



BILL NO.: Senate Bill 403
TITLE: Maintenance of Effort - Penalty
POSITION: **OPPOSE**
DATE: February 24, 2010
COMMITTEE: Budget and Taxation
CONTACT: Leslie Knapp Jr.

The Maryland Association of Counties (MACo) **OPPOSES** Senate Bill 403. The bill would shift the maintenance of effort (MOE) “penalty” onto the counties. Under the bill, if the State Comptroller receives certification by the State Superintendent of Schools or the State Board of Education of a county’s noncompliance with MOE, the Comptroller shall suspend payment of any State funds due the county governing body for the current fiscal year. The amount of suspended funds would equal the increase in State aid due the county school board.

MACo opposes the bill’s shifting of the MOE penalty onto the counties. Counties remain committed to funding education; in many counties education funding comprises more than all other budget categories combined. The proposed FY 2011 budget, reflecting some \$400 million in cuts to local governments being carried over from FY 2010, provides \$600 million less in funding to county and municipal government than that of FY 2007, sending local government aid down to 1984 levels. Absent a pattern of counties failing to meet MOE, there is no need to alter the penalty provision.

Further, altering the penalty to affect other areas of local aid changes the essential nature of the MOE system. Currently, MOE serves as an “eligibility” to receive state funding. A county must maintain its funding commitment to local schools to receive a State increase. This defends the concept of “supplement, but not supplant” that MOE laws used in many intergovernmental funding arrangements. Altering this concept to a local funding mandate, regardless of State funding levels, extends this relationship beyond the “carrot-and-stick” variety. Rather, it becomes an unwarranted intrusion into local governments' fiscal autonomy. Requiring county elected officials to set tax rates and fund education at levels that hinder their ability to balance a county budget goes beyond the non-supplantation notion of the MOE law and others, and extends into new territory of deep policy intrusion.

Finally, shifting the penalty ignores other serious flaws in the MOE law. Counties that have generously funded education by exceeding MOE have ultimately raised their own MOE requirements, as their extra contributions, unless excluded under the narrowly construed nonrecurring cost exception, are built into the next years' MOE base. If the penalty is shifted, counties that have exceeded MOE the most during good economic times will be the most likely to be penalized during bad economic times. This outcome is illogical and contrary to the general policy of encouraging counties to fund greater amounts for education.

Shifting the MOE penalty is unnecessary, represents a significant intrusion into local governments' fiscal autonomy, and would ultimately result in counties being more reluctant to exceed MOE. Accordingly, MACo recommends the Committee issue an **UNFAVORABLE** report on SB 403.