April 15, 2020

Brigadier General Warner I. Sumpter (Ret.)
President
Maryland State Board of Education
200 West Baltimore Street
Baltimore, MD 21201

Dear President Sumpter and Members of the Maryland State Board of Education:

We write to provide perspective on the upcoming waiver deadline for Maintenance of Effort, and how a quiet spring may belie a tumultuous budget season ahead, one which Maryland’s funding structure is simply unprepared for.

As counties work to protect their residents, local businesses, and economies from the detrimental effects of the COVID-19 pandemic, they are making significant financial investments to address immediate public health and safety needs. At the same time, counties are experiencing massive and unprecedented declines in revenue as a result of the economic downturn.

Local elected officials are facing considerable uncertainty as they seek to maintain balanced budgets in the current fiscal year—and develop budgets for the next one. The Maintenance of Effort waiver process, established in § 5-202 of the education article to create momentary flexibility in state funding requirements, is particularly ill-suited for a dramatic and unpredictable economic shock like the current health crisis.

The timing of the waiver request, the nature of the material supplied to the State Board to support such a request, and the built-in supposition that the financial challenge will be predictable and fleeting are all testament to this mismatch.

As we sit in April of 2020, amidst an unprecedented public health crisis with profound economic implications, no county government could possibly be prepared to develop and present a thorough and confident fiscal analysis for the next fiscal year. Fiscal staff from each county surely recognize the unique spike in jobless claims in recent weeks as one obvious and alarming indicator of uncertainty. There is no clear path forward. There is no way to predict whether these figures will continue for weeks or months. There is no way to know when or if or by how much these jobless residents may regain their prior economic station. If they can even get close to “whole,” there is no way of knowing whether that recovery could happen in the space of a fiscal quarter or a year or—more likely—longer.

The Maintenance of Effort process, created in statute, has a narrow vision. A jurisdiction facing economic troubles in the springtime approaches the State Board with a confident but concerning fiscal
They provide the documents supporting an argument that they will miss the statutory target by, for example, 2%. They document current trends in tax bases, economic activity, and the like – all supporting the case for a clearly defined level of relief.

In April of 2020, no county has such a clear vision. It appears unlikely that any jurisdiction will approach the State Board, according to this statutory process, and ask for such a regimented waiver. The Board, and the State’s multiple fiscal decision-makers, should not mistakenly interpret this absence of timely formal filings as widespread confidence that fiscal 2021 funding is confidently assured.

Across many facets of government oversight, public service, and crisis response, Maryland has employed the elastic powers of emergency declaration to best accommodate the crisis befalling our residents. In many cases, doing so has required the temporary suspension of, or momentary realignment of, statutes and regulations designed to serve Marylanders during ordinary times. With each week of this current health crisis, a new wave of policy challenges seemingly arises, and demands its own scrutiny. The fiscal relationship between county governments and boards of education, as governed by state law, may be among the policy areas deserving of such attention in due course.

Counties stand ready to work with state policymakers to protect our shared constituents and to mitigate the health, safety, and economic effects of this public health crisis.

Yours Truly,

Sharon Green Middleton
President, MACo
Council Vice President, Baltimore City

Michael Sanderson
Executive Director, MACo

CC: The Honorable Larry Hogan, Governor, State of Maryland
The Honorable Nancy Kopp, Treasurer, State of Maryland
The Honorable Peter Franchot, Comptroller, State of Maryland
The Honorable Bill Ferguson, President, MD State Senate
The Honorable Guy Guzzone, Chair, Budget and Taxation Committee, MD State Senate
The Honorable Paul Pinsky, Chair, Education, Health, and Environment Committee, MD State Senate
The Honorable Adrienne Jones, Speaker, MD House of Delegates
The Honorable Maggie McIntosh, Chair, Appropriations Committee, MD House of Delegates
The Honorable Anne Kaiser, Chair, Ways and Means Committee, MD House of Delegates
Mr. David Brinkley, Secretary, MD Department of Budget and Management
Mr. John Gontrum, Esq., Executive Secretary, MD Board of Public Works
Dr. Karen Salmon, MD State Superintendent of Schools
Members, MD State Board of Education