

House Bill ###

AN ACT concerning

**Elementary and Secondary Education – Local Agreements and Planning**

FOR the purpose of encouraging cooperative planning between county governments and county school boards; establishing an annual meeting schedule between county boards and county governments; increasing transparency in county board budgeting, and empowering agreements between county boards and county governments, and generally relating to financing of elementary and secondary education in the State of Maryland.

BY repealing and reenacting, with amendments,  
Article – Education  
Section 5–202

Annotated Code of Maryland  
(2009 Replacement Volume and 2013 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Education  
5–202

(d) Distribution of State share of foundation program funds -- Waivers. --

(1) (i) Subject to § 5-213.1 of this subtitle, the county governing body shall levy and appropriate an annual tax sufficient to provide an amount of revenue for elementary and secondary public education purposes equal to the local share of the foundation program.

(ii) 1. Except as provided in subparagraph 2 of this subparagraph and subject to § 5-213 of this subtitle, the county governing body shall appropriate local funds to the school operating budget in an amount no less than the product of the county's full-time equivalent enrollment for the current fiscal year and the local appropriation on a per pupil basis for the prior fiscal year.

2. Except as provided in paragraph (3)(ii) of this subsection, in each fiscal year if a

county's education effort, as defined in paragraph (10) of this subsection, is below 100% of the statewide 5-year moving average of education effort, the required maintenance of effort amount for the county shall be adjusted by increasing the per pupil amount by the lesser of:

- A. A county's increase in the local wealth per pupil;
- B. The statewide average increase in local wealth per pupil; or
- C. 2.5%.

(2) Except as provided in paragraph (3)(i) of this subsection, for purposes of this subsection, the local appropriation on a per pupil basis for the prior fiscal year for a county is derived by dividing the county's highest local appropriation to its school operating budget for the prior fiscal year by the county's full-time equivalent enrollment for the prior fiscal year. For example, the calculation of the foundation aid for fiscal year 2003 shall be based on the highest local appropriation for the school operating budget for a county for fiscal year 2002. Program shifts between a county operating budget and a county school operating budget may not be used to artificially satisfy the requirements of this paragraph.

**(2A) AS THE BOARD OF EDUCATION BUDGET IS PRESENTED TO THE COUNTY GOVERNING BODY, AT THE REQUEST OF EITHER THE COUNTY GOVERNMENT OR THE COUNTY BOARD, THE REQUEST MAY ALSO INCLUDE INFORMATION REGARDING ANY AGREEMENTS, MEETINGS, OR NEGOTIATIONS REGARDING THE COOPERATION AND PARTNERSHIP ELEMENTS PROVIDED UNDER SECTIONS 4-123, 5-202(D)(6), AND 5-202(D)(8) OF THIS ARTICLE.**

(3) (i) For purposes of this subsection, for fiscal year 1997 and each subsequent fiscal year, the calculation of the county's highest local appropriation to its school operating budget for the prior fiscal year shall exclude:

1. A nonrecurring cost that is supplemental to the regular school operating budget, if the exclusion qualifies under regulations adopted by the State Board;
2. A cost of a program that has been shifted from the county school operating budget to the county operating budget;
3. The cost of debt service incurred for school construction projects; and
4. For a county that shifts the recurring costs associated with providing retiree

health benefits for current retirees to the county board, any reduction in those retiree health costs from the amount the county was required to appropriate in the previous year.

(ii) For purposes of the adjustment required under paragraph (1)(ii)2 of this subsection, a county that dedicates to public school construction any additional State funds received from recurring retiree health costs shifted to the county board may exclude those retiree health costs from the highest local appropriation on a per pupil basis.

(4) The county board must present satisfactory evidence to the county government that any appropriation under paragraph (3)(i)1 of this subsection is used only for the purpose designated by the county government in its request for approval.

(5) Any appropriation that is not excluded under paragraph (3)(i)1 of this subsection as a qualifying nonrecurring cost shall be included in calculating the county's highest local appropriation to its school operating budget.

(6) (I) Qualifying nonrecurring costs, as defined in regulations adopted by the State Board, shall include but are not limited to:

~~(i)~~ 1. Computer laboratories;

~~(ii)~~ 2. Technology enhancement;

~~(iii)~~ 3. New instructional program start-up costs; and

~~(iv)~~ 4. Books other than classroom textbooks.

**(II) NOTWITHSTANDING THE EVALUATION AND PROCESS PROVISIONS PROVIDED IN THIS SUBSECTION, IF A COUNTY GOVERNING BODY AND COUNTY BOARD MUTUALLY SUBMIT AN APPLICATION TO DESIGNATE CERTAIN COSTS IN EXCESS OF THE MAINTENANCE OF EFFORT REQUIREMENT AS NONRECURRING UNDER THIS SUBSECTION, THE STATE BOARD SHALL GRANT THAT DESIGNATION SOUGHT UNDER THE LOCAL AGREEMENT.**

(7) (i) Subject to subparagraph (ii) of this paragraph, if a county's ability to fund the maintenance of effort requirement in paragraph (1)(ii) of this subsection is impeded, the county shall apply under paragraph (8) of this subsection to the State Board for a waiver.

(ii) If a county fails to apply to the State Board for a waiver from the maintenance of effort requirement and fails to meet the maintenance of effort requirement:

1. The county shall be assessed in accordance with § 5-213 of this subtitle; and

2. The minimum appropriation of local funds required under this subsection for the next fiscal year shall be calculated based on the per pupil local appropriation for the prior fiscal year in which the county met the maintenance of effort requirement under paragraph (1)(ii) of this subsection.

(8) (i) The maintenance of effort requirement in paragraph (1)(ii) of this subsection does not apply to a county if:

**1. THE COUNTY AND LOCAL BOARD MUTUALLY REQUEST A WAIVER FROM THE REQUIREMENT BY THE STATE BOARD; OR**

2. the county requests and is granted a waiver from the requirement by the State Board based on:

**1. A.** A determination under this paragraph that the county's fiscal condition significantly impedes the county's ability to fund the maintenance of effort requirement;

**2. B.** Subject to paragraph (9) of this subsection, an agreement between the county and the county board to reduce recurring costs; or

**3. C.** Subject to paragraph (10) of this subsection, a determination that a county's ability to meet the maintenance of effort requirement is permanently impeded.

(ii) In order to qualify for a waiver for a fiscal year, a county shall make a request for a waiver to the State Board by the earlier of the seventh day following the end of the legislative regular session or April 20 of the prior fiscal year.

(iii) The State Superintendent shall provide a preliminary assessment of a waiver request to the State Board before a public hearing held in accordance with subparagraph (iv) of this paragraph.

(iv) Before acting on a request for a waiver, the State Board shall hold a public hearing in accordance with regulations adopted by the State Board.

(v) Except as provided in paragraph (9) of this subsection, when considering

whether to grant a county's waiver request, the State Board shall consider the following factors:

1. External environmental factors such as a loss of a major employer or industry affecting a county or a broad economic downturn affecting more than one county;
2. A county's tax base;
3. Rate of inflation relative to growth of student population in a county;
4. Maintenance of effort requirement relative to a county's statutory ability to raise revenues;
5. A county's history of exceeding the required maintenance of effort amount under paragraph (1)(ii) of this subsection;
6. An agreement between a county and a county board that a waiver should be granted;
7. Significant reductions in State aid to a county and municipalities of the county for the fiscal year for which a waiver is requested;
8. The number of waivers a county has received in the past 5 years; and
9. The history of compensation adjustments for employees of the county board and county government.

(vi) The State Board shall inform the county whether the waiver for a fiscal year is approved or denied in whole or in part no later than 30 days after receipt of an application or May 20 of the prior fiscal year, whichever is earlier.

(vii) Except as provided in paragraphs (9) and (10) of this subsection, if a county is granted a waiver from the provisions of this subsection by either the State Board or the General Assembly for any fiscal year, the minimum appropriation of local funds required under this subsection for the next fiscal year shall be calculated based on the per pupil local appropriation for the prior fiscal year in which the county met the maintenance of effort requirement under paragraph (1)(ii) of this subsection.

(9) (i) This paragraph applies to a county that requests a waiver under paragraph (8)(i)2 of this subsection.

(ii) 1. The State Board shall grant a waiver request in the amount that has been agreed on by the county and county board that is attributable to reductions in recurring costs.

2. If the reduction in recurring costs includes reductions in personnel or personnel costs, then the State Board shall grant a waiver request in the amount that has been mutually agreed on by the county, county board, and exclusive employee representative.

(iii) The amount of the agreed on waiver may be less than the entire amount of the reduction in recurring costs.

(iv) The amount of the agreed on waiver may not:

1. Exceed the entire amount of the reduction in recurring costs; or

2. Reduce a county's education appropriation below the amount required in paragraph (1)(i) of this subsection.

(v) The minimum appropriation of local funds required under this subsection for the next fiscal year shall be calculated based on the per pupil local appropriation for the current fiscal year approved by the State Board under this paragraph.