

February 17, 2015

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Public Charter School Expansion Act

On February 4, 2015 Governor Hogan delivered his State of the State address and announced his support for charter school reform legislation. Now pending as [House Bill 486](#) and [Senate Bill 595](#), this legislation would:

- Remove the Maryland teacher certification requirements for charter school teachers and professional staff;
- Adopt a new, increased, per pupil funding formula that would provide 98% of all federal, state and local funds, minus only the Title I allocation;
- Allow the State Board to grant a charter school a comprehensive waiver from all provisions of law and regulations applying to other public schools;
- Make the State Board of Education the chartering authorizer and employer for charter schools approved on appeal or for converted public schools;
- Make MSDE the school construction program administrator for all charter schools;
- Make charter schools eligible to participate in the state's capital improvement program; and
- Allow charter schools to grant preferences to students with special needs, and students within a specific school attendance area.

MABE opposes this legislation, based on our adopted Resolution and Legislative Position, which clearly state MABE's support for the establishment of high quality public charter schools.

MABE supported passage of the 2003 Charter Schools Act because it clearly sets the same high standards for instruction and financial management as other public schools. The proposed legislation would set

Legislative Committee Calendar

- Session convened Jan. 14, 2015
- **March 2, 2015**
- **March 16, 2015**
- **March 30, 2015** (*not April 6th!*)
- Session ends on April 13, 2015 - Monday @ midnight - Sine Die
- **April 27, 2015** – Session Wrap-up

MABE's Legislative Committee meetings are held in the MABE office on Monday mornings, 10:00 to 12:00, unless otherwise indicated. Meeting agendas and materials are posted on the [MABE website](#).

charter schools above other public schools, in terms of per pupil funding and facility funding, and at the same time weaken or eliminate quality assurances for teachers and principals. In addition, the proposed legislation would allow the State Board of Education to directly oversee the operation of charter schools it authorizes.

Local boards of education take very seriously the responsibility of governing the public schools within their respective local jurisdiction. Charter schools authorized by the State Board would create a two-tiered system by removing any local board and school system role in overseeing the quality of instruction, delivery of special education and other services, and monitoring the financial practices of charter schools.

These weaknesses, not strengths, are precisely what have plagued charter schools in other states. Maryland's nearly 50 public charter schools are high performing both in terms of academics and finances and are educating 18,000 students each day.

Hearings are scheduled for February 26, 2015 at 1:00 in the House Ways and Means Committee; and March 4, 2015 at 1:00 in the Senate Education, Health and Environmental Affairs Committee.

MABE encourages local boards and board members to [call and email their delegates and senators](#) to urge opposition to the Charter School Expansion Act, House Bill 486 and Senate Bill 595.

Urge your elected officials to oppose the Charter School Expansion Act, because it would:

- Not require charter schools to hire qualified teachers or principals;
- Not require charter school staff to be public school employees;
- Allow comprehensive waivers from all laws and regulations applying to other public schools;
- Guarantee funding amounts above what is provided to other public schools; and
- Give charter schools special access to school construction funding.

For these reasons, MABE opposes the Charter School Expansion Act, House Bill 486 and Senate Bill 595.

Tax Credit Financed Funding for Nonpublic and Public School Students

The Governor announced in his State of the State address his support for providing tax credits to those who make voluntary contributions to private or parochial schools, and referred to the previously introduced Building Opportunities for All Students and Teachers, or BOAST, legislation. For many years Senator Ed DeGrange has been the lead sponsor in the Senate and In the most recent legislative sessions the bill has been introduced as the Maryland Education Credit.

Now pending as [Senate Bill 405](#), and [House Bill 487](#), this legislation would establish a new tax credit program within the Department of Business and Economic Development (DBED) to issue state income tax credits for 60% of contributions, with tax credits not to exceed \$200,000. DBED would issue tax credit certificates, and then approved non-profit entities, called student assistance organizations, would review and approve applications from students for eligible education expenses.

MABE opposes the Maryland Education Credit legislation because its primary purpose is to create a private school funding program to finance private school student expenses.

The legislation states the General Assembly's intent that future budgets should fund the tax credit program, through a new tax credit reserve fund, at no more than \$15 million annually. Recognizing that this \$15 million in tax credits represents 60% of the total contributions, the Maryland Education Credit would create a new program through which grants totaling \$25 million could be made to organizations to provide financial assistance to private and public school students.

The Maryland Education Credit legislation would create a tax credit program and grant program, as follows:

- DBED would certify organizations to receive and approve applications from students for financial assistance for qualified education expenses;
- No more than 60% of appropriated funds must be allocated to tax credits for contributions to nonpublic school students;
- Eligible nonpublic schools must:
 - Hold a certificate of approval from MSDE;
 - Charge tuition at no more than the average public school per pupil expense amount;
 - Administer a nationally acknowledged student achievement test; and
 - Comply with Title VI of the Civil Rights Act.
- No more than 40% of appropriated funds must be allocated to tax credits for contributions to public school students;
- Student Assistance Organizations must:
 - Provide financial assistance for qualified education expenses on a priority basis first to student applicants who are eligible for free and reduced price meals;
 - Distribute funding to at least four different schools; and
 - Ensure that no less than 90% of contributions are designated for qualified education expenses, including: tuition and fees, tutoring, books, special needs services, transportation, school uniforms, and computers.

Again, MABE opposes the Maryland Education Credit legislation because its primary purpose is to create a private school funding program to finance private school student expenses. This program would be administered by the state and funded in large part through tax credits from funds which would otherwise be received as state income tax revenue. This diversion of state revenue to finance private school student expenses, including tuition, constitutes the voucher-like tuition tax credit program long opposed by MABE, and public education advocates in Maryland and across the nation.

Hearings are scheduled for February 25, 2015 at 1:00 in the Senate Budget and Taxation Committee; and on February 26, 2015 at 1:00 in the House Ways and Means Committee.

Post-Labor Day Start Date Mandate

Legislation has now been introduced by Delegate Healey, [HB 389](#), and Senator Mathias, [SB 455](#), to prohibit any public school under the jurisdiction of a local board of education from being open for pupil attendance before the day after Labor Day.

MABE strongly supports preserving the rights of local communities and boards of education to approve locally designed school calendars and therefore strongly opposes a post-Labor Day school year start-date as a new statewide mandate.

A Task Force to Study a Post-Labor Day Start Date for Maryland Public Schools was created by Legislation enacted in 2013. The Task Force was charged with studying the impact of moving the start date of the public school year in the State to after Labor Day on the following areas: (1) the education system, including the academic calendar, planning, administration, and facilities use; (2) the economy; and (3) summer tourism. On June 25, 2014 the Task Force issued its final report, making the singular recommendation “to recommend to the Governor, a post-Labor Day start date for Maryland Public Schools.”

On July 8, 2014, MABE joined the Public School Superintendents Association of Maryland (PSSAM) and Maryland State Education Association (MSEA) in a letter voicing strong opposition to the Task Force recommendation – calling on the Governor and legislative leaders to recognize that “school-related decisions, should be determined locally and based on meeting the academic needs of our students, providing professional development for our faculties, and honoring the wishes of our communities.”

Hearings are scheduled for February 26, 2015 at 1:00 in the House Ways and Means Committee; and March 11, 2015 at 1:00 in the Senate Education, Health, and Environmental Affairs Committee.

To learn more, read the MABE and PSSAM [Joint Letter](#) stating our opposition to mandating a post-Labor Day start date for the school year.

Bill Introduced to Shift in the Burden of Proof to Educators in Special Education Cases

Bills have now been introduced by Delegate Alonzo Washington, [House Bill 344](#), and Senator Montgomery, [Senate Bill 390](#), to shift the burden of proof to local school systems in due process proceedings conducted through the Office of Administrative Hearings and an administrative law judge serving in the role of an impartial hearing officer as required under the federal Individuals with Disabilities Education Act (IDEA).

Hearings have been scheduled for February 25, 2015 at 1:00 in the Senate Education, Health and Environmental Affairs Committee and March 5, 2015 at 1:00 in the House Ways and Means Committee.

Unlike legislation introduced in previous legislative sessions, these bills would shift the burden of proof in special education disputes with the following exception: “A parent or guardian seeking tuition reimbursement for a unilateral placement of a student by the parent or guardian shall have the burden of proof in a due process proceeding.”

MABE supports a special education system that respects the dedication and professional expertise of special educators and school administrators to develop, in collaboration with parents, individual education programs (IEPs) which identify and determine which services are appropriate for the student. MABE believes this system should not be converted into one which presumes that the legal burden should be placed on the school system and educators to defend the sufficiency of the IEP. MABE supports maintaining the general legal principle that a complaining party has the burden to prove the merits of their complaint.

In recent years, the General Assembly has considered and rejected legislation to place the burden of proof on the public agency (local school system or MSDE) in a special education-related due process hearing held to resolve disputes about the identification, evaluation, or educational placements of children with disabilities or the provision of a free appropriate public education. MABE strongly opposes such legislation, and supports the Supreme Court decision in a Maryland case, *Shaffer v. Weast* (2005), which upheld

Maryland's recognition that parents should meet the burden of proving their complaint when they disagree with the IEP developed for their child.

While the "burden of proof" bill has failed to pass in recent years, several other special education-related bills have become law; intended to make significant improvements in the delivery and communication of special education programs and services. In 2014, [House Bill 413](#) passed to require each local board of education to develop and publish on its website a list of all special education service delivery models in the local school system; and the new law ensures that parents are provided a verbal and written explanation of the parents' rights and responsibilities and the procedural safeguards in the IEP process. Similarly, legislation passed to require each local school system to provide parents of a child with a disability verbal and written information about access to services ([Senate Bill 701/House Bill 798](#)).

The Commission on Special Education Access and Equity was created by legislation enacted in 2013 ([House Bill 1161](#)). The Commission was charged with studying the extent to which parents and guardians of students with disabilities are made aware of their rights under the Individuals with Disabilities Education Act (IDEA) and State law and regulations, and ways to improve the awareness of these rights; the effects of workload, caseload, and paperwork requirements related to the special education process on the ability of educators to provide a free and appropriate public education, and potential methods for mitigating these factors; and the disparity between the parties in special education due process hearings and potential methods for improving the process.

Importantly, the [Final Report](#) of the Commission on Special Education Access and Equity makes several recommendations for further actions to improve the delivery of special education services, but does not recommend shifting the burden of proof.

To learn more, read [MABE's testimony](#) opposing legislation to shift the burden of proof to the school system, or visit the [MSDE web page for the Commission](#), and read the Commission's [Final Report](#).

MABE Legislative Committee Update

MABE's Legislative Committee met on Monday February 9, 2015 and adopted positions on bills pertaining to school system responses to incidents of sexual and physical abuse of students, including prompt notice to parents and school employees. Three "companion" bills are being proposed by [Delegate Luedtke](#), but only one has been introduced as of today, to address the issue of sexual abuse and assault through new requirements for local boards of education and MSDE. MABE voted to support the first bill described below, with thoughtful discussion of the responsibility of law enforcement to notify the school system, and the scope of the annual training requirement.

MABE voted to support the second bill described below, with a specific amendment to clarify that the school system should require that contractors and subcontractors agree not to assign employees with criminal records (for crimes defined in the bill) to positions with direct, unsupervised access to students. MABE voted to oppose the third bill, HB 383, as a direct intrusion of the legislature into the prerogative of local boards and the State Board to develop programs of training and instruction for teachers and students.

Public and Nonpublic Schools - Sexual and Physical Abuse Notification and Prevention -

Providing that if an employee or an adult working on school property as a contractor, subcontractor, or a paid leader of a school activity is arrested for a reportable offense (crimes of child sex abuse/certain other crimes of violence) the law enforcement agency making the arrest shall notify the local school system. Within 5 days of the notification the school system must notify school employees and parents

of students who attend any school in the county where the accused worked during the school year in which the incident occurred. All school employees must receive annual training in identifying signs of sexual abuse and assault. (Support) (Now introduced as [House Bill 1033](#))

Children - Child Care Facilities, Public Schools, and Nonpublic Schools - Contractors and Subcontractors - Requiring criminal history records checks, and expanding the prohibition on a school system knowingly hiring persons convicted of certain crimes to include contractors and subcontractors for the school system. (Support with Amendment) (Now introduced as [House Bill 642](#) and [Senate Bill 508](#))

Education - Sexual Abuse and Assault Awareness and Prevention Program - Development and Implementation - Requiring the State Board of Education to develop and implement a program of age-appropriate education on sexual abuse and assault awareness and prevention. The program is to be taught by teachers who are trained to provide instruction on sexual abuse and assault awareness and prevention. The bill also applies to nonpublic schools. (Oppose) (Now introduced as [House Bill 383](#) and [Senate Bill 489](#))

Following lengthy discussion and voting on these three bills, the committee discussed MABE's opposition to the Governor's proposed, but not yet introduced, Charter School legislation; and reviewed the positions taken on several other pending bills, including the following:

- [HB 166/SB 310](#) - Education - Maryland Seal of Biliteracy Act (Support)
- [HB 215/SB 183](#) - Education - Geographic Cost of Education – Requirement (Support)
- [HB 247](#) - Elementary School Students - Daily Physical Activity (Student Health and Fitness Act) (Oppose)
- [HB 248](#) - State Board of Education - Financial Literacy Curriculum - Graduation Requirement (Oppose)
- [HB 252/SB 284](#) - Jane Lawton Farm-to-School Program - Maryland Homegrown School Lunch Week – Occurrence (Oppose)
- [HB 298](#) - Education - Student Data Privacy Act of 2015 (Support)
- [HB 342](#) - Special Education - Related Services Providers – Consortium (Oppose)
- [HB 344](#) - Education - Due Process Hearings for Children With Disabilities - Burden of Proof (Oppose)
- [HB 389](#) - Education - Beginning of School Year - After Labor Day (Oppose)
- [SB 278](#) - Public Schools - Health and Safety - Food Transparency (Oppose)
- [SB 334](#) - The Hunger-Free Schools Act of 2015 (Support)
- [SB 405](#) - Maryland Education Credit (Oppose)

The next meeting of the Legislative Committee is scheduled for March 2, 2015, from 10:00 a.m. to Noon in the MABE office. For additional information, go to the [Legislative Committee](#) section of MABE's website, or contact [John Woolums](#), MABE's Director of Governmental Relations.

Hearing Schedule - Highlights

HB 215 MABE Position: Support	Education - Geographic Cost of Education - Requirement	Ways and Means 2/19/2015 - 1:00 p.m.
HB 247 MABE Position: Oppose	Elementary School Students - Daily Physical Activity (Student Health and Fitness Act)	Ways and Means 2/19/2015 - 1:00 p.m.
HB 248 MABE Position: Oppose	State Board of Education - Financial Literacy Curriculum - Graduation Requirement	Ways and Means 2/19/2015 - 1:00 p.m.
HB 278 MABE Position: Support With Amendments	Task Force to Study the Implementation of a Dyslexia Education Program - Supporting the addition of 2 MABE representatives and the charge to estimate the costs of any recommendations	Ways and Means 2/19/2015 - 1:00 p.m.
SB 314 MABE Position: Oppose	Special Education - Translations of Individualized Education Programs or Individualized Family Service Plans - Native Language	Education, Health, and Environmental Affairs 2/25/2015 - 1:00 p.m.
SB 334 MABE Position: Support	The Hunger-Free Schools Act of 2015	Budget and Taxation 2/25/2015 - 1:00 p.m.
SB 390 MABE Position: Oppose	Education - Due Process Hearings for Children With Disabilities - Burden of Proof	Education, Health, and Environmental Affairs 2/25/2015 - 1:00 p.m.
SB 405 MABE Position: Oppose	Maryland Education Credit	Budget and Taxation 2/25/2015 - 1:00 p.m.
HB 342 MABE Position: Oppose	Special Education - Related Services Providers - Consortium	Ways and Means 2/26/2015 - 1:00 p.m.
HB 389 MABE Position: Oppose	Education - Beginning of School Year - After Labor Day	Ways and Means 2/26/2015 - 1:00 p.m.
HB 486 MABE Position: Oppose	Public Charter School Expansion and Improvement Act of 2015	Ways and Means 2/26/2015 - 1:00 p.m.
HB 72 MABE Position: Support with Amendment	Budget Reconciliation and Financing Act of 2015 - Supporting the restoration of education funding cuts including the full phase-in of the Net Taxable Income adjustment and inflation factor for FY 2016	Appropriations 3/3/2015 - 3:00 p.m.

MABE Resources

General Assembly: MABE strives to be the primary voice for public education in Annapolis. The unity of 24 local school boards lends strength to our increasing importance in the legislative process, ensuring that the Governor, General Assembly, and State Board of Education turn to MABE to help determine what is best for school children.

MABE's Legislative Committee holds monthly meetings to guide the Association's lobbying activities in Annapolis, and invites policy and legislative leaders to exchange ideas. The Director of Governmental Relations, in coordination with MABE leadership, conducts direct lobbying activities including written and oral testimony before the General Assembly. MABE adopts and publishes an annual Legislative Positions publication and a Session Summary. MABE coordinates the Green Street Coalition, which is comprised of legislative liaisons from school systems and the superintendents association, and MABE staff pens the weekly GreenSheet update on legislative activity. For more information, visit [MABE's Annapolis Advocacy Center](#).

State Board of Education: In addition, MABE staff and members of the Board of Directors attend each meeting of the State Board of Education, and staff pens The Monitor, which provides a comprehensive summary of each meeting. MABE frequently informs the State Board of the Association's positions on priority issues through testimony, correspondence, and meetings. For more information, visit [MABE's State Board Advocacy Center](#).

Federal Government: MABE encourages all boards of education to engage in advocacy at the federal level to ensure that our federal officials are well informed on the priorities and perspectives of local school systems and the fiscal and policy issues arising under the myriad federal programs impacting public education. MABE's Federal Relations Network (FRN) Committee is comprised of board members appointed to represent the association in communicating NSBA and MABE positions to Maryland's federal delegation, including our two U.S. Senators and eight members of the U.S. House of Representatives. For more information, visit [MABE's Federal Advocacy Center](#).