
By: **Delegate Snodgrass**

Introduced and read first time: February 13, 1998

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Elected County Boards of Education - Fiscal Accountability**

3 FOR the purpose of requiring elected county boards of education to impose, by
4 resolution, a property tax to provide funding for public school operations and
5 expenses; providing that the property tax is in addition to the county property
6 tax; providing for the collection and administering of the property tax;
7 authorizing the elected county boards to provide for the issuance of bonds and
8 other evidences of indebtedness; requiring that the proceeds from the issuance
9 of bonds and other evidences of indebtedness be used for certain purposes;
10 providing for the tax-exempt nature of the bonds and other evidences of
11 indebtedness; requiring the elected county board to appropriate in an annual
12 budget a certain minimum amount; requiring the elected county board to spend
13 revenues in a certain manner; requiring the property tax rate to be set by the
14 elected county board at a certain level for a certain fiscal year; requiring certain
15 counties to reduce their property tax rate by a certain amount for a certain fiscal
16 year; authorizing certain counties to appropriate funds for the county board of
17 education; making technical changes; providing for a delayed effective date; and
18 generally relating to the fiscal accountability of elected boards of education.

19 BY adding to
20 Article - Education
21 Section 3-115, 3-116, 3-117, 5-103.1, 5-104.1, and 5-105.1
22 Annotated Code of Maryland
23 (1997 Replacement Volume and 1997 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article - Education
26 Section 4-123(c), 5-102, 5-103, 5-104, 5-105, 5-107, 5-109, 5-110, 5-113,
27 5-201(e), 5-202(b)(1), (2), and (3)(i), (ii), and (iii)
28 Annotated Code of Maryland
29 (1997 Replacement Volume and 1997 Supplement)

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

1

Article - Education

2 3-115.

3 (A) AN ELECTED COUNTY BOARD UNDER THIS PART III, BY RESOLUTION,
4 SHALL IMPOSE A PROPERTY TAX ON THE ASSESSABLE PROPERTY OF THE COUNTY TO
5 PROVIDE FUNDING FOR PUBLIC SCHOOL OPERATIONS AND EXPENSES IN THE
6 COUNTY AS PROVIDED IN § 5-104.1 OF THIS ARTICLE.

7 (B) THE PROPERTY TAX AUTHORIZED UNDER SUBSECTION (A) OF THIS
8 SECTION IS IN ADDITION TO THE COUNTY'S PROPERTY TAX.

9 (C) THE PROPERTY TAX:

10 (1) SHALL BE COLLECTED IN THE SAME MANNER THAT THE STATE AND
11 COUNTY PROPERTY TAXES ARE COLLECTED IN THE COUNTY; AND

12 (2) IS SUBJECT TO THE SAME EXEMPTIONS, CREDITS, PAYMENT
13 REQUIREMENTS, AND ENFORCEMENT PROVISIONS THAT APPLY TO THE COUNTY
14 PROPERTY TAX UNDER THE TAX - PROPERTY ARTICLE, INCLUDING IMPOSITION OF A
15 LIEN ON REAL PROPERTY FOR UNPAID TAXES, IMPOSITION OF INTEREST AND
16 PENALTY DUE ON OVERDUE TAXES, AND PROVISIONS RELATING TO TAX SALES.

17 (D) THE COUNTY SHALL REMIT THE TAXES COLLECTED DURING ANY MONTH,
18 AND INTEREST OR PENALTIES ON THE TAXES COLLECTED, TO THE OFFICIAL
19 DESIGNATED BY THE COUNTY BOARD TO RECEIVE THE TAXES.

20 3-116.

21 (A) THE COUNTY BOARDS MAY PROVIDE FOR THE ISSUANCE OF BONDS OR
22 OTHER EVIDENCES OF INDEBTEDNESS PAYABLE FROM THE TAXES OR OTHER
23 SOURCES AS MAY HAVE BEEN OR MAY BE IMPOSED IN ACCORDANCE WITH § 3-115 OF
24 THIS SUBTITLE.

25 (B) THE PROCEEDS FROM THE ISSUANCE OF THE BONDS OR OTHER
26 EVIDENCES OF INDEBTEDNESS MAY ONLY BE USED FOR PUBLIC SCHOOL
27 CONSTRUCTION AND PUBLIC SCHOOL CAPITAL IMPROVEMENT PROJECTS.

28 (C) THE BONDS, NOTES, AND ANY OTHER EVIDENCES OF OBLIGATION ISSUED
29 UNDER THIS SECTION, THEIR TRANSFER, THE INTEREST PAYABLE ON THEM, AND
30 ANY INCOME DERIVED FROM THEM, INCLUDING ANY PROFIT REALIZED IN THEIR
31 SALE OR EXCHANGE, SHALL BE EXEMPT AT ALL TIMES FROM EVERY KIND AND
32 NATURE OF TAXATION BY THIS STATE, OR BY ANY OF ITS POLITICAL SUBDIVISIONS,
33 MUNICIPAL CORPORATIONS, OR PUBLIC AGENCIES OF ANY KIND.

34 3-117.

35 FOR EACH FISCAL YEAR, BEGINNING ON JULY 1 AND ENDING ON JUNE 30 OF
36 THE SUBSEQUENT YEAR, THE COUNTY BOARD SHALL ADOPT A BUDGET THAT
37 CONTAINS THE ESTIMATES OF REVENUE ANTICIPATED AND THE PROPOSED

1 EXPENDITURES FOR DEBT SERVICE ON BONDS ISSUED BY THE COUNTY BOARD AND
2 FOR OTHER PAYMENTS AUTHORIZED BY THIS PART III OF THIS SUBTITLE OR OTHER
3 LAW AND AS OTHERWISE REQUIRED UNDER TITLE 5 OF THIS ARTICLE.

4 4-123.

5 (c) (1) Before any agreement made BY AN APPOINTED COUNTY BOARD
6 under subsection (b) of this section becomes effective, it shall:

7 (i) Be approved by the county governing body; and

8 (ii) Be submitted to the Attorney General.

9 (2) If the Attorney General finds that the agreement is not in proper
10 form or not compatible with the laws of this State, the Attorney General shall give
11 written details to the governing body of each public agency concerned as to how the
12 proposed agreement fails to meet the requirements of law.

13 5-102.

14 (a) In this subtitle, "county council" means, in Baltimore City, the Mayor and
15 City Council of Baltimore.

16 (B) THIS SECTION DOES NOT APPLY TO A COUNTY THAT HAS AN ELECTED
17 COUNTY BOARD.

18 [(b)] (C) (1) Each county board shall submit an annual school budget in
19 writing to the county commissioners, county council, or the county executive.

20 (2) The budget shall be submitted not less than 45 days before the date
21 for levying local taxes or on an earlier date on or after March 1 as may be requested
22 by the county fiscal authority.

23 [(c)] (D) (1) This subsection applies only to a county that has a county
24 governing body that consists of a county executive and county council.

25 (2) The county executive shall indicate in writing which major categories
26 of the annual budget of the county board have been denied in whole or reduced in part
27 and the reason for the denial or reduction.

28 (3) The county council may restore any denial or reduction made by the
29 county executive in the annual budget submitted by the county board.

30 (4) In Baltimore County, the County Council may not restore any denial
31 or reduction made by the County Executive.

32 (5) This item applies to Baltimore County and supersedes item (4) of this
33 subsection only if the voters of Baltimore County approve an amendment to the
34 Baltimore County Charter that grants the County Council the authority to restore
35 any denial or reduction made by the County Executive in the budget submitted by the
36 County Board. The Baltimore County Council may restore any denial or reduction

1 made by the County Executive if it publicly states the amount the restoration
2 represents in the county tax rate.

3 [(d)] (E) (1) In Baltimore City, the City Council may not restore any denial
4 or reduction made by the Mayor.

5 (2) (i) This paragraph applies to Baltimore City and supersedes
6 paragraph (1) of this subsection only if the voters of Baltimore City approve an
7 amendment to the Baltimore City Charter that grants the City Council the authority
8 to restore any denial or reduction made by the Mayor in the budget submitted by the
9 County Board.

10 (ii) The Baltimore City Council may restore any denial or reduction
11 made by the Mayor if it publicly states the amount the restoration represents in the
12 city tax rate.

13 [(e)] (F) (1) Copies of the budget shall be made available to the public, on
14 request, at the time it is submitted by the county board.

15 (2) A copy of the budget as approved by the county commissioners or
16 county council shall be sent to the State Superintendent within 30 days after
17 approval.

18 5-103.

19 (a) THIS SECTION DOES NOT APPLY TO A COUNTY THAT HAS AN ELECTED
20 COUNTY BOARD.

21 (B) The amount requested in the annual budget of each county board for
22 current expenses for the next school year and that is to be raised by revenue from
23 local sources may not be less than the minimum amount required to be levied under
24 § 5-202 of this title.

25 [(b)] (C) The county commissioners or county council may provide funds that
26 are more than the amount required by § 5-202 of this title to support improved and
27 additional programs.

28 [(c)] (D) If a county council or board of county commissioners does not approve
29 the amount requested in the budget that is more than the amount required by §
30 5-202 of this title:

31 (1) The county council or board of county commissioners shall indicate in
32 writing, within 15 days after the adoption of the budget, which major categories of the
33 annual budget have been reduced and the reason for the reduction; and

34 (2) The county board shall submit to the county governing body, within
35 30 days after the adoption of the budget, a report indicating how the alterations to the
36 budget will be implemented, accompanied by reasonable supporting detail and
37 analysis.

1 5-103.1.

2 THE AMOUNT APPROPRIATED IN THE ANNUAL BUDGET OF EACH ELECTED
3 COUNTY BOARD FOR CURRENT EXPENSES FOR THE NEXT SCHOOL YEAR AND THAT IS
4 TO BE RAISED BY REVENUE FROM PROPERTY TAX IMPOSED BY THE ELECTED
5 COUNTY BOARD MAY NOT BE LESS THAN THE MINIMUM AMOUNT REQUIRED TO BE
6 LEVIED UNDER § 5-202 OF THIS TITLE.

7 5-104.

8 (a) THIS SECTION DOES NOT APPLY TO A COUNTY THAT HAS AN ELECTED
9 COUNTY BOARD.

10 (B) Each county council or board of county commissioners shall levy and collect
11 a tax on the assessable property of the county which, together with other local
12 revenue available, including income tax revenues and bond money, and together with
13 estimated revenues and funds from all sources, will produce the amounts necessary to
14 meet the appropriations made in the approved annual budget of the county board.

15 [(b)] (C) (1) Local funds provided for appropriations shall be paid in
16 accordance with the expenditure requirements, as certified by the county board, to
17 the treasurer of the county board on a monthly basis.

18 (2) Appropriations for school construction, permanent improvements,
19 and repairs for special purposes may be required to be paid more frequently on the
20 order of the president and secretary of the county board to the county commissioners,
21 county council, or the county executive.

22 [(c)] (D) (1) Notwithstanding any other provision in this article, this
23 subsection applies to Wicomico County.

24 (2) The Wicomico County Council annually shall pay to the Wicomico
25 County Board the amount of the budget of the County Board that has been approved
26 by the County Council:

27 (i) In 12 equal monthly installments; or

28 (ii) At the times on which the County Council and County Board
29 mutually agree.

30 (3) Taxes levied under this section shall be retained by the county and
31 any annual deficiencies in the tax are the responsibility of Wicomico County.

32 5-104.1.

33 EACH ELECTED COUNTY BOARD SHALL LEVY AND COLLECT A TAX ON THE
34 ASSESSABLE PROPERTY OF THE COUNTY WHICH, TOGETHER WITH BOND MONEY,
35 AND TOGETHER WITH ESTIMATED REVENUES AND FUNDS FROM ALL SOURCES, WILL
36 PRODUCE THE AMOUNTS NECESSARY TO MEET THE APPROPRIATIONS MADE IN THE
37 ANNUAL BUDGET OF THE ELECTED COUNTY BOARD.

1 5-105.

2 (a) THIS SECTION DOES NOT APPLY TO A COUNTY THAT HAS AN ELECTED
3 COUNTY BOARD.

4 (B) All revenues received by a county board shall be spent by the board in
5 accordance with the major categories of its annual budget as provided under § 5-101
6 of this subtitle.

7 [(b)] (C) (1) (i) A transfer may be made within the major categories without
8 recourse to the county commissioners or county council except that a report of the
9 transfer shall be submitted to the county commissioners or county council within 15
10 days after the end of each month.

11 (ii) A report under subparagraph (i) of this paragraph shall include
12 a narrative summary that clearly indicates each transfer.

13 (2) A transfer between major categories shall be made only with the
14 approval of the county commissioners or county council.

15 (3) If the county commissioners or county council fail to take action on a
16 request for transfer between major categories within 30 days after the receipt of a
17 written request substantiating the transfer, the failure to take action constitutes
18 approval.

19 (4) A county board shall submit to the county governing body a report
20 within 15 days after the end of each month if during that month the county board
21 takes any action that would commit the county board to spend more for the current
22 fiscal year in any major category than the amount approved in the annual budget for
23 that category.

24 (5) A report under paragraph (4) of this subsection shall include a
25 narrative explanation of the action taken, indicating any request for transfer between
26 categories that may become necessary for the fiscal year as a result of the action.

27 [(c)] (D) Nonlocal funds received by a county board after the adoption of the
28 annual budget by the county fiscal authority may be spent by the county board if the
29 county fiscal authority is notified and approves of:

30 (1) The source and amount of the funds; and

31 (2) The manner of spending the funds.

32 5-105.1.

33 ALL REVENUES RECEIVED BY AN ELECTED COUNTY BOARD SHALL BE SPENT BY
34 THE BOARD IN ACCORDANCE WITH THE MAJOR CATEGORIES OF ITS ANNUAL
35 BUDGET AS PROVIDED UNDER § 5-101 OF THIS SUBTITLE.

1 5-107.

2 (a) THIS SECTION DOES NOT APPLY TO A COUNTY THAT HAS AN ELECTED
3 COUNTY BOARD.

4 (B) If the county commissioners or county council does not appropriate the
5 amount requested by the county board for capital projects, it shall indicate in writing
6 which projects have been reduced, deferred, or eliminated and the reason for the
7 reduction, deferral, or elimination.

8 [(b)] (C) (1) The expenditure for school building construction shall be made
9 in accordance with the cost approved by the county commissioners or county council
10 for each project.

11 (2) A transfer between major categories or of unexpended project
12 balances is subject to the approval of the county commissioners or county council.

13 (3) If the county commissioners or county council does not take action on
14 a transfer within 30 days after the receipt of a written request substantiating the
15 transfer, the failure to take action constitutes approval.

16 5-109.

17 (a) Each county board shall provide for an annual audit of its financial
18 transactions and accounts.

19 (b) (1) The audit shall be made by a certified public accountant or a
20 partnership of certified public accountants who are:

21 (i) Licensed by the State Board of Public Accountancy; and

22 (ii) Approved by the State Superintendent.

23 (2) The audit shall be made in accordance with the standards and
24 regulations adopted by the State Board.

25 (c) (1) The results of the audit are a matter of public record.

26 (2) The results shall be reported within 3 months after the close of the
27 fiscal year for the county board to the State Superintendent and the county fiscal
28 authority on the form and in the manner required by the State Board.

29 (d) (1) THIS SUBSECTION DOES NOT APPLY TO A COUNTY THAT HAS AN
30 ELECTED COUNTY BOARD.

31 (2) In addition to the audit required by this section, the county
32 commissioners or county council may conduct an audit using auditors employed by
33 the county.

1 5-110.

2 (a) In this section, "performance audit" means an assessment of an entity's or
3 program's practices to determine whether the entity or program is operating
4 economically and efficiently and whether corrective actions for improving its
5 performance are appropriate.

6 (b) THIS SECTION DOES NOT APPLY IN A COUNTY THAT HAS AN ELECTED
7 COUNTY BOARD.

8 (C) In the absence of an agreement between a county governing body and a
9 county school board, the Department at the request of the county governing body
10 shall contract for a performance audit of the county public school system to address
11 the issues raised in the county's request.

12 [(c)] (D) The Department shall make reasonable efforts to ensure that a
13 performance audit under this section is completed and the results of the audit are
14 made available to the county board in time to be considered by the county board in the
15 preparation of its budget for the next fiscal year.

16 [(d)] (E) The cost of a performance audit under this section shall be shared
17 equally between the county governing body and the county board.

18 [(e)] (F) A performance audit for which the Department contracted under
19 subsection (c) of this section:

20 (1) Shall be conducted in accordance with generally accepted
21 government auditing standards; and

22 (2) May not include an assessment or evaluation of a county board's
23 efforts to meet the standards of the Maryland School Performance Program.

24 [(f)] (G) Nothing in this section prevents a county governing body and a
25 county school board from making an agreement to perform or contract for a
26 performance audit of school board functions, including an agreement involving the
27 scope of the performance audit or the responsibility for the funding of the
28 performance audit.

29 5-113.

30 (a) THIS SECTION DOES NOT APPLY IN A COUNTY THAT HAS AN ELECTED
31 COUNTY BOARD.

32 (B) A county governing body may notify the Department that a local board has
33 not complied with one or more reporting requirements under this subtitle or one of
34 the expenditure limitations of § 5-105 of this subtitle.

35 [(b)] (C) The Department shall investigate a complaint filed under this
36 section. If the State Superintendent determines, after taking into account
37 aggravating and mitigating circumstances, that a violation has occurred without

1 reasonable justification, for the next fiscal year following the final determination of a
2 violation, the county board may not make a category expenditure, as defined by the
3 Maryland Board of Education reporting manual, in excess of the category expenditure
4 in the operating budget approved by the county governing body without the prior
5 approval of the county governing body. If the county governing body fails to take
6 action on a request for approval within 30 days after the receipt of a written request,
7 the failure to take action constitutes approval.

8 5-201.

9 (e) (1) For the purposes of calculating the local share under § 5-202 of this
10 subtitle and regardless of the source of the funds, all funds that a county board or the
11 Mayor and City Council of Baltimore City are authorized to expend for schools may be
12 considered as levied by the county council, board of county commissioners, [or] the
13 Mayor and City Council of Baltimore, OR AN ELECTED COUNTY BOARD except for:

14 (i) State appropriations;

15 (ii) Federal education aid payments; and

16 (iii) The amount of the expenditure authorized for debt service and
17 capital outlay.

18 (2) Except as provided in this section, these appropriations to a county,
19 academy, college, or university may not be paid from the General State School Fund.
20 5-202.

21 (b) (1) Each county board and the Mayor and City Council of Baltimore City
22 shall receive from the State, in the manner and subject to the limitations under this
23 section, an amount for each school year to be known as the "State share of basic
24 current expenses" for each county, which shall be calculated as indicated in this
25 subsection.

26 (2) (i) The basic current expenses to be shared shall equal the per
27 pupil basic current expense figure multiplied by full-time equivalent enrollment.

28 (ii) 1. If State aid for public elementary and secondary education
29 exceeds 31.5% of the projected general funds of the State in any fiscal year, then the
30 amount required for the per pupil basic current expense figure may not be
31 implemented for the next fiscal year unless the General Assembly, at the regular
32 session immediately preceding that next fiscal year, affirms by joint resolution that
33 the additional State aid required using the per pupil basic current expense figure is
34 within the State's fiscal resources.

35 2. As provided under item 1 of this subparagraph, if State
36 aid for public elementary and secondary education exceeds the percentage amount
37 specified and a joint resolution of affirmation is not enacted by the General Assembly,
38 then the per pupil basic current expense figure in which the State shall share for the
39 next fiscal year shall be the lesser of the per pupil basic current expense figure for the

