

March 14, 2016

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2016 Legislative Committee Calendar

- (Session convened Jan. 13, 2016)
- April 4, 2016
- (Session Adjourns April 11, 2016)
- April 25, 2016 - Session Summary

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](http://www.mabe.org).

Session Update

With one month and one third of the 2016 session remaining, MABE is tracking and taking positions on a record number of bills. The Senate has passed SB 905, the "Thornton 2.0" legislation to create the Commission on Innovation and Excellence in Education and the House is poised to support nearly identical legislation, HB 999. The Post-Labor Day start date bill is dead (the Senate Education Committee rejected SB 767 on March 11; followed by the hearing on the identical House Bill being cancelled). But the Senate Budget and Taxation Committee has approved SB 706 by a narrow margin to establish the Maryland Education Credit tax credit financed voucher-like program (action on the Senate floor and House to follow). SB 575 would raise local board of education liability caps from \$100,000 to \$400,000 and has passed the full Senate and is set for a hearing in the House Judiciary Committee on March 24.

On the budget front, school systems with declining enrollment stand to receive the funding proposed by the governor for Kent, Garrett, and Carroll county school systems; with additional funding being provided to other school systems including Baltimore City. In addition, the Senate is preparing to fund much, if not all, of the teacher retirement funding gap in FY 2017 on a one-year basis. MABE, MACo, and MSEA continue to support legislation (SB 674/HB 934) to mandate funding to close this gap in future years as well. The legislature is also considering bills, such as the extended school

day and summer learning initiative ([HB 1402](#)) supported by MABE and PSSAM, to benefit Baltimore City and other school systems with high concentrations of poverty.

Many major bills dealing with collective bargaining, special education, student assessments, prevailing wage, private school funding, and Diabetes management remain in play. MABE encourages all boards and board members to take action to urge the General Assembly to act in accordance with MABE's positions on the bills highlighted below.

MABE Priority Bill Updates

Prekindergarten Funding Bills are Now Pending

MABE encourages all local boards to contact legislators to voice SUPPORT for [SB 461](#) (*which was heard on February 24th*) – Use these links to the [Budget & Taxation Committee](#); and the [B&T Committee Roster](#); and to voice SUPPORT for [HB 1433](#) (*which was heard on March 7th*) – Use these links to the [Ways and Means Committee](#); and the [W&M Committee Roster](#).

MABE Supports SB 461 and HB 1433 to Provide Full, Accurate, and Transparent Funding for Prekindergarten

- Since the passage of the Bridge to Excellence Act of 2002, local school systems have been providing half-day prekindergarten for all eligible four-year olds – approximately 30,000 students per year.
- Maryland's nationally recognized school finance system is built on per pupil funding. However, prekindergarten students are ***not*** included in the annual September 30 enrollment counts for State and local education aid.
- By not counting approximately 30,000 students as enrolled, the state funding laws that provide per pupil state and local funding for all students are not triggered.
- Many school systems also provide a significant amount of full-day prekindergarten to these eligible students. Under this bill, providing full-day prekindergarten would remain entirely at the discretion of the local board - but when it's provided it would be fully funded.
- Mandated prekindergarten benefits our most vulnerable economically disadvantaged children and local efforts to serve these students should receive the full benefit of additional per pupil funding just as other income eligible students.
- Passage of Senate Bill 461 and House Bill 1433 is needed to guarantee that full, accurate and transparent per pupil funding is provided to support high quality prekindergarten programs.
- ***Amendments are needed - The bill sponsors have requested amendments, which MABE strongly supports, to ensure that all 24 school systems will receive additional prekindergarten funding on a per pupil basis for half-day and full-day income eligible students.***

Background

Legislation ([Senate Bill 461](#) and [House Bill 1433](#)) has been introduced to fully fund prekindergarten by establishing a per pupil funding amount based on enrollment of the four-year olds we are mandated to serve. Senator Joan Carter Conway is the lead sponsor of Senate Bill 461. The hearing in the Senate Budget and Taxation Committee was held on February 24. Delegate Alonzo Washington is the lead sponsor of House Bill 1433. The hearing in the House Ways and Means Committee was held on March 7.

MABE strongly supports passing legislation in 2016 to remedy the longstanding deficiency in funding provided to local school systems for prekindergarten, by including prekindergarten students in local school system enrollment counts for purposes of state and local funding formulas. Under current law, all children who are four years old on September 1 of that school year, who are eligible for free and reduced-price meals (FRPM) (i.e., from families whose income is at or below 185% of federal poverty guidelines (FPG)), and whose parent or guardian seeks to enroll the child in a public prekindergarten program, must be admitted free of charge to publicly funded prekindergarten programs established by each of the local boards of education.

State regulations require local school systems to provide prekindergarten for a minimum of 2.5 hours per day using certified early education teachers. However, prekindergarten students are not included in the annual September 30 enrollment counts for State education aid. By not counting approximately 30,000 students as enrolled, the state funding laws that provide per pupil state and local funding for all students are not triggered.

Many school systems also provide a significant amount of full-day prekindergarten to these eligible students. Under this bill, providing full-day prekindergarten would remain entirely at the discretion of the local board, but receive full per pupil funding when offered.

The bill sponsors support amendments which would replace the text of the pending legislation, Senate Bill 461 and House Bill 1433, and instead establish a supplemental grant program to provide each local school system additional per pupil funding for each prekindergarten student whether attending a half-day or full-day program.

The amended bill language intends to capture the state and local share of the foundation amount, and the additional per pupil compensatory education “weighted” funding.

Education Funding Commission Bills Introduced – and Passing

Legislation has been introduced to create the “Commission on Innovation and Excellence in Education” ([House Bill 999](#) and [Senate Bill 905](#)). Senate Bill 905 passed the Senate by a vote of 46-0 on March 10th.

Background

Senator Nancy King is the lead sponsor of Senate Bill 905; and Delegate Ann Kaiser is the lead sponsor of House Bill 999. This legislation represents one of MABE's key legislative initiatives in 2016 and is a priority bill supported by a broad coalition of organizations in educational advocacy community. The goal is to convene legislative leaders and education, business, and local government stakeholders to craft legislation to ensure the long-term adequacy and equity of funding for students in public schools statewide. The legislation is modeled on the 1999 legislation which created the "Thornton" Commission and led to the passage of the Bridge to Excellence in Public Schools Act in 2002.

MABE strongly supports this legislation to create a blue ribbon commission on education funding to begin the process of translating the work of the consultant's funding adequacy studies and recommendations into legislative proposals for comprehensive funding reforms. The new "Commission on Innovation and Excellence in Education" will review the current education financing formulas and accountability measures and make recommendations for updating and enhancing the funding formulas established by the Bridge to Excellence in Public Schools Act of 2002. The Commission is to provide a preliminary report to the Governor and General Assembly by December 31, 2016; and a final report by December 31, 2017.

Other Action Bills

Tax Credit Financed Vouchers – Passing in the Senate

[Senate Bill 706/House Bill 1343](#) and [House Bill 453](#) have been introduced to establish the Maryland Education Credit program. Similarly, [House Bill 1213](#) has been introduced to establish Broadening Options and Opportunity for Students and Teachers (BOOST) Program. (MABE Position: Oppose)

The Maryland Education Credit (MEC) bills would create a State income tax credit for 60% of the contributions made by a business entity or nonprofit organization to an eligible nonprofit organization that provides specified financial assistance to students at public or eligible nonpublic K-12 schools and prekindergarten programs.

Senate Bill 706 was reported favorably by the Budget and Taxation Committee on March 11 by a vote of 7 to 6, and is scheduled to be debated on the Senate floor.

The BOOST bill, HB 1213, would create a program within the Department of Commerce (DOC) to provide scholarships to eligible students who attend approved schools. The program will receive net funding of at least \$35.0 million, which is provided through the creation of a tax credit against the insurance premium tax or corporate income tax for companies that make designated contributions to the program. DOC can award a maximum of \$50.0 million in tax credits, which can be claimed beginning with tax year 2017.

To voice opposition to Senate Bill 706, contact your Senator(s): [Links to all Senators](#) (alphabetical and by county); and [Telephone roster](#) of all members by county. ([MABE Testimony](#))

To voice OPPOSITION to the House Bills (*which were heard on March 7th*) – Use these links to the [Ways and Means Committee](#); and the [W&M Committee Roster](#).

Special Education - Parental “Consent” or Parental “Veto” of IEP Changes

[House Bill 778](#) and [Senate Bill 950](#) would require the Individualized Education Program (IEP) team to obtain written consent from a parent if the team proposes to:

- (i) enroll the child in an alternative education program that does not issue or provide credits toward a Maryland high school diploma;
- (ii) identify the child for the alternate assessment aligned with the state’s alternate curriculum;
- (iii) use restraint or seclusion to correct the child’s behavior;
- (iv) reduce or terminate the amount of instructional or related services that are provided to the child; or
- (v) initiate a change in the child’s educational placement.

The parents’ failure to accept or reject the proposed action would allow the IEP to proceed after 20 business days. However, in instances where such proposals are made by the IEP team but rejected in writing by the parents, the bill would require the school system to comply with the parent’s decision or proceed to appeal through the mediation and due process hearing procedures.

Local boards of education have great respect and appreciation for the dedication and commitment of educators and parents who are collaborating throughout the school year to ensure that the educational needs of students qualifying for special education services are being met. MABE is opposed to shifting decision-making authority away from the professional judgement of educators, in conjunction with parents and guardians as required by federal law, and instead providing a parental “veto” of IEP team proposals. ([MABE Testimony](#))

To voice opposition to [SB 950](#) (*which was heard on March 9th*) - Use these links to the [Education, Health and Environmental Affairs Committee](#) and [EHEA Roster](#); and for [HB 778](#) (*which was heard on March 10th*) – Use these links to the [Ways and Means Committee](#); and the [W&M Committee Roster](#).

Other Special Education Bills Pending and Passing

[HB 85](#) – This bill has passed the House and set for a hearing in the Senate on March 23. It would school systems to provide the parents of a child with a disability at the initial evaluation meeting written information that the parents may use to contact local school system early intervention and special education family support services staff members, and a brief description of the services that they provide. MABE took no position on this bill.

[HB 86/SB 421](#) – These bills have passed in their respective chambers and would authorize 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, if that language is spoken by more than 1% of students in the local school system. School personnel must provide the parents with the translated document within 30 days after the date of the request. The bill also calls for a report from MSDE on how to address requests from parents speaking languages spoken by less than 1% of students. MABE opposed this legislation when introduced, but neither MABE nor the jurisdictions impacted by the bill are now opposing the bill.

[HB 551](#) – This bill would require the individualized education program (IEP) team to provide a parent who disagrees with a child’s IEP or special education services with, in plain language: (1) an oral and written explanation of the parent’s right to mediation; (2) contact information for receiving information on the mediation process; and (3) information regarding pro bono representation. MABE took no position on this bill; and it will be heard on March 14.

Diabetes Care Management by Volunteer School Personnel

MABE opposes [SB 71/HB 771](#) which would which would impose a substantial unfunded mandate on local school systems to train and employ additional staff to provide medical services to students with diabetes. SB 71 has already passed the Senate, as it did last year, and the House is set to hear HB 771 and then the Senate bill. ([MABE Testimony](#))

To voice opposition to [SB 71](#) and [HB 771](#) – Use these links to the [Ways and Means Committee](#); and the [W&M Committee Roster](#).

This legislation would create a new school health services program to require school system employees to provide diabetes care to students during the school day and while attending school-sponsored activities. Student diabetes management programs would be required in each school, and the bill intends for the health care to be provided by trained volunteers. MABE, and the local boards we represent, are deeply concerned with the scope of the fiscal impact and liabilities arising from these proposals.

The diabetes management program proposed by SB 71/HB 771 would require schools to:

- Recruit employees who are interested in becoming trained diabetes care providers;
- Provide training for employee volunteers before the commencement of a school year or when required by the enrollment of a student with a Diabetes Medical Management Plan;
- Designate locations within the school where a student may privately perform diabetes care tasks;
- Require the school nurse or a trained diabetes care provider to be on-site and available to provide diabetes care services during school hours and at school-sponsored activities, including field trips;
- Establish a system of communication between school administrators and the faculty, school nurse, trained diabetes care providers, parents or guardians of students, and students;

- Facilitate the access of authorized school personnel to student Diabetes Medical Management Plans; and
- Establish procedures for diabetes-related emergencies.

School health professionals including registered nurses (RNs), licensed practical nurses (LPNs) and certified medical technicians (CMTs) are committed to providing care for students with diabetes. Students with diabetes receive health care based upon the orders from doctors who have prescribed medication and a treatment plan based on the student's self-management abilities. Registered nurses then interpret and clarify and questions regarding these orders, and either administer medication or delegate that task to LPNs or CMTs who have received significant training and who are working under the authority of the RN's license. MABE's opposition to Senate Bill 71 is based on our support for this high standard of care.

Similar legislation was introduced in 2015 (Senate Bill 672) but not enacted. During the interim, the Department of Health and Mental Hygiene (DHMH) and Maryland State Department of Education (MSDE) held meetings and a day-long symposium on the law and state and local policies and procedures regarding meeting the health and educational needs of students with diabetes. Following these meetings, work is now underway to update the Maryland State School Health Services Guideline, "Management of Students with Diabetes Mellitus in Schools," last updated in 2006.

In addition, MABE and other stakeholders are promoting awareness about the appropriate role of the student's health plan administered by the school nurse, and the student's 504 Plan (referring to Section 504 of the Rehabilitation Act). The 504 Plan may include elements of the health plan but is intended to protect students with disabilities, including diabetes, from discrimination and ensure that educationally appropriate accommodations and resources are provided.

MABE strongly believes that the ongoing work by doctors, school nurses, DHMH and MSDE staff, and parents and advocates has confirmed the need to continuously improve the manner in which health services are provided to students with diabetes. At the same time, this work in no way demonstrates the need to diminish the professional role of school nurses, or LPNs or CMTs working under the school nurse's license, by recruiting volunteers from among other staff members to administer injectable medication to students.

Collective Bargaining Bills

Educator Employee Discipline – by Arbitrators Instead of Local Boards of Education

On March 10, MABE testified in opposition to [House Bill 1228](#), which would remove the authority to discipline employees from the local board of education and transfer it to an arbitrator if requested by the employee. Such a transfer would adversely impact the ability of local boards to respond to employee misconduct consistent with the best interests of the students, the school system, and community. Instead, House Bill 1228 would transfer the board responsibility to an arbitrator, an independent third party who is not required to balance of the employee's interests and the school systems on behalf of all students.

Local boards of education, which approve the hiring of all certificated employees, should retain the authority to terminate or suspend their employment for one of the five reasons stated in the law (immorality, misconduct, incompetency, willful neglect of duty, insubordination). Outside arbitrators, who by definition have no connection to the school system, should not be empowered to determine who should remain employed by the school system. Local boards represent the interests of the entire community – students, teachers, parents, businesses, government leaders – and must be able to decide when any specific individual's actions should disqualify that person from teaching the students in that community, either temporarily or permanently.

To voice opposition to HB 1228 (*which were heard in the Ways and Means Committee on March 10th*) – Use these links to the [Ways and Means Committee](#); and the [W&M Committee Roster](#). ([MABE Testimony](#))

Teacher and Principal Evaluations – as newly mandated subjects of bargaining

On February 18, the Ways and Means Committee held its hearing on [HB 633](#) which would substantially amend the Education Reform Act enacted in 2010 by returning the authority to develop educator evaluation systems to local school boards. The bill removes current law regarding the state oversight and default model for evaluations and preserves the language that states: “A county board shall establish performance evaluation criteria for certificated teachers and principals in the local school system based on the general standards adopted under paragraph (2) of this subsection that are mutually agreed to by the local school system and the exclusive employee representative.” However, the bill goes much further. It would reverse the position of the current law, which was intended to prohibit such agreements on evaluation systems from being subject to collective bargaining – and the attendant mediation and binding arbitration that can ensue. Instead, this bill would require such mutual agreements between the boards and unions and require that these agreements shall be subject to collective bargaining. ([MABE Testimony](#))

Contract Renegotiations - Removal from Local Board Control

MABE opposes [House Bill 145](#) which includes the proposal to make the final contract re-negotiation process a subject for collective bargaining; and the proposal to establish Anne Arundel County as the venue for cases involving the Public School Labor Relations Board (PSLRB).

The Fairness in Negotiations Act enacted in 2010 included several major and even nationally unprecedented, reforms in public school labor relations. However, one provision of the law enacted in 2010 stands out as ensuring that local boards of education retain the ability to make the final determination on the contract in cases when the local government fails to fully fund the negotiated agreement. Under current law, “If a fiscal authority does not approve enough funds to implement the negotiated agreement, the public school employer shall renegotiate the funds allocated for these purposes by the fiscal authority with the employee organization before the public school employer makes a final determination in accordance with a timetable and procedure established by the Board.”

House Bill 145 proposes to substantively amend and thereby weaken this “keystone” provision of the law, by opening the door to employee associations demanding the development of an alternative renegotiation process. The fundamental objection to this bill is that such locally negotiated processes may not preserve the role of the local board of education established in current law. MABE and local boards advocated strenuously for the provision in current law because it protects the local board’s governance role. Such local agreements could weaken the assurance of finality in each of the 24 local school system’s contract negotiations with multiple unions - finality which is critical in order to inform final action on the annual budget. ([MABE Testimony](#))

Procurement

Bills pending in 2016 arise from a longstanding legal dispute regarding the Baltimore County School System’s use of cooperative purchasing for roofing repair materials. MABE opposes [SB 515](#) and [HB 330](#) because this legislation would introduce confusing and unnecessary definitions and further amend the section of the Education Article governing procurements by local boards of education. Local boards and school facilities and procurement staff are deeply concerned about the unintended consequences of introducing the new definitions proposed for “commodities”, “construction”, “goods”, and “improvement”. The goal of these bills is to prevent the practice of purchasing roofing repair materials and services through cooperative purchasing; which runs counter to the legislature’s intent that local boards optimize cost savings and efficiencies which are enhanced through cooperative purchasing.

In 2015 and several prior sessions MABE joined the Baltimore County Board of Education in opposing a local bill to prohibit the purchase of roofing repair services for public schools through an intergovernmental purchasing cooperative. MABE opposed this legislation as conflicting with the intent of the Public School Facilities Act of 2004 (Chapters 306/307, Laws of Maryland 2004), which authorized new methods of financing school facility projects. The legislation authorized local school systems to use “alternative financing methods” for public school construction in accordance with regulations adopted by the Board of Public Works. In addition, this legislation allowed school systems to use alternative methods of project delivery, and to procure school construction by methods other than competitive bidding.

Importantly, the Maryland Court of Appeals had already ruled in favor of the Baltimore County Board of Education, finding that a county board of education, which must ordinarily procure construction services through a locally-conducted competitive bid process, may purchase roofing repair services for public schools through an intergovernmental purchasing cooperative when it acts pursuant to authority granted by the Board of Public Works in regulations authorized by the General Assembly (*Building Materials Corp. of America v. Board of Education of Baltimore County*, No. 71, September Term 2011).

Bill Status & Hearing Dates

[Bill Tracking Report](#) and [Hearing Schedule](#) (as of March 10, 2016)

Bill Hearing & Briefing Highlights

Bill Title	Hearing Schedule	MABE Position
HB 551 - Education - Children With Disabilities - Individualized Education Program Mediation	<u>Ways and Means</u> 3/14/2016 - 1:00 p.m.	No Position
HB 771 - Public and Nonpublic Schools - Student Diabetes Management Program	<u>Ways and Means</u> 3/14/2016 - 1:00 p.m.	Oppose
HB 1105 - Howard County Public School System - Access to Public Information Ho. Co. 9-16	<u>Ways and Means</u> 3/14/2016 - 1:00 p.m.	Local – No Position
HB 1410 - Teacher Induction, Retention, and Advancement Act of 2016	<u>Ways and Means</u> 3/14/2016 - 1:00 p.m.	Oppose
HB 725 - Handguns - School Employees - Handgun Permits and Carrying Weapons on School Property	<u>Judiciary</u> 3/15/2016 - 1:00 p.m.	Oppose
HB 1147 - Carroll County - Board of Education Members - Term Limitation	<u>Ways and Means</u> 3/15/2016 - 1:00 p.m.	Local – No Position
SB 83 - Public Safety - School Safety Enforcement Fund	<u>Appropriations</u> 3/15/2016 - 1:00 p.m.	Support
SB 755 - State Department of Education - Breakfast and Lunch Programs - Funding (Free School Meals for Students From Low- and Middle-Income Families Act)	<u>Budget and Taxation</u> 3/15/2016 - 2:30 p.m.	Support
SB 756 - Primary and Secondary Education - Breakfast Program - School Requirements (Breakfast After the Bell Act)	<u>Budget and Taxation</u> 3/15/2016 - 2:30 p.m.	Oppose
HB 430 - Education - Student Data Privacy Council	<u>Education, Health, and Environmental Affairs</u> 3/16/2016 - 1:00 p.m.	Support
SB 989 - Washington County Board of Education - Access to Public School Courses - Nonpublic School Students	<u>Education, Health, and Environmental Affairs</u> 3/16/2016 - 1:00 p.m.	Local – No Position
SB 1041 - Education - Digital Equity for All Act	<u>Education, Health, and Environmental Affairs</u> 3/16/2016 - 1:00 p.m.	Support w/Amendments
SB 1142 - State Department of Education - McArdle Early Intervention Scholarship Program	<u>Education, Health, and Environmental Affairs</u> 3/16/2016 - 1:00 p.m.	Oppose
SB 515 / HB 330 - County Boards of Education - Procurements for Construction or Repair of School Projects	<u>Budget and Taxation</u> 3/17/2016 - 1:30 p.m. <u>Appropriations</u> 3/22/2016 - 1:00 p.m.	Oppose
SB 711 - Prevailing Wage Rates Reform Act of 2016	<u>Finance</u> 3/17/2016 - 1:00 p.m.	Oppose
SB 832 - Education - Grounds for Discipline	<u>Finance</u> 3/17/2016 - 1:00 p.m.	Oppose
SB 1125 - Education - Maryland Extended Day and Summer Enhancement Programs Act	<u>Budget and Taxation</u> 3/17/2016 - 1:30 p.m.	Support

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.

[Annapolis Advocacy Center](#)

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.

[State Board Advocacy Center](#)

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.

[Federal Advocacy Center](#)

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.

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Maryland Association of Boards of Education
621 Ridgely Avenue, Suite 300
Annapolis, Maryland 21401
www.mabe.org