



## House Bill 1145

### *Maintenance of Effort - Qualifying Nonrecurring Costs - Methods of Approval*

MACo Position: **SUPPORT**

Date: March 6, 2014

To: Ways & Means Committee

From: Robin Clark

The Maryland Association of Counties (MACo) **SUPPORTS** House Bill 1145. This legislation would encourage additional partnership in education by making a few small improvements to the process for funding one-time school costs for technology and new program start-up expenditures.

### Overview

The intent of the nonrecurring cost law was to encourage additional investment – county funding above and beyond the level of maintenance of effort – in our schools for one-time costs. This intent, however, has been hindered by ambiguous standards, a multi-step application process, and a difficult-to-meet deadline. This bill aims to build a better track for counties and school boards that are working together for these investments. It provides a specific list of nonrecurring costs, a simplified application process, and a better deadline for counties and schools that make a joint application for the nonrecurring cost exclusion.

### History

Over the past five years, the nonrecurring cost exclusion has been used, but it has not nearly measured up to its potential. And, over the past few years, the number of counties applying has tapered off dramatically. Last year, only three counties successfully applied for nonrecurring cost exclusions. The reason why the system is not working is twofold. First, there is a lot of uncertainty surrounding the current process. Second, the timeline for the process does not fit with the county government and county school board budget cycle.

According to current law, nonrecurring costs include costs associated with computer laboratories, technology enhancement, new instructional program start-up costs, and books other than classroom textbooks. The law also provides that the State Board may adopt additional regulations defining the types of costs that qualify as nonrecurring or one-time

costs. While regulations exist that attempt to more closely delineate nonrecurring costs, there is still uncertainty from item to item and year to year regarding which costs might qualify as nonrecurring; over the past several years, the Maryland Department of Education has denied various costs as not fitting within the regulation. In fact, over the past five years, over \$12 million of costs have been denied. The several denials of costs that might be considered borderline cases inevitably deters counties from relying on the nonrecurring cost system to secure one-time investments in the school system.

The deadline for nonrecurring cost applications also deprives the nonrecurring cost law of potential utility. Under current law, the application deadline is March 31. However, the vast majority of counties – 19 of 24 – have not even submitted their initial proposed budgets prior to March 31, meaning any conversation about affordability is very premature. The March 31 deadline, therefore, limits the ability of a county and a county school board to have a meaningful discussion of categories of costs and expenditures which would lead to the identification of nonrecurring costs.

The next stages in the process include the review of the costs by the Maryland State Department of Education (MSDE) and their approval or denial, followed by a possible appeal. MSDE must inform the local board of education and the county within 30 days from receipt of the written request, but no later than May 1 of the prior fiscal year, whether the qualifying nonrecurring costs that are supplemental to the regular school operating budget are approved. Following this, the county or the local board may appeal to the State Board within 15 days of the date of a decision to approve or reject a cost as nonrecurring. In this way, the uncertainty of where this cost will be placed in a county's budget continues.

### **What This Bill Does**

This bill aims to address all of the above-mentioned issues with the current system for counties and school boards that take a partnership approach to school budgeting. Under this legislation, each year, the Maryland State Department of Education will develop a list of certain specific expenditures that, for the following year, will qualify as one-time expenditures. Then, if a school board's budget requests funding for those expenditures on the list, and the county government grants them, and the county and school board jointly apply to the State Board for approval of the costs as non-recurring, then they will receive "fast track" approval of those costs. In addition, if a county and school board are working together in this way, they will be permitted to make nonrecurring cost applications until June 1 of the prior year.

In keeping with the aim of encouraging partnership, this legislation also seeks to highlight ways in which counties and school boards are cooperating as part of the budget process. Nonrecurring costs are one way in which counties and school boards can work together to provide funding for education. Counties and school boards can also work to reduce costs

through joint administration of programs and careful joint management of recurring costs. This bill seeks to incorporate an opportunity to highlight examples and attempts to take advantage of these fiscally responsible practices through allowing either party to request whether discussions on these topics have been held when the county board presents its budget to the county government.

### **Why Now?**

In the current fiscal climate, the nonrecurring cost law allows a county to put money into the system in good years, without holding back for fear that they are over-committing themselves to maintain an unsustainable level of funding in future years. In this respect, using nonrecurring costs promotes school spending alongside fiscal responsibility.

In the coming years, the use of nonrecurring costs law is especially key. Estimates of school technology needed to implement the new Partnership for Assessment of Readiness of College and Careers (PARCC) requirements reach up to \$100 million and Common Core programs have many start-up expenses that fit squarely within the categories for nonrecurring costs. While we hope to have support from the State in satisfying these new requirements, the nonrecurring costs process may prove to be the perfect vehicle for a county to begin to address these needs.

For these reasons, MACo **SUPPORTS** HB 1145 and recommends the Committee issue a **FAVORABLE** report.