

Chapter 6

(Senate Bill 848)

AN ACT concerning

Education – Maintenance of Effort – ~~Waivers~~

FOR the purpose of authorizing a county governing body, for a certain purpose and under certain circumstances, to set a property tax rate that is higher than the rate authorized under the county's charter or to collect more property tax revenues than are authorized under the county's charter, notwithstanding any provision of the county charter that places certain limits on that county's property tax rate or revenues; requiring a county to appropriate to the local board of education certain revenues under certain circumstances; prohibiting a county from reducing certain funding to the local board of education under certain circumstances; establishing a certain penalty for a county that does not fund the local share of the foundation program or the maintenance of effort requirement; excluding the cost of debt service incurred for school construction projects from a certain calculation; requiring a county to apply to the State Board of Education for a waiver from the maintenance of effort requirement under certain circumstances; establishing a penalty for a county that fails to apply for a waiver and fails to fund the maintenance of effort requirement; establishing the following year's required maintenance of effort amount under certain circumstances; ~~establishing the application procedure for a maintenance of effort waiver; requiring the State Board to grant a waiver request if the county has exceeded the maintenance of effort requirement by a certain amount and has at least a certain local effort; altering certain dates by which a county and the State Board must take certain actions; requiring the State Superintendent of Schools to provide~~ make a preliminary assessment of a ~~county's waiver request to~~ application ~~the State Board;~~ requiring the State Board to hold a public hearing ~~at a certain time; requiring the State Board to consider;~~ establishing certain factors that the State Board shall consider when making a decision ~~deciding whether to grant a certain waiver request; requiring the Department to consult with certain State agencies when making certain calculations; requiring the State Board to grant a waiver if a county has satisfied certain requirements; limiting the amount of a waiver by a certain amount; establishing the required maintenance of effort amount for the fiscal year following a waiver; defining certain terms; and generally relating to education funding~~ under certain circumstances; limiting the amount of a waiver that the State Board may grant under certain circumstances; authorizing a county to request a rebasing waiver under certain circumstances; requiring the State Board to consider certain factors when deciding whether to grant a rebasing waiver; requiring the Comptroller to withhold from a county a certain amount under certain circumstances and distribute the amount to the county

board; establishing a certain assessment under certain circumstances; requiring the maintenance of effort amount to increase by a certain amount under certain circumstances; waiving the penalty for not meeting the maintenance of effort requirement in a certain year; establishing the maintenance of effort amount for a certain fiscal year for certain counties; requiring counties to provide a certain report under certain circumstances; requiring the Superintendent to make a certain report annually; defining certain terms; providing for the application of certain provisions of this Act; providing for the effective date of certain provisions of this Act; making this Act an emergency measure; and generally relating to local funding of education.

BY repealing and reenacting, with amendments,

Article – Education

Section 5–104, 5–202(d), and 5–213

Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)

~~BY repealing and reenacting, without amendments,~~

~~Article – Education~~

~~Section 5–202(d)(1)~~

~~Annotated Code of Maryland~~

~~(2008 Replacement Volume and 2011 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article – Education~~

~~Section 5–202(d)(7)~~

~~Annotated Code of Maryland~~

~~(2008 Replacement Volume and 2011 Supplement)~~

~~BY adding to~~

~~Article – Education~~

~~Section 5–202(d)(9)~~

~~Annotated Code of Maryland~~

~~(2008 Replacement Volume and 2011 Supplement)~~

BY adding to

Article – Education

Section 5–213.1

Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,

Article – Tax – General

Section 2–604, 2–605(a), 2–606(a), and 2–607(a)

Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 2–608(a)

Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Education

Section 5–202(d)(1)

Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)

(As enacted by Section 2 of this Act)

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

Article – Education

5–104.

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

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

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

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

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

(i) In 12 equal monthly installments; or

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

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

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

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

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

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

(3) ON OR BEFORE DECEMBER 31 OF ANY YEAR IN WHICH A COUNTY SETS A PROPERTY TAX RATE AS PROVIDED IN THIS SUBSECTION, THE COUNTY SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, ON THE PROPERTY TAX RATE SET, THE ADDITIONAL AMOUNT OF REVENUES GENERATED, AND THE APPROPRIATION OF THE ADDITIONAL REVENUES.

~~5-202.~~

~~(d) (1) To be eligible to receive the State share of the foundation program:~~

~~(i) The county governing body shall levy an annual tax sufficient to provide an amount of revenue for elementary and secondary public education purposes equal to the local share of the foundation program; and~~

~~(ii) The county governing body shall appropriate local funds to the school operating budget in an amount no less than the product of the county's full-time equivalent enrollment for the current fiscal year and the local appropriation on a per-pupil basis for the prior fiscal year.~~

~~(7) (i) SUBJECT TO SUBPARAGRAPH (H) OF THIS PARAGRAPH, IF A COUNTY'S ABILITY TO FUND THE MAINTENANCE OF EFFORT REQUIREMENT IN PARAGRAPH (1)(H) OF THIS SUBSECTION IS IMPEDED, THE COUNTY SHALL APPLY TO THE STATE BOARD FOR A WAIVER UNDER PARAGRAPH (8) OF THIS SUBSECTION.~~

~~(H) IF A COUNTY FAILS TO APPLY TO THE STATE BOARD FOR A TEMPORARY OR PARTIAL WAIVER FROM THE MAINTENANCE OF EFFORT REQUIREMENT AND FAILS TO MEET THE MAINTENANCE OF EFFORT REQUIREMENT:~~

~~1. A PENALTY SHALL BE ASSESSED AS PROVIDED IN § 5-213 OF THIS SUBTITLE; AND~~

~~2. THE MINIMUM APPROPRIATION OF LOCAL FUNDS REQUIRED UNDER THIS SUBSECTION FOR THE NEXT FISCAL YEAR SHALL BE CALCULATED BASED ON THE PER PUPIL LOCAL APPROPRIATION FOR THE PRIOR FISCAL YEAR OR THE SECOND PRIOR FISCAL YEAR, WHICHEVER IS GREATER.~~

~~(8) (i) The provisions of this subsection do not apply to a county if the county is granted a temporary waiver or partial waiver from the provisions by the State Board of Education based on a determination that:~~

~~1. [the] THE county's fiscal condition significantly impedes the county's ability to fund the maintenance of effort requirement; OR~~

~~2. A COUNTY HAS SATISFIED THE REQUIREMENTS IN PARAGRAPH (9) OF THIS SUBSECTION.~~

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

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

~~(iii) THE STATE SUPERINTENDENT SHALL PROVIDE A PRELIMINARY ASSESSMENT OF A WAIVER APPLICATION TO THE STATE BOARD PRIOR TO ANY PUBLIC HEARING UNDER SUBPARAGRAPH (iv) OF THIS PARAGRAPH.~~

~~(iv) THE STATE BOARD SHALL HOLD A PUBLIC HEARING BEFORE ACTING ON AN APPLICATION FOR A WAIVER UNDER THIS PARAGRAPH IN ACCORDANCE WITH REGULATIONS.~~

~~(v) EXCEPT AS PROVIDED IN PARAGRAPH (9) OF THIS SUBSECTION, WHEN CONSIDERING WHETHER TO GRANT A COUNTY'S WAIVER APPLICATION, THE STATE BOARD SHALL CONSIDER THE FOLLOWING FACTORS:~~

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

~~2. A COUNTY'S TAX BASE;~~

~~3. RATE OF INFLATION RELATIVE TO GROWTH OF STUDENT POPULATION IN A COUNTY;~~

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

~~5. A COUNTY'S HISTORY OF EXCEEDING THE REQUIRED MAINTENANCE OF EFFORT AMOUNT UNDER PARAGRAPH (1) OF THIS SUBSECTION;~~

~~6. AN AGREEMENT BETWEEN A COUNTY AND A COUNTY BOARD THAT A WAIVER SHOULD BE GRANTED; AND~~

~~7. SIGNIFICANT REDUCTIONS IN STATE AID TO A COUNTY AND MUNICIPALITIES OF THE COUNTY FOR THE FISCAL YEAR FOR WHICH A WAIVER IS APPLIED.~~

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

~~[(v)] (VII) [If] EXCEPT AS PROVIDED IN PARAGRAPH (9) OF THIS SUBSECTION, IF the State Board [of Education] grants a county a temporary waiver or partial waiver from the provisions of this subsection for any fiscal year, the minimum appropriation of local funds required under this subsection for the county to be eligible to receive the State share of the foundation program for the next fiscal year shall be calculated based on the per pupil local appropriation for the prior fiscal year or the second prior fiscal year, whichever is greater.~~

~~(9) (I) IN THIS PARAGRAPH, "LOCAL EFFORT" MEANS A COUNTY'S EDUCATION APPROPRIATION DIVIDED BY THE COUNTY'S WEALTH.~~

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

~~1. EXCEEDED THE MAINTENANCE OF EFFORT REQUIREMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION BY AN AVERAGE OF AT LEAST 5% IN THE PRIOR 5 FISCAL YEARS; AND~~

~~2. AN AVERAGE LOCAL EFFORT OF AT LEAST 1% IN THE PRIOR 5 FISCAL YEARS.~~

~~(III) THE STATE BOARD SHALL GRANT A WAIVER REQUEST IF THE COUNTY SATISFIES THE REQUIREMENTS IN SUBPARAGRAPH (II) OF THIS PARAGRAPH.~~

~~(IV) THE AMOUNT OF THE WAIVER MAY NOT EXCEED 10% OF THE AVERAGE OF THE COUNTY'S MAINTENANCE OF EFFORT APPROPRIATION IN THE PRIOR 5 FISCAL YEARS.~~

~~(V) FOR THE FISCAL YEAR FOLLOWING A WAIVER, THE MINIMUM APPROPRIATION OF LOCAL FUNDS REQUIRED UNDER THIS SUBSECTION FOR THE COUNTY TO BE ELIGIBLE TO RECEIVE THE STATE SHARE OF THE FOUNDATION PROGRAM FOR THE NEXT FISCAL YEAR SHALL BE CALCULATED BASED ON THE PER PUPIL LOCAL APPROPRIATION FOR THE PRIOR FISCAL YEAR APPROVED BY THE STATE BOARD UNDER THIS PARAGRAPH.~~

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

Article - Education

5-202.

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

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

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

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

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

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

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

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

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

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

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

- (i) Computer laboratories;
- (ii) Technology enhancement;
- (iii) New instructional program start-up costs; and
- (iv) Books other than classroom textbooks.

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

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

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

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

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

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

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

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

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

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

(iii) THE STATE SUPERINTENDENT SHALL PROVIDE A PRELIMINARY ASSESSMENT OF A WAIVER REQUEST TO THE STATE BOARD BEFORE A PUBLIC HEARING HELD IN ACCORDANCE WITH SUBPARAGRAPH (IV) OF THIS PARAGRAPH.

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

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

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

2. A COUNTY'S TAX BASE;

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

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

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

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

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

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

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

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

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

(9) (I) THIS PARAGRAPH APPLIES TO A COUNTY THAT REQUESTS A WAIVER UNDER PARAGRAPH (8)(I)2 OF THIS SUBSECTION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. FOR A COUNTY WITH A 5-YEAR MOVING AVERAGE FOR EDUCATION EFFORT THAT IS MORE THAN 110% AND LESS THAN OR EQUAL TO 120% OF THE STATEWIDE 5-YEAR MOVING AVERAGE OF EDUCATION EFFORT, 2% OF THE COUNTY'S REQUIRED MAINTENANCE OF EFFORT REQUIREMENT; OR

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

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

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

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

(VIII) NOTHING IN THIS PARAGRAPH PRECLUDES A COUNTY FROM ALSO REQUESTING A WAIVER FROM THE MAINTENANCE OF EFFORT REQUIREMENT UNDER PARAGRAPH (9) OF THIS SUBSECTION FOR THE SAME FISCAL YEAR AS THE WAIVER REQUESTED UNDER THIS PARAGRAPH.

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

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

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

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

5-213.

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

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

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

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

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

(ii) For noncompliance with § 5-202(d) of this subtitle, payment of any funds due the county for the following fiscal year, as provided under § 5-202 of this subtitle, which are appropriated in the General State School Fund, in the amount

that the State's aid due the county in the current fiscal year under that section in the Fund exceeded the amount that the county received in the prior fiscal year].

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

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

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

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

5-213.1.

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

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

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

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

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

Article – Tax – General

2-604.

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

2-605.

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

2-606.

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

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

(2) that is attributable to:

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

(ii) estimated income tax payments by individuals.

2-607.

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

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

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

2-608.

(a) **(1) AFTER MAKING THE DISTRIBUTIONS REQUIRED UNDER §§ 2-604 THROUGH 2-607 OF THIS SUBTITLE, IF IT IS DETERMINED THAT A COUNTY HAS NOT MET THE LOCAL FUNDING REQUIREMENTS FOR EDUCATION UNDER § 5-202(D) OF THE EDUCATION ARTICLE, THE COMPTROLLER SHALL DISTRIBUTE TO THE COUNTY BOARD OF EDUCATION AN AMOUNT EQUAL TO THE AMOUNT CALCULATED UNDER § 5-213 OR § 5-213.1 OF THE EDUCATION ARTICLE.**

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

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.~~

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Education

5-202.

(d) (1) (i) Subject to § 5-213.1 of this subtitle, the county governing body shall levy and appropriate an annual tax sufficient to provide an amount of revenue for elementary and secondary public education purposes equal to the local share of the foundation program.

(ii) **1. [Subject] EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH AND SUBJECT to § 5-213 of this subtitle, the county governing body shall appropriate local funds to the school operating budget in an amount no less than the product of the county's full-time equivalent enrollment for the current fiscal year and the local appropriation on a per pupil basis for the prior fiscal year.**

2. IN EACH FISCAL YEAR IF A COUNTY'S EDUCATION EFFORT, AS DEFINED IN PARAGRAPH (10) OF THIS SUBSECTION, IS BELOW 100%

OF THE STATEWIDE 5-YEAR MOVING AVERAGE OF EDUCATION EFFORT, THE REQUIRED MAINTENANCE OF EFFORT AMOUNT FOR THE COUNTY SHALL BE ADJUSTED BY INCREASING THE PER PUPIL AMOUNT BY THE LESSER OF:

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

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

C. 2.5%.

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

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

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

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

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

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

Approved by the Governor, April 10, 2012.