

**Department of Legislative Services**  
Maryland General Assembly  
2011 Session

**FISCAL AND POLICY NOTE**

House Bill 977  
Ways and Means

(Delegate Olszewski, *et al.*)

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**Public Schools - Enrollment and Transfer - Parental Decision**

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This bill allows a parent or guardian of a student to choose the local school in which the student enrolls, under certain conditions, beginning with the 2012-2013 school year. By May 1 of each year, a local board must publish the number of available classroom seats at each local school. The available seats must be open to all eligible students in the county on a space-available basis. A local school must enroll students and admit transfer students on a lottery basis if more students apply than can be accommodated within available space. A student who has enrolled or transferred to a school under provisions of the bill may continue attending the school until completing all grades of the school.

By July 1, 2012, each local board of education must develop and adopt a process to implement the student enrollment and transfer requirements of the bill. A parent or guardian who decides to enroll or transfer a student under the bill must sign a form acknowledging that he or she assumes the responsibility and cost of transporting the student to and from school. The bill specifies that it may not be construed to affect students who enroll or transfer under other provisions of law or the federal No Child Left Behind Act.

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**Fiscal Summary**

**State Effect:** To the extent that public school enrollment increases, as a result of open enrollment, general fund expenditures may increase significantly beginning in FY 2014 in the form of State education aid, most of which is expended on a per pupil basis. To the extent that additional teachers are hired to handle any influx of students to local school systems, general fund expenditures also increase to cover increased teacher pension costs beginning in FY 2015. Revenues are not affected.

**Local Effect:** Administrative activities required by the bill may result in additional expenditures for local school systems, especially in the first years of implementation. Local school expenditures may also increase in response to any significant net increase in public school enrollment. **This bill may impose a mandate on a unit of local government.**

**Small Business Effect:** None.

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## Analysis

**Current Law:** Each local board of education must determine the geographical attendance area for each of its public schools. Generally, a student must attend the school designated to serve the student's attendance area. However, local boards of education have various policies allowing for enrollment of or the transfer of a student outside of his or her attendance area, under certain circumstances. Unique hardship circumstances, childcare needs, programming purposes, and relief of school overcrowding are among the local exceptions to required pupil attendance within designated attendance areas.

The federal No Child Left Behind Act requires states to test students annually in grades 3 through 8 and again in high school to ensure that all students are on pace to meet standards set by the states to meet 100% proficiency by 2014. To accomplish this, schools and school systems must make adequate yearly progress toward this goal each year.

The option to transfer to another public school is available to students enrolled in a school that operates programs funded by Title I of the Elementary and Secondary Education Act and that is identified for improvement, corrective action, or restructuring because it has not made the required progress. This option remains open until the school has made adequate yearly progress for two consecutive years. A student who exercises the transfer option may remain in the school until completion of the highest grade in the school. The local board of education is generally responsible for providing, or paying for, the transportation necessary for a student's attendance at the new school until the assigned school is no longer identified for improvement, corrective action, or restructuring.

Federal law also requires states to allow a student attending a persistently dangerous public school or who becomes the victim of a violent crime while at school to attend a safe public school within the district.

All school systems are required to provide transportation to and from school for public school students and the State supports a share of transportation costs in each system.

Full-time equivalent (FTE) student enrollment counts used in the State education aid formulas include all kindergarten through grade 12 students enrolled in each public school system on September 30 of the preceding fiscal year, less out-of-state students attending Maryland schools and discounted for part-time students. The State pays on behalf of each local board of education the entire cost of State retirement benefits for eligible school personnel. Local school boards, however, are required to reimburse the State for retirement expenses that are accrued for personnel who are paid with federal funds.

**Background:** Open enrollment is one form of school choice. (Other options nationwide include voucher systems, magnet schools, public charter schools, private schools, and home schooling.) The bill would institute a type of intra-district open enrollment, which allows only for transfers within a given school district. Inter-district open enrollment often requires that the sending and receiving districts agree upon the transfer.

According to the Education Commission of the States, the majority of states have some form, or multiple forms of open enrollment policies. Open enrollment is in some cases mandatory and is voluntary in others. Most of these open enrollment policies address transportation of students, including transportation costs. Furthermore, open enrollment policies in many states address desegregation law and/or other policies related to racial, ethnic, and economic diversity.

**State Fiscal Effect:** The bill may encourage parents who would otherwise enroll their children in private school to instead opt to enroll their children in a public school of their choice. This will increase FTE student enrollment by an indeterminate amount, depending on the resulting number of additional students that are enrolled in local public school systems each year. The number of available seats in schools that attract new enrollment may constitute a limit on the number of additional students a local school system will need to accommodate.

Statewide, more than 100,000 kindergarten through grade 12 students attend private schools, and another 23,000 are home schooled. Beginning with the 2012-2013 school year, some portion of these students will probably enroll in public schools since students will have the opportunity to apply for enrollment at any public school in their home counties. The increased number of public school students will result in increased State education aid beginning in fiscal 2014. *For illustrative purposes only*, for every 1,000 students who choose to attend public schools rather than private schools or home schooling in fall 2012, general fund expenditures for the State share of the foundation program increase by an estimated \$3.5 million in fiscal 2014. It is not known how many students will shift into public schools from private and home schools.

There will be additional aid expenditures to counties with above-average educational resource costs that receive additional funding under the geographic cost of education adjustment to foundation aid. Also, to the extent that these new students will be special education students, students eligible for free and reduced price meals, and/or students with limited English proficiency, State aid expenditures increase still more per student.

If the increase in FTE enrollment is significant, local school systems may need to hire additional teachers. This in turn will increase long-term State general fund expenditures for teachers' retirement costs. The State pays teacher retirement based on actual salaries from the second prior fiscal year, so additional teachers in fiscal 2013 will result in additional costs in fiscal 2015.

**Local Fiscal Effect:** While local school systems have staffing and processes in place to handle transfers and enrollment outside of a student's attendance area, the bill will add to the volume of transfers and add complexity to existing efforts. Local school systems indicate that the new responsibilities will require additional resources. Among the tasks identified by local school systems that may drive increased expenditures are determination of the number of available seats, processing of an increased volume of transfer applications, implementation of the lottery requirement, and educating the public about the new options and procedures. The volume of teacher reassignments from one school to another may increase as well, adding further to the administrative workload.

To the extent that students who may otherwise enroll in private school are instead enrolled in public schools, additional teachers may also need to be hired. In turn, local salary, benefits, equipment, and related expenditures will increase. In fiscal 2011, counties are spending approximately \$6,500 per student (**Exhibit 1**). The actual impact, however, will vary across local school systems and will be limited by the number of available seats at local schools. Also, any increase in students will result in additional State aid in the year after the additional students first enroll in public school systems. Enrollment growth will also increase the maintenance of effort calculations that establish the minimum funding level that each county must provide in support of the local school system.

School systems will also have to accommodate transfer requests under the No Child Left Behind Act. These requests may occur after the May 1 deadline for publishing the number of seats available in a school.

The bill requires that a parent sign a form acknowledging parental responsibility for transporting a student to the chosen school outside of the assigned attendance area. It is assumed, therefore, that local transportation expenditures will not be affected.

## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Education Commission of the States; Maryland Association of Boards of Education; Baltimore City; Kent, Montgomery, and Worcester counties; Maryland State Department of Education; Department of Legislative Services

**Fiscal Note History:** First Reader - March 1, 2011  
mlm/mwc

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**Exhibit 1**  
**Per Pupil Revenues for Public Schools in Fiscal 2011**

<b>County</b>	<b>Federal</b>	<b>State</b>	<b>Local</b>	<b>Total</b>	<b>Ranking by Total Per Pupil Funding</b>	
Allegany	\$1,027	\$10,891	\$3,382	\$15,300	1.	Worcester \$16,585
Anne Arundel	620	4,941	7,656	13,218	2.	Baltimore City 16,338
Baltimore City	1,598	12,083	2,657	16,338	3.	Montgomery 15,776
Baltimore	866	6,142	6,706	13,713	4.	Howard 15,403
Calvert	660	6,329	6,439	13,428	5.	Allegany 15,300
Caroline	1,005	9,178	2,510	12,693	6.	Kent 15,214
Carroll	533	6,151	6,279	12,963	7.	Somerset 14,901
Cecil	762	7,500	4,490	12,752	8.	Prince George's 14,618
Charles	704	6,735	5,660	13,099	9.	Garrett 13,805
Dorchester	795	8,226	4,150	13,171	10.	Baltimore 13,713
Frederick	658	6,279	5,912	12,848	11.	Calvert 13,428
Garrett	1,101	7,025	5,680	13,805	12.	Anne Arundel 13,218
Harford	753	6,484	5,769	13,006	13.	Dorchester 13,171
Howard	596	5,400	9,408	15,403	14.	Wicomico 13,101
Kent	758	5,966	8,491	15,214	15.	Charles 13,099
Montgomery	656	4,943	10,177	15,776	16.	Harford 13,006
Prince George's	1,141	8,377	5,100	14,618	17.	Carroll 12,963
Queen Anne's	853	5,071	6,544	12,467	18.	Frederick 12,848
St. Mary's	720	6,651	4,664	12,034	19.	Cecil 12,752
Somerset	1,693	9,906	3,302	14,901	20.	Caroline 12,693
Talbot	574	3,511	8,109	12,194	21.	Washington 12,523
Washington	858	7,516	4,148	12,523	22.	Queen Anne's 12,467
Wicomico	957	9,020	3,124	13,101	23.	Talbot 12,194
Worcester	1,156	4,117	11,312	16,585	24.	St. Mary's 12,034
<b>Total</b>	<b>\$870</b>	<b>\$6,946</b>	<b>\$6,535</b>	<b>\$14,351</b>		

Source: Local School Budgets, Department of Legislative Services