



BILL NO.: House Bill 1412
TITLE: Education – Maintenance of Effort – Waivers
POSITION: **OPPOSE**
DATE: March 1, 2012
COMMITTEE: Ways and Means & Appropriations
CONTACT: Michael Sanderson

The Maryland Association of Counties (MACo) **OPPOSES** House Bill 1412. MACo recognizes the resolve of many stakeholders to address the state’s maintenance of effort (MOE) law for school funding, and counties will continue to support improvements in both the process and the application of the MOE concept. HB 1412 would dramatically expand the state’s role in deciding county fiscal policy, and would undermine the credibility of local elected officials to represent their citizens through a locally-controlled budget. The bill also, in total, would have a dramatic chilling effect on future county school funding, as the newly strict state laws would primarily punish county generosity. MACo could support reasonable reforms to improve MOE, and would even suggest additional productive avenues to explore, but believes the current provisions of HB 1412 create an unworkable bill.

HB 1412 has multiple pieces, but taken together they conspire to undermine the basic authority of county elected officials, at the expense of the voters who installed them. Setting both the local share of foundation funding and each year’s maintenance of effort target as absolute requirements, and backing that state law up with a raid on county income taxes, completely transforms MOE from a condition to receive state funding increases into a complete state takeover of county budget decision-making. **The next decade of county school funding will be essentially set, dollar for dollar, by this statewide legislation.** County elected officials will have no actual say in prioritizing resources in an environment of declining tax bases, and will be stripped of any incentive at all to provide any funding in excess of the new state-required minimum.

Among the provisions contained in the proposed bill amendments, MACo would offer comment on several:

The proposal for **the State to raid county income tax receipts** thoroughly betrays the concept of the state as the tax collector. County income tax rates are set by the county elected officials, based on local priorities and community needs, and the State’s only proper role in the administration of these taxes is to promote taxpayer simplicity. Leveraging the state’s temporary

receipt of tax payments as an instrument to effect new and intrusive state policies is an abuse of this ministerial function, and inappropriate.

The **proposed escalation of MOE for certain counties** creates an infinite loop of unsustainable spending. At any time, half the counties will be subject to the escalator clauses, thereby driving up the statewide average, and re-defining the counties who are affected. Counties would never escape from this impossible system, and would be compelled to watch education funding devour an escalating share of even the most strained county budget.

The **refined process and timing for MOE waivers** is an improvement over the badly broken current waiver system, with provisions comparable to proposals MACo has supported in 2010 and 2011. However, since the overall bill would create the waiver process as such a monumental fiscal decision governing county budgets and tax rates, counties would renew the well-founded claim that the waiver process should include another decision-making authority with the expertise and impartiality to fairly assess the economic and political factors underlying a county waiver request. With the waiver process becoming the only remaining slight release valve under the new laws, establishing a credible waiver system is critically important.

The **limited rebasing waiver process** creates a dramatically high burden of demonstration to a county seeking multi-year relief, and reinforces the chilling effect that the bill overall would have on excess spending. MACo believes that providing more flexibility would better enable county governments to return to their historic commitments to public education support, based upon the health of underlying revenues. HB 1412, including the very narrowly-drawn provisions for rebasing, simply denies this flexibility and discourages excess funding even during times when such investments would be affordable.

The **retroactive change in laws governing FY 2012 budget actions** traps counties in an untenable trap. County governments, including those that were unable to reach the MOE funding target for FY 2012, followed Maryland law. The MOE waiver system, due to the lack of any statutory waiver reforms, has been so widely discredited that counties fairly assessed its value. The presence of a mandatory two-year funding reset reinforced the disincentive for counties to seek waivers. The appropriate remedy to this broken system is to fix it, not to retroactively change the rules from last year to extract new punishment.

The amendment language to **override charter tax limitations** represents another unwarranted intrusion into county autonomy. Citizen-enacted tax limitations, explicitly authorized by state laws granting charter county citizens “home rule,” should not be trumped by fleeting state desires to prefer one area funding over another.

With the bill’s newfound vigor to address a wide swath of MOE and school budget issues, MACo would submit that other matters should be on the table for coincident discussion:

The HB 1412 creates a limited opportunity for school boards to agree with proposals for cost savings. MACo agrees this provision addresses a legitimate need, but believes that a broader such provision would be more effective. Even under the proposed language of HB 1412, the school board has precious little incentive to receive an overture from the county to

consolidate services or find efficiencies – empowering county governments to initiate such measures would provide more opportunity for such cost savings without compromising classroom quality.

No single action will patch the inequities of the current MOE waiver process. Instead, a series of actions are needed. Counties believe that every effort in this bill to strengthen punishments and penalties under the law will only serve the contrary purpose to limit future investment in education. We seek a better series of laws to provide reasonable assurances of county commitment, while continuing to encourage the most effective, efficient, and responsive school systems we can achieve. MACo looks forward to working with the Committee towards this goal.

Accordingly, MACo recommends the Committee issue an **UNFAVORABLE** report on HB 1412.