
Local Education Funding and Maintenance of Effort Update

**Presentation to the Senate Budget
and Taxation Committee**

**Department of Legislative Services
Office of Policy Analysis
Annapolis, Maryland**

July 26, 2011

Local Funding Requirements for K-12 Education

1. State law requires a county to “levy an annual tax sufficient to provide an amount of revenue” equal to the local share of the foundation program
2. Maintenance of Effort (MOE) requires a county to *appropriate* to the local school system an amount not less than the highest amount provided in the prior year on a per pupil basis
 - If the county governing body does not provide the required MOE amount, then an amount of State funding is withheld
 - The amount withheld is equal to the increase in the foundation program (includes the State share of the foundation funding, the geographic cost of education index, and the supplemental grant)

Fiscal 2012 Required Local Education Funding

(\$ in Millions)

| School System | Local Share | Add'l MOE Amount | Required Appropriation |
|--------------------|------------------|------------------|------------------------|
| Allegany | \$16.4 | \$11.3 | \$27.7 |
| Anne Arundel | 306.3 | 261.8 | 568.1 |
| Baltimore City | 151.5 | 81.5 | 233.0 |
| Baltimore | 340.8 | 326.1 | 666.9 |
| Calvert | 50.9 | 52.5 | 103.4 |
| Caroline | 11.1 | 1.2 | 12.3 |
| Carroll | 78.7 | 83.7 | 162.4 |
| Cecil | 40.0 | 27.1 | 67.2 |
| Charles | 68.3 | 77.3 | 145.6 |
| Dorchester | 11.9 | 5.3 | 17.2 |
| Frederick | 111.1 | 109.3 | 220.4 |
| Garrett | 15.8 | 6.8 | 22.6 |
| Harford | 108.2 | 105.3 | 213.4 |
| Howard | 180.8 | 280.0 | 460.7 |
| Kent | 10.6 | 6.4 | 16.9 |
| Montgomery | 649.5 | 929.9 | 1,579.4 |
| Prince George's | 347.0 | 183.6 | 530.6 |
| Queen Anne's | 29.4 | 18.6 | 48.0 |
| St. Mary's | 48.5 | 27.8 | 76.3 |
| Somerset | 6.0 | 2.6 | 8.6 |
| Talbot | 31.6 | 2.6 | 34.2 |
| Washington | 51.8 | 37.7 | 89.5 |
| Wicomico | 28.6 | 21.5 | 50.1 |
| Worcester | 53.4 | 18.6 | 71.9 |
| State Total | \$2,748.3 | \$2,678.4 | \$5,426.7 |

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

History of the MOE Requirement

- Prior to 1984, the counties were only required to provide the local share of the foundation amount. If this amount was not provided then the entirety of the State share of the foundation program would be at risk.
- The General Assembly established the MOE requirement in 1984 as part of legislation that increased the State's participation in funding K-12 education to ensure that the funding provided by the local governments was not reduced. This legislation also established the current penalty provision for failure to meet MOE.
- In fiscal 1992 and 1993, the General Assembly authorized statewide waivers from the MOE requirement.
- Chapter 175 of 1996 established a permanent process by which counties may request a 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.”

Recent History of MOE Waiver Requests

- In the 2009 Budget Reconciliation and Financing Act (BRFA), in anticipation of counties requesting waivers, the General Assembly specified that if a waiver is granted, the following year's MOE appropriation must be calculated using the greatest per pupil appropriation of the two prior years
- In 2009, the State Board of Education denied the waiver requests of three counties for fiscal 2010
- In 2010, legislation that would have altered the factors that the State board was required to consider reached conference committee, but the agreed upon compromise failed to pass in both houses prior to *sine die*
- In the same year, two counties requested waivers for fiscal 2011, which were granted partly because the State board used the factors proposed in the legislation

2011 Legislative Changes

1. Chapter 605 delayed the imposition of a penalty to the year after the MOE requirement was not met instead of in the same year
2. BRFA specified how a penalty for not meeting MOE in fiscal 2012 was to be calculated to account for the expiration of federal stimulus funds
3. BRFA included a provision relating to a change in budgeting practices in Baltimore City that could have had an impact on the calculation of Baltimore City's fiscal 2012 MOE amount
4. BRFA amended Section 5-103 of the Education Article to clarify the minimum amount of funding that a county board must request and the minimum amount that a local governing body must raise through local revenue

Local Funding Provisions Clarified During Session

Changes Made

- § 5-103(a) – specifies that the minimum amount a county board *must* request and the minimum amount of revenue that a county *must* raise is the local share of the foundation
- § 5-103(b) and (c) – specify that the county government may provide more than the local share of the foundation and require the county to explain any reductions to the county board's request above the local share

Effect of Change

- Confirmed the authority and recent practice by several counties to fund below MOE

Not Changed

- Fully funding MOE is *still mandatory*, and penalty is still assessed if it is not met

May 2011 Declaratory Ruling

Montgomery County Board of Education asked the State Board of Education to make the following declarations:

- Section 5-103 of the Education Article establishes that the county government has a “legal responsibility” to fund both the local share of the foundation program and the MOE amount
 - The State board agreed
- Section 5-202 requires the county government to apply for a waiver of MOE if the county is at risk of funding less than the required amount
 - The State board disagreed
- Section 5-102 precludes the county council from reducing the County Executive’s proposed education budget
 - The State board disagreed

Fiscal 2012 Waiver Requests

- Six counties originally expressed intent to ask for an MOE waiver for fiscal 2012. However, none filed a waiver request.
- These include:
 - Anne Arundel
 - Kent
 - Montgomery
 - Queen Anne's
 - Talbot
 - Wicomico

Penalty Assessed in Fiscal 2013 If Fiscal 2012 MOE Not Met

(\$ in Millions)

| School System | Total Required | Budgeted Funding | Diff. | Potential Penalty |
|--------------------|------------------|------------------|-----------------|-------------------|
| Allegany | \$27.7 | \$28.2 | \$0.6 | \$0.0 |
| Anne Arundel | 568.1 | 556.1 | -12.0 | 3.8 |
| Baltimore City | 233.0 | 249.3 | 16.2 | 0.0 |
| Baltimore | 666.9 | 666.9 | 0.0 | 2.0 |
| Calvert | 103.4 | 109.5 | 6.1 | 0.0 |
| Caroline | 12.3 | 12.3 | 0.0 | 0.0 |
| Carroll | 162.4 | 163.5 | 1.1 | 0.0 |
| Cecil | 67.2 | 67.2 | 0.0 | 0.0 |
| Charles | 145.6 | 145.6 | 0.0 | 1.2 |
| Dorchester | 17.2 | 16.5 | -0.8 | 0.0 |
| Frederick | 220.4 | 220.8 | 0.4 | 4.2 |
| Garrett | 22.6 | 24.9 | 2.3 | 0.0 |
| Harford | 213.4 | 214.3 | 0.9 | 0.0 |
| Howard | 460.7 | 467.6 | 6.9 | 2.9 |
| Kent | 16.9 | 16.1 | -0.8 | 0.0 |
| Montgomery | 1,579.4 | 1,370.1 | -209.3 | 26.2 |
| Prince George's | 530.6 | 617.5 | 86.9 | 0.0 |
| Queen Anne's | 48.0 | 43.5 | -4.5 | 0.5 |
| St. Mary's | 76.3 | 77.0 | 0.8 | 0.0 |
| Somerset | 8.6 | 8.6 | 0.0 | 0.0 |
| Talbot | 34.2 | 32.4 | -1.8 | 0.0 |
| Washington | 89.5 | 89.5 | 0.0 | 2.8 |
| Wicomico | 50.1 | 36.2 | -13.9 | 0.0 |
| Worcester | 71.9 | 71.9 | 0.0 | 0.1 |
| State Total | \$5,426.7 | \$5,305.7 | \$-121.0 | |

Note: Total required funding and penalty amount from MSDE. Budgeting funding is preliminary data self-reported by counties to PSSAM that has not been certified by MSDE.

Board Asks Legislature to Fix MOE

In Declaratory Ruling and MOE decisions of the past two years, the State board identified flaws and asked the General Assembly to fix the MOE law, which has become “unworkable” and “subject to manipulation.”

1. The penalty is assessed to the local board thus presenting a “Hobson’s choice” to support a waiver request. Delaying penalty to following year may encourage counties not to request waivers.
2. The law is silent as to the calculation of the MOE amount if a waiver is not granted or not requested. This allows permanent “rebasing” at a lower amount.
3. Not requiring waiver requests and rebasing trend could undermine adequate education funding.
4. No recognition of a county’s efforts and past history of exceeding the required MOE amount ratchets MOE amount to potentially unstable levels, while on the other side, the MOE requirement does not include an inflationary factor.

Historically, Counties Have Funded Above MOE

(% of Appropriation Above MOE)

| School System | FY 2003 | FY 2004 | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 |
|--------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Allegany | 4.65% | 1.37% | 0.58% | 4.68% | 3.55% | 5.19% | 1.21% |
| Anne Arundel | 3.50% | 1.53% | 5.49% | 8.12% | 7.57% | 4.71% | 6.79% |
| Baltimore City | 2.06% | 0.71% | 2.00% | 3.12% | 2.80% | 3.12% | 4.22% |
| Baltimore | 2.06% | 0.80% | 0.93% | 3.15% | 2.51% | 2.20% | 5.35% |
| Calvert | 3.21% | 0.27% | 3.17% | 4.79% | 5.54% | 4.06% | 6.02% |
| Caroline | 1.27% | 0.29% | 2.55% | 2.43% | 1.44% | 2.69% | 0.21% |
| Carroll | 3.81% | 0.14% | 1.21% | 5.44% | 5.88% | 4.43% | 8.03% |
| Cecil | 5.02% | 1.29% | 1.69% | 4.94% | 4.09% | 0.69% | 7.58% |
| Charles | 2.74% | 0.00% | 2.91% | 6.96% | 8.23% | 7.09% | 6.36% |
| Dorchester | 5.93% | 0.00% | 0.00% | 2.32% | 7.01% | 0.83% | 5.12% |
| Frederick | 3.02% | 2.04% | 3.04% | 5.03% | 6.58% | 5.94% | 5.02% |
| Garrett | 4.85% | 11.63% | 4.99% | 3.26% | 5.63% | 10.64% | 7.35% |
| Harford | 4.08% | 0.00% | 3.14% | 11.41% | 6.88% | 6.47% | 6.50% |
| Howard | 3.37% | 3.41% | 4.03% | 6.43% | 6.73% | 6.41% | 5.24% |
| Kent | 7.25% | 0.38% | 5.69% | 5.73% | 8.28% | 10.10% | 8.69% |
| Montgomery | 2.42% | 2.99% | 6.21% | 3.29% | 7.18% | 5.22% | 4.53% |
| Prince George's | 1.44% | 0.06% | 1.21% | 4.33% | 7.01% | 1.38% | 0.03% |
| Queen Anne's | 4.39% | 3.12% | 3.38% | 1.69% | 2.93% | 7.94% | 6.61% |
| St. Mary's | 0.14% | 0.00% | 1.98% | 3.58% | 6.75% | 4.90% | 3.42% |
| Somerset | 0.01% | 0.20% | 0.00% | 0.00% | 0.55% | 0.00% | 1.20% |
| Talbot | 6.26% | 0.00% | 1.89% | 4.29% | 6.55% | 6.83% | 6.66% |
| Washington | 3.63% | 3.80% | 2.96% | 0.05% | 0.00% | 0.00% | 3.34% |
| Wicomico | 1.28% | 1.23% | 0.00% | 0.95% | 1.32% | 2.02% | 1.41% |
| Worcester | 6.27% | 1.37% | 9.12% | 6.29% | 9.18% | 6.74% | 10.22% |
| Total State | 2.70% | 1.68% | 3.65% | 4.65% | 6.03% | 4.38% | 4.83% |

Source: Maryland State Department of Education

Counties Not Meeting MOE on the Rise

(\$ in Millions)

| School System | Fiscal 2010 | | | | | Fiscal 2011 | | | | | Budgeted Fiscal 2012 | | | | |
|-----------------|-------------|---------------|--------|-------|-------------------|-------------|---------------|--------|--------|-------------------|----------------------|-----------------|--------|--------|-------------------|
| | Req. MOE | Act. MOE App. | \$ Dif | % Dif | Potential Penalty | Req. MOE | Act. MOE App. | \$ Dif | % Dif | Potential Penalty | Req. MOE | Budget MOE App. | \$ Dif | % Dif | Potential Penalty |
| Allegany | \$27.7 | \$28.2 | 40.5 | 1.8% | \$0.0 | 428.2 | \$28.2 | \$0.0 | 0.0% | \$0.0 | \$27.7 | \$28.2 | \$0.6 | 2.0% | \$0.0 |
| Anne Arundel | 553.1 | 554.0 | 0.9 | 0.2% | 0.0 | 562.4 | 562.4 | 0.0 | 0.0% | 10.0 | 568.1 | 556.1 | -12.0 | -2.2% | 3.8 |
| Baltimore City | 199.4 | 199.4 | 0.0 | 0.0% | 0.0 | 199.5 | 199.5 | 0.0 | 0.0% | 0.0 | 233.0 | 249.3 | 16.2 | 6.5% | 0.0 |
| Baltimore | 629.4 | 660.0 | 30.6 | 4.6% | 0.0 | 661.4 | 661.5 | 0.0 | 0.0% | 5.2 | 666.9 | 666.9 | 0.0 | 0.0% | 2.0 |
| Calvert | 98.3 | 103.3 | 5.0 | 4.8% | 0.0 | 103.0 | 105.0 | 2.0 | 1.9% | 0.0 | 103.4 | 109.5 | 6.1 | 5.6% | 0.0 |
| Caroline | 12.1 | 12.1 | 0.0 | 0.0% | 0.0 | 12.4 | 12.4 | 0.0 | 0.0% | 0.0 | 12.3 | 12.3 | 0.0 | 0.0% | 0.0 |
| Carroll | 155.3 | 165.8 | 10.5 | 6.3% | 0.0 | 164.5 | 164.5 | 0.0 | 0.0% | 0.0 | 162.4 | 163.5 | 1.1 | 0.7% | 0.0 |
| Cecil | 68.4 | 68.4 | 0.0 | 0.0% | 0.0 | 68.4 | 68.4 | 0.0 | 0.0% | 0.5 | 67.2 | 67.2 | 0.0 | 0.0% | 0.0 |
| Charles | 145.1 | 145.1 | 0.0 | 0.0% | 0.0 | 145.3 | 145.3 | 0.0 | 0.0% | 1.0 | 145.6 | 145.6 | 0.0 | 0.0% | 1.2 |
| Dorchester | 17.0 | 17.0 | 0.0 | 0.0% | 0.0 | 17.4 | 17.4 | 0.0 | 0.0% | 0.6 | 17.2 | 16.5 | -0.8 | -4.6% | 0.0 |
| Frederick | 228.6 | 228.9 | 0.3 | 0.1% | 0.0 | 219.9 | 219.9 | 0.0 | 0.0% | 1.2 | 220.4 | 220.8 | 0.4 | 0.2% | 4.2 |
| Garrett | 22.6 | 23.2 | 0.5 | 2.4% | 0.0 | 22.6 | 23.2 | 0.6 | 2.5% | 0.0 | 22.6 | 24.9 | 2.3 | 9.1% | 0.0 |
| Harford | 208.3 | 210.9 | 2.7 | 1.3% | 0.0 | 211.1 | 214.0 | 3.0 | 1.4% | 0.0 | 213.4 | 214.3 | 0.9 | 0.4% | 0.0 |
| Howard | 450.5 | 450.5 | 0.0 | 0.0% | 0.0 | 457.9 | 457.9 | 0.0 | 0.0% | 8.9 | 460.7 | 467.6 | 6.9 | 1.5% | 2.9 |
| Kent | 16.6 | 17.3 | 0.7 | 3.9% | 0.0 | 17.2 | 17.2 | 0.0 | 0.0% | 0.0 | 16.9 | 16.1 | -0.8 | -5.1% | 0.0 |
| Montgomery | 1,529.6 | 1,450.0 | -79.5 | -5.5% | 23.4 | 1,554.0 | 1,415.1 | -138.9 | -9.8% | 41.2 | 1,579.4 | 1,370.1 | -209.3 | -15.3% | 26.2 |
| Prince George's | 538.1 | 526.4 | -11.7 | -2.2% | 0.0 | 532.2 | 532.2 | 0.0 | 0.0% | 0.0 | 530.6 | 617.5 | 86.9 | 14.1% | 0.0 |
| Queen Anne's | 47.6 | 48.2 | 0.6 | 1.3% | 0.0 | 48.0 | 48.0 | 0.0 | 0.0% | 0.0 | 48.0 | 43.5 | -4.5 | -10.4% | 0.5 |
| St. Mary's | 74.1 | 74.1 | 0.0 | 0.0% | 0.0 | 76.0 | 76.0 | 0.0 | 0.0% | 1.4 | 76.3 | 77.0 | 0.8 | 1.0% | 0.0 |
| Somerset | 8.6 | 8.6 | 0.0 | 0.4% | 0.0 | 8.6 | 8.6 | 0.0 | 0.4% | 0.0 | 8.6 | 8.6 | 0.0 | 0.1% | 0.0 |
| Talbot | 34.2 | 34.2 | 0.0 | 0.0% | 0.0 | 34.3 | 34.3 | 0.0 | 0.0% | 0.0 | 34.2 | 32.4 | -1.8 | -5.6% | 0.0 |
| Washington | 86.2 | 87.8 | 1.6 | 1.8% | 0.0 | 88.4 | 88.4 | 0.0 | 0.0% | 2.1 | 89.5 | 89.5 | 0.0 | 0.0% | 2.8 |
| Wicomico | 50.8 | 50.8 | 0.0 | 0.0% | 0.0 | 50.6 | 43.2 | -7.4 | -17.1% | 1.0 | 50.1 | 36.2 | -13.9 | -38.5% | 0.0 |
| Worcester | 72.0 | 72.0 | 0.0 | 0.0% | 0.0 | 71.3 | 71.3 | 0.0 | 0.0% | 0.0 | 71.9 | 71.9 | 0.0 | 0.0% | 0.1 |

Fiscal 2010: Montgomery, Prince George's and Wicomico were denied a waiver. Wicomico met MOE.

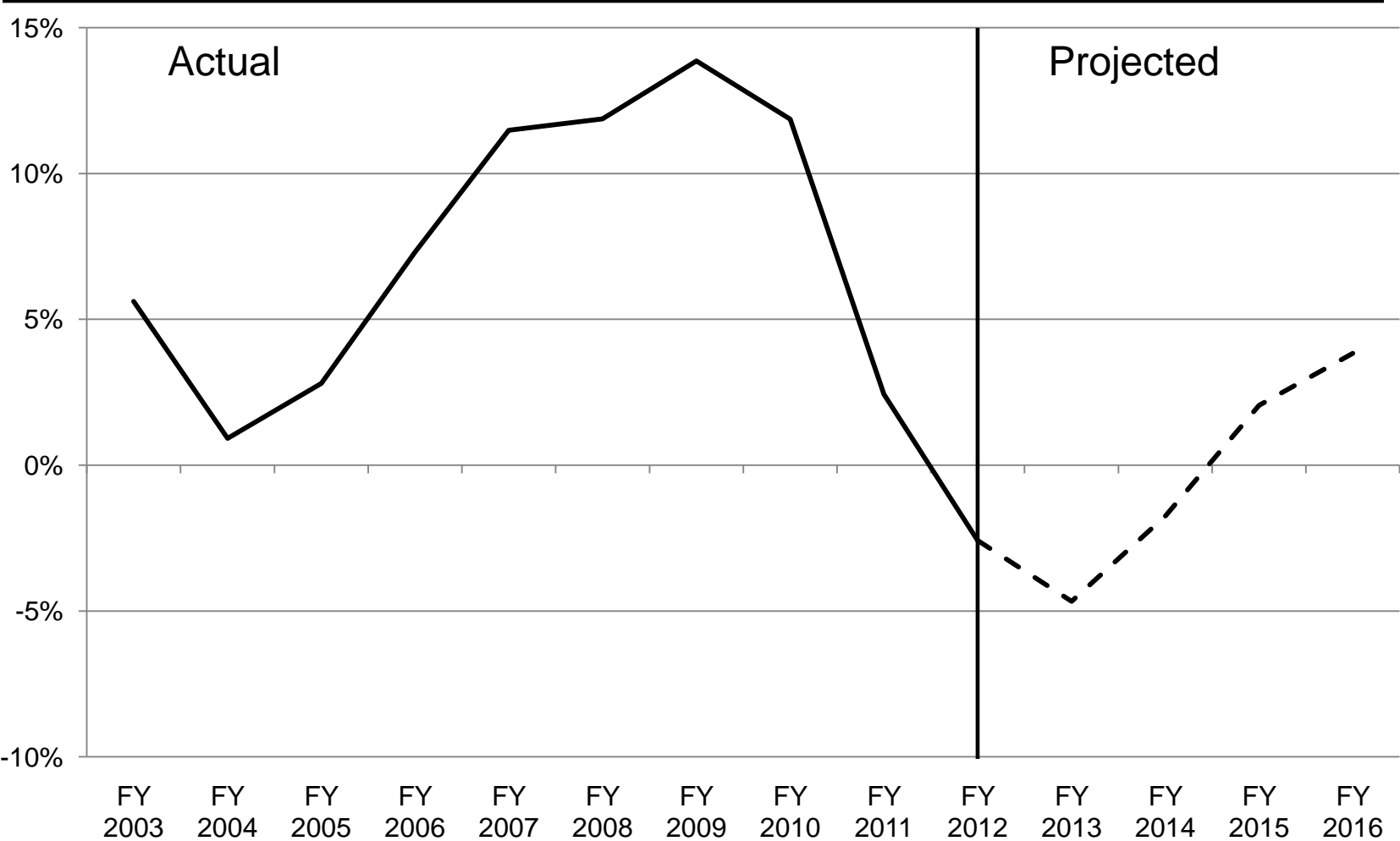
Fiscal 2011: Montgomery and Wicomico were granted waivers.

Fiscal 2012: No county requested a waiver.

Source: Required and Actual MOE from MSDE. Fiscal 2012 Budgeted MOE amount from PSSAM

State Wealth per Pupil Declines Following Large Increases

(Annual % Change)



Source: Department of Legislative Services

Seven Counties May Rebase for Fiscal 2013

(Figures on per Pupil Basis)

| School System | Fiscal 2010 | | Fiscal 2011 | | Budgeted Fiscal 2012 | |
|-----------------|-------------|----------|-------------|----------|----------------------|-----------|
| | Req. MOE | Act. MOE | Req. MOE | Act. MOE | Req. MOE | Budg. MOE |
| Allegany | \$3,164 | \$3,220 | \$3,249 | \$3,249 | \$3,249 | \$3,316 |
| Anne Arundel | 7,700 | 7,713 | 7,713 | 7,713 | 7,713 | 7,550 |
| Baltimore City | 2,561 | 2,561 | 2,561 | 2,964 | 2,964 | 3,170 |
| Baltimore | 6,339 | 6,647 | 6,647 | 6,647 | 6,647 | 6,648 |
| Calvert | 5,899 | 6,198 | 6,198 | 6,316 | 6,316 | 6,689 |
| Caroline | 2,312 | 2,312 | 2,377 | 2,377 | 2,377 | 2,377 |
| Carroll | 5,620 | 6,001 | 6,001 | 6,001 | 6,001 | 6,040 |
| Cecil | 4,375 | 4,376 | 4,376 | 4,376 | 4,376 | 4,376 |
| Charles | 5,611 | 5,611 | 5,611 | 5,611 | 5,611 | 5,611 |
| Dorchester | 3,941 | 3,941 | 3,941 | 3,941 | 3,941 | 3,770 |
| Frederick | 5,849 | 5,857 | 5,628 | 5,628 | 5,628 | 5,638 |
| Garrett | 5,270 | 5,397 | 5,397 | 5,537 | 5,537 | 6,091 |
| Harford | 5,528 | 5,599 | 5,599 | 5,678 | 5,678 | 5,701 |
| Howard | 9,225 | 9,225 | 9,225 | 9,225 | 9,225 | 9,362 |
| Kent | 8,000 | 8,328 | 8,328 | 8,328 | 8,328 | 7,925 |
| Montgomery | 11,249 | 10,664 | 11,249 | 10,244 | 11,249 | 9,758 |
| Prince George's | 4,428 | 4,332 | 4,429 | 4,429 | 4,429 | 5,154 |
| Queen Anne's | 6,332 | 6,414 | 6,414 | 6,414 | 6,414 | 5,812 |
| St. Mary's | 4,639 | 4,639 | 4,639 | 4,640 | 4,640 | 4,686 |
| Somerset | 3,165 | 3,178 | 3,178 | 3,192 | 3,192 | 3,194 |
| Talbot | 8,032 | 8,034 | 8,034 | 8,034 | 8,034 | 7,611 |
| Washington | 4,059 | 4,135 | 4,136 | 4,136 | 4,136 | 4,136 |
| Wicomico | 3,624 | 3,624 | 3,624 | 3,094 | 3,624 | 2,617 |
| Worcester | 11,389 | 11,389 | 11,389 | 11,389 | 11,389 | 11,389 |

Boxes indicate instances when actual or budgeted MOE is lower than required MOE.

Source: Required and Actual MOE from MSDE. Fiscal 2012 Budgeted MOE amount from PSSAM

Policy Issues

- Waiver requests
- Rebasing MOE amount
- Assessment of penalty
- Current State board MOE process and factors

Or

- Status quo