

March 30, 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](#).

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### Session Update

With two weeks of legislative session remaining, MABE continues to monitor and lobby on a record number of bills pending before the General Assembly. MABE has compiled a [Priority Bill Tracking Report](#) to focus on pending bills which are passing, or which we oppose and continue to monitor. The most ominous, but surprisingly promising, policy issue that is currently pending is the bill to reform the management of medical care for students with diabetes. Another area of contention involves the several bills pertaining to student assessments. But in the past few days, the hottest topic is the fact that the budget conference committee members concluded work on the FY 2017 State Budget (Senate Bill190) – and included a nonpublic student voucher program. These issues, and more, are described below.

### Labor Relations Board Appointments

MABE is pleased that John Hayden, the association's appointee to the Public School Labor Relations Board (PSLRB), has been confirmed by the Senate; as has the Governor's appointee, Dr. Betty Morgan. John Hayden, as an attorney and former Baltimore County Board of Education member, and Dr. Morgan, as a nationally recognized education leader and former superintendent

of the Washington County school system, are welcomed additions to the five member PSLRB responsible for resolving collective bargaining disputes.

## **Priority Bill Updates**

The Senate has passed [Senate Bill 905](#), the “Thornton 2.0” legislation to create the Commission on Innovation and Excellence in Education and the House has now passed similar legislation, [House Bill 999](#). The House did adopt amendments which limit the scope of local school system master plan updates through calendar year 2017 to include updates on student assessments and the performance of students requiring special education and limited English proficient students. In addition, the amendments require MSDE to convene a group of stakeholders to review the current statutory and regulatory requirements of the master plan and the new requirements of the federal Every Student Succeeds Act (ESSA).

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.

## **Prekindergarten Funding**

House Bill 1433 and Senate Bill 461 have not moved, and are not expected to, but the [revised fiscal estimate](#) provided to the bill sponsors clearly demonstrates the unmet funding needs of providing mandated prekindergarten, and the corresponding costs to local governments and the state to fulfill a true per pupil amount of funding for these students. The Department of Legislative Services (DLS) analysis reflects amendments drafted to the bill to include the state and local shares of the per pupil share of the foundation amount, and the additional per pupil funding provided under the compensatory education funding formula. This approach yields over \$85 million in additional state aid and \$43 million in local aid. MABE believes the work to introduce and air this legislation will play a significant role as the General Assembly considers the recommendations of the adequacy study and long-term reforms developed by the Funding Commission.

## **The Budget & Vouchers**

Senate Bill 190, the FY 2017 State Budget Bill, includes full funding for State Aid to Education called for under current law in accordance with the Bridge to Excellence Act formulas, including categorical funding for the State share of the Foundation Program, Compensatory Education, Limited English Proficient, Special Education, Nonpublic Special Education, Guaranteed Tax Base Program, Geographic Cost of Education Index (GCEI), Food Services, Student Transportation, Child Care Subsidy Program, and other programs.

In addition to these items, the budget includes \$80 million for a variety of programs, which the Governor may appropriate for these purposes, or the entire amount will revert to the General Fund and will not be spent at all. Of this \$80 million, local school system items include \$19 million to assist school systems in paying the State Retirement Agency for teacher retirement costs; and \$6 million in Aging Schools Program funding. This “fenced off” funding is at the Governor’s discretion to appropriate (in the same posture as the GCEI funding in last year’s budget bill).

## **BOOST in the Budget**

The State Budget Bill was amended in Conference Committee to include something referred to as the Broadening Options and Opportunity for Students and Teachers (BOOST) program within MSDE, and not in the manner envisioned by the BOOST Bill, House Bill 1213, or the approaches of the other tax credit financed voucher bills described below.

On Monday March 28<sup>th</sup> the budget conferees agreed to a [Conference Committee Amendment](#) to establish the Broadening Options and Opportunity for Students and Teachers (BOOST) program within MSDE as a direct private school student voucher program. The \$5 million appropriation to MSDE would fund student scholarships to students eligible for free and reduced price meals and attending nonpublic schools participating in the existing textbook and computer hardware local program for nonpublic schools. The budget language establishes other criteria for schools to be eligible to participate, including compliance with federal and state anti-discrimination laws. A BOOST Advisory Board will review and certify the ranked list of applicants for student scholarships and determine the award amounts. The advisory board will be comprised of 2 members appointed by the Governor, 2 by the Speaker of the House, 2 by the President of the Senate, and a member appointed jointly by the President and Speaker to serve as chair.

## **Background**

[Senate Bill 706/House Bill 1343](#) and [House Bill 453](#) were introduced to establish the Maryland Education Credit program. 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 has passed the Senate and is pending before the House Ways and Means Committee. The BOOST bill, [House Bill 1213](#), would create a Broadening Options and Opportunity for Students and Teachers (BOOST) program within the Department of Commerce (DOC) to provide scholarships to eligible students who attend approved schools. Again, the program adopted in the State Budget Bill is a completely different program and approach to funding private school vouchers.

## **Diabetes Management in Schools**

As introduced and passed by the Senate, [Senate Bill 71](#) would require MSDE and DHMH, in consultation with other experts and stakeholders, to establish guidelines for the training of volunteer school employees to become trained diabetes care providers. Each local board of education would be required to establish a Student Diabetes Management Program in all schools that includes training for employee volunteers to provide diabetes care services to students. The bill would require a school nurse or trained diabetes care provider to be available during school hours and, when possible, at school-sponsored activities, including field trips and extracurricular activities. MABE continues to oppose this legislation based on concerns with the inherent risks in training and relying on non-medical staff to administer medication, and scope of the fiscal impact and legal liabilities arising from this approach. 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 medication.

However, in the House Ways and Means Committee a compromise bill is being developed following a very productive work session, with the full participation of the American Diabetes Association, MSDE, DHMH, MABE, PSSAM, Maryland Nurses Association, and School Nurses Association. Although not finalized, it appears likely that House Bill 771 may pass with amendments to clarify the authority of MSDE and DHMH to adopt and enforce guidelines, including many of the best practices and procedures sought by the advocates, while at the same time preserving the key role of school nurses in overseeing and delivering student health services.

## **Student Assessments - Reports, Best Practices, Restrictions and Timelines**

MABE opposes all of the following bills, and offered written and oral testimony to emphasize that A) MABE supports local decision-making authority in developing curriculum and assessments, in conjunction with the State Board of Education, as these entities are charged with the responsibility to research, investigate, and evaluate curriculum and assessments, and are ultimately accountable for student performance; and B) the Commission to Review Maryland's Use of Assessments and Testing in Public Schools was recently created by the legislature, and should be allowed to continue its work to develop recommendations regarding "how local school systems and the State can improve the process in which local, State, and federally mandated assessments

are administered and used to inform instruction” (House Bill 452, 2015). With broad bipartisan support, and notwithstanding staunch opposition from MABE and PSSAM, the House and Senate have taken the following actions on testing legislation.

## **Assessments – Limits on Testing**

[House Bill 141](#) passed in the House, and its Senate cross-file, Senate Bill 407, has not been considered following the bill hearing. House Bill 141 would require the State Board of Education to adopt regulations that limit the amount of time that may be devoted to federal, State, and locally mandated assessments for each grade to 2% of the minimum required annual instructional hours. The bill defines “assessment” as a locally, state, or federally mandated test that is intended to measure a student’s academic readiness, learning progress, and skill acquisition. Time devoted to teacher-selected classroom quizzes and exams, portfolio reviews, or performance assessments may not be counted toward this testing limit.

## **Assessments – Reports**

[House Bill 1233](#) passed the House, and would require each local board of education to annually review and update a list of standardized tests and any other mandated assessments required to be administered by a local school system by grade and content area, including detailed information on each test. These reports on assessments must be provided to parents on or before the first day the academic quarter; and the only substantive amendment is the removal of the requirement to email the report to parents.

The assessment report must include:

- The subject area of the test or assessment;
- The date range for the administration of the test or assessment;
- Any accommodation or accessibility options available to students for the test or assessment;
- To the extent practicable, the manner in which the results may be used, including whether results may be used for specified purposes;
- Information on how and when the student and the parent or guardian may access the results; and
- Whether the test or assessment is a local, State, or federally mandated test or assessment.

## **Assessments – Best Practices**

As amended and passed in the House, [House Bill 397](#) would require MSDE to develop a set of best practices that the department and local school systems must consider when deciding whether to administer an assessment or test to students. The best practices, to the extent practicable, must include whether an assessment or test:

- Is aligned with State curriculum and content;
- Is developed in collaboration with teachers and be of high quality;

- Provides timely and understandable feedback to the local school systems, teachers, and parents;
- Effectively measures critical thinking skills, complex skills, and subject mastery;
- Provides an accurate measure of student achievement and student growth;
- Promotes a level playing field for English language learners and students who receive special education accommodations;
- Limits the impact on instructional time and required time out of other classes; and
- Addresses any other principles recommended by MSDE.

In addition, if the assessment or test is formative, the best practices must consider whether the assessment is designed to inform instruction or have a clear purpose; and whether it allows for individualization of student instruction.

## **Assessments – Reports and Delay in Revising State Assessments**

[House Bill 412](#) and [Senate Bill 533](#), bills sponsored by Delegate Anne Kaiser and Senator Paul Pinsky, the respective Education Subcommittee chairs of the House Ways and Means and Senate Education Committee, have passed with amendments and are now identical as amended.

Both bills, as amended, would require school systems to provide information, posted on school system websites, relating to each locally, state or federally mandated test administered in a local school system that includes the title, purpose, grade level or subject area tested, testing window, and accommodations for students with special needs.

In addition, these bills would extend to the 2018-2019 school year the period of time by which MSDE must determine whether the state assessments in the core content areas of reading, language, mathematics, science and social studies adequately measure the skills and knowledge set forth in the state's adopted curricula; and to develop state-specific assessments in one or more of these areas. This bill amends current law, which requires MSDE to do so by the 2016-2017 school year.

## **Parental Consent on IEP Decisions**

The Senate has approved [Senate Bill 950](#), which would require MSDE to convene a workgroup in consultation with stakeholders, including MABE, to review special education statutes and regulations, make specified determinations regarding "parental consent", discuss specified issues, and make specified recommendation on or before November 15, 2016 to specified committees of the General Assembly. The House has taken no action on its version of the bill, [House Bill 778](#). MABE no longer opposes the Senate bill as amended, and looks forward to participating in the workgroup's discussions if the bill is reported favorably in the House.

MABE strongly opposed the bill as introduced, which would have required 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 have required the school system to comply with the parent's decision or proceed to appeal through the mediation and due process hearing procedures.

### **Other Special Education Bills Pending and Passing**

[HB 85](#) – This bill has passed the House and Senate. 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 legislation are now opposing.

[HB 551](#) – This bill has passed the House and 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.

## **MABE's Advocacy Centers**

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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