

HOUSE BILL 1412

F1, Q2, Q3

EMERGENCY BILL

2lr0686

By: **Delegates Bohanan, Kaiser, Jones, Conway, Hixson, Branch, Guzzone, Luedtke, and Morhaim**

Introduced and read first time: February 27, 2012

Assigned to: Rules and Executive Nominations

Re-referred to: Ways and Means and Appropriations, February 28, 2012

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 19, 2012

CHAPTER _____

1 AN ACT concerning

2 **Education – Maintenance of Effort**

3 FOR the purpose of authorizing a county governing body, for a certain purpose and
4 under certain circumstances, to set a property tax rate that is higher than the
5 rate authorized under the county's charter or to collect more property tax
6 revenues than are authorized under the county's charter, notwithstanding any
7 provision of ~~a~~ the county charter that places certain limits on that county's
8 property tax rate or revenues; requiring a county to appropriate to the local
9 board of education certain revenues under certain circumstances; prohibiting a
10 county from reducing certain funding to the local board of education under
11 certain circumstances; ~~requiring the Comptroller to make certain distributions~~
12 ~~under certain circumstances to a county board; authorizing a county governing~~
13 ~~body, for a certain purpose under certain circumstances for a certain time, to set~~
14 ~~an income tax rate that is higher than the rate authorized under certain~~
15 ~~provisions of law;~~ establishing a certain penalty for a county that does not fund
16 the local share of the foundation program or the maintenance of effort
17 requirement; excluding the cost of debt service incurred for school construction
18 projects from a certain calculation; requiring a county to apply to the State
19 Board of Education for a waiver from the maintenance of effort requirement
20 under certain circumstances; establishing a penalty for a county that fails to
21 apply for a waiver and fails to fund the maintenance of effort requirement;
22 establishing the following years' required maintenance of effort amount under
23 certain circumstances; establishing the application procedure for a maintenance

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 of effort waiver; requiring the State Superintendent of Schools to make a
 2 preliminary assessment of a waiver application; requiring the State Board to
 3 hold a public hearing; establishing certain factors that the State Board shall
 4 consider when deciding whether to grant a waiver request; requiring the
 5 Department to consult with certain State agencies when making certain
 6 calculations; requiring the State Board to grant a waiver under certain
 7 circumstances; limiting the amount of a waiver that the State Board may grant
 8 under certain circumstances; authorizing a county to request a rebasing waiver
 9 under certain circumstances; requiring the State Board to consider certain
 10 factors when deciding whether to grant a rebasing waiver; requiring the
 11 Comptroller to withhold from a county a certain amount under certain
 12 circumstances and distribute the amount to the county board; establishing a
 13 certain assessment under certain circumstances; requiring the maintenance of
 14 effort amount to increase by a certain amount under certain circumstances;
 15 ~~requiring the Comptroller to withhold certain funds from certain counties for a~~
 16 ~~certain fiscal year; requiring counties to apply for a waiver from the~~
 17 ~~maintenance of effort requirement for a certain fiscal year under certain~~
 18 ~~circumstances~~ waiving the penalty for not meeting the maintenance of effort
 19 requirement in a certain year; establishing the maintenance of effort amount for
 20 a certain fiscal year for certain counties; requiring counties to provide a certain
 21 report under certain circumstances; ~~establishing the required maintenance of~~
 22 ~~effort amount for a certain year~~; requiring the Superintendent to make a certain
 23 report annually; defining certain terms; providing for the application of certain
 24 provisions of this Act; providing for the effective date of certain provisions of
 25 this Act; making this Act an emergency measure; and generally relating to local
 26 funding of education.

27 BY repealing and reenacting, with amendments,
 28 Article – Education
 29 Section 5–104, 5–202(d), and 5–213
 30 Annotated Code of Maryland
 31 (2008 Replacement Volume and 2011 Supplement)

32 BY adding to
 33 Article – Education
 34 Section 5–213.1
 35 Annotated Code of Maryland
 36 (2008 Replacement Volume and 2011 Supplement)

37 BY repealing and reenacting, without amendments,
 38 Article – Tax – General
 39 Section 2–604, 2–605(a), 2–606(a), and 2–607(a)
 40 Annotated Code of Maryland
 41 (2010 Replacement Volume and 2011 Supplement)

42 BY repealing and reenacting, with amendments,
 43 Article – Tax – General

1 Section 2-608(a) ~~and 10-106~~
 2 Annotated Code of Maryland
 3 (2010 Replacement Volume and 2011 Supplement)

4 ~~BY adding to~~
 5 ~~Article – Education~~
 6 ~~Section 5-213.1~~
 7 ~~Annotated Code of Maryland~~
 8 ~~(2008 Replacement Volume and 2011 Supplement)~~

9 BY repealing and reenacting, with amendments,
 10 Article – Education
 11 Section 5-202(d)(1)
 12 Annotated Code of Maryland
 13 (2008 Replacement Volume and 2011 Supplement)
 14 (As enacted by Section ~~3~~ 2 of this Act)

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

17 **Article – Education**

18 5-104.

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

24 (b) (1) Local funds provided for appropriations shall be paid in accordance
 25 with the expenditure requirements, as certified by the county board, to the treasurer
 26 of the county board on a monthly basis.

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

31 (c) (1) Notwithstanding any other provision in this article, this subsection
 32 applies to Wicomico County.

33 (2) The Wicomico County Council annually shall pay to the Wicomico
 34 County Board the amount of the budget of the county board that has been approved by
 35 the County Council:

36 (i) In 12 equal monthly installments; or

1 (ii) At the times on which the County Council and county board
2 mutually agree.

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

5 (D) (1) NOTWITHSTANDING ANY PROVISION OF A COUNTY CHARTER
6 THAT PLACES A LIMIT ON THAT COUNTY'S PROPERTY TAX RATE OR REVENUES
7 AND SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A COUNTY GOVERNING
8 BODY MAY SET A PROPERTY TAX RATE THAT IS HIGHER THAN THE RATE
9 AUTHORIZED UNDER THE COUNTY'S CHARTER OR COLLECT MORE PROPERTY
10 TAX REVENUES THAN THE REVENUES AUTHORIZED UNDER THE COUNTY'S
11 CHARTER FOR THE SOLE PURPOSE OF FUNDING THE APPROVED BUDGET OF
12 THE COUNTY BOARD.

13 (2) IF THE COUNTY GOVERNING BODY SETS A COUNTY PROPERTY
14 TAX RATE THAT IS GREATER THAN THE RATE AUTHORIZED UNDER THE
15 COUNTY'S CHARTER OR COLLECTS MORE PROPERTY TAX REVENUES THAN THE
16 REVENUES AUTHORIZED UNDER THE COUNTY'S CHARTER, THE COUNTY:

17 (I) MAY NOT REDUCE FUNDING PROVIDED TO THE COUNTY
18 BOARD FROM ANY OTHER LOCAL REVENUE SOURCE BELOW THE FUNDING
19 LEVEL IN THE CURRENT COUNTY BUDGET; AND

20 (II) SHALL APPROPRIATE TO THE COUNTY BOARD ALL
21 PROPERTY TAX REVENUES EXCEEDING THE AMOUNT THAT WOULD HAVE BEEN
22 AVAILABLE IF THE COUNTY CHARTER LIMITATION HAD APPLIED.

23 (3) ~~A COUNTY THAT USES THE AUTHORITY ON OR BEFORE~~
24 DECEMBER 31 OF ANY YEAR IN WHICH A COUNTY SETS A PROPERTY TAX RATE
25 AS PROVIDED IN THIS SUBSECTION, THE COUNTY SHALL REPORT TO THE
26 GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT
27 ARTICLE, THE GENERAL ASSEMBLY, ON OR BEFORE DECEMBER 31 OF EACH
28 YEAR THE AUTHORITY IS USED ON THE PROPERTY TAX RATE SET, THE
29 ADDITIONAL AMOUNT OF REVENUES GENERATED, ~~BY THE ADDITIONAL~~
30 ~~PROPERTY TAX~~ AND THE APPROPRIATION OF THE FUNDS ~~IN ACCORDANCE WITH~~
31 ~~THIS SUBSECTION~~ ADDITIONAL REVENUES.

32 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
33 read as follows:

34 ~~Article Tax General~~

35 ~~2-604.~~

1 ~~From the income tax revenue from individuals, the Comptroller shall distribute~~
 2 ~~the amount necessary to pay refunds relating to income tax from individuals to the~~
 3 ~~income tax refund account.~~

4 ~~2-605.~~

5 ~~(a) After making the distribution required under § 2-604 of this subtitle,~~
 6 ~~from the remaining income tax revenue from individuals, the Comptroller shall~~
 7 ~~distribute the cost of administering the income tax laws to an administrative cost~~
 8 ~~account.~~

9 ~~2-606.~~

10 ~~(a) After making the distributions required under §§ 2-604 and 2-605 of this~~
 11 ~~subtitle, from the remaining income tax revenue from individuals, the Comptroller~~
 12 ~~shall distribute to an unallocated individual revenue account the income tax revenue:~~

13 ~~(1) with respect to which an income tax return is not filed; and~~

14 ~~(2) that is attributable to:~~

15 ~~(i) income tax withheld from salary, wages, or other~~
 16 ~~compensation for personal services under Title 10 of this article; or~~

17 ~~(ii) estimated income tax payments by individuals.~~

18 ~~2-607.~~

19 ~~(a) After making the distributions required under §§ 2-604 through 2-606 of~~
 20 ~~this subtitle, from the remaining income tax revenue from individuals, the~~
 21 ~~Comptroller shall distribute to each special taxing district that received an income tax~~
 22 ~~revenue distribution in fiscal year 1977 and to each municipal corporation an amount~~
 23 ~~that, based on the certification of the Comptroller as to State income tax liability and~~
 24 ~~county income tax liability of the residents of the district or municipal corporation,~~
 25 ~~equals the greater of:~~

26 ~~(1) subject to subsection (b) of this section, 17% of the county income~~
 27 ~~tax liability of those residents; or~~

28 ~~(2) 0.37% of the Maryland taxable income of those residents.~~

29 ~~2-608.~~

30 ~~(a) (1) AFTER MAKING THE DISTRIBUTIONS REQUIRED UNDER §§~~
 31 ~~2-604 THROUGH 2-607 OF THIS SUBTITLE, IF IT IS DETERMINED THAT A~~
 32 ~~COUNTY HAS NOT MET THE LOCAL FUNDING REQUIREMENTS FOR EDUCATION~~

~~1 UNDER § 5-202(D) OF THE EDUCATION ARTICLE, THE COMPTROLLER SHALL
2 DISTRIBUTE TO THE COUNTY BOARD OF EDUCATION AN AMOUNT EQUAL TO THE
3 AMOUNT CALCULATED UNDER § 5-213 OR § 5-213.1 OF THE EDUCATION
4 ARTICLE.~~

~~5 (2) After making the distributions required under §§ 2-604 through
6 2-607 of this subtitle AND PARAGRAPH (1) OF THIS SUBSECTION, the Comptroller
7 shall distribute to each county the remaining income tax revenue from individuals
8 attributable to the county income tax for that county.~~

~~9 10-106.~~

~~10 (a) (1) [Each] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS
11 SECTION, EACH county shall set, by ordinance or resolution, a county income tax
12 equal to at least 1% but not more than the percentage of an individual's Maryland
13 taxable income as follows:~~

~~14 (i) 3.05% for a taxable year beginning after December 31, 1998
15 but before January 1, 2001;~~

~~16 (ii) 3.10% for a taxable year beginning after December 31, 2000
17 but before January 1, 2002; and~~

~~18 (iii) 3.20% for a taxable year beginning after December 31, 2001.~~

~~19 (2) A county income tax rate continues until the county changes the
20 rate by ordinance or resolution.~~

~~21 (3) (i) A county may not increase its county income tax rate above
22 2.6% until after the county has held a public hearing on the proposed act, ordinance,
23 or resolution to increase the rate.~~

~~24 (ii) The county shall publish at least once each week for 2
25 successive weeks in a newspaper of general circulation in the county:~~

~~26 1. notice of the public hearing; and~~

~~27 2. a fair summary of the proposed act, ordinance, or
28 resolution to increase the county income tax rate above 2.6%.~~

~~29 (4) Notwithstanding paragraph (1) or (2) of this subsection, in Howard
30 County, the county income tax rate may be changed only by ordinance and not by
31 resolution.~~

~~32 (b) [If] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, IF a
33 county changes its county income tax rate, the county shall:~~

1 5-202.

2 (d) (1) (I) [To be eligible to receive the State share of the foundation
3 program:

4 (i) The] **SUBJECT TO § 5-213.1 OF THIS SUBTITLE, THE**
5 county governing body shall levy **AND APPROPRIATE** an annual tax sufficient to
6 provide an amount of revenue for elementary and secondary public education purposes
7 equal to the local share of the foundation program[; and].

8 (ii) [The] **SUBJECT TO § 5-213 OF THIS SUBTITLE, THE**
9 county governing body shall appropriate local funds to the school operating budget in
10 an amount no less than the product of the county's full-time equivalent enrollment for
11 the current fiscal year and the local appropriation on a per pupil basis for the prior
12 fiscal year.

13 (2) Except as provided in paragraph (3) of this subsection, for purposes
14 of this subsection, the local appropriation on a per pupil basis for the prior fiscal year
15 for a county is derived by dividing the county's highest local appropriation to its school
16 operating budget for the prior fiscal year by the county's full-time equivalent
17 enrollment for the prior fiscal year. For example, the calculation of the foundation aid
18 for fiscal year 2003 shall be based on the highest local appropriation for the school
19 operating budget for a county for fiscal year 2002. Program shifts between a county
20 operating budget and a county school operating budget may not be used to artificially
21 satisfy the requirements of this paragraph.

22 (3) For purposes of this subsection, for fiscal year 1997 and each
23 subsequent fiscal year, the calculation of the county's highest local appropriation to its
24 school operating budget for the prior fiscal year shall exclude:

25 (i) A nonrecurring cost that is supplemental to the regular
26 school operating budget, if the exclusion qualifies under regulations adopted by the
27 State Board; [and]

28 (ii) A cost of a program that has been shifted from the county
29 school operating budget to the county operating budget; **AND**

30 **(III) THE COST OF DEBT SERVICE INCURRED FOR SCHOOL**
31 **CONSTRUCTION PROJECTS.**

32 (4) The county board must present satisfactory evidence to the county
33 government that any appropriation under paragraph (3)(i) of this subsection is used
34 only for the purpose designated by the county government in its request for approval.

1 (5) Any appropriation that is not excluded under paragraph (3)(i) of
2 this subsection as a qualifying nonrecurring cost shall be included in calculating the
3 county's highest local appropriation to its school operating budget.

4 (6) Qualifying nonrecurring costs, as defined in regulations adopted by
5 the State Board, shall include but are not limited to:

6 (i) Computer laboratories;

7 (ii) Technology enhancement;

8 (iii) New instructional program start-up costs; and

9 (iv) Books other than classroom textbooks.

10 **(7) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,**
11 **IF A COUNTY'S ABILITY TO FUND THE MAINTENANCE OF EFFORT REQUIREMENT**
12 **IN PARAGRAPH (1)(II) OF THIS SUBSECTION IS IMPEDED, THE COUNTY SHALL**
13 **APPLY UNDER PARAGRAPH (8) OF THIS SUBSECTION TO THE STATE BOARD FOR**
14 **A WAIVER.**

15 **(II) IF A COUNTY FAILS TO APPLY TO THE STATE BOARD**
16 **FOR A WAIVER FROM THE MAINTENANCE OF EFFORT REQUIREMENT AND FAILS**
17 **TO MEET THE MAINTENANCE OF EFFORT REQUIREMENT:**

18 **1. THE COUNTY SHALL BE ASSESSED IN**
19 **ACCORDANCE WITH § 5-213 OF THIS SUBTITLE; AND**

20 **2. THE MINIMUM APPROPRIATION OF LOCAL FUNDS**
21 **REQUIRED UNDER THIS SUBSECTION FOR THE NEXT FISCAL YEAR SHALL BE**
22 **CALCULATED BASED ON THE PER PUPIL LOCAL APPROPRIATION FOR THE PRIOR**
23 **FISCAL YEAR IN WHICH THE COUNTY MET THE MAINTENANCE OF EFFORT**
24 **REQUIREMENT UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION.**

25 **[(7)] (8) (i) The [provisions] MAINTENANCE OF EFFORT**
26 **REQUIREMENT IN PARAGRAPH (1)(II) of this subsection [do] DOES not apply to a**
27 **county if the county REQUESTS AND is granted a [temporary waiver or partial]**
28 **waiver from the [provisions] REQUIREMENT by the State Board [of Education] based**
29 **on:**

30 **1. [a] A determination UNDER THIS PARAGRAPH that**
31 **the county's fiscal condition significantly impedes the county's ability to fund the**
32 **maintenance of effort requirement;**

1 **2. SUBJECT TO PARAGRAPH (9) OF THIS**
2 **SUBSECTION, AN AGREEMENT BETWEEN THE COUNTY AND THE COUNTY BOARD**
3 **TO REDUCE RECURRING COSTS; OR**

4 **3. SUBJECT TO PARAGRAPH (10) OF THIS**
5 **SUBSECTION, A DETERMINATION THAT A COUNTY'S ABILITY TO MEET THE**
6 **MAINTENANCE OF EFFORT REQUIREMENT IS PERMANENTLY IMPEDED.**

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

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

13 **(III) THE STATE SUPERINTENDENT SHALL PROVIDE A**
14 **PRELIMINARY ASSESSMENT OF A WAIVER REQUEST TO THE STATE BOARD**
15 **BEFORE A PUBLIC HEARING HELD IN ACCORDANCE WITH SUBPARAGRAPH (IV)**
16 **OF THIS PARAGRAPH.**

17 **(IV) BEFORE ACTING ON A REQUEST FOR A WAIVER, THE**
18 **STATE BOARD SHALL HOLD A PUBLIC HEARING IN ACCORDANCE WITH**
19 **REGULATIONS ADOPTED BY THE STATE BOARD.**

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

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

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

27 3. **RATE OF INFLATION RELATIVE TO GROWTH OF**
28 **STUDENT POPULATION IN A COUNTY;**

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

31 5. **A COUNTY'S HISTORY OF EXCEEDING THE**
32 **REQUIRED MAINTENANCE OF EFFORT AMOUNT UNDER PARAGRAPH (1)(II) OF**
33 **THIS SUBSECTION;**

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

3 **7. SIGNIFICANT REDUCTIONS IN STATE AID TO A**
4 **COUNTY AND MUNICIPALITIES OF THE COUNTY FOR THE FISCAL YEAR FOR**
5 **WHICH A WAIVER IS REQUESTED; ~~AND~~**

6 **8. THE NUMBER OF WAIVERS A COUNTY HAS**
7 **RECEIVED IN THE PAST 5 YEARS; AND**

8 **9. THE HISTORY OF COMPENSATION ADJUSTMENTS**
9 **FOR EMPLOYEES OF THE COUNTY BOARD AND COUNTY GOVERNMENT.**

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

15 [(v)] (vii) [If the State Board of Education grants] **EXCEPT AS**
16 **PROVIDED IN PARAGRAPHS (9) AND (10) OF THIS SUBSECTION, IF a county IS**
17 **GRANTED a [temporary waiver or partial] waiver from the provisions of this**
18 **subsection BY EITHER THE STATE BOARD OR THE GENERAL ASSEMBLY for any**
19 **fiscal year, the minimum appropriation of local funds required under this subsection**
20 **[for the county to be eligible to receive the State share of the foundation program] for**
21 **the next fiscal year shall be calculated based on the per pupil local appropriation for**
22 **the prior fiscal year [or the second prior fiscal year, whichever is greater] IN WHICH**
23 **THE COUNTY MET THE MAINTENANCE OF EFFORT REQUIREMENT UNDER**
24 **PARAGRAPH (1)(II) OF THIS SUBSECTION.**

25 **(9) (i) THIS PARAGRAPH APPLIES TO A COUNTY THAT**
26 **REQUESTS A WAIVER UNDER PARAGRAPH (8)(i)2 OF THIS SUBSECTION.**

27 **(ii) 1. THE STATE BOARD SHALL GRANT A WAIVER**
28 **REQUEST IN THE AMOUNT THAT HAS BEEN AGREED ON BY ~~A~~ THE COUNTY AND**
29 **COUNTY BOARD THAT IS ATTRIBUTABLE TO REDUCTIONS IN RECURRING COSTS.**

30 **2. IF THE REDUCTION IN RECURRING COSTS**
31 **INCLUDES REDUCTIONS IN PERSONNEL OR PERSONNEL COSTS, THEN THE**
32 **STATE BOARD SHALL GRANT A WAIVER REQUEST IN THE AMOUNT THAT HAS**
33 **BEEN MUTUALLY AGREED ON BY THE COUNTY, COUNTY BOARD, AND EXCLUSIVE**
34 **EMPLOYEE REPRESENTATIVE.**

1 (III) THE AMOUNT OF THE AGREED ON WAIVER MAY BE LESS
2 THAN THE ENTIRE AMOUNT OF THE REDUCTION IN RECURRING COSTS.

3 (IV) THE AMOUNT OF THE AGREED ON WAIVER MAY NOT:

4 1. EXCEED THE ENTIRE AMOUNT OF THE
5 REDUCTION IN RECURRING COSTS; OR

6 2. REDUCE A COUNTY'S EDUCATION
7 APPROPRIATION BELOW THE AMOUNT REQUIRED IN PARAGRAPH (1)(I) OF THIS
8 SUBSECTION.

9 (V) THE MINIMUM APPROPRIATION OF LOCAL FUNDS
10 REQUIRED UNDER THIS SUBSECTION FOR THE NEXT FISCAL YEAR SHALL BE
11 CALCULATED BASED ON THE PER PUPIL LOCAL APPROPRIATION FOR THE
12 CURRENT FISCAL YEAR APPROVED BY THE STATE BOARD UNDER THIS
13 PARAGRAPH.

14 (10) (I) IN THIS PARAGRAPH THE FOLLOWING TERMS HAVE THE
15 MEANINGS INDICATED.

16 1. "EDUCATION APPROPRIATION" INCLUDES ANY
17 MONEY REDIRECTED TO A COUNTY BOARD UNDER § 5-213 OR § 5-213.1 OF THIS
18 SUBTITLE.

19 2. "EDUCATION EFFORT" MEANS A COUNTY'S
20 EDUCATION APPROPRIATION DIVIDED BY THE COUNTY'S WEALTH.

21 3. "5-YEAR MOVING AVERAGE" MEANS THE
22 AVERAGE OF THE 5 YEARS BEFORE THE WAIVER YEAR.

23 4. "WAIVER YEAR" MEANS THE FISCAL YEAR FOR
24 WHICH A WAIVER FROM THE MAINTENANCE OF EFFORT REQUIREMENT IN
25 PARAGRAPH (1)(II) OF THIS SUBSECTION IS REQUESTED.

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

27 1. RECEIVED A WAIVER UNDER PARAGRAPH (8)(I)1
28 OF THIS SUBSECTION FROM THE MAINTENANCE OF EFFORT REQUIREMENT; AND

29 2. A REQUIRED COUNTY EDUCATION
30 APPROPRIATION UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION FOR THE
31 WAIVER YEAR THAT EXCEEDS 100% OF THE STATEWIDE 5-YEAR MOVING
32 AVERAGE OF EDUCATION EFFORT TIMES A COUNTY'S LOCAL WEALTH.

1 (III) A COUNTY THAT SATISFIES THE REQUIREMENTS UNDER
2 SUBPARAGRAPH (II) OF THIS PARAGRAPH MAY REQUEST A REBASING WAIVER
3 FROM THE STATE BOARD.

4 (IV) WHEN CONSIDERING WHETHER TO GRANT A COUNTY'S
5 WAIVER REQUEST UNDER THIS PARAGRAPH, THE STATE BOARD SHALL
6 CONSIDER THE FOLLOWING FACTORS:

7 1. WHETHER A COUNTY HAS SUBMITTED
8 SUFFICIENT EVIDENCE THAT THE FACTORS IN PARAGRAPH (8)(V) OF THIS
9 SUBSECTION WILL AFFECT A COUNTY'S ONGOING ABILITY TO MEET THE
10 MAINTENANCE OF EFFORT REQUIREMENT;

11 2. WHETHER A COUNTY IS AT ITS MAXIMUM TAXING
12 AUTHORITY UNDER THE LAW;

13 3. WHETHER A COUNTY'S EDUCATION
14 APPROPRIATION IS COMMENSURATE WITH A COUNTY'S WEALTH;

15 4. WHETHER A COUNTY'S HISTORY OF EXCEEDING
16 THE REQUIRED MAINTENANCE OF EFFORT HAS MADE MEETING THE
17 MAINTENANCE OF EFFORT REQUIREMENT IN FUTURE YEARS UNSUSTAINABLE;
18 AND

19 5. WHETHER A COUNTY HAS RECEIVED A REBASING
20 WAIVER IN THE PAST 5 YEARS.

21 (V) IF THE STATE BOARD GRANTS A REBASING WAIVER
22 UNDER THIS PARAGRAPH, THE AMOUNT OF THE WAIVER FOR ANY FISCAL YEAR
23 IS LIMITED TO THE LESSER OF:

24 1. AN AMOUNT THAT WOULD RESULT IN A COUNTY'S
25 EDUCATION EFFORT FOR THE WAIVER YEAR FALLING BELOW THE LEVEL
26 ESTABLISHED IN SUBPARAGRAPH (II)2 OF THIS PARAGRAPH; OR

27 2. A. FOR A COUNTY WITH A 5-YEAR MOVING
28 AVERAGE FOR EDUCATION EFFORT THAT IS LESS THAN OR EQUAL TO 110% OF
29 THE STATEWIDE 5-YEAR MOVING AVERAGE OF EDUCATION EFFORT, 1% OF THE
30 COUNTY'S REQUIRED MAINTENANCE OF EFFORT REQUIREMENT;

31 B. FOR A COUNTY WITH A 5-YEAR MOVING AVERAGE
32 FOR EDUCATION EFFORT THAT IS MORE THAN 110% AND LESS THAN OR EQUAL

1 TO 120% OF THE STATEWIDE 5-YEAR MOVING AVERAGE OF EDUCATION EFFORT,
2 2% OF THE COUNTY'S REQUIRED MAINTENANCE OF EFFORT REQUIREMENT; OR

3 C. FOR A COUNTY WITH A 5-YEAR MOVING AVERAGE
4 FOR EDUCATION EFFORT THAT IS MORE THAN 120% OF THE 5-YEAR MOVING
5 STATEWIDE AVERAGE OF EDUCATION EFFORT, 3% OF THE COUNTY'S REQUIRED
6 MAINTENANCE OF EFFORT REQUIREMENT.

7 (VI) 1. IF THE STATE BOARD GRANTS A REBASING
8 WAIVER UNDER THIS PARAGRAPH, THE MINIMUM APPROPRIATION OF LOCAL
9 FUNDS REQUIRED UNDER THIS SUBSECTION FOR THE NEXT FISCAL YEAR SHALL
10 BE CALCULATED BASED ON THE PER PUPIL LOCAL APPROPRIATION FOR THE
11 CURRENT FISCAL YEAR APPROVED BY THE STATE BOARD UNDER THIS
12 PARAGRAPH.

13 2. IF THE STATE BOARD GRANTS A REBASING
14 WAIVER TO BE IMPLEMENTED OVER A MULTIYEAR PERIOD, WHICH MAY NOT
15 EXCEED 3 YEARS, IN EACH YEAR THE MINIMUM APPROPRIATION OF LOCAL
16 FUNDS REQUIRED UNDER THIS SUBSECTION FOR THE NEXT FISCAL YEAR SHALL
17 BE CALCULATED BASED ON THE PER PUPIL LOCAL APPROPRIATION FOR THE
18 CURRENT FISCAL YEAR APPROVED BY THE STATE ~~BOARD~~ BOARD UNDER THIS
19 PARAGRAPH.

20 (VII) IF THE STATE BOARD DOES NOT GRANT A WAIVER
21 UNDER THIS PARAGRAPH, THE MINIMUM APPROPRIATION OF LOCAL FUNDS
22 REQUIRED UNDER THIS SUBSECTION FOR THE NEXT FISCAL YEAR SHALL BE
23 CALCULATED BASED ON THE PER PUPIL LOCAL APPROPRIATION FOR THE PRIOR
24 FISCAL YEAR IN WHICH THE COUNTY MET THE MAINTENANCE OF EFFORT
25 REQUIREMENT UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION.

26 (VIII) NOTHING IN THIS PARAGRAPH PRECLUDES A COUNTY
27 FROM ALSO REQUESTING A WAIVER FROM THE MAINTENANCE OF EFFORT
28 REQUIREMENT UNDER ~~PARAGRAPHS (8) OR~~ PARAGRAPH (9) OF THIS
29 SUBSECTION FOR THE SAME FISCAL YEAR AS THE WAIVER REQUESTED UNDER
30 THIS PARAGRAPH.

31 (11) IN MAKING THE CALCULATIONS REQUIRED UNDER THIS
32 SUBSECTION, THE DEPARTMENT SHALL CONSULT WITH THE DEPARTMENT OF
33 BUDGET AND MANAGEMENT AND THE DEPARTMENT OF LEGISLATIVE
34 SERVICES.

35 (12) (I) A COUNTY SHALL SUBMIT TO THE SUPERINTENDENT
36 THE COUNTY'S APPROVED BUDGET NO LATER THAN 7 DAYS AFTER APPROVAL
37 OF THE BUDGET OR JUNE 30, WHICHEVER IS EARLIER.

1 **(II) NO LATER THAN 15 DAYS AFTER RECEIPT OF THE**
2 **COUNTY'S APPROVED BUDGET THE SUPERINTENDENT SHALL CERTIFY**
3 **WHETHER THE COUNTY HAS MET THE FUNDING REQUIREMENTS ESTABLISHED**
4 **UNDER THIS SUBSECTION AND SHALL NOTIFY THE COUNTY AND COUNTY BOARD**
5 **OF THAT CERTIFICATION.**

6 **(13) ON OR BEFORE DECEMBER 31 OF EACH YEAR THE**
7 **DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH §**
8 **2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, ON**
9 **ALL WAIVER REQUESTS, MAINTENANCE OF EFFORT CALCULATIONS MADE BY**
10 **THE DEPARTMENT AND THE COUNTY, THE DEPARTMENT'S DECISIONS**
11 **REGARDING WAIVER REQUESTS, THE DEPARTMENT'S CERTIFICATION OF**
12 **WHETHER A COUNTY HAS MET THE REQUIREMENT, AND ANY OTHER**
13 **INFORMATION RELATING TO A COUNTY'S REQUEST FOR A WAIVER AND THE**
14 **DEPARTMENT'S MAINTENANCE OF EFFORT DECISIONS.**

15 5-213.

16 (a) After notification from the State Superintendent that a county is not
17 complying with the provisions of the State program of public education, the State
18 Comptroller shall withhold any installment due the county from the General State
19 School Fund.

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

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

27 (3) Upon receipt of certification of noncompliance by the
28 Superintendent or the State Board, [as the case may be,] the Comptroller shall
29 suspend, until notification of compliance is received[;

30 (i) For noncompliance with Subtitle 4 of this title], payment of
31 any funds due the county for the current fiscal year, as provided under § 5-202 of this
32 subtitle which are appropriated in the General State School Fund, to the extent that
33 the State's aid due the county in the current fiscal year under that section in the Fund
34 exceeds the amount which the county received in the prior fiscal year[; and

35 (ii) For noncompliance with § 5-202(d) of this subtitle, payment
36 of any funds due the county for the following fiscal year, as provided under § 5-202 of

1 this subtitle, which are appropriated in the General State School Fund, in the amount
2 that the State's aid due the county in the current fiscal year under that section in the
3 Fund exceeded the amount that the county received in the prior fiscal year].

4 (C) (1) IF THE SUPERINTENDENT FINDS THAT A COUNTY IS NOT
5 COMPLYING WITH THE MAINTENANCE OF LOCAL EFFORT PROVISIONS OF §
6 5-202(D)(1)(II) OF THIS SUBTITLE, THE SUPERINTENDENT SHALL NOTIFY THE
7 COUNTY OF SUCH NONCOMPLIANCE.

8 (2) IF A COUNTY DISPUTES THE FINDING WITHIN ~~30~~ 15 DAYS
9 AFTER THE ISSUANCE OF A NOTICE UNDER PARAGRAPH (1) OF THIS
10 SUBSECTION, THE DISPUTE SHALL BE REFERRED PROMPTLY TO THE STATE
11 BOARD, WHICH SHALL MAKE A FINAL DETERMINATION.

12 (3) (I) ~~ON~~ WITHIN 15 DAYS OF RECEIPT OF CERTIFICATION OF
13 NONCOMPLIANCE BY THE SUPERINTENDENT OR THE STATE BOARD AND
14 SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE COMPTROLLER
15 SHALL, UNDER § 2-608 OF THE TAX - GENERAL ARTICLE, WITHHOLD INCOME
16 TAX REVENUE FROM THE COUNTY SO THAT THE TOTAL AMOUNT WITHHELD IS
17 EQUAL TO THE AMOUNT BY WHICH A COUNTY FAILED TO MEET THE
18 MAINTENANCE OF EFFORT REQUIREMENT.

19 (II) THE COMPTROLLER SHALL DISTRIBUTE THE AMOUNT
20 WITHHELD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH DIRECTLY TO THE
21 COUNTY BOARD.

22 5-213.1.

23 (A) IF THE SUPERINTENDENT FINDS THAT A COUNTY IS NOT
24 COMPLYING WITH THE LOCAL SHARE OF THE FOUNDATION FLOOR REQUIRED
25 UNDER § 5-202(D)(1)(I) OF THIS SUBTITLE, THE SUPERINTENDENT SHALL
26 NOTIFY THE COUNTY OF SUCH NONCOMPLIANCE.

27 (B) IF A COUNTY DISPUTES THE FINDING WITHIN ~~30~~ 15 DAYS OF THE
28 ISSUANCE OF A NOTICE UNDER SUBSECTION (A) OF THIS SECTION, THE DISPUTE
29 SHALL BE REFERRED PROMPTLY TO THE STATE BOARD, WHICH SHALL MAKE A
30 FINAL DETERMINATION.

31 (C) (1) ~~ON~~ WITHIN 15 DAYS OF RECEIPT OF CERTIFICATION OF
32 NONCOMPLIANCE BY THE SUPERINTENDENT OR THE STATE BOARD AND
33 SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COMPTROLLER SHALL,
34 UNDER § 2-608 OF THE TAX - GENERAL ARTICLE, WITHHOLD INCOME TAX
35 REVENUE FROM THE COUNTY SO THAT THE TOTAL AMOUNT WITHHELD IS
36 EQUAL TO THE STATE SHARE OF THE FOUNDATION PROGRAM PLUS THE

1 DIFFERENCE BETWEEN THE AMOUNT APPROPRIATED BY THE COUNTY UNDER §
2 5-202(D)(1)(I) AND THE LOCAL SHARE OF THE FOUNDATION PROGRAM.

3 (2) THE COMPTROLLER SHALL DISTRIBUTE THE AMOUNT
4 WITHHELD UNDER PARAGRAPH (1) OF THIS SUBSECTION DIRECTLY TO THE
5 COUNTY BOARD.

6 Article - Tax - General

7 2-604.

8 From the income tax revenue from individuals, the Comptroller shall distribute
9 the amount necessary to pay refunds relating to income tax from individuals to the
10 income tax refund account.

11 2-605.

12 (a) After making the distribution required under § 2-604 of this subtitle,
13 from the remaining income tax revenue from individuals, the Comptroller shall
14 distribute the cost of administering the income tax laws to an administrative cost
15 account.

16 2-606.

17 (a) After making the distributions required under §§ 2-604 and 2-605 of this
18 subtitle, from the remaining income tax revenue from individuals, the Comptroller
19 shall distribute to an unallocated individual revenue account the income tax revenue:

20 (1) with respect to which an income tax return is not filed; and

21 (2) that is attributable to:

22 (i) income tax withheld from salary, wages, or other
23 compensation for personal services under Title 10 of this article; or

24 (ii) estimated income tax payments by individuals.

25 2-607.

26 (a) After making the distributions required under §§ 2-604 through 2-606 of
27 this subtitle, from the remaining income tax revenue from individuals, the
28 Comptroller shall distribute to each special taxing district that received an income tax
29 revenue distribution in fiscal year 1977 and to each municipal corporation an amount
30 that, based on the certification of the Comptroller as to State income tax liability and
31 county income tax liability of the residents of the district or municipal corporation,
32 equals the greater of:

1 A. A COUNTY'S INCREASE IN THE LOCAL WEALTH
2 PER PUPIL;

3 B. THE STATEWIDE AVERAGE INCREASE IN LOCAL
4 WEALTH PER PUPIL; OR

5 C. 2.5%.

6 ~~SECTION 5. AND BE IT FURTHER ENACTED, That, notwithstanding any~~
7 ~~other provision of law, for any county that does not meet the maintenance of effort~~
8 ~~funding requirement under § 5-202(d) of the Education Article in fiscal year 2012 and~~
9 ~~does not receive a waiver from the State Board of Education under Section 6 of this~~
10 ~~Act, as authorized under § 2-608(a) of the Tax General Article as amended by this~~
11 ~~Act, the Comptroller shall withhold income tax revenue from the county in fiscal year~~
12 ~~2013 in an amount equal to any increase in State aid provided to the county board of~~
13 ~~education under § 5-202 of the Education Article in fiscal year 2012.~~

14 ~~SECTION 6. AND BE IT FURTHER ENACTED, That, notwithstanding any~~
15 ~~other provision of law, any county that does not meet the maintenance of effort~~
16 ~~funding requirement under § 5-202(d) of the Education Article in fiscal year 2012, and~~
17 ~~that is eligible to apply for a fiscal year 2013 rebasing waiver under § 5-202(d)(10) of~~
18 ~~the Education Article as amended by this Act, shall apply to the State Board of~~
19 ~~Education for a maintenance of effort waiver for fiscal years 2012 and 2013.~~

20 ~~SECTION 7. AND BE IT FURTHER ENACTED, That, except as provided in~~
21 ~~Section 6 of this Act, the required maintenance of effort amount under § 5-202(d) of~~
22 ~~the Education Article for each county for fiscal year 2013 shall be calculated based on~~
23 ~~the per pupil amount required for the county to meet maintenance of effort in fiscal~~
24 ~~year 2012.~~

25 SECTION 4. AND BE IT FURTHER ENACTED, That, notwithstanding any
26 other provision of law, no penalty shall be applied to any county that did not meet the
27 maintenance of effort requirement in fiscal 2012.

28 SECTION 5. AND BE IT FURTHER ENACTED, That, notwithstanding any
29 other provision of law, for a county that does not meet the maintenance of effort
30 funding requirement under § 5-202(d) of the Education Article in fiscal year 2012 and
31 has a county income tax rate of 3.2%, the maintenance of effort funding requirement
32 for fiscal year 2013 shall be based on the local funds appropriated to the school
33 operating budget for fiscal year 2012.

34 SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in
35 Section 5 of this Act, the required fiscal year 2013 maintenance of effort amount under
36 § 5-202(d) of the Education Article for a county that did not meet the maintenance of
37 effort requirement in fiscal year 2012 shall be calculated based on the per pupil
38 amount required for the county to meet maintenance of effort in fiscal year 2012.

1 SECTION ~~8~~ 7. AND BE IT FURTHER ENACTED, That Section 1 of this Act
2 shall be applicable to all taxable years beginning after June 30, 2012.

3 ~~SECTION 9. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall~~
4 ~~be applicable to all taxable years beginning after December 31, 2011.~~

5 SECTION ~~10~~ 8. AND BE IT FURTHER ENACTED, That Section ~~4~~ 3 of this Act
6 shall take effect July 1, 2014.

7 SECTION ~~11~~ 9. AND BE IT FURTHER ENACTED, That this Act is an
8 emergency measure, is necessary for the immediate preservation of the public health
9 or safety, has been passed by a yea and nay vote supported by three-fifths of all the
10 members elected to each of the two Houses of the General Assembly, and, except as
11 provided in Section ~~10~~ 8 of this Act, shall take effect from the date it is enacted.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.