

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

Senate Bill 311

(Senator Zucker, *et al.*)

Budget and Taxation

Rules and Executive Nominations

Nonpublic Education - Placements of Children With Disabilities - Teacher Salaries (Teacher Pay Parity Act)

This bill requires a nonpublic school in which a child receiving special education services is placed to provide its teachers a salary that is equivalent to the local school salaries, phased in over three years beginning in fiscal 2024. The additional funding is to be paid for by the State and county governments in the same proportion as other costs paid for nonpublic placements. Funding provided by county governments under the bill is in addition to required local effort under current law and is also excluded from calculations of local effort and local effort relief, Guaranteed Tax Base (GTB) State aid, and Education Effort Index State aid. Funding for other components of special education placements may not be reduced to provide the required teacher salaries. The Maryland State Department of Education (MSDE) must adopt regulations related to nonpublic placements. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: General fund expenditures increase by \$3.5 million in FY 2024 and increase annually, reaching \$11.4 million in FY 2028 due to the State share of required nonpublic school teacher salary increases under the bill. The FY 2024 budget as passed by the General Assembly includes \$3.0 million for this purpose. **This bill increases a mandated appropriation beginning in FY 2025.**

(\$ in millions)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	3.5	7.2	10.9	11.2	11.4
Net Effect	(\$3.5)	(\$7.2)	(\$10.9)	(\$11.2)	(\$11.4)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: County government expenditures increase by \$5.0 million in FY 2024 and by \$16.3 million in FY 2028 due to the local share of increased salary costs under the bill. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Current Law:

Nonpublic Placement Costs

The State and local school systems share in the costs of nonpublic placements for special education children who cannot receive an appropriate education in a public school. For those children in nonpublic placements approved by MSDE, the local school system contributes an amount equal to the local share of the basic cost of educating a child without disabilities plus two times the total basic cost. Any costs above this base amount are split on a 70% State/30% local basis.

The fiscal 2024 State budget includes \$148.6 million in State aid for nonpublic placements, including \$3.0 million for the State's share of increasing salaries of nonpublic school special education teachers.

Career Ladder for Educators

Under Chapter 36 of 2021, a four-level career ladder must be implemented by each county board of education by July 1, 2023. Level one is a State-certified teacher. Level two is a teacher pursuing a master's degree, 30 credits of a State board-approved program of study, or National Board Certification (NBC). Level three is a teacher who has an NBC, if NBC or a comparable assessment is not available in the teacher's content area, a master's degree in that area; level three includes an assistant principal. Level four is a teacher on the teacher leadership track or administrative track of the career ladder, each of which are further divided into tiers. If a teacher achieves level three or four on the career ladder by being an NBC teacher, the teacher must retain NBC status in order to remain at that level.

Minimum salary increases are required as specified beginning in fiscal 2023 for certain accomplishments associated with movement up the career ladder. Teachers with NBC may receive salary increases (of \$10,000) beginning in fiscal 2023 and an additional amount (\$7,000) if they teach in a low performing school. To receive additional increases associated with moving up the career ladder, the county board must have established a

career ladder that has been approved by the Accountability and Implementation Board (AIB). Salary increases associated with each recertification of NBC are subject to collective bargaining, with the State share of those increases capped as specified. The costs associated with these salary increases are shared between the State and county government through a new wealth-equalized formula. The State must provide the cost of fees for initially attaining and renewing NBC to each teacher who pursues NBC, including one retake of each NBC assessment. County boards must pay one-third of the cost of the NBC fees to the State for each teacher pursuing an NBC.

County boards must also demonstrate to AIB by July 1, 2024, that teachers in the county received at least a 10% salary increase over the preceding five-year period. By fiscal 2027, all teachers must receive a salary of at least \$60,000.

Guaranteed Tax Base

The GTB program is intended to encourage less wealthy jurisdictions to maintain or increase local education tax effort, *i.e.*, local education appropriation as a percent of local tax base. The program provides additional State education aid to counties that have less than 80% of the statewide average wealth per pupil and provide local education funding above the minimum local share required by the Foundation Program. The program uses local education tax effort and wealth to determine State aid amounts for each eligible school system.

Maintenance of Effort and Local Share

Each year, the county government (including Baltimore City) is required to appropriate funds to the local board of education equivalent to the greater of the maintenance of effort (MOE) requirement or the local share amount of all wealth-equalized formulas. The per pupil MOE amount is based upon the greater of (1) the prior year full-time equivalent (FTE) enrollment and (2) the three-year moving average of FTE enrollment. (There is a certain adjustment for fiscal 2024 MOE for specified counties.) The local share amount equals the local share of the foundation formula, compensatory education, English language learner, special education, comparable wage index (CWI), full-day prekindergarten, college and career ready, transitional supplemental instruction (through fiscal 2026), and career ladder grant programs. Also, counties that benefit from the compensatory education State funding floor are required to fund the local share of the concentration of poverty grant programs. However, for some counties, the combined local share across these several programs is subject to adjustments described below.

Education Effort Adjustment to Local Share Requirement

Local governments are required to fund the local share of the foundation program and the required local shares for several existing and new funding formula programs. The law also includes a mechanism for establishing a maximum local share that a county must fund each year. This involves “local education effort,” which is determined for each county by dividing the county’s local share of major education aid by the county’s wealth. An “education effort index,” which is the local education effort divided by the “State average education effort” is then determined. A “maximum local share” is calculated for each county, which is the county’s local wealth multiplied by the State average education effort.

Each county with an education effort above 1.0 for two consecutive years receives relief based upon its “education effort adjustment,” which is the amount by which the calculated local share exceeds the maximum local share. This relief (which results in increases to State aid) is provided to counties within one of three tiers, based on whether the education effort is (1) greater than 1.0 but less than 1.15; (2) at least 1.15 but less than 1.27; or (3) at least 1.27. State relief for the first tier is phased up from 15% of the education effort adjustment in fiscal 2023 to 50% by fiscal 2030. State relief for the second tier is phased up from 20% of the education effort adjustment in fiscal 2023 to 100% by fiscal 2030. State relief for the third tier is 100% beginning in fiscal 2023. However, the education effort adjustment for a county is only allowed to the degree that per pupil MOE is met each year.

Additional Reductions to Local Share

A county may be eligible for a reduction in the required local share of major aid formulas in three additional ways: (1) if a county receives State funds from the GTB program, the local share may be reduced by the amount of GTB funds, except that for Baltimore City only the amount above \$10 million may be reduced from the local share; (2) if a county receives State funds to support the minimum funding floors of 15% for the foundation and 40% for the targeted programs; and (3) if a county has a CWI of at least 0.13, the local share of CWI may be reduced by 50%. However, in all of these cases, the local share may not be reduced below the required per pupil MOE amount.

State Expenditures: Current law defines the local share of the cost of nonpublic placements, and then requires the State to pay any remaining costs. As the local shares of the costs of nonpublic placements vary by county, based on the calculations required under current law, the State share of the cost also varies by county. Therefore, a calculation of the bill’s effect on expenditures due to the salary parity provision in the bill depends on multiple decisions at the local level, including (1) collective bargaining agreements; (2) the degree to which public school teachers pursue salary increases via the career ladder program; and (3) the degree to which local boards of education meet or exceed the required 10% salary increases over five years by fiscal 2025 and the minimum salary of \$60,000 for

all teachers by fiscal 2027, and the annual rates of change for each local school system to reach or exceed these targets. It also varies based on the distribution of nonpublic placements among the counties. The following estimate is based on data from fiscal 2019, prior to the COVID-19 pandemic's effects on enrollment.

In accordance with the *2020 Joint Chairmen's Report*, MSDE provided a [report](#) to the Senate Budget and Taxation Committee and the House Appropriations Committee regarding wage and compensation disparities in special education and recommendations for remediation. The report focuses on salaries and benefits for special education teachers in public schools compared to counterparts in nonpublic special education schools. For the 2018 to 2020 period, the report indicates that statewide, for all experience levels (from a starting teacher with a bachelor's degree to a teacher with a doctoral degree at maximum pay), public school special education teachers receive a higher salary than do nonpublic school special education teachers. The report also indicates that:

- average teacher salaries in public schools exceeded those in nonpublic special education schools by between 7.3% and 25.8%, depending on teacher education and experience;
- after accounting for differences in teachers' total paid hours, teachers' wages in public schools and nonpublic special education schools differed by between 23.3% and 40.7%; and
- salary disparities largely remain, to varying degrees, when disaggregated by county.

According to MSDE, 25%, or \$68.5 million, of the fiscal 2019 total State and local appropriations for nonpublic special education schools are attributable to teacher salary at these schools. Based upon findings in the study cited above, a 32% increase in salary, or \$21.9 million State and local increase would have been required in fiscal 2019. Additional adjustments are necessary to account for changes in funding levels and salaries since then.

State funding for nonpublic placements has increased by 14% from fiscal 2019 to the fiscal 2024 allowance, resulting in an adjusted total fiscal 2024 expenditure increase of \$25.6 million. MSDE has previously advised that, after factoring in the variation in local shares of the costs of nonpublic placements, approximately 41% of cost sharing is covered by the State. This amounts to \$10.5 million, which is phased in over three years under the bill, resulting in an increase of \$3.5 million in general fund expenditures in fiscal 2024. Assuming 2.0% annual increases, accounting for salary increases among public school special education teachers as well as full phase-in by fiscal 2026, and assuming similar pay disparities persist under current law, the increase in State general fund expenditures amounts to \$11.4 million by fiscal 2028. MSDE administrative costs are not affected.

Exhibit 1 shows the State and local shares associated with the requirement to pay special education placement teachers the equivalent of local school system salaries, as adjusted by the phase-in from fiscal 2024 to 2026.

Exhibit 1
State General Fund and Local Expenditure Increases under the Bill
(\$ in Millions)

	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>	<u>FY 2028</u>
State Expenditures	\$3.5	\$7.2	\$10.9	\$11.2	\$11.4
Local Expenditures	5.0	10.3	15.7	16.0	16.3
Total	\$8.5	\$17.4	\$26.6	\$27.2	\$27.7

Source: Department of Legislative Services

Local Fiscal Effect: Based upon the assumptions discussed above, county government expenditures increase by \$5.0 million in fiscal 2024 and by \$16.3 million by fiscal 2028. The bill assures that these expenditures are in addition to current law required effort, yet do not affect local share or MOE, nor related local effort relief provisions. Further, the bill assures the State GTB and Education Effort Index funding for public schools is not affected.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See HB 1301 and SB 706 of 2022.

Designated Cross File: HB 448 (Delegate Korman, *et al.*) - Ways and Means and Appropriations.

Information Source(s): Allegany and Harford counties; Maryland Association of Counties; Maryland State Department of Education; Department of Budget and Management; Department of Legislative Services

Fiscal Note History:
km/mcr

First Reader - February 7, 2023

Third Reader - April 7, 2023

Revised - Amendment(s) - April 7, 2023

Revised - Budget Information - April 7, 2023

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