



House Bill 1079

Education – Maintenance of Effort – Alterations

MACo Position: **SUPPORT**

To: Ways and Means Committee

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From: Robin Clark

The Maryland Association of Counties (MACo) **SUPPORTS** HB 1079. This bill would make three modifications to state school funding laws, helping to promote sensible and flexible application and reducing disincentives for counties to make voluntary investments in schools.

The maintenance of effort law was designed to create a reliable and sufficient base for school funding by requiring county governments to contribute the same or more funding each year to local school boards on a per pupil basis. Since reforms that strengthened the funding mandate in 2012, county governments have not only all met the funding mandate, but have exceeded it by more than \$400 million. By contrast, in each of the past four years, the State has avoided meeting its own funding formula through freezes and inflationary caps.

County governments understand the importance of funding education and also understand and respect the maintenance of effort law. However, as they work within the confines of the law, counties have recognized certain areas worthy of reform. These areas preserve the fundamental essence and structure of maintenance of effort, but help to improve opportunities for county investment in one-time education costs and for private investment in school construction, both of which are critically needed as our student populations continue to grow statewide.

The bill would make the following three alterations to the maintenance of effort system:

1. Clarify that nonrecurring costs are supplemental to the maintenance of effort calculation and clarify a few types of costs that may and shall be considered nonrecurring.
2. Clarify that costs of fixed-term leases for school facilities are removed from the maintenance of effort after the lease ends.

3. Repeal the escalation of maintenance of effort for counties whose education effort dips below the statewide moving average.

Nonrecurring Costs – smarter process, clearer rules

Current laws provide that one-time costs supplemental to maintenance of effort may not be included in the next year's maintenance of effort calculation. However, a recent report (requested through budget language last year) on nonrecurring cost applications and denials by the Maryland State Department of Education (MSDE) reveals impediments to counties seeking to use the nonrecurring exclusion. The report reveals that fewer than eight counties per year on average, over the past five years, have even applied for nonrecurring costs, and when counties do apply, approximately one in five applications is denied.

This bill recommends a feasibility study of nonrecurring cost process timelines to ensure accessibility to the process. It also seeks to increase certainty in the process by more clearly defining eligible nonrecurring costs, and by removing denial criteria that do not fit with the program goals. Specifically, this bill states that costs that may arise again in a future year but not the immediate subsequent year, may still be considered outside the year-to-year requirement. It also states that expenses required to meet federal or state regulations may be considered nonrecurring, as long as they meet other criteria for the exclusion. Finally, it states that costs associated with the new Common Core (or College and Career Readiness), and the Partnership for Assessment of Readiness for College and Careers (PARCC) online testing fit within the definition of nonrecurring costs and shall be considered nonrecurring. Each of these revisions is based on findings in MSDE's recent report.

Leased Buildings – fix the “end of the lease” problem

Current law provides that a county may use alternative financing methods, including public-private partnerships to finance and enhance the delivery of public school construction. Education funding laws, however, fail to clarify that alternative financing qualifies for the same fiscal treatment as traditional school construction. This bill provides that lease payments made on public-private partnerships will be excluded from the maintenance of effort calculation after the termination of the lease. This change brings alternative financing law inline with traditional public school construction financing.

Escalator Clause – remove the arbitrary rule

The “escalator clause” of the maintenance of effort law provides that if a county's education effort falls below the statewide moving average, then a county is required to increase its maintenance of effort by the lesser of three variables: its local increase of wealth per pupil; the statewide average increase in wealth per pupil; or 2.5%. Education effort is defined as a county's education funding divided by its wealth. By this calculation, Baltimore City and Worcester County could be required to increase their minimum payments towards operating expenses of their public school systems next year, even absent additional costs.

According to the Department of Legislative Services, Baltimore City has a 25.2% poverty rate and Worcester County has a 10% poverty rate, but the wealth calculation used by the State for the escalator clause emphasizes property values, which can be high in these areas. These jurisdictions also have additional pressing needs, including addressing public safety concerns of the heroin epidemic and aging transportation infrastructure, which require large portions of the local budget. This bill repeals the selective maintenance of effort escalator.

We ask the General Assembly to consider these alterations to the maintenance of effort system. Without them, the maintenance of effort laws tend to discourage needed one-time and capital investments in our schools, and create unsustainable automatic increases in funding mandates, irrespective of education funding adequacy.

For these reasons, MACo **SUPPORTS** HB 1079 and urges the Committee to issue a **FAVORABLE** report.