

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
 Enrolled - Revised

House Bill 1365
 Appropriations

(Delegate Korman)

Budget and Taxation

Nonpublic Special Education Schools - State Contribution - Increase

This bill requires the Governor to include in the annual budget bill an appropriation to provide, in fiscal 2023, an increase in funding for nonpublic special education placements that amounts to (1) an increase of 4% over the amount approved by the Maryland State Department of Education (MSDE) in fiscal 2022, exclusively for direct classroom positions, related services positions, and general support positions; and (2) an additional increase of not less than 2% or the Consumer Price Index for All Urban Consumers (CPI-U), whichever is greater, over the amount approved by MSDE in fiscal 2022 for all other categories of expenditure. The appropriation must be made from the unexpended appropriation for the nonpublic placement program within MSDE that was included in the fiscal 2020 or 2021 operating budget. **The bill takes effect July 1, 2021.**

Fiscal Summary

State Effect: General fund expenditures increase by an estimated \$4.3 million annually beginning in FY 2023. General fund expenditures may increase less beginning in FY 2024, as discussed below. **This bill increases a mandated appropriation for FY 2023.**

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	4,278,700	4,278,700	4,278,700	4,278,700
Net Effect	\$0	(\$4,278,700)	(\$4,278,700)	(\$4,278,700)	(\$4,278,700)

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

Local Effect: None in fiscal 2023. The local share of nonpublic placement costs may increase beginning in FY 2024 if the FY 2023 costs under the bill are included in future year total costs on which the local share is calculated, as discussed below. The amount cannot be reliably estimated but may be approximately \$2.2 million in total.

Small Business Effect: Nonpublic placement providers that are small businesses benefit.

Analysis

Current Law: The State and local governments share in the costs of nonpublic placements for special education children who cannot receive an appropriate education in public school. For those children in nonpublic placements approved by MSDE, the county (including Baltimore City) 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.

State Expenditures: State funding through the nonpublic placements formula has been close to level-funded in recent years, ranging from \$123.5 million in fiscal 2017 to the fiscal 2021 working appropriation of \$123.9 million. However, MSDE's recent monthly disbursement report from March 2021, which is for fiscal 2020, indicate that disbursements are running approximately \$40 million below the appropriation level. In response, the budget committees adopted a \$7.5 million fiscal 2020 general fund reversion from the program in House Bill 589, the Budget Reconciliation and Financing Act of 2021.

Further, although MSDE approved a 1.4% increase in nonpublic placement provider budgets for fiscal 2022, the program was level funded at \$123.9 million in the fiscal 2022 allowance. The final budget provides \$127.0 million for the program in fiscal 2022, which reflects \$3.6 million added to the budget specifically for higher teacher salaries at nonpublic placement schools (the General Assembly also restricted \$500,000 of the appropriation for another purpose). Given the fiscal 2022 increase for teacher salaries, this analysis assumes that under current law, the higher teacher salaries will continue to be funded in the out-years; thus, annual funding for nonpublic special education will total at least \$127.0 million each year beginning in fiscal 2023.

The bill requires, as compared to the MSDE-approved amount for fiscal 2022, a 4% increase for the portion of nonpublic placement costs associated with classroom, related services, and general services positions, and at least a 2% increase for other costs. This analysis assumes that CPI-U will not exceed 2.0% for fiscal 2023.

According to MSDE, the costs associated with the positions to which the 4% increase under the bill is applied represent approximately 68% of the annual costs for nonpublic placements and, thus, the 2% increase under the bill for remaining costs is applied to the remaining 32% of annual costs, resulting in a weighted 3.4% increase to total State nonpublic placements in fiscal 2023 over fiscal 2022. **Exhibit 1** shows this increase by county, totaling \$4.3 million in fiscal 2023.

Although the bill specifies that the increase be funded from unexpended appropriations in fiscal 2020 or 2021, practically those funds would revert to the general fund at the end of

the fiscal year and a new appropriation would be included in the fiscal 2023 budget to satisfy the bill's required mandated appropriation.

Although the increase under the bill is only required for one year (fiscal 2023), it is assumed that the fiscal 2023 funding level under the bill is maintained in subsequent years, especially given that this funding predominantly supports personnel costs. Thus, general fund expenditures increase by \$4.3 million annually beginning in fiscal 2023. Depending on how the MSDE-approved costs are calculated in future years, however, the fiscal 2023 increase may become part of the total approved costs beginning in fiscal 2024, which would then be subject to cost sharing with local governments (as described above under current law) with the State picking up the remaining costs after the local share is deducted. In that case, general fund expenditures increase by less than \$4.3 million due to the bill in future years; however, the amount cannot be reliably estimated.

Local Expenditures: There is no impact on the local share of nonpublic special education costs in fiscal 2023 since the bill requires the State to fund the mandated increase. However, as discussed above under State expenditures, beginning in fiscal 2024, the local share of costs paid by school systems may increase if the bill's required increase in fiscal 2023 is incorporated into total approved costs for the out-years. The amount of increase for each school system cannot be reliably estimated but in total will likely be no more than \$2.2 million (approximately 50% of the total increase).

Exhibit 1
State Funding of Nonpublic Placements

<u>County</u>	<u>FY 2022 Budget</u>	<u>FY 2023 Under the Bill</u>		
		<u>Required Increase</u>	<u>Percent Increase</u>	<u>Total</u>
Allegany	\$1,705,912	\$57,383	3.4%	\$1,763,295
Anne Arundel	9,541,411	320,954	3.4%	9,862,365
Baltimore City	11,741,229	394,951	3.4%	12,136,180
Baltimore	20,560,078	691,600	3.4%	21,251,678
Calvert	845,932	28,455	3.4%	874,387
Caroline	266,925	8,979	3.4%	275,904
Carroll	3,079,673	103,594	3.4%	3,183,267
Cecil	793,578	26,694	3.4%	820,272
Charles	1,195,142	40,202	3.4%	1,235,344
Dorchester	171,093	5,755	3.4%	176,848
Frederick	4,818,736	162,093	3.4%	4,980,829
Garrett	50,174	1,688	3.4%	51,862
Harford	5,359,284	180,276	3.4%	5,539,560
Howard	5,619,476	189,028	3.4%	5,808,504
Kent	153,772	5,173	3.4%	158,945
Montgomery	18,134,229	609,999	3.4%	18,744,228
Prince George's	22,171,386	745,801	3.4%	22,917,187
Queen Anne's	240,835	8,101	3.4%	248,936
St. Mary's	657,278	22,110	3.4%	679,388
Somerset	18,263	614	3.4%	18,877
Talbot	160,556	5,401	3.4%	165,957
Washington	1,054,153	35,460	3.4%	1,089,613
Wicomico	91,818	3,089	3.4%	94,907
Worcester	37,630	1,266	3.4%	38,896
Unallocated	18,530,837	630,048	3.4%	19,160,885
Total	\$126,999,400	\$4,278,714	3.4%	\$131,278,114

Note: Unallocated costs include \$3.6 million provided in the fiscal 2022 budget for teacher salary increases and Maryland State Department of Education costs not associated with cost sharing by county, including classroom public private partnerships, preventative service initiatives, and grants supporting wraparound services.

Source: Annual Budget; Department of Legislative Services

Additional Information

Prior Introductions: None.

Designated Cross File: SB 958 (Senators Zucker and Peters) - Budget and Taxation.

Information Source(s): Montgomery and Prince George's counties Maryland State Department of Education; Department of Budget and Management; Department of Legislative Services

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