

## Chapter 605

(House Bill 869)

AN ACT concerning

### Education – Maintenance of Effort – Penalty

FOR the purpose of making the imposition of a penalty for a county's noncompliance with certain maintenance of effort provisions for funding public education applicable in a certain fiscal year; ~~waiving the maintenance of effort penalty for a certain fiscal year;~~ providing for the application of this Act; and generally relating to the maintenance of effort penalty.

BY repealing and reenacting, with amendments,  
Article – Education  
Section 5–213  
Annotated Code of Maryland  
(2008 Replacement Volume and 2010 Supplement)

#### Preamble

WHEREAS, The process for waiving the maintenance of effort requirement was established in 1996 and no county had applied for a waiver under that process until fiscal year 2010; and

WHEREAS, When the maintenance of effort waiver process was used for the first time in fiscal year 2010, numerous policy issues were identified, including the lack of clarity in the factors used to guide the decision of the State Board of Education whether to grant a waiver; and

WHEREAS, Significant policy issues were also identified regarding the appropriate penalty for not meeting the maintenance of effort requirement; now, therefore,

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

#### Article – Education

5–213.

(a) After notification from the State Superintendent that a county is not complying with the provisions of the State program of public education, the State

Comptroller shall withhold any installment due the county from the General State School Fund.

(b) (1) If the Superintendent finds that a county is not complying with the maintenance of local effort provisions of § 5–202 of this subtitle or that a county fails to meet the requirements of Subtitle 4 of this title, the Superintendent shall notify the county of such noncompliance.

(2) If a county disputes the finding within 30 days of the issuance of such notice, the dispute shall be promptly referred to the State Board of Education which shall make a final determination.

(3) Upon receipt of certification of noncompliance by the Superintendent or the State Board, as the case may be, the Comptroller shall suspend, until notification of compliance is received:

**(I) FOR NONCOMPLIANCE WITH SUBTITLE 4 OF THIS TITLE,** payment of any funds due the county for the current fiscal year, as provided under § 5–202 of this subtitle which are appropriated in the General State School Fund, to the extent that the State’s aid due the county in the current fiscal year under that section in the Fund exceeds the amount which the county received in the prior fiscal year; **AND**

**(II) FOR NONCOMPLIANCE WITH § 5–202(D) OF THIS SUBTITLE, PAYMENT OF ANY FUNDS DUE THE COUNTY FOR THE FOLLOWING FISCAL YEAR, AS PROVIDED UNDER § 5–202 OF THIS SUBTITLE, WHICH ARE APPROPRIATED IN THE GENERAL STATE SCHOOL FUND, IN THE AMOUNT THAT THE STATE’S AID DUE THE COUNTY IN THE CURRENT FISCAL YEAR UNDER THAT SECTION IN THE FUND EXCEEDED THE AMOUNT THAT THE COUNTY RECEIVED IN THE PRIOR FISCAL YEAR.**

~~SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, for fiscal year 2011 only, the penalty provision under § 5–213 of the Education Article may not be applied to any State aid increase provided under § 5–202 of the Education Article.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall apply to any penalty that would otherwise be imposed for not meeting the maintenance of effort requirement in fiscal year 2011.~~

SECTION 4. ~~2.~~ AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

Approved by the Governor, May 19, 2011.