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FISCAL AND POLICY NOTE
First Reader

Senate Bill 407 (Senator Manno, *et al.*)
Education, Health, and Environmental Affairs

Education - Education Accountability Program - Limits on Testing

This bill requires the State Board of Education to adopt regulations that limit the amount of time that may be devoted to federal, State, and locally mandated tests for each grade to 2% of the minimum required annual instructional hours. Time devoted to teacher-selected classroom quizzes and exams, portfolio reviews, or performance assessments may not be counted toward this testing limit. Nothing in the bill may be construed to supersede the requirements of (1) a student's 504 plan; (2) the federal Individuals with Disabilities Education Act (IDEA); or (3) federal law relating to English Language Learners (ELL).

The bill takes effect July 1, 2016.

Fiscal Summary

State Effect: None. It is assumed that any reduction in assessments due to the bill will affect locally mandated assessments, since violating federal testing requirements jeopardizes federal funds. The State Board of Education can adopt regulations limiting the amount of time that may be devoted to mandated tests using existing resources.

Local Effect: The fiscal and operational impacts depend on current local practices regarding assessments. Specifically, local school systems with a large number of locally mandated assessments may be impacted. Any impact is expected to be minimal.

Small Business Effect: None.

Analysis

Current Law: 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, under certain conditions (*i.e.*, a natural disaster, civil disaster, and severe weather conditions), the State Board of Education may permit schools only to be open for 1,080 school hours. Local school systems have authority over opening and closing hours for public schools.

There are no restrictions on the amount of time that may be devoted to federal, State, and locally mandated tests.

Background:

Commission to Review Maryland's Use of Assessments and Testing in Public Schools

Chapter 421 of 2015 established the Commission to Review Maryland's Use of Assessments and Testing in Public Schools. In addition to other items, Chapter 421 required the Maryland State Department of Education (MSDE) to:

- survey and assess how much time is spent in each grade and in each local school system on administering local, State, and federally mandated assessments; and
- compile the results of the survey into documents that are consistent across local school systems and grade levels.

The full [Report on Local, State and Federally Mandated Assessments in Maryland](#) from August 2015 can be found on MSDE's website and the Department of Legislative Services library. The survey found that there are seven nationally mandated assessments; six State mandated assessments; and six types of locally mandated assessments. It should be noted that none of these assessments are mandated for all grades or student populations. For example, ACCESS for English Language Learners is only required for English Language Learners and the Kindergarten Readiness Assessment is only required for kindergarten students. The report also notes that many local school systems are currently transitioning their assessment efforts. According to the report, "They are transitioning to more technology-based assessments; they are transitioning in how they use the information produced through the assessments; and they are analyzing which assessments provide the most valuable information about teaching and learning. As a result, many school systems have recently made or are considering changes to their local assessment programs."

Federal Assessment Law

The most recent reauthorization of the Elementary and Secondary Education Act (ESEA), the Every Student Succeeds Act of 2015, maintained the annual assessment requirements. The law requires annual assessments of all students in grades 3 through 8 and at least once in high school in reading/language arts and mathematics, the law also requires students to be tested in science at least once in grades 3 through 5, 6 through 8, and 9 through 12. Furthermore, ESEA sections 1111(b)(3)(C)(i) and (ix)(I) require State assessments to “be the same academic assessments used to measure the achievement of all children” and “provide for the participation in such assessments of all students.” States are required to have 95% of students participate in the assessment; although, states may allow parents to have their students opt out of taking the assessment.

States may allow local school systems to use a “nationally recognized” high school exam in place of a state test. This test must be aligned to standards and equivalent to the state test in content, difficulty, and quality.

In a December 2, 2015, “Dear Colleague” letter, the U.S. Department of Education (ED) reiterated the importance of reaching the 95% participation rate, and announced that, “[i]f a State with participation rates below 95% in the 2014-2015 school year fails to assess at least 95% of its students on the statewide assessment in the 2015-2016 school year, ED will take one or more of the following actions: (1) withhold Title I, Part A State administrative funds; (2) place the State’s Title I, Part A grant on high-risk status and direct the State to use a portion of its Title I State administrative funds to address low participation rates; or (3) withhold or redirect Title VI State assessment funds.”

Federal Recommendations

In October 2015, the Obama Administration released a [Testing Action Plan](#) directed at reducing over testing in public schools, which was partly in response to a [report](#) by the Council of the Great City Schools that found that students typically spend about 20 to 25 hours per year (or about 2.3% of the school time) on roughly eight mandatory assessments. The plan advises that assessments be worth taking; high quality; time-limited; fair – and supportive of fairness – in equity in educational opportunity; fully transparent to students and parents; just one of multiple measures; and tied to improved learning.

In regards to limiting the time spent on assessments, the plan recommends that states place a cap on the percentage of instructional time students spend taking required statewide standardized assessments to ensure that no child spends more than 2% of his or her classroom time on these assessments. Further, the plan recommends that parents receive formal notification if their child’s school exceeds this cap and an action plan should be posted to describe the steps the state will take to review and eliminate unnecessary

assessments. Moreover, the plan recommends that low-quality test preparation strategies such as “drill-and-kill” be eliminated.

College and Career Ready Curriculum

Beginning with the 2013-2014 school year, a new College and Career Ready curriculum aligned with the Common Core State Standards, known as the Maryland College- and Career-Ready Standards (MCCRS) was fully implemented in Maryland schools. As a result of the new curriculum, Maryland also required a new assessment system. The Partnership for Assessment of Readiness for College and Careers (PARCC) assessments in English language arts and mathematics, which are aligned with MCCRS, were administered statewide in the 2014-2015 school year to students in grades 3 through 8 and high school. The State Board of Education has also adopted new science standards known as the Next Generation Science Standards. Maryland is part of a consortium that is developing new science assessments aligned to the standards.

Chapter 533 of 2013, the College and Career Readiness and College Completion Act of 2013, requires students to be assessed no later than at the end of grade 11 to determine whether they are ready for college-level, credit-bearing coursework in English literacy and mathematics. In addition, it sets a goal for the State that all students achieve math competency in Algebra II, although there is no requirement that students take such a course in the law.

MSDE has indicated that additional tests are necessary to properly evaluate college and career readiness and could be helpful in familiarizing students with the rigor of the new MCCRS curriculum and what is required for the PARCC assessments prior to being tested in the subjects needed to meet graduation requirements.

MSDE suggests that because students must be assessed for college readiness by the end of grade 11, and in order to accurately determine whether students are meeting the State goal of being competent in Algebra II, standardized statewide assessments are needed in English 11 and Algebra II. These assessments will be optional. The possible addition of English 9 and Geometry PARCCs would assist in monitoring the progress made by students in anticipation of taking the tests necessary to meet graduation requirements. MSDE, local school systems, and community colleges have also agreed upon other existing methods for evaluating competency in determining college and career readiness, *e.g.*, Scholastic Aptitude Tests or advanced placement scores. The current PARCC contract does reflect the assumed phase-in of the additional four tests. In the current 2015-2016 school year (fiscal 2016), PARCC assessments include testing in reading and math for grades 3 through 8, English 10, Algebra I, and Algebra II for all students taking those respective courses. English 11 will also be offered in fiscal 2016 as an optional test.

Partnership for Assessment of Readiness for College and Careers

The 2014-2015 PARCC testing was done in two parts – the performance-based testing in early spring and the end-of-year testing in late spring, closer to end of the school year. In May 2015, the PARCC governing board voted to:

- reduce the testing time for students by about 90 minutes overall and create more uniformity of test unit times;
- consolidate the two testing windows in mathematics and English language arts/literacy (which includes reading and writing) into one to simplify administration; and
- reduce the number of test units for all students.

PARCC reports that states and schools will have up to 30 school days in which to test during the 2015-2016 school year, but most will complete all testing in one to two weeks, depending on the school’s scheduling and availability of computers. The spring 2016 testing times for the PARCC assessments are shown in **Exhibit 1**.

Exhibit 1
Spring 2016 PARCC Testing Times

Grades	ELA	Math
Grade 3	Unit 1 - 90 minutes Unit 2 - 75 minutes Unit 3 - 90 minutes	Unit 1 - 60 minutes Unit 2 - 60 minutes Unit 3 - 60 minutes Unit 4 - 60 minutes
Grades 4-5	Unit 1-90 minutes Unit 2 - 90 minutes Unit 3 90 minutes	Unit 1 - 60 minutes Unit 2 - 60 minutes Unit 3 - 60 minutes Unit 4 - 60 minutes
Grades 6-8	Unit 1 - 110 minutes Unit 2 - 110 minutes Unit 3 - 90 minutes	Unit 1 - 80 minutes Unit 2 - 80 minutes Unit 3 - 80 minutes
Grades 9-12	Unit 1 - 110 minutes Unit 2 - 110 minutes Unit 3 - 90 minutes	Unit 1 - 90 minutes Unit 2 - 90 minutes Unit 3 - 90 minutes

Note: Math for grades 9-12 includes Algebra I, Geometry, Algebra II, Integrated Mathematics I, II, III

Source: Partnership for Assessment of Readiness for College and Careers

Limited Testing

Limiting all federal, State, and locally mandated tests to 2% of the minimum required annual instructional hours will limit testing in elementary and middle school to a total of 21.6 hours and testing in high school to 23.4 hours, based on the number of instructional hours required by current law.

Some students are granted additional time to take assessments due to the student's 504 plan; (2) the federal IDEA; or (3) federal law relating to ELL. The extra time granted to these students will not be affected under the bill.

In response to the concern of increased testing and in response to the Commission to Review Maryland's Use of Assessments and Testing in Public Schools, MSDE has reported that it has reduced the number of items on the Kindergarten Readiness Assessment and has asked local school systems to compile a list of all required assessments. In addition, MSDE has created a schedule that shows the optimal way to administer the required assessments. MSDE reports that some local school systems have chosen to follow their schedule, while others have not.

In response to requests from the commission, in December 2015, MSDE provided an estimate of the amount of time that students spend taking mandated federal and State assessments by grade level. Overall, students in grades 3 through 8 spend between 7 and 10 hours each school year taking federally mandated tests, or 0.6% to 1.0% of instructional time based on 1,080 instructional hours in a school year. In addition, MSDE reported that students in kindergarten spend less than 1 hour per year taking the State-required Kindergarten Readiness Assessment. Finally, students spend 14.2 hours to take the four required high school assessments (HSAs), three of which are also federally mandated. MSDE also surveyed local school systems on the amount of time that students spend taking mandated local assessments by grade. Overall, students spend on average 0.4% to 1.0% of their instructional time on local assessments in elementary school, increasing to about 1.5% in middle and high school. The amounts vary by grade and school system.

Local Fiscal Effect: Since federally mandated tests are required to receive over \$200 million in federal funding annually, and the government HSA is required by State law, it is assumed that any limiting of time spent on assessments required by the bill reduces locally mandated assessments. Based on MSDE's data, the combination of time spent on federal, State, and local mandated tests will exceed the 2.0% limit in the bill in some school systems at some grade levels. On average, most school systems would not exceed the cap in the elementary grades or in high school. However the limit would be exceeded in grades 7 to 9 in many systems.

Local school systems with a large number of locally mandated assessments, particularly those that are used in place of teacher created formative assessments such as Montgomery County Public Schools (MCPS), may be especially impacted. However, any such impact is assumed to be minimal due to the current focus on reducing the time required for mandated assessments.

MCPS advises it is aware of the impact of testing on instructional time and has developed a plan to decrease the amount of time secondary school students participate in standardized assessments and add two weeks of instructional time during the course of the school year. On November 10, 2015, the MCPS Superintendent of Schools presented a plan to replace two-hour semester exams with in class marking period assessments. However, MCPS reports that it may be required to reduce the number or time spent on locally mandated formative assessments.

Howard County Public Schools (HCPS) reports that it does not currently exceed the amount of testing allowed under the bill. Therefore, HCPS does not foresee any fiscal or instructional impacts other than the loss of local control over assessments.

Additional Information

Prior Introductions: None.

Cross File: HB 141 (Delegate Luedtke, *et al.*) - Ways and Means.

Information Source(s): Maryland State Department of Education, Maryland Association of Boards of Education, Howard and Montgomery counties, Partnership for Assessment of Readiness for College and Careers, U.S. Department of Education, Council of the Great City School, Department of Legislative Services

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