
Maintenance of Effort Requirements for Education

**Presentation to the Joint Legislative
Workgroup to Study State, County, and
Municipal Fiscal Relationships**

**Department of Legislative Services
Office of Policy Analysis
Annapolis, Maryland
November 5, 2009**

Outline

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Community College MOE Requirement

- A maintenance of effort provision for community colleges was established in 1991
- The requirement was then waived from fiscal 1992 to 1994 due to the State's fiscal crisis
- Current MOE provision:
 - County appropriations to community colleges must equal or exceed the amount provided in the previous year to qualify for increases in State funding
 - For regional colleges, the aggregate county appropriations must exceed the previous year's aggregate appropriations to qualify for increases in State funding

Local Appropriations by Community College Fiscal 2003-2009

College	Local Appropriations		Average Annual Increase	
	Fiscal 2003	Fiscal 2009	Dollars	Percent
Allegany	\$5,475,000	\$7,425,000	\$325,000	5.2%
Anne Arundel	21,780,000	33,822,700	2,007,117	7.6%
Baltimore County	32,911,629	38,332,055	903,404	2.6%
Carroll	4,108,873	7,900,903	632,005	11.5%
Cecil	5,488,454	8,101,100	435,441	6.7%
Chesapeake	4,603,435	5,885,589	213,692	4.2%
Frederick	9,592,536	14,599,933	834,566	7.3%
Garrett	2,458,300	4,376,000	319,617	10.1%
Hagerstown	4,737,280	8,697,128	659,975	10.7%
Harford	11,498,368	15,939,806	740,240	5.6%
Howard	13,819,423	25,195,470	1,896,008	10.5%
Montgomery	61,733,925	105,054,553	7,220,105	9.3%
Prince George's	13,166,300	30,484,600	2,886,383	15.0%
Southern Maryland	10,833,154	14,498,891	610,956	5.0%
WorWic	3,418,723	6,075,641	442,820	10.1%
Total	\$205,625,400	\$326,389,369	\$20,127,328	8.0%

Source: Maryland Higher Education Commission; Department of Legislative Services

Community College MOE Summary

- Overall, counties are exceeding community college MOE requirements
 - 8.0% average annual growth from fiscal 2003 to 2009
 - \$20,127,328 average annual increase
- Especially large increases between fiscal 2006 and 2008
- Only one county did not meet MOE during fiscal 2003 to 2009 – Baltimore County in fiscal 2004
 - \$13,415 reduction (out of \$32,898,214 spent)
 - State support for community colleges also fell by a total of \$10,151,175 in fiscal 2004
- Prince George's County had the largest average percentage growth – 15.0%
- Montgomery County had the largest average increases – \$7,220,105 annually

Primary and Secondary Education MOE Requirement

- The General Assembly established the MOE requirement for K-12 funding in 1984 to ensure that the cost of education is shared and to provide the local boards of education with predictable and stable funding
- Receiving an increase in the State share of foundation funding, the geographic cost of education index, and the supplemental grant is conditioned upon a county satisfying the MOE requirement
- MOE requires a county to appropriate per pupil operating budget funds to the local school system in an amount not less than the per pupil amount provided in the prior year
- State law also requires a county to “levy an annual tax sufficient to provide an amount of revenue for [K-12] education purposes equal to the local share of the foundation program”

Calculation of MOE

- Excludes:
 - nonrecurring costs
 - cost of programs that have been shifted from the county budget to the school system budget
- Nonrecurring costs are established in regulation and include:
 - costs to establish new computer labs
 - costs for new technology
 - new instructional program start-up costs
 - books other than class textbooks
 - capital costs other than land and buildings
 - other one-time costs agreed upon by the school and the county
- Nonrecurring costs are primarily equipment, renovations, and staff development and training for new equipment and technology
- Nonrecurring costs cannot be included in the county appropriation in order to satisfy the MOE requirement, nor are they included in the calculation of the following year's MOE level
- The Maryland State Department of Education (MSDE) must approve a county's classification of costs as nonrecurring

Statewide Waivers from MOE

- In 1991 and 1992, the Governor and the General Assembly provided statewide waivers from MOE for fiscal 1992 and 1993
- The fiscal 1992 waiver provided that the fiscal 1993 MOE requirement must be based on the local appropriation for fiscal 1991 or 1992, whichever is greater
- The fiscal 1993 waiver provided that the fiscal 1994 MOE requirement would be based on the fiscal 1993 appropriation and would be calculated on a per pupil basis

Waiver Process Established in State Law

- Chapter 175 of 1996 established a process by which counties can request a temporary or partial waiver from the MOE requirement
- The law provides that the State Board of Education may grant a waiver if it determines that a “county’s fiscal condition significantly impedes the county’s ability to fund the maintenance of effort requirement”
- The law authorized MSDE to establish regulations for the waiver
- In the 2009 Budget Reconciliation and Financing Act, the General Assembly altered the waiver process by specifying that the appropriation for the year following a year for which a waiver is granted must be calculated using the greatest per pupil appropriation of the two prior years

Waiver Process Regulations

- County must apply – information in the application must include:
 - county’s required appropriation under MOE
 - the proposed appropriation for the school operating budget
 - the county’s projected fiscal condition including revenue from taxes and a projected expenditure plan
 - whether the county has statutory prohibitions against raising revenues
 - copies of the three most recent audited financial statements
 - other information the county or State board considers necessary
- State board holds a public hearing

Waiver Process Regulations (Cont.)

- Burden of proof county must satisfy:
preponderance of the evidence
- Factors State board may consider:
 - external environmental factors such as a loss of a major business or industry
 - tax bases
 - rate of inflation relative to growth of student population
 - maintenance of effort requirement relative to the county's statutory ability to raise revenues

Waiver Requests for Fiscal 2010

<u>County</u>	<u>MOE Requirement</u>	<u>Waiver Amount Requested</u>	<u>% of MOE</u>
Montgomery	\$1.5 billion	\$79.5 million	5.20%
Prince George's	\$538.2 million	\$23.6 million	4.39%
Wicomico	\$50.8 million	\$2.0 million	3.94%

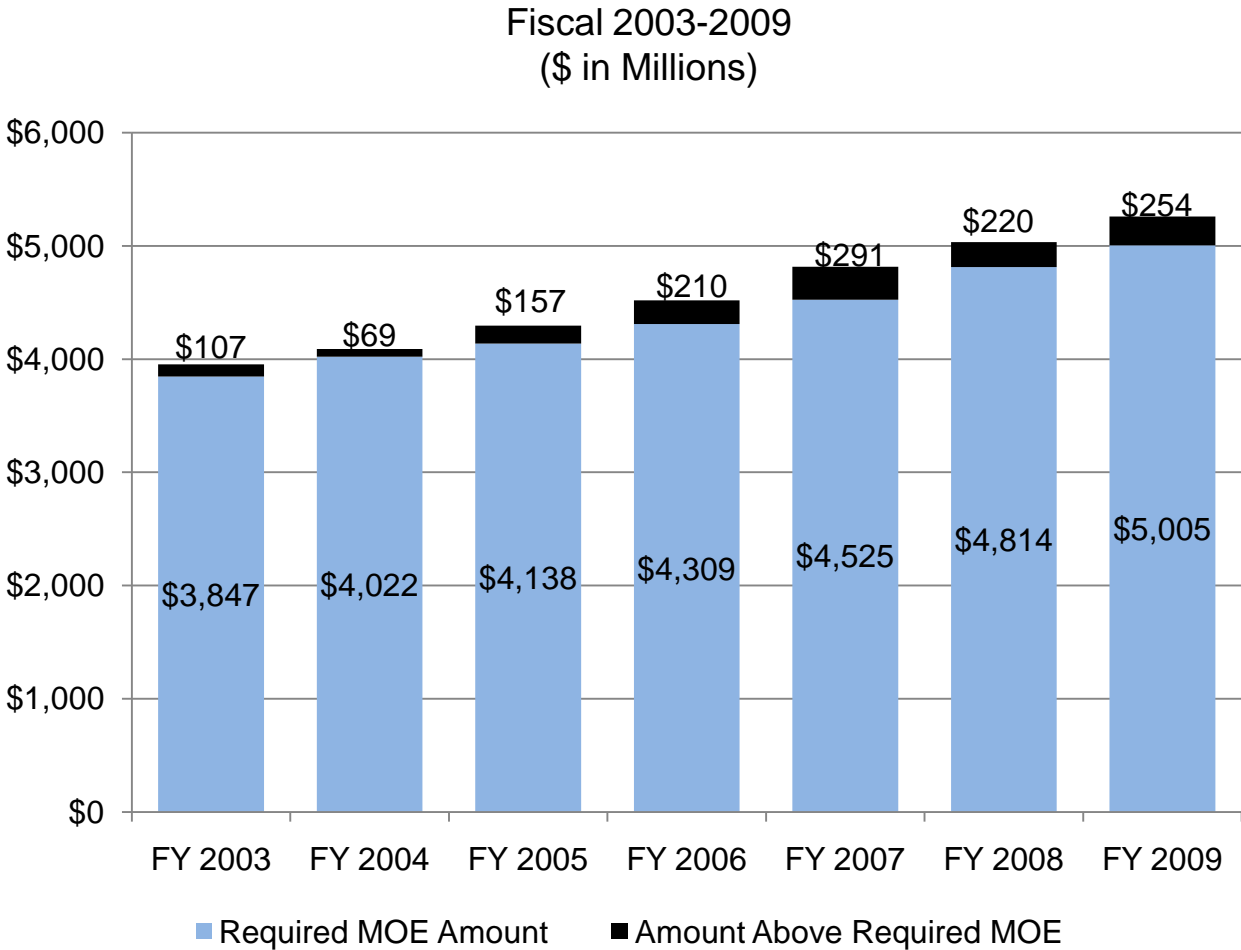
State Board Denied All Requests

- Narrowly interpreted “external environmental factors” to mean an extraordinary event that is unique to the county and not a broad economic downturn
- Interpreted tax base factor by evaluating whether a “complete loss of one tax base or significant losses across all or most of a county’s tax bases” occurred in the county
- Gave little weight to any locally imposed prohibitions on raising revenues
- Argued that agreement between county and school system is not a determinative factor
- Suggested that the recession did not have a more significant impact on these 3 counties than on the other 21 counties

What's Happening Now?

- An opinion of the Attorney General has been requested regarding whether fiscal 2010 funding from the three counties meets the counties' MOE requirements. The opinion is expected soon
- The Prince George's County government filed an appeal to overturn the board's decision. The county board of education has filed a motion to dismiss, which will be ruled on by December 18. If the motion to dismiss is denied, oral arguments will take place June 30, 2010, with the court's decision expected one month later

Statewide MOE Increases



Source: Maryland State Department of Education

MOE Increases by County

Fiscal 2003-2009

County	Local MOE Appropriation		Average Annual Change		Per Pupil MOE Appropriation		Average Annual Change	
	Fiscal 2003	Fiscal 2009	In Dollars	Percent	Fiscal 2003	Fiscal 2009	In Dollars	Percent
Allegany	\$25,530,000	\$28,450,000	\$486,667	1.82%	\$2,671	\$3,164	\$82	2.86%
Anne Arundel	383,840,000	551,206,500	27,894,417	6.22%	5,362	7,698	389	6.21%
Baltimore City	197,848,545	197,848,545	0	0.00%	2,177	2,561	64	2.75%
Baltimore	547,711,788	634,036,045	14,387,376	2.47%	5,438	6,339	150	2.59%
Calvert	72,942,541	99,996,747	4,509,034	5.40%	4,619	5,899	213	4.16%
Caroline	10,922,859	12,367,678	240,803	2.09%	2,097	2,312	36	1.64%
Carroll	110,283,328	157,298,822	7,835,916	6.10%	4,088	5,620	255	5.45%
Cecil	53,532,970	68,985,106	2,575,356	4.32%	3,553	4,375	137	3.53%
Charles	90,024,200	144,995,000	9,161,800	8.27%	3,996	5,611	269	5.82%
Dorchester	15,069,453	17,473,300	400,641	2.50%	3,368	3,941	96	2.65%
Frederick	152,185,498	230,412,164	13,037,778	7.16%	4,237	5,849	269	5.52%
Garrett	15,674,124	23,159,000	1,247,479	6.72%	3,309	5,270	327	8.06%
Harford	145,851,098	210,914,800	10,843,950	6.34%	3,874	5,528	276	6.11%
Howard	289,188,430	447,724,210	26,422,630	7.56%	6,545	9,225	447	5.89%
Kent	13,437,085	17,217,000	629,986	4.22%	5,358	8,000	440	6.91%
Montgomery	1,076,760,104	1,513,555,147	72,799,174	5.84%	8,307	11,249	490	5.18%
Prince George's	469,546,900	528,479,300	9,822,067	1.99%	3,705	4,314	101	2.57%
Queen Anne's	32,757,413	47,168,270	2,401,810	6.26%	4,861	6,332	245	4.50%
St. Mary's	53,601,069	74,331,048	3,454,997	5.60%	3,755	4,639	147	3.58%
Somerset	8,679,324	8,624,324	-9,167	-0.11%	3,103	3,165	10	0.33%
Talbot	25,804,352	33,988,148	1,363,966	4.70%	6,129	8,032	317	4.61%
Washington	71,019,438	87,659,650	2,773,369	3.57%	3,776	4,137	60	1.53%
Wicomico	44,102,658	50,204,655	1,017,000	2.18%	3,378	3,623	41	1.18%
Worcester	47,479,742	72,614,611	4,189,145	7.34%	7,361	11,389	671	7.55%
Total State	\$3,953,792,919	\$5,258,710,070	\$217,486,192	4.87%	\$4,878	\$6,447	\$261	4.76%

Source: Maryland State Department of Education; Department of Legislative Services

Increases Above MOE

Fiscal 2003-2009

(\$ in Thousands)

County	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	Total FY 02-09
Allegany	\$1,188	\$356	\$149	\$1,245	\$971	\$1,474	\$345	\$5,727
Anne Arundel	13,416	5,963	22,742	36,481	36,848	24,135	37,415	177,001
Baltimore City	4,068	1,403	3,964	6,175	5,545	6,168	8,348	35,672
Baltimore	11,284	4,496	5,289	18,442	15,049	13,415	33,893	101,869
Calvert	2,344	205	2,540	4,066	4,975	3,833	6,018	23,981
Caroline	139	31	280	274	171	330	25	1,250
Carroll	4,205	158	1,494	7,129	8,274	6,486	12,632	40,378
Cecil	2,686	709	969	3,007	2,613	444	5,229	15,656
Charles	2,464	0	2,954	7,784	10,185	9,616	9,216	42,218
Dorchester	893	0	0	358	1,145	139	895	3,431
Frederick	4,596	3,249	5,073	9,015	12,742	12,974	11,570	59,219
Garrett	760	2,062	923	612	1,121	2,346	1,703	9,528
Harford	5,949	0	4,835	20,017	13,030	12,911	13,714	70,456
Howard	9,744	10,490	13,307	22,994	26,101	26,951	23,440	133,028
Kent	975	50	779	818	1,249	1,638	1,497	7,005
Montgomery	26,039	34,005	75,743	41,759	98,844	75,442	68,531	420,362
Prince George's	6,773	275	5,932	22,163	37,751	7,402	184	80,480
Queen Anne's	1,439	1,094	1,237	646	1,170	3,488	3,120	12,193
St. Mary's	74	0	1,154	2,222	4,528	3,472	2,546	13,995
Somerset	1	17	0	0	47	0	103	169
Talbot	1,615	0	499	1,197	1,952	2,163	2,263	9,689
Washington	2,580	2,814	2,308	42	4	0	2,927	10,676
Wicomico	567	562	0	445	639	997	707	3,917
Worcester	2,978	660	4,810	3,461	5,612	4,472	7,420	29,413
Total State	\$106,774	\$68,601	\$156,980	\$210,355	\$290,567	\$220,295	\$253,742	\$1,307,314

Local Education Effort

Fiscal 2003-2009

County	(Local Appropriation/Local Wealth)						
	Fiscal 2003	Fiscal 2004	Fiscal 2005	Fiscal 2006	Fiscal 2007	Fiscal 2008	Fiscal 2009
Allegany	1.50%	1.53%	1.44%	1.51%	1.48%	1.47%	1.36%
Anne Arundel	1.57%	1.54%	1.56%	1.56%	1.51%	1.41%	1.35%
Baltimore City	1.49%	1.49%	1.49%	1.43%	1.34%	1.25%	1.11%
Baltimore	1.69%	1.72%	1.73%	1.71%	1.61%	1.50%	1.42%
Calvert	1.90%	1.87%	1.84%	1.80%	1.71%	1.62%	1.51%
Caroline	1.29%	1.24%	1.21%	1.16%	1.09%	1.00%	0.88%
Carroll	1.71%	1.72%	1.75%	1.76%	1.69%	1.56%	1.52%
Cecil	1.70%	1.68%	1.68%	1.63%	1.55%	1.37%	1.32%
Charles	1.74%	1.72%	1.74%	1.79%	1.79%	1.73%	1.61%
Dorchester	1.53%	1.52%	1.43%	1.38%	1.30%	1.23%	1.13%
Frederick	1.69%	1.79%	1.78%	1.79%	1.71%	1.69%	1.53%
Garrett	1.43%	1.50%	1.47%	1.40%	1.32%	1.28%	1.19%
Harford	1.61%	1.57%	1.58%	1.69%	1.66%	1.58%	1.50%
Howard	1.91%	2.01%	2.08%	2.07%	2.00%	1.94%	1.84%
Kent	1.61%	1.52%	1.54%	1.50%	1.41%	1.37%	1.26%
Montgomery	1.87%	1.94%	1.99%	1.93%	1.84%	1.72%	1.50%
Prince George's	1.82%	1.85%	1.89%	1.85%	1.81%	1.68%	1.47%
Queen Anne's	1.60%	1.60%	1.54%	1.44%	1.33%	1.27%	1.19%
St. Mary's	1.65%	1.59%	1.59%	1.57%	1.53%	1.52%	1.40%
Somerset	1.85%	1.76%	1.68%	1.60%	1.55%	1.31%	1.15%
Talbot	1.14%	1.11%	1.07%	1.01%	0.94%	0.89%	0.84%
Washington	1.59%	1.63%	1.63%	1.63%	1.49%	1.38%	1.24%
Wicomico	1.71%	1.71%	1.67%	1.60%	1.48%	1.38%	1.27%
Worcester	1.38%	1.32%	1.26%	1.13%	1.08%	0.98%	0.92%
Total State	1.72%	1.75%	1.77%	1.75%	1.68%	1.58%	1.44%
Simple Average	1.62%	1.62%	1.61%	1.58%	1.51%	1.42%	1.31%

Note: The table uses the full local appropriations, which are higher than the MOE appropriations in some cases.

Source: Department of Legislative Services

Local MOE Funding Summary

- In every year since fiscal 2003, every county or nearly every county has exceeded the State's maintenance of effort requirement, with the statewide increases exceeding \$200 million every year from fiscal 2006 to 2009
- There is significant variation between the counties in the size of the annual increases
- Since fiscal 2002, local appropriation increases above the required amounts have led to \$1.3 billion in increases statewide
- Although counties have provided relatively large increases in funding for education since fiscal 2005, local education effort (local appropriation divided by local wealth) has dipped during this period primarily because local wealth has grown so rapidly. From fiscal 2005 to 2009, local wealth increased by an average of more than 11% per year while appropriations increased by an average of 5.4% annually

Further Information

- The State board's decisions for Montgomery, Prince George's, and Wicomico county waiver requests can be found at:

http://www.marylandpublicschools.org/MSDE/stateboard/decisions_moewr.htm