

BILL: Senate Bill 640
TITLE: Primary and Secondary Education - Maintenance of Effort Requirements - Alterations
POSITION: SUPPORT
DATE: February 23, 2022
COMMITTEE: Budget and Taxation
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The Maryland Association of Boards of Education (MABE), representing all of the State's local boards of education, supports Senate Bill 640 as critically important to assuring all Marylanders, students and families, teachers and administrators, that local governments must uphold their end of the bargain to sustain their share of education funding as the State funds its share of the Blueprint for Maryland's Future.

Under the maintenance of effort requirement, each county government, including Baltimore City, must provide on a per pupil basis at least as much funding for the local school board as was provided in the local appropriation in the prior fiscal year. The General Assembly established the maintenance of effort requirement for public school funding in 1984 to ensure that the cost of education is shared between the State and each local government in a predictable and stable manner.

MABE urges passage of this legislation to prevent dire reductions in local funding based on lower enrollment counts as schools reopened in the fall of 2021 after the school closures ordered by state officials throughout the pandemic. Fortunately, the students are returning in large numbers, but enrollment growth continues to lag in the earliest grades. Senate Bill 640 will guarantee a smooth transition from FY 2022 through FY 2023, to ensure adequate funding for the 2022-2023 school year, when enrollment is reasonably expected to continue to grow. In this way, Senate Bill 640 will prevent a gap from forming between the prior year and next year's funding levels, a gap that would be particularly damaging at the outset of the implementation of the Blueprint.

The Blueprint includes major revisions to maintenance of effort, most notably by mandating that local governments fund whichever amount is higher, maintenance of effort or the total local share each local government must provide under the Blueprint in categorical funding for student groups and programs. In time, the local share will generally emerge as the larger of the two amounts, and become the new mandatory minimum funding floor. In the early years of the Blueprint, however, maintenance of effort will continue to be the bulwark to assure adequate local funding to complement the increased State investments through the Blueprint.

Again, maintenance of effort is a funding floor, not a ceiling, and the General Assembly must remain vigilant in monitoring and enforcing the local share of what constitutes the combined total of adequate and equitable funding for our public schools. This is the constitutional mandate on which the sustained success of Maryland's nationally recognized public education, and the transformations to come under the Blueprint, are to be built. And nearly 900,000 public school students are relying on the General Assembly to uphold that constitutional promise regarding not only state funding, but also local funding.

Importantly, the maintenance of effort law has been amended in the past to respond to both economic downturn and economic recovery, and both reinforced with more stringent rules for local governments, and expanded to provide local governments greater flexibility through a range of waiver options. MABE believes that Senate Bill 640 fits within this framework as a timely stop-gap measure to guarantee the stability and sustainability at the core of the legislature's intent in establishing the maintenance of effort law.

The maintenance of effort law first enacted in 1984 was not amended until 1996, when a waiver process was enacted to allow a county, or Baltimore City, to reduce funding based on declining enrollment, to allow non-recurring cost waivers for one-time investments and hardship waivers from the State Board of Education. During the “great recession” such hardship waivers were requested, and initially denied, leading to major discord between local governments and local school systems.

A dispute arose between county governments and boards of education regarding the interpretation, or re-interpretation, of the maintenance of effort law. The dispute centered on whether the minimum amount of local funding called for by maintenance of effort was, in fact, a mandate; and if so, based on what definition of local funding. This dispute involved amendments inserted into the Budget Reconciliation Act and a declaratory ruling by the State Board of Education. These amendments and State Board ruling were followed immediately by county appropriations far below what was long-held to be the maintenance of effort funding floor. These local government actions prompted advocacy for maintenance of effort reform legislation which was enacted as emergency legislation in 2012.

The 2012 maintenance of effort reform legislation expanded the number of factors the State Board must consider in reviewing waiver requests, and created several new types of waivers. The law expanded the types of waivers available to local governments to include “rebasings” waivers for counties making above-average education effort, and “recurring cost” waivers if agreed to by counties and school systems. At the same time, the reforms strengthened the State’s enforcement authority to ensure that local governments meet the minimum maintenance of effort funding floor. MABE firmly believes that the existing statutory and regulatory framework allows local governments to apply for and receive approval for maintenance of effort waivers, provides very clear minimum funding thresholds, and includes several avenues for waivers and exceptions through clearly articulated processes.

One of the key enforcement measures adopted in 2012 is referred to as the local funding “escalator” because it can require a county with below-average education effort to increase its minimum maintenance of effort appropriation by up to 2.5% in accordance with increases in local or state wealth per pupil. This provision has been essential to sustaining local investments in school systems struggling to meet rising costs of doing business with otherwise flat local appropriations. FY 2023 is the final year of the operation of the “escalator” as it is repealed by the Blueprint in favor of the mandate that local governments provide the higher amount calculated by of maintenance of effort or the “local share” of Blueprint formulas. Senate Bill 640 is greatly needed at this time to provide every reasonable assurance that reductions in local funding not impede the progress and promise of the Blueprint.

For these reasons, MABE urges a favorable report on Senate Bill 640.