

SENATE BILL 848

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2lr1506
CF 2lr2128

By: **Senator King**

Introduced and read first time: February 3, 2012

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Education – Maintenance of Effort – Waivers**

3 FOR the purpose of requiring a county to apply to the State Board of Education for a
4 waiver from the maintenance of effort requirement under certain
5 circumstances; establishing a penalty for a county that fails to apply for a
6 waiver and fails to fund the maintenance of effort requirement; establishing the
7 following year's required maintenance of effort amount under certain
8 circumstances; requiring the State Board to grant a waiver request if the county
9 has exceeded the maintenance of effort requirement by a certain amount and
10 has at least a certain local effort; altering certain dates by which a county and
11 the State Board must take certain actions; requiring the State Superintendent
12 of Schools to provide a preliminary assessment of a county's waiver request to
13 the State Board; requiring the State Board to hold a public hearing at a certain
14 time; requiring the State Board to consider certain factors when making a
15 decision whether to grant a certain waiver; requiring the State Board to grant a
16 waiver if a county has satisfied certain requirements; limiting the amount of a
17 waiver by a certain amount; establishing the required maintenance of effort
18 amount for the fiscal year following a waiver; defining certain terms; and
19 generally relating to education funding.

20 BY repealing and reenacting, without amendments,
21 Article – Education
22 Section 5–202(d)(1)
23 Annotated Code of Maryland
24 (2008 Replacement Volume and 2011 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article – Education
27 Section 5–202(d)(7)
28 Annotated Code of Maryland
29 (2008 Replacement Volume and 2011 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Education
3 Section 5–202(d)(9)
4 Annotated Code of Maryland
5 (2008 Replacement Volume and 2011 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article – Education**

9 5–202.

10 (d) (1) To be eligible to receive the State share of the foundation program:

11 (i) The county governing body shall levy an annual tax
12 sufficient to provide an amount of revenue for elementary and secondary public
13 education purposes equal to the local share of the foundation program; and

14 (ii) The county governing body shall appropriate local funds to
15 the school operating budget in an amount no less than the product of the county's
16 full-time equivalent enrollment for the current fiscal year and the local appropriation
17 on a per pupil basis for the prior fiscal year.

18 (7) (i) **SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,**
19 **IF A COUNTY'S ABILITY TO FUND THE MAINTENANCE OF EFFORT REQUIREMENT**
20 **IN PARAGRAPH (1)(II) OF THIS SUBSECTION IS IMPEDED, THE COUNTY SHALL**
21 **APPLY TO THE STATE BOARD FOR A WAIVER UNDER PARAGRAPH (8) OF THIS**
22 **SUBSECTION.**

23 **(II) IF A COUNTY FAILS TO APPLY TO THE STATE BOARD**
24 **FOR A TEMPORARY OR PARTIAL WAIVER FROM THE MAINTENANCE OF EFFORT**
25 **REQUIREMENT AND FAILS TO MEET THE MAINTENANCE OF EFFORT**
26 **REQUIREMENT:**

27 1. **A PENALTY SHALL BE ASSESSED AS PROVIDED IN**
28 **§ 5–213 OF THIS SUBTITLE; AND**

29 2. **THE MINIMUM APPROPRIATION OF LOCAL FUNDS**
30 **REQUIRED UNDER THIS SUBSECTION FOR THE NEXT FISCAL YEAR SHALL BE**
31 **CALCULATED BASED ON THE PER PUPIL LOCAL APPROPRIATION FOR THE PRIOR**
32 **FISCAL YEAR OR THE SECOND PRIOR FISCAL YEAR, WHICHEVER IS GREATER.**

1 **(8) (I)** The provisions of this subsection do not apply to a county if
2 the county is granted a temporary waiver or partial waiver from the provisions by the
3 State Board of Education based on a determination that:

4 1. [the] **THE** county's fiscal condition significantly
5 impedes the county's ability to fund the maintenance of effort requirement; **OR**

6 2. **A COUNTY HAS SATISFIED THE REQUIREMENTS IN**
7 **PARAGRAPH (9) OF THIS SUBSECTION.**

8 (ii) [After a public hearing, the State Board of Education may
9 grant a waiver under this paragraph in accordance with its regulations.

10 (iii) In order to qualify for the waiver under this paragraph **OR**
11 **UNDER PARAGRAPH (9) OF THIS SUBSECTION** for a fiscal year, a county shall make
12 a request for a waiver to the State Board [of Education] by [April 1] **THE EARLIER OF**
13 **THE SEVENTH DAY FOLLOWING THE END OF THE LEGISLATIVE REGULAR**
14 **SESSION OR APRIL 20** of the prior fiscal year.

15 **(III) THE STATE SUPERINTENDENT SHALL PROVIDE A**
16 **PRELIMINARY ASSESSMENT OF A WAIVER APPLICATION TO THE STATE BOARD**
17 **PRIOR TO ANY PUBLIC HEARING UNDER SUBPARAGRAPH (IV) OF THIS**
18 **PARAGRAPH.**

19 **(IV) THE STATE BOARD SHALL HOLD A PUBLIC HEARING**
20 **BEFORE ACTING ON AN APPLICATION FOR A WAIVER UNDER THIS PARAGRAPH**
21 **IN ACCORDANCE WITH REGULATIONS.**

22 **(V) EXCEPT AS PROVIDED IN PARAGRAPH (9) OF THIS**
23 **SUBSECTION, WHEN CONSIDERING WHETHER TO GRANT A COUNTY'S WAIVER**
24 **APPLICATION, THE STATE BOARD SHALL CONSIDER THE FOLLOWING FACTORS:**

25 1. **EXTERNAL ENVIRONMENTAL FACTORS SUCH AS A**
26 **LOSS OF A MAJOR EMPLOYER OR INDUSTRY AFFECTING A COUNTY OR A BROAD**
27 **ECONOMIC DOWNTURN AFFECTING MORE THAN ONE COUNTY;**

28 2. **A COUNTY'S TAX BASE;**

29 3. **RATE OF INFLATION RELATIVE TO GROWTH OF**
30 **STUDENT POPULATION IN A COUNTY;**

31 4. **MAINTENANCE OF EFFORT REQUIREMENT**
32 **RELATIVE TO A COUNTY'S STATUTORY ABILITY TO RAISE REVENUES;**

1 **5. A COUNTY'S HISTORY OF EXCEEDING THE**
2 **REQUIRED MAINTENANCE OF EFFORT AMOUNT UNDER PARAGRAPH (1) OF THIS**
3 **SUBSECTION;**

4 **6. AN AGREEMENT BETWEEN A COUNTY AND A**
5 **COUNTY BOARD THAT A WAIVER SHOULD BE GRANTED; AND**

6 **7. SIGNIFICANT REDUCTIONS IN STATE AID TO A**
7 **COUNTY AND MUNICIPALITIES OF THE COUNTY FOR THE FISCAL YEAR FOR**
8 **WHICH A WAIVER IS APPLIED.**

9 **[(iv)] (VI) The State Board [of Education] shall inform the**
10 **county whether the waiver for a fiscal year is approved or denied in whole or in part**
11 **[by May 15 of the prior fiscal year] NO LATER THAN 30 DAYS AFTER RECEIPT OF**
12 **AN APPLICATION OR MAY 20 OF THE PRIOR FISCAL YEAR, WHICHEVER IS**
13 **EARLIER.**

14 **[(v)] (VII) [If] EXCEPT AS PROVIDED IN PARAGRAPH (9) OF**
15 **THIS SUBSECTION, IF the State Board [of Education] grants a county a temporary**
16 **waiver or partial waiver from the provisions of this subsection for any fiscal year, the**
17 **minimum appropriation of local funds required under this subsection for the county to**
18 **be eligible to receive the State share of the foundation program for the next fiscal year**
19 **shall be calculated based on the per pupil local appropriation for the prior fiscal year**
20 **or the second prior fiscal year, whichever is greater.**

21 **(9) (I) IN THIS PARAGRAPH, "LOCAL EFFORT" MEANS A**
22 **COUNTY'S EDUCATION APPROPRIATION DIVIDED BY THE COUNTY'S WEALTH.**

23 **(II) THIS PARAGRAPH APPLIES TO A COUNTY THAT HAS:**

24 **1. EXCEEDED THE MAINTENANCE OF EFFORT**
25 **REQUIREMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION BY AN AVERAGE**
26 **OF AT LEAST 5% IN THE PRIOR 5 FISCAL YEARS; AND**

27 **2. AN AVERAGE LOCAL EFFORT OF AT LEAST 1% IN**
28 **THE PRIOR 5 FISCAL YEARS.**

29 **(III) THE STATE BOARD SHALL GRANT A WAIVER REQUEST**
30 **IF THE COUNTY SATISFIES THE REQUIREMENTS IN SUBPARAGRAPH (II) OF THIS**
31 **PARAGRAPH.**

32 **(IV) THE AMOUNT OF THE WAIVER MAY NOT EXCEED 10% OF**
33 **THE AVERAGE OF THE COUNTY'S MAINTENANCE OF EFFORT APPROPRIATION IN**
34 **THE PRIOR 5 FISCAL YEARS.**

1 **(v) FOR THE FISCAL YEAR FOLLOWING A WAIVER, THE**
2 **MINIMUM APPROPRIATION OF LOCAL FUNDS REQUIRED UNDER THIS**
3 **SUBSECTION FOR THE COUNTY TO BE ELIGIBLE TO RECEIVE THE STATE SHARE**
4 **OF THE FOUNDATION PROGRAM FOR THE NEXT FISCAL YEAR SHALL BE**
5 **CALCULATED BASED ON THE PER PUPIL LOCAL APPROPRIATION FOR THE PRIOR**
6 **FISCAL YEAR APPROVED BY THE STATE BOARD UNDER THIS PARAGRAPH.**

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 July 1, 2012.