

BILL: House Bill 1383
TITLE: Howard County Board of Education - Liquidated Damages - Policy and Requirements Ho. Co. 3-24
DATE: March 12, 2024
POSITION: OPPOSE
COMMITTEE: Health and Government Operations
CONTACT: John R. Woolums, Esq.

The Maryland Association of Boards of Education (MABE) opposes House Bill 1383, a local bill introduced to effect only the procurement, contracting, and decision-making procedures and practices for the Howard County Public Schol System. MABE may take positions on local bills and is doing so in this case to oppose this bill.

MABE opposes House Bill 1383 based on the same concerns and objections raised by the Howard County Board of Education. This bill would impose very narrow restrictions on the school system by mandating that contracts include liquidated damages provisions or, in the alternative, that the local board provide explanations of why contracts do not include such provisions, and even vote on decisions on whether to pursue or enforce liquidated damages provisions of contracts.

Specifically, the bill would inappropriately mandate that student transportation procurement contracts valued at \$1 million dollars or more must include a liquidated damages clause unless voted on by the Board of Education. Similarly, the bill would call for board votes on decisions to not pursue liquidated damages when a breach of contract has occurred. In these ways, House Bil 1383 would restrict and condition the local board's decision-making authority. MABE shares the concerns articulated in the school systems testimony in opposition to this bill, including the legal concerns raised about the conditions placed on board decisions regarding contract enforcement and pursuit of liquidated damages. Local board decisions in response to breaches of contracts should remain within the purview of local boards and superintendents on advice of counsel and relative to many nuanced factors.

MABE is overall quite confident that the current state laws and regulations governing local school system procurements are sufficient in scope and clarity to provide the appropriate degree of accountability and flexibility to not only ensure sound procurement practices but also optimize cost savings for taxpayers. Local school systems, and professional purchasing and procurement staff, rely on a well-established understanding of the existing procurement law under the Education Article, State Finance and Procurement Article, and State regulations.

For these reasons, MABE requests an unfavorable report on House Bill 1383.