



BILL NO.: House Bill 632
TITLE: Maintenance of Effort - Penalty
POSITION: **SUPPORT**
DATE: February 24, 2010
COMMITTEE: Ways and Means
CONTACT: Leslie Knapp Jr.

The Maryland Association of Counties (MACo) **SUPPORTS** House Bill 632. The bill retroactively waives the maintenance of effort (MOE) penalty for FY 2010.

MACo supports the waiver of the penalty provision for FY 2010 as part of its initiative to reform the waiver process. For FY 2010, Montgomery, Prince George's, and Wicomico Counties requested partial MOE waivers from the State Board of Education – the first waiver requests since the waiver law was enacted in 1996.¹ Despite the good faith efforts of all three counties, the State Board summarily rejected all three using subjective and sometimes contradictory reasoning. In its opinion to Wicomico County, the State Board stressed the need for more collaboration with its local school board.² Yet in its opinion to Montgomery County, which exceeded MOE by \$408 million for FY 2004-09 and had agreement with its local school board, the State Board seemed to discount the County's efforts.³

After their waiver denials, the counties attempted to meet MOE while still addressing their significant budget challenges. Yet, a November 4, 2009 opinion by the Maryland Attorney General held that both Montgomery and Prince George's Counties failed to meet their MOE requirement.⁴ All three counties had reluctantly attempted to utilize the waiver process during difficult economic times, consistent with the intent of the waiver provisions, but all three were rejected. Ultimately, \$23.4 million in State MOE aid will be withheld from Montgomery County schools unless a retroactive waiver is granted.

HB 632 provides needed relief from the pending FY 2010 MOE penalty, arising from this year's perplexing waiver denials. Accordingly, MACo recommends the Committee issue a **FAVORABLE** report.

¹ HB 7 of 1996.

² *In Re Waiver Request of Wicomico County*, p. 11, Maryland State Board of Education (May 15, 2009).

³ *In Re Waiver Request of Montgomery County*, pp. 12-13, Maryland State Board of Education (May 15, 2009).

⁴ 94 Att'y Gen. Op. 177 (2009).