

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 913

(Senator Guzzone)

Education, Energy, and the Environment

Ways and Means and Appropriations

**Education - Community Eligibility Provision Schools and Prekindergarten
 Enrollment and Funding - Alterations**

This emergency bill alters the definition of “Tier I child” within the Publicly Funded Full-Day Prekindergarten aid program to also include a child who is three or four years old and who is a homeless youth. Beginning in fiscal 2023, along with all Tier I children, Tier II children who are children (1) with a disability, regardless of income or (2) from a home in which English is not the primary spoken language are included in the prekindergarten enrollment count for purposes of determining the program amount to be funded by the State and local governments. The bill repeals the requirement for local school systems that opt into the U.S. Department of Agriculture community eligibility provision (CEP) for all schools in the system from the requirement to, by the 2022-2023 school year, collect the State alternative income eligibility form.

Fiscal Summary

State Effect: State expenditures increase by \$6.4 million in FY 2024, decrease by \$497,700 in FY 2025, and are altered by substantially lesser amounts through FY 2028.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	120,200	113,400	3,500	23,700
SF Expenditure	6,377,000	(617,900)	0	0	0
Net Effect	(\$6,377,000)	\$497,700	(\$113,400)	(\$3,500)	(\$23,700)

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

Local Effect: County government expenditures increase by approximately \$1.7 million in FY 2024, increase by \$636,800 in FY 2025, and are altered by substantially lesser amounts through FY 2028. Local school systems receive a portion of State aid under the bill, beginning in FY 2024. The impact on State aid is lessened to the extent that available

prekindergarten slots cannot accommodate anticipated increased enrollment under the bill. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Meaningful.

Analysis

Current Law:

Publicly Funded Full-day Prekindergarten

A “Tier I child” is a child who is three or four years old and whose family income is less than or equal to 300% of the federal poverty level; a “Tier II child” is a child who is four years old and whose family income is more than 300% of, but not more than 600% of, the federal poverty level; a “Tier III child” is a child who is four years old and whose family income is more than 600% of the federal poverty level.

Chapter 36 of 2021 established a new funding formula providing for voluntary full-day prekindergarten for four-year-olds and three-year-olds from low-income families (Tier I). Low-income is defined as at or below 300% of the federal poverty level. Expansion of full-day prekindergarten first focuses on making full-day prekindergarten available for all four-year-olds from low-income families as half-day slots are being converted into full-day slots and new slots are coming online. This occurs at the same time as full-day prekindergarten is expanded gradually for three-year-olds from low-income families.

The Maryland State Department of Education (MSDE) must develop a sliding scale to calculate the family share for families with income above 300% of the federal poverty level. Beginning in the 2024-2025 school year (fiscal 2025), four-year-olds from families whose income is between 300% and 600% of the federal poverty level (Tier II) may be offered full-day prekindergarten if space is available to encourage socioeconomic diversity in prekindergarten classrooms. Priority in expanding full-day prekindergarten slots is given to children from low-income families and children with disabilities and children living in homes where English is not the primary spoken language regardless of income. For four-year-olds from families with income above 600% (Tier III), the family share pays the full cost of full-day prekindergarten. However, a county board may provide up to 100% of the family share on behalf of the family.

“Prekindergarten enrollment” means (1) beginning in fiscal 2023, the number of Tier I children enrolled with an eligible prekindergarten provider; and (2) beginning in fiscal 2025, the number of Tier I and Tier II children enrolled with an eligible

prekindergarten provider. Tiers I through III each include only children whose family chooses to enroll the child in full-day prekindergarten.

Public and private providers must meet specified requirements to be eligible to participate in the publicly funded full-day program. County governments (including Baltimore City) must appropriate the greater of the combined local share of several aid programs, after certain local relief provisions are applied, or the per pupil maintenance of effort (MOE) result.

Community Eligibility Provision and State Alternative Income Eligibility Form

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 Free or Reduced Priced Meals (FRPM) in high-poverty local education 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 determined by the U.S. Department of Agriculture (USDA). 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.

Since fiscal 2004, the compensatory aid formula, providing additional State support for students with educational needs resulting from educationally or economically disadvantaged environments, 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 applies a per pupil cost to the FRPM student count. The compensatory enrollment count for LEAs 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; *or*

(3) the sum of:

- the number of students directly certified and who are enrolled in a public school in the county in the prior fiscal year.

Under Chapter 55 of 2021, this provision of the State law is in effect through fiscal 2026. For fiscal year 2027 and each fiscal year thereafter, the greater of (1) the number of FRPM eligible students using the USDA count, or the alternative State form for the prior fiscal year or (2) the number of direct certification students who are enrolled in a public school in the county in the prior fiscal year.

Guaranteed Tax Base

The guaranteed tax base (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 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 Fiscal Effect: State expenditures for public schools and private prekindergarten providers increase by \$6.4 million in fiscal 2024, largely explained by a \$6.1 million increase in Publicly Funded Full-Day Prekindergarten aid. **Exhibit 1** shows estimated changes in State funding under the bill through fiscal 2028, which includes changes due to the Education Effort Adjustment and GTB. Changes to GTB reflect changes to general fund expenditures; other changes are assumed to be changes to Blueprint for Maryland’s Future Fund special fund expenditures. The impact on State expenditures is lessened to the extent that available prekindergarten slots cannot accommodate anticipated increased enrollment under the bill.

Exhibit 1
Estimated Changes in State Aid under the Bill
(\$ in Thousands)

	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>	<u>FY 2028</u>
Full-Day Prekindergarten	\$6,116	\$0	\$0	\$0	\$0
Education Effort	261	(618)	0	0	0
Guaranteed Tax Base	0	120	113	3	24
Total	\$6,377	(\$498)	\$113	\$3	\$24

Source: Department of Legislative Services

Based upon fall 2022 enrollment figures, MSDE estimates that the bill will result in a statewide increase of 1,055 students eligible for funding under the Publicly Funded Full-Day Prekindergarten aid program. This estimate is based on all homeless students having a family income below 300% of the federal poverty level (and thus being counted under current law for fiscal 2024 and beyond). It also accounts for the estimated numbers of students who are age 4, with family incomes more than 300% of, but not more than 600% of, the federal poverty level, and (1) have a disability, or (2) are English language learners; and also accounts for those students who represent more than one of these categories or who already qualify as low-income, in order to generate a non-duplicative count. Given this estimated student enrollment increase, State expenditures under the program increase by \$6.1 million in fiscal 2024.

The bill also alters local shares by county for the program through the Education Effort Adjustment, which provides local share relief, supplemented by additional State aid.

Education Effort Adjustment State aid increases by \$261,200 in fiscal 2024 and decreases by \$617,900 in fiscal 2025. Further, GTB State aid is altered beginning in fiscal 2025, as shown in Exhibit 1, due to changes in local appropriations, discussed below. Provisions of the bill related to the collection of the State alternative income eligibility form are not anticipated to materially affect State finances.

Local Fiscal Effect: The increased State expenditures described above are met by an equivalent increase in the local share for the Publicly Funded Full-Day Prekindergarten program, as partially offset via the Education Effort Adjustment. Given both the local share and MOE requirements under current law, the increased local share amount under the bill may not necessarily require each local government to increase the local board appropriation by that exact amount. Provisions of the bill related to the collection of the State alternative income eligibility form are not anticipated to materially affect local finances. **Exhibit 2** shows the estimated changes in local appropriations under the bill. **Exhibit 3** shows estimated increases in combined State aid and local appropriations under the bill, based on factors discussed above.

Exhibit 2
Estimated Changes in Local Appropriations under the Bill
(\$ in Thousands)

County	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Allegany	\$50	\$50	\$50	\$49	\$0
Anne Arundel	0	0	0	0	0
Baltimore City	527	517	-93	17	-3
Baltimore	0	0	0	0	0
Calvert	0	0	0	0	0
Caroline	0	0	0	0	0
Carroll	0	0	0	0	0
Cecil	0	0	0	0	0
Charles	0	0	0	0	0
Dorchester	0	0	0	0	0
Frederick	0	0	0	0	0
Garrett	0	0	0	0	0
Harford	0	0	0	0	0
Howard	0	0	0	0	0
Kent	7	0	0	0	0
Montgomery	0	0	0	0	0
Prince George's	1,023	0	0	0	0
Queen Anne's	0	0	0	0	0
St. Mary's	0	0	0	0	0
Somerset	0	0	0	0	0
Talbot	70	69	0	0	0
Washington	0	0	0	0	0
Wicomico	0	0	0	0	0
Worcester	0	0	0	0	0
Total	\$1,678	\$637	-\$44	\$66	-\$3

Source: Department of Legislative Services

Exhibit 3
Estimated Increases in State Aid and Local Appropriations under the Bill
(\$ in Thousands)

County	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Allegany	\$162	\$70	\$69	\$69	\$20
Anne Arundel	282	0	0	0	0
Baltimore City	1,995	0	0	0	0
Baltimore	156	0	0	0	0
Calvert	41	0	0	0	0
Caroline	58	0	0	0	0
Carroll	77	0	0	0	0
Cecil	164	0	0	0	0
Charles	162	0	0	0	0
Dorchester	12	0	0	0	0
Frederick	352	0	0	0	0
Garrett	4	0	0	0	0
Harford	236	0	0	0	0
Howard	157	0	0	0	0
Kent	12	0	0	0	0
Montgomery	1,068	0	0	0	0
Prince George's	2,738	0	0	0	0
Queen Anne's	33	0	0	0	0
St. Mary's	42	0	0	0	0
Somerset	18	0	0	0	0
Talbot	93	69	0	0	0
Washington	117	0	0	0	0
Wicomico	66	0	0	0	0
Worcester	14	0	0	0	0
Total	\$8,055	\$139	\$69	\$69	\$20

Source: Department of Legislative Services

Small Business Effect: Private prekindergarten providers, many of which are small businesses, benefit from increased State funding to support higher enrollments of prekindergarten students.

Additional Comments: The fiscal 2023 State budget based State formula funding on all public prekindergarten full-day enrollment to serve as a transition period, because local school systems did not collect income tier data from students for the current school year. Thus, fiscal 2023 funding was provided for all children in public prekindergarten programs.

Consequently, it is assumed that though the bill is an emergency bill and likely takes effect in fiscal 2023, it does not affect fiscal 2023 State or local finances.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 770 (Delegate Atterbeary)(By Request - Accountability and Implementation Board) - Ways and Means.

Information Source(s): Maryland State Department of Education; Accountability and Implementation Board; Department of Legislative Services

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