.

Small Business Effect: Minimal.

Analysis

Current Law: Maryland Emancipation Day is a commemorative day in the State. The Governor must annually proclaim November 1 as Maryland Emancipation Day in recognition of the emancipation of slaves in the State.

The State of Maryland recognizes 11 bank holidays, 16 legal holidays and 12 State employee holidays, as identified in **Exhibit 1**.

Exhibit 1
Holidays in the State

	<u>School Holiday</u>	<u>Bank Holiday</u>	<u>Legal Holiday</u>	<u>State Employee Holiday</u>
New Year's Day	X	X	X	X
Dr. Martin Luther King, Jr.'s Birthday	X	X	X	X
February 12 for Lincoln's Birthday			X	
Washington's Birthday*	X	X	X	X
March 25 for Maryland Day			X	
Good Friday	X	X	X	
Easter Monday	X			
Memorial Day	X	X	X	X
Independence Day		X	X	X
Labor Day		X	X	X
September 12 for Defenders' Day			X	
Columbus Day		X	X	X
General Election Days	X		X	X
Veterans' Day		X	X	X
Thanksgiving Day	X	X	X	X
Day after Thanksgiving Day**	X		X	X
Christmas Day	X	X	X	X

*Also known as Presidents' Day, celebrated on the third Monday of February.

**Also known as American Indian Heritage Day.

Note: Christmas Eve through New Year's Day are public school holidays, along with primary election days.

Source: Department of Legislative Services

In general, a State employee who is required to work on an employee holiday receives compensatory time for that work. An employee not scheduled to work on an employee holiday, but otherwise required to work on that day, is eligible for compensation at the regular hourly rate of pay plus time and one-half pay for the number of holiday hours worked, provided that the employee is eligible to receive cash overtime (*i.e.*, an employee in a 24-hour facility called to report on an employee holiday may be entitled to regular compensation plus overtime pay).

Public Schools

Public schools must be open for at least 180 days and 1,080 school hours at elementary and middle schools and 1,170 hours at high schools during a 10-month period. However, a local board of education may apply to the State Board of Education for a waiver from these provisions of State law; the application must describe a demonstrated effort by the local board to comply with State law and that the school system calendar included from 3 to 10 days to be used to make up days lost. In response, the State board may permit:

- increases or decreases in the length of the school year (in addition to any adjustment made under the authority of local boards to extend the school year for up to five school days beyond June 15);
- exceptions from the 10-month period requirement;
- adjustments in the length of the school day; and
- schools to be open on holidays.

These adjustments may be granted only if normal school attendance is prevented because of natural disaster, civil disaster, or severe weather conditions. After any school system closure, the local school system must notify the State board, within 10 days of reopening, of its plan to make up the missed school days, including the dates of the make-up days.

On August 31, 2016, the Governor issued Executive Order 01.01.2016.09 (later amended by Executive Order 01.01.2016.13) requiring, with few exceptions, the local boards of education to open schools for student attendance no earlier than the Tuesday following the Labor Day holiday and to conclude the school year no later than June 15, beginning in the 2017-2018 school year. Under Chapters 34 and 35 of 2018, a local board of education is authorized to extend the school year for up to five school days beyond June 15 without approval from the State board.

The State has designated several days as public school holidays, as shown in Exhibit 1. They include the following: Thanksgiving Day and the day after; Christmas Eve through January 1; Martin Luther King, Jr. Day; Presidents' Day; the Friday before Easter through the Monday after Easter; Memorial Day; and primary and general election days for most counties. If the federal and State observances of a holiday are on different days, the board of education of each county must determine the date of observance for that holiday.

Bank Holidays

Banking institutions generally must be closed on legal holidays as shown in Exhibit 1. When a legal holiday differs from the corresponding federal holiday, a banking institution may be closed on both holidays and must be closed on one of the holidays. If there is no

corresponding federal holiday for the bank holidays, a banking institution can remain open if it so chooses. Additionally, a bank may be closed on optional bank holidays.

Legal Holidays

Except as otherwise provided in the Code, a legal holiday must be observed on its specified date or if that date falls on a Sunday, on the next Monday after that date.

Background: On November 1, 1864, Maryland adopted a new constitution that abolished slavery, making it the first state with slaves to voluntarily free its slaves by popular vote. Lincoln's Emancipation Proclamation of 1863 had only freed slaves in rebel states, of which Maryland was not one.

State Expenditures: Increasing the number of paid State employee holidays observed in any given year generally does not directly affect State expenditures for most State agencies, since regular employee salaries are already budgeted. For agencies whose employees must work on a holiday, however, there could be a significant fiscal impact.

It is unknown how many State employees will be required to work on this holiday; however, agencies with 24/7 operations likely experience significant overtime costs. The Department of Budget and Management estimates the bill increases expenditures (all funds) by at least \$2.8 million annually beginning in fiscal 2021 for overtime costs for the Department of Public Safety and Correctional Services, the Department of Juvenile Services, the Maryland Department of Health, Department of State Police, and the Department of Natural Resources.

The Maryland Department of Transportation (MDOT) establishes employee holidays through regulation instead of by statute. To the extent that MDOT provides the paid holiday to employees, overtime costs increase further.

In addition to providing overtime pay, there would be an impact resulting from a loss of productivity for giving employees a day off.

Local Expenditures: Required closure of public schools on Maryland Emancipation Day somewhat reduces the options of local school systems in setting their school calendars in a manner that complies with State law, thus causing operational impacts for some local school systems. However, the addition of a Maryland Emancipation Day school holiday does not alter the minimum number of school days and school hours that public schools must be open and, therefore, does not materially affect annual expenditures for operating public schools.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Maryland State Department of Education; Baltimore City Community College; University System of Maryland; Morgan State University; Department of Budget and Management; Maryland Department of Transportation; Baltimore City Public Schools; Baltimore County Public Schools; Anne Arundel County Public Schools; Montgomery County Public Schools; Prince George's County Public Schools; Frederick County Public Schools; Wicomico County Public Schools; Department of Legislative Services

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