

**April 2, 2015**

### In this issue:

- News Release – Voucher Program
- Charter School Expansion Act
- [Bill Report](#)
- [MABE Testimony](#)
- Links to Additional MABE Resources

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### MABE News Release

#### Local Boards of Education Oppose Governor Hogan's Insertion of a Private School Voucher Program in the Maryland State Budget

**April 3, 2015** - Governor Hogan has unveiled a proposal to insert into the State Budget the same type of state-funded private school voucher program proposed in failed legislation, including this year's Maryland Education Credit bill (House Bill 487). The Maryland Association of Boards of Education (MABE) opposes this attempt to create a new, costly, and controversial state financing program for private and parochial schools. ([Complete news release](#))

### Public Charter School Improvement Act

The Senate Education Committee voted favorably on a dramatically amended version of the Governor's Charter School Improvement Act, [Senate Bill 595](#). This vote followed several days of intensive deliberations and consideration of a comprehensive re-writing of the bill through amendments developed by the Committee, as well as additional amendments offered by charter school operators, and those proposed by a group of advocates and organizations including MABE, PSSAM, MSEA, ACLU, Baltimore City School System, and Baltimore Teachers Union. The bill, as reported out of committee on March 31, is now being debated on the floor of the full Senate. Following Senate passage, the bill will be considered by the House Ways and Committee next week, the final week of the 2015 legislative session.

As introduced, MABE strongly opposed the Charter School Improvement and Expansion Act. MABE lobbied as a member of a broad coalition of public education advocates in support of local board authorization, highly qualified teachers and principals, and commensurate public funding of public charter schools. MABE opposed the Charter School Expansion Act because it would weaken or eliminate all of these standards and accountability measures. Fortunately, this is no longer the case following substantial amendments adopted in the Senate.

### Legislative Committee Calendar

- Session ends on April 13, 2015 - Monday @ midnight - Sine Die
- **April 27, 2015** – Session Wrap-up

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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](#).

The table below identifies the major provisions of the bill, as introduced, and the elimination of almost every element of the bill opposed by MABE and others.

Key Provisions Proposed in SB 595 as Introduced	Not Adopted by the Senate Education Committee
<ul style="list-style-type: none"> <li>Removing the Maryland teacher certification requirements for charter school teachers and professional staff;</li> </ul>	X
<ul style="list-style-type: none"> <li>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;</li> </ul>	X
<ul style="list-style-type: none"> <li>Allowing the State Board to grant a charter school a comprehensive waiver from all provisions of law and regulations applying to other public schools;</li> </ul>	X
<ul style="list-style-type: none"> <li>Making the State Board of Education the chartering authorizer and employer for charter schools approved on appeal or for converted public schools;</li> </ul>	X
<ul style="list-style-type: none"> <li>Making MSDE the school construction program administrator for all charter schools;</li> </ul>	X
<ul style="list-style-type: none"> <li>Making charter schools eligible to participate in the state’s capital improvement program; and</li> </ul>	X
	<b>Adopted in SB 595</b>
<ul style="list-style-type: none"> <li>Allowing charter schools to grant preferences to students with special needs, and students within a specific school attendance area.</li> </ul>	✓

**Removing the State Board’s Chartering Authority**

“The public chartering authority for the granting of a charter shall be a county board of education.” This simple statement of chartering authority is an improvement over the longstanding and rather confusing and concerning language in the law. Since 2003, local boards have been defined as “primary” chartering authorities, with the State Board defined as “secondary” chartering authority for the granting of charters when acting in its appeal review capacity.

On appeal, the State Board is not long a “secondary” chartering authority, and may not grant a charter, but when it reverses a local board’s denial of a charter, and remands that case back to the local board, it may direct the local board to grant the charter. This is authority the State Board has held since 2003.

**No Cyber Charter Schools**

Since 2003, a chartering authority has been prohibited from granting a charter to a private school, parochial school, or home school. Senate Bill 595 is amended to add to that list “a school that operates fully online.”

**Enrollment by Lottery, or Categories of Students or Geographic Area**

The Senate bill would allow charter schools to give a greater weight to a student’s lottery status if the student is economically disadvantaged, a student with disabilities, limited English proficient, homeless, or the sibling of a student already enrolled. Preferences may be provided for students progressing from lower to higher grades within the same charter school program offered in different schools. Charter schools may also establish a geographic attendance area to grant a preference to fill up to 35% of the spaces available. The intent is that this geographic area preference be allowed for students residing in a geographic area with a median income at or below the median income of the county.

These modified lottery options are all intended to be subject to the approval of the chartering authority. In addition, if an application to establish a public charter school includes a description of the implementation of a weighted lottery that gives priority to students in a specific geographic attendance area, the public chartering authority may approve or reject this provision separately from the application as a whole.

### **Greater Flexibility Upon Renewal**

The amended bill would create a new program, of sorts, for charter schools having been in existing for at least 5 years and demonstrating a history of sound fiscal management and student achievement. These schools would be deemed eligible to submit an application for renewal that could include a broader set of exemptions from local school system policies. Policy areas from which these schools could be exempt include: textbooks, instructional program, curriculum, professional development, scheduling requirements, and class size and staffing ratios.

### **Staffing Autonomy**

Other flexibility provisions would apply to eligible public charter schools upon renewal. First, such a school may not be assigned a principal without the written consent of the charter school operator. Second, such a school may fill staffing vacancies through voluntary transfers and assignments from other schools in the system. These provisions are subject to the collective bargaining agreement, but not otherwise restricted by school system approval.

### **The Funding Study**

The 2003 Charter School Act requires a county board to “disburse to a public charter school an amount of county, State, and federal money for elementary, middle, and secondary students that is commensurate with the amount disbursed to other public schools in the local jurisdiction.” The Governor’s bill would have removed this provision and replaced it with a strict mandate to divide the total school budget by enrollment and after subtracting federal Title I funding, and 2%, provide the remainder directly to the charter school. The amended version of Senate Bill 595 preserves the current statutory language, for now, and calls for a funding study to be completed by an outside contractor by December 1 of 2015.

The scope of the funding study is outlined in detail in the bill, and the intent is stated as follows:

“The primary purpose of the study is to calculate the average operating expenditures by each local school system for students enrolled in a public school that is not a public charter school or stand-alone special education school, to be aggregated at the State level to serve as the baseline for determining commensurate funding for all public schools.”

### **Next Steps**

The Senate has yet to pass the bill, and the House Ways and Means Committee is therefore expected to hold a hearing and begin deliberating on the bill no sooner than Tuesday, April 7th.

MABE appreciates the significant improvements made to the Governor’s bill as introduced, and to certain provisions of the 2003 Charter Schools Act. Most importantly, the pending bill would clarify that only a local board may serve as the chartering authority. Of most concern is the potential outcome of a funding study which would require new charter school funding legislation in 2016, and could result in significant burdens on local school systems for current and/or new charter schools.

As the House considers Senate Bill 595, MABE will continue to place the highest of priorities on preserving local board chartering authority and continue to advocate for other amendments to ensure that local board chartering authority, and the role of mutual agreement on waivers and flexibility provisions, is reflected throughout the bill.

## Budget Updates

### Operating Budget

The State Budget ([House Bill 70](#)) passed by both the House and Senate, and now in conference committee to resolve minor differences, is a testament to the General Assembly's commitment to restoring proposed education funding cuts. MABE applauds the General Assembly's success in crafting a balanced budget that restores the Geographic Cost of Education Index (GCEI) and the inflation factor. These budget actions restore almost all of the \$144 million in reductions proposed in the Governor's budget.

Then, on April 2nd, the Governor released his second Supplemental Budget, which includes several proposed amendments to the pending State Budget bill. Key among these proposals is \$5 million for the Department of Business and Economic Development to create a state-funded private school voucher program similar to the one in the Maryland Education Credit bill (House Bill 487). MABE opposes this attempt to create a new, costly, and controversial state financing program to fund expenses such as tuition, supplies, and uniforms, for private and parochial school students.

Unfortunately, the role of the Supplemental Budget is larger than the voucher provision, or even the sum of all of its other parts, because the larger issue is whether the nearly \$70 million in Geographic Cost of Education Index (GCEI) funding is contingent on the General Assembly incorporating it into the final budget bill.

### Capital Budget

The Capital Budget ([House Bill 71](#)) has passed the House and is slated for action in the Senate. The bill includes \$270 million for the Public School Construction Program. The Capital Budget also funds the new \$20 million Capital Grant Program for Local Systems with Significant Enrollment Growth or Relocatable Classrooms. This program is established by Separate legislation ([House Bill 923/Senate Bill 490](#)).

## Bill Updates

### **Burden of Proof Shift** ([SB 390/HB 344](#))

This bill places the burden of proof on the public agency in a due process hearing that is held to resolve disputes about the identification, evaluation, or educational placements of children with disabilities or the provision of a free appropriate public education. However, if a parent seeks tuition reimbursement for a unilateral placement of a student by the parent, the burden of proof in these hearings is placed upon the parent. (Oppose – no action to date)

### **Post-Labor Day School Year Start Date** ([SB 455/HB 389](#))

This bill prohibits public schools and publicly funded prekindergarten programs from opening for student attendance before the day after Labor Day. (Oppose – no action to date)

### **Testing Commission & Survey** ([SB 497/HB 452](#))

This bill creates a new Commission to Review Maryland's Use of Assessments and Testing in Public Schools and, to assist the commission in its work, would require local school systems to complete a comprehensive survey of assessments administered in the local school system. (No Position – passed both House and Senate and being conformed to pass)

### **Blind Mobility Assessments** ([SB 538/HB 535](#))

This bill requires orientation and mobility (O&M) instruction to be included in the individualized education program (IEP) of a child who is blind or visually impaired, unless the IEP team for that child determines, after an initial O&M evaluation, that O&M instruction is not appropriate for the child. The initial O&M evaluation must be provided to the child who is blind or visually impaired if a member of the child's IEP team states that O&M instruction is not appropriate for the child. A child may not be denied O&M

instruction solely because the child has some remaining vision. Each local school system must provide verbal and written notice at least annually to the parent of a child who is blind or visually impaired of the availability of O&M instruction. (Oppose – passed Senate and House in very different forms)

#### **IEP Translations ([SB 314/HB44](#))**

This bill authorizes the parents of a child with a completed individualized education program (IEP) or individualized family service plan (IFSP) to request that the IEP or IFSP be translated into the parents' native language. School personnel must provide the parents with the translated document within 30 days after the date of the request. (Oppose – Amended in the House to be a pilot program in Montgomery County)

#### **Diabetes Volunteer Health Aides ([SB 672/HB 992](#))**

This bill requires 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. (Oppose – passed Senate)

#### **Education – “Orange Ribbon” for Healthy School Hours ([HB 1081](#))**

This bill establishes an Orange Ribbon for Healthy School Hours certification in the Maryland State Department of Education (MSDE), beginning in the 2016-2017 school year. Orange Ribbon certification is intended to recognize local school systems that create, implement, and enforce school start times that are consistent with those recommended by MSDE, the Department of Health and Mental Hygiene (DHMH), and the American Academy of Pediatrics (AAP). To receive Orange Ribbon certification, a local school system may not have (1) an elementary school requiring a student to be in class before 8:00 a.m. and board a school bus before 7:00 a.m. and (2) a middle or high school requiring a student to be in class before 8:30 a.m. and board a school bus before 7:30 a.m. Other certification criteria are specified. (Oppose – passed House)

#### **Background Checks for Contractors ([HB 642/SB 508](#))**

This bill prohibits nonpublic schools and local boards of education from hiring contractors or subcontractors, or allowing contractors or subcontractors to hire or retain individuals, who have been convicted of specified crimes. The bill also requires contractors and subcontractors in specified facilities who have direct, unsupervised, and uncontrolled access to children to submit to a criminal history records check. (Support with Amendments – passed both House and Senate and being conformed to pass)

## **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](#).