

March 7, 2015

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MABE Legislative Committee Update

The Legislative Committee meeting on March 2, 2015 featured guest speaker, David Brinkley, Secretary of the Department of Budget and Management. MABE greatly appreciates Secretary Brinkley's availability and the opportunity for a very informative dialogue on the State Budget. A former state senator from Frederick County and long-time member of the of the Senate Budget and Taxation Committee, Secretary Brinkley appreciates local school system funding priorities, and has a wealth of experience and insights on the state budget process.

Secretary Brinkley described the challenges of developing and introducing a State Budget in the limited time frame provided between Governor Hogan's election and legislative session. He stressed the Governor's commitment to public education and cited the inclusion of 50% of the funding for the Geographic Cost of Education Index (GCEI). Similarly, he noted the significant investment in public school construction; and distinguished Governor Hogan's budget as relying not only on debt financing but also PAYGO to alleviate the burden on the state's growing debt service obligations.

Board members and staff in attendance engaged Secretary Brinkley in a discussion of issues ranging from restoring funding through a supplemental budget to school construction funding adjustments to keep pace with rising square footage costs. The Secretary was not overly optimistic about the prospects of growth in the revenue estimates due to be reported in mid-March. He emphasized the need to remain committed to a more sustainable approach to state budgeting to avoid gaps between the total costs of mandated funding items, including education, and the actual revenues collected to meet those obligations.

Legislative Committee Calendar

- Session convened Jan. 14, 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](#).

Budget Reconciliation Act & Budget Hearings Held

Both the Senate and House committees held omnibus hearings on the Budget Reconciliation and Financing Act of 2015 (BRFA) ([HB 72/SB 57](#)), and its various provisions impacting programs ranging from Program Open Space to restoring cuts to Aid to Education. MABE offered [testimony](#) in strong support of amendments to the BRFA, which as introduced would eliminate the increases in FY 2016 education funding for local school systems based on inflation, and delay the full implementation of the Net Taxable Income (NTI) education funding adjustment.

These proposals would reduce the level of mandated state aid to education by more than \$76 million. In addition, MABE's testimony stressed opposition to the Governor's proposed State Budget (Senate Bill 55/House Bill 70), which would eliminate half of the \$136.2 million in Geographic Cost of Education Index (GCEI) funding programmed for FY 2016. MABE's testimony urges the General Assembly's and Governor's combined efforts to restore this combined total of more than \$144 million in state aid to education for FY 2016 and the 2015-2016 school year.

The House Appropriations subcommittees have completed hearings on the Budget Bill, including the key section on State Aid to Education. The committees will now begin making their recommendations on amendments in preparation for full committee decisions. MABE is very encouraged by the very clear intentions of both the House and Senate to restore most if not all of the education funding cuts. To be sure, there is much work to be done, as MABE continues to urge full restoration of the education funding cuts.

Public Charter School Expansion Act

On Wednesday, March 4, 2015, the Senate Education Committee held its hearing on the Governor's Charter School Expansion Act, [Senate Bill 595](#). This followed the previously reported House Ways and Means Committee hearing held on February 26, 2015 on [House Bill 486](#).

The Senate hearing differed from the House hearing in a few significant ways. First, instead of taking the bill first and spending hours on it, the Senate waited until late in the evening to even begin the hearing, which did not conclude until after 10:00 p.m. This resulted in most of the supporters going home long before being called to testify. The local school system panel included MABE's Legislative Committee Chair, Joy Schaefer; Alison Perkins-Cohen, Director of the Office of New Initiatives, Baltimore City Public Schools; two charter school teachers and a third charter school employee. This panel presented a strong case for the current law and against the need for the proposed legislation, and the committee was duly impressed by the commitment to staying so late to testify. MABE extends a special thanks to Joy Schaefer, who was not on the road back to Frederick County until 11:00 p.m.

MABE once again presented our positions in strong support of local board authorization, highly qualified teachers and principals, and commensurate public funding of public charter schools. The Charter School Expansion Act would weaken or eliminate all of these standards and accountability measures, by:

- Removing the Maryland teacher certification requirements for charter school teachers and professional staff;
- Adopting a new, increased, per pupil funding formula that would provide 98% of all federal, state and local funds, minus only the Title I allocation;

- Allowing the State Board to grant a charter school a comprehensive waiver from all provisions of law and regulations applying to other public schools;
- Making the State Board of Education the chartering authorizer and employer for charter schools approved on appeal or for converted public schools;
- Making MSDE the school construction program administrator for all charter schools;
- Making charter schools eligible to participate in the state's capital improvement program; and
- Allowing 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 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.

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.

Link to [Roster of Legislators by County](#) and the [Senate Education Committee](#) and [House Ways and Means Committee](#).

Shifting the Burden of Proof to Educators in Special Education Cases

Bills have 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).

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 opposes shifting the burden of proof, and instead emphasizes our support for 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.

The Senate hearing was held on February 25, 2015 in the Senate Education, Health and Environmental Affairs Committee; and the House hearing will be held on March 5, 2015 in the House Ways and Means Committee.

As previously reported, the Senate hearing on February 25th involved discussion of an amendment proposed by the Maryland Disability Law Center to the unilateral placement provision. The amendment was offered again during the House hearing, and the bill sponsor spoke in favor of it as well. Given that was the snow day in Annapolis, the opponents were represented by John Woolums, MABE, who spoke specifically to MABE’s objections to the bill and to the proposed amendment. The bill language as introduced is provided first, followed by the MDLC requested amendment.

(II) 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 CONDUCTED UNDER THIS SECTION.

(II) A PARENT OR GUARDIAN SEEKING TUITION REIMBURSEMENT FOR A UNILATERAL PLACEMENT OF A STUDENT BY THE PARENT OR GUARDIAN SHALL HAVE THE BURDEN OF PROVING THAT THE PLACEMENT SELECTED BY THE PARENT OR GUARDIAN CAN PROVIDE THE STUDENT WITH EDUCATIONAL BENEFIT ~~PROOF IN A DUE PROCESS PROCEEDING CONDUCTED UNDER THIS SECTION.~~

MABE encourages local boards and board members to call and email their Delegates and Senators to urge opposition to shifting the burden of proof in IEP due process hearings to the local school system – and to oppose an amendment to re-define the burden of proof in nonpublic placement cases.

Link to [Roster of Legislators by County](#) and the [Senate Education Committee](#) and [House Ways and Means Committee](#).

Student Diabetes Management Program Proposed

On March 4, 2015 the Senate Education, Health and Environmental Affairs (EHEA) Committee heard [Senate Bill 672](#) a bill requiring the Maryland State Department of Education (MSDE) and the Department of Health and Mental Hygiene (DHMH), in consultation with other experts and stakeholders, to establish guidelines for the training of school employees to become trained diabetes care providers. Each local board of education must require each public school within its jurisdiction to establish a Student Diabetes Management Program that includes training for employee volunteers to provide diabetes care services to students. The bill requires a school nurse or trained diabetes care provider to be available during school hours and at school-sponsored activities.

MABE testified in opposition, and emphasized to the committee that this legislation required the committee's consideration of the expertise of school health professionals. The hearing featured the expert testimony of Mary Nasuta, Nurse Coordinator for Harford County Public Schools, who did an outstanding job testifying in opposition to the bill as did Nancy Mattucci, President-Elect of the Maryland Association of School Health Nurses. The committee heard that the bill "would put students at risk" as well as putting a financial burden to local school systems. It was explained that school health services programs are already mandated by law in the State of Maryland. "We are proud of the care that we deliver to students in Maryland public schools through individual plans and staff education directed by school health professionals," said Mrs. Nasuta.

MABE will continue to represent the school system commitment and professional dedication to providing high quality student health services; and our opposition to the provisions of this bill to impose enormous staffing mandates and new liabilities, including reliance on trained volunteers to provide nursing services.

Maintenance of Effort "Alterations" Bill Heard

On March 5, 2015 the House Ways and Means committee heard [House Bill 1079](#) a bill that would make three "alterations" to the maintenance of effort (MOE) in school funding law. This bill would repeal the "escalator" requirement that a county that has an education effort below the five-year statewide average education effort must increase its MOE payment to the local school board in years when the wealth base per pupil is increasing. The bill would specifically require the State Board of Education to approve a county's request to exclude from MOE an appropriation for a start-up cost to implement the Maryland College- and Career-Ready Standards (MCCRS) and the Partnership for Assessment of Readiness for College and Careers (PARCC) assessments as a qualifying nonrecurring cost. And the bill would exclude the cost of a fixed term lease for a school facility from MOE if the lease term expires and the cost does not continue into the current year. Lastly, the bill would require the State Board, in collaboration with county governments and local boards of education, to conduct a non-recurring cost study and report findings and recommendations by December 31, 2015.

The Maryland Association of Counties (MACO) testified in support of the bill to "promote sensible and flexible application and reducing disincentives for counties to make voluntary investments in schools." John Woolums, MABE, spoke in opposition to the bill, while acknowledging that boards recognize the critical funding partnership between the state and counties, including Baltimore City, in generating the combined total of education funding. Mr. Woolums explained that county governments can now provide less than MOE due to declining enrollments and have increased opportunities for waivers and exemptions under the 2012 law. He focused on the fact that the

escalator clause has not been triggered as yet and therefore there is no need to consider repealing it at this time.

MABE will continue to work to oppose any weakening of the assurances of stable local funding provided by the Maintenance of Effort law, which was comprehensively reformed and strengthened in 2012.

Post-Labor Day Start Date Mandate

Legislation has been introduced by Delegate Healey, [House Bill 389](#), and Senator Mathias, [Senate Bill 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. The House hearing was held on February 26, 2015 in the Ways and Means Committee. The Senate hearing is scheduled for March 11, 2015 in the Senate Education, Health, and Environmental Affairs Committee.

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.

As previously reported, the House hearing went very well for local school system opponents of this legislation, and MABE looks forward to a successful hearing in the Senate. As this legislation is considered, MABE encourages local boards and board members to call and email their Delegates and Senators to urge opposition to mandating a post-Labor Day start of the school year. Remind them this would be September 8 in 2015; and that there is no reasonable way to make this shift without extending school through the end of June.

Link to [Roster of Legislators by County](#) and the [Senate Education Committee](#) and [House Ways and Means Committee](#).

Tax Credit Financed Funding for Nonpublic and Public School Students

Bills to provide tax credits to business making contributions to private or parochial schools are 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.

Hearings were held in on February 25, 2015 in the Senate Budget and Taxation Committee; and on February 26, 2015 in the House Ways and Means Committee. MABE joined a panel of representatives from the Maryland PTA, Maryland State Education Association, the ACLU, and PSSAM to oppose the Maryland Education Credit legislation because its primary purpose is to create a private school funding program to finance private school student expenses, including tuition.

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.

MABE encourages local boards and board members to contact Senators and Delegates to urge a NO vote on the Maryland Education Credit bills, [Senate Bill 405](#) and [House Bill 487](#),

Link to [Roster of Legislators by County](#); and the [Senate Budget and Taxation](#) and [House Ways and Means Committee](#).

Hearing Schedule – Highlights for Week of March 9th

HB1032 Oppose	Public Safety - Transport of Weapons on School Property - Retired Law Enforcement Officers	Judiciary 3/10/2015 - 1:00 p.m.
SB0627 Oppose	Education - Maintenance of Effort Requirement - Alterations	Budget and Taxation 3/10/2015 - 1:00 p.m.
SB0455 Oppose	Education - Beginning of School Year - After Labor Day	Education, Health, and Environmental Affairs 3/11/2015 - 1:00 p.m.
HB0642 Support w/Amendments	Children - Child Care Facilities, Public Schools, and Nonpublic Schools - Contractors and Subcontractors	Ways and Means 3/12/2015 - 1:00 p.m.
HB0947 No Position	Professional Standards and Teacher Education Board - School Counselors - Certification Renewal Requirement (Lauryn's Law)	Ways and Means 3/12/2015 - 1:00 p.m.
SB0725 Oppose	Baltimore County Board of Education - Procurement for Construction-Related Projects for Schools	Budget and Taxation 3/12/2015 - 1:00 p.m.
HB0679 Oppose	Primary and Secondary Education - Health and Safety - Chemical-Free Schools Act	Ways and Means 3/13/2015 - 1:00 p.m.
HB0853 Oppose	Public Schools - Boards of Education - Anonymous Two-Way Text Messaging Tip Programs	Ways and Means 3/13/2015 - 1:00 p.m.
HB0894 Oppose	Primary and Secondary Education - Health and Safety - Sugar-Free Schools Act	Ways and Means 3/13/2015 - 1:00 p.m.
HB0965 Support	The Hunger-Free Schools Act of 2015	Ways and Means 3/13/2015 - 1:00 p.m.
HB0992 Oppose	Public and Nonpublic Schools - Student Diabetes Management Program	Ways and Means 3/13/2015 - 1:00 p.m.
HB1023 Oppose	Public Schools - Thirsty Kids Act	Ways and Means 3/13/2015 - 1:00 p.m.
HB1081 Oppose	Education - Orange Ribbon for Healthy School Hours - Establishment	Ways and Means 3/13/2015 - 1:00 p.m.
HB1095 Oppose	Public Schools - Nutrition Standards - Vending Machines and Marketing	Ways and Means 3/13/2015 - 1:00 p.m.
HB0995 Oppose	Lawn Care Pesticides - Child Care Centers, Schools, and Recreation Facilities - Prohibition	Environment and Transportation 3/13/2015 - 1:00 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, go to [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 go to [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, go to [MABE's Federal Advocacy Center](#).