

### **Maintenance of Effort**

(Adopted 1991; amended 1992, 1993, 1994, 1996, 1999, 2000, 2002; re-adopted 2005; amended 2008, 2009, 2010, 2011)

WHEREAS, Maryland's twenty-four local school systems are fiscally dependent on state funding, provided primarily through statutory formulas on a per pupil basis; and local government funding, provided until recently in accordance with a statutory "maintenance of effort" provision that conditions the school system's receipt of annual state aid on the county providing no less total funding on a per pupil basis than in the previous year; and

WHEREAS, in 2011, the General Assembly amended the Education Article to make clear that local governments are mandated to provide no less than the local share of the foundation program, for which a waiver may not be granted, but may provide less than maintenance of effort subject to the penalty of withholding increased state aid from the school system; and

WHEREAS, in 2011, the State Board of Education issued a declaratory ruling holding that:

- The statutory language of Education Article §5-202 imposes a legal requirement on a county government to fully fund the local share and maintenance of effort while §5-103 establishes the local share of the foundation program as the absolute minimum that must be requested in the local board's budget and funded by the county government;
- The maintenance of effort statute does not require a county government to request a waiver; and
- Under §5-103(c), a county council has the authority to reduce the County Executive's proposed education budget; and

WHEREAS, in 2011, the maintenance of effort law was amended to limit the penalty amount the State Board of Education may impose on local school systems and to defer penalties imposed by the State Board until the fiscal year after a county fails to fund the required maintenance of effort amount; and

WHEREAS, the Bridge to Excellence in Public Schools Act of 2002 mandated significant annual increases in state education aid from FY 2003 to FY 2008, with total direct state education aid increasing from less than \$3 billion to more than \$4.7 billion; and

WHEREAS, the Bridge to Excellence Act increased mandated State funding and imposed significant new performance and financial accountability requirements on local school systems without modifying or increasing the mandated amount of local funding; and

WHEREAS, all local governments met or exceeded maintenance of effort as the State was increasing State aid in accordance with the Bridge to Excellence Act; and

WHEREAS, adequate local funding is essential to the current and continued success of Maryland's public schools, as the Commission on Education Finance, Equity, and Excellence that proposed the Bridge to Excellence Act concluded in its report: "Meeting adequacy goals ... will require that counties continue to exceed maintenance of effort" and "if counties provide increases in education funding comparable to the increases provided from fiscal 1997 to 2000, most school systems would meet or exceed adequacy goals..."; and

WHEREAS, Maryland's public school students deserve the affirmative commitment of all county governments to provide annual increases in public education funding which meet or exceed the minimum maintenance of effort funding level; and

WHEREAS, currently, if a local government fails to meet the maintenance of effort requirement, the penalty is for the state to withhold any increases in state education funding for that jurisdiction's school system, thus penalizing public school students for the local government's failure to comply with state law; and

WHEREAS, MABE opposed the changes in the maintenance of effort law adopted in 1996, made at the request of local governments, to allow the State Board to grant waivers of the maintenance of effort requirement to local governments and to permit local governments to exclude nonrecurring costs from the maintenance of effort calculation; and

WHEREAS, MABE has worked collaboratively with local governments, supporting the recommendations of the 2007 Commission to Study Local Maintenance of Effort to improve the nonrecurring cost exception process and supporting the legislation proposed since 2009 by the Joint Legislative Work Group to Study State, County, and Municipal Fiscal Relationships to improve the maintenance of effort waiver process; and

WHEREAS, following the amendments adopted in 2011, local governments may cut \$2.5 billion in local funding, potentially reducing the \$5.3 billion provided in FY 2011 down to the floor of \$2.7 billion mandated as the local share of the foundation program; and

WHEREAS, following the State Board's ruling in May 2011, local governments may annually reduce local funding without requesting a waiver and thereby engage in reductions in local funding based on the prior year's appropriation, potentially creating a cascading decline in local funding referred to as "rebasing"; and

WHEREAS, as the State strives to continue to sustain level funding for public education it has compromised its statutory powers to prevent local governments from qualifying for \$4.7 billion in state aid while at the same time reducing local funding from \$5.3 billion to \$2.7 billion;

NOW, THEREFORE, BE IT RESOLVED, that MABE urges the Governor and General Assembly to support and enact amendments to the maintenance of effort law to:

- Provide a constitutionally adequate combination of state and local funding by ensuring that the long-understood maintenance of effort requirement, and not the local share of the foundation program, is enforced as the annual local funding floor;
- Provide greater flexibility by improving the State Board of Education's waiver process;
- Provide greater accountability by requiring a county intending to provide less than maintenance of effort to request a waiver; and
- Provide a fair and reasonable penalty for a county not meeting maintenance of effort that applies directly to the county government, rather than the school system.

