

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 794 (Senator Guzzone)
 Budget and Taxation

State Department of Education - Procurement and Personnel Actions

This emergency bill (1) exempts procurements by the Maryland State Department of Education (MSDE) to carry out the requirements of the Blueprint for Maryland’s Future (the Blueprint) from most State procurement laws; (2) requires the State Board of Education (SBE) to establish an independent personnel system that generally exempts appointments and hiring by SBE from State personnel laws that govern the State Personnel Management System (SPMS); and (3) makes various conforming changes. SBE must establish general policies and guidelines governing the hiring or appointment, compensation, advancement, and termination of all regular full-time and part-time personnel. By July 1, 2024, SBE must work with the Department of Budget and Management (DBM) to implement a phased transition of SBE employees from SPMS to the personnel system developed by SBE in accordance with the bill.

Fiscal Summary

State Effect: General fund expenditures for MSDE increase by a minimum of \$4.6 million in FY 2023 and \$600,000 annually thereafter, as discussed below. Revenues are not affected. This estimate does not reflect any impact on MSDE personnel expenditures for employee compensation as a result of MSDE’s transition to an independent personnel system, as discussed below.

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	4,600,000	600,000	600,000	600,000	600,000
Net Effect	(\$4,600,000)	(\$600,000)	(\$600,000)	(\$600,000)	(\$600,000)

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

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law:

Hiring and Appointment of Personnel

SPMS is the principal personnel system in the Executive Branch of State government. A unit in the Executive Branch may establish an independent personnel system as expressly authorized by law.

Under current law, all positions within MSDE are in the executive, management, professional, or skilled service in SPMS. SBE must set the qualifications for each position in MSDE with the advice of the State Superintendent and must appoint all employees to positions in MSDE from the nominees proposed by the Superintendent. The Superintendent may transfer employees within MSDE as necessary. All MSDE employees within the professional and skilled services may be removed only in accordance with specified procedures.

Under the bill, appointments and hiring by SBE are generally not subject to or controlled by the provisions of State personnel laws governing SPMS, except as otherwise specified. (Existing provisions of State personnel laws that apply generally to all State employees, including those in independent personnel systems, remain applicable to employees within MSDE.) In accordance with the State's collective bargaining law, SBE must establish general policies and guidelines governing the hiring or appointment, compensation, advancement, and termination of all regular full-time and part-time personnel. The policies must include consideration of hiring a contractual employee to fill a vacant position in the same or similar classification in which the contractual employee is employed.

The bill makes various conforming changes to Division I (State Personnel) of the State Personnel and Pensions Article and Title 8, Subtitle 3A (Appointments in State Government) of the State Government Article. By December 15 of each gubernatorial election year, the State Superintendent must provide to DBM a list of the position, pay grade, and title of each employee in MSDE's human resource system who is employed with regard to political affiliation, belief, or opinion. The bill further specifies that SBE is (1) exempt from inclusion in a specified annual report submitted by the Secretary of Budget and Management relating to Executive Branch personnel actions and (2) may satisfy specified reporting requirements by submitting to the Secretary of Budget and Management an annual report on SBE's equal opportunity policies and programs. In addition, the bill excludes positions in MSDE from the Executive Pay Plan established by the Secretary of Budget and Management.

Blueprint for Maryland's Future

House Bill 1300 of 2020 implemented the Blueprint, which was first established by Chapter 771 of 2019, substantially altering State aid and State policy for public schools. The bill, which incorporated policies and accountability recommendations of the Commission on Innovation and Excellence in Education, passed the General Assembly in March 2020 and was vetoed by the Governor for policy reasons. The veto was overridden in 2021, thus becoming Chapter 36 of 2021. For a full description of the Blueprint, see the [Fiscal Note for HB 1300 of 2020](#), Chapter 36. Chapter 55 of 2021 revised the provisions and timeline for the implementation of the Blueprint in light of the delayed effective date of Chapter 36; the [Fiscal Note for Chapter 55](#) (HB 1372 of 2021) describes these changes.

Among other things, Chapter 36 establishes the Accountability and Implementation Board (AIB) to oversee implementation of the policies and funding provided under the Blueprint. AIB is generally not subject to State procurement laws or State personnel laws governing SPMS.

Procurements Related to Implementation of the Blueprint

State law exempts numerous specified units and procurements (including, for example, procurements by State institutions of higher education and public-private partnerships authorized by State law), in whole or in part, from State procurement law. However, each exempt entity is subject to specified provisions of State procurement law, generally those related to maintaining the integrity of the procurement process.

Policies and Procedures for Exempt Units: In general, a unit with an exemption from any provision of State procurement law must have written policies and procedures for the exempted unit's procurements. The written policies and procedures must include (1) the types of procurements exempted; (2) the methods of procurement to be used; (3) the advertising requirements for each type of exempted procurement; (4) procurement goals, including minority business enterprise participation, for each type of exempted procurement; and (5) the approval process for each type of exempted procurement. At the beginning of each fiscal year, each unit must submit written policies and procedures to the Board of Public Works for review (or, for a unit that is governed by its own board, commission, council, or authority, to that board, commission, council, or authority for approval).

Under the bill, procurements by MSDE to carry out the requirements of the Blueprint are similarly exempt from most State procurement laws and, thus, must develop and implement written policies and procedures for the exempted procurements. Specified provisions of State procurement law still apply to these procurements, consistent with existing law.

State Expenditures: As discussed above, the bill requires SBE to establish an independent personnel system for MSDE employees; by July 1, 2024, SBE must work with DBM to implement a phased transition of SBE employees from SPMS to the personnel system developed by SBE. DBM advises that, although it would need to configure the Statewide Personnel System to remove MSDE employees from SPMS, most of the effort related to the transition would fall on MSDE.

MSDE anticipates costs totaling \$4 million in fiscal 2023 to acquire the personnel management system and for technical support. In addition, MSDE estimates ongoing system maintenance costs totaling \$600,000 annually. Thus, general fund expenditures for MSDE increase by \$4.6 million in fiscal 2023 and by \$600,000 annually thereafter.

In addition to the above costs relating to the acquisition and ongoing maintenance of the new personnel management system, the Department of Legislative Services advises that MSDE will likely require additional human resources personnel to assist in developing, implementing, and administering the required personnel system and policies, as some of these responsibilities are currently carried out by DBM. Thus, general fund expenditures for MSDE likely increase further beginning in fiscal 2023 for MSDE to hire additional human resources staff. A precise estimate has not been quantified at this time. To the extent that MSDE develops and implements a compensation plan for MSDE employees under the bill that differs from the pay plan established by DBM for SPMS employees, MSDE personnel expenditures may be further affected. Any such impact, however, cannot be reliably anticipated.

The bill also exempts procurements by MSDE to carry out the requirements of the Blueprint from most State procurement laws. MSDE advises that the bill's exemption allows the department greater flexibility to procure resources needed to implement specified requirements of the Blueprint. Accordingly, MSDE may realize administrative efficiencies as a result of the exemption. The bill does not specify which procurements are covered by the exemption.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland State Department of Education; Department of Budget and Management; Department of General Services; Office of Administrative Hearings; Department of Legislative Services

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