

AGENDA ITEM # 3D
April 14, 2009

MEMORANDUM

April 10, 2009

TO: County Council

FROM: Stephen B. Farber, Council Staff Director *SBF*

SUBJECT: Confirmation of Council Approval of the County's FY10 Maintenance of Effort Waiver Request to the State Board of Education

On March 31, 2009 County Executive Leggett and Council President Andrews transmitted to the State Board of Education the letter attached on ©1-6. The letter requested a waiver from the State's Maintenance of Effort requirement for FY10.

The Council, the Executive, and the leadership of the Montgomery County Board of Education collaborated in the preparation of this letter. Since the Council has not yet acted formally to approve the letter, the Council's action on April 14 is to confirm and ratify its approval.

Attachment

f:\farber\10opbud\moe letter confirmation, cc 4-14-09.doc



ROCKVILLE, MARYLAND

March 31, 2009

Mr. James H. DeGraffenreidt, Jr.
President
Maryland State Board of Education
200 West Baltimore Street
Baltimore, Maryland 21201

Dear Mr. DeGraffenreidt:

Pursuant to Section 5-202(d)(7) of Maryland Code, Education Article, Montgomery County hereby requests a waiver from the State's Maintenance of Effort (MOE) requirement as defined under Section 5-202(d)(1)-(6). The basis for this request is that the County's fiscal condition significantly impedes us from funding the MOE requirement without seriously impairing other County services, including public safety, services to the most vulnerable residents, post-secondary education, library and recreation services, and other vital locally funded public programs.

As defined under the Education Article, the County's local funding obligation for K-12 Public Education in FY10 would be \$1,529,554,447 in order to maintain per pupil spending constant at \$11,249 (as defined under the Education Article). The County Executive's Recommended FY10 Operating Budget includes local funding of \$1,454,702,161, a difference of \$74,852,285 from the amount required under the Education Article. However, given that the Maryland General Assembly is considering additional reductions in local aid that could be more than \$50 million for Montgomery County and could severely impact local services, we are requesting a waiver in the amount of \$94,852,285. In requesting this amount for the waiver, we are committed to not reducing any educational programs recommended by the Montgomery County Board of Education in its FY10 Recommended Budget.

We are also committed to appropriating local funding that, when combined with State education aid for Montgomery County Public Schools (MCPS), is no less than \$1,929,265,335, and to appropriating exclusively for public school purposes all mandated State and Federal aid, including all grants that are received.

This is the first time that Montgomery County has requested such a waiver. With the exception of FY92, when Maryland permitted a State-wide waiver of the MOE requirement, Montgomery County has not only met the MOE requirement, but significantly exceeded it. In the last ten years Montgomery County has increased its local contribution to K-12 Education by

over \$710 million to over \$1.5 billion. This represents an 86.6 percent increase in local funding – an average annual increase of 6.4 percent – which has enabled us to reduce class size, raise test scores, and meet the needs of the growing number of students eligible for FARMS and ESOL services. During the same period, student enrollment grew by only 7.8 percent. This represents a substantial and ongoing local commitment to investing this County's taxpayer funds in educating our children. In addition, the County's FY09-14 Approved Capital Improvements Program (CIP) budget includes over \$1.2 billion in locally supported funding for school construction, renovation, information technology, and other capital improvements in support of K-12 public education.

In addition to the County's local contribution to MCPS, the County Government also funds over \$37 million to operate several programs in support of the Public Schools' mission, including:

- School Safety: providing 177 Crossing Guards with seven Police Officer positions in support, at a cost of \$5.3 million;
- School Safety: providing 31 Police Officers as Educational Facility Officers assigned to 25 Public High Schools and two Middle Schools, at a cost of \$3.8 million;
- School Health: Providing 318 positions including nurses and health room technicians, at a cost of \$19.8 million;
- Wellness: Funding for various wellness programs, including School Suspension programs; reading, tutoring and mentoring programs; Infant and Toddlers programs; and Pre-Kindergarten programs, at a cost of \$3.5 million; and
- Linkages to Learning: providing early intervention services to students and families of elementary and middle school communities with the highest indicators of poverty to address non-academic issues that may interfere with a child's success at school, at a cost of \$4.9 million.

In developing the County's FY10 operating budget, Montgomery County was faced with closing a budget shortfall of nearly \$600 million. The causes of this serious shortfall were the national economic recession and the continuing international crisis in credit markets. Since May 2008, when the County Council approved the FY09 operating budget, the County has revised its FY09 and FY10 revenue projections downward by over \$340 million due to reductions in income, transfer, and recordation tax revenue, investment income, and State Highway User Aid. This revenue loss is nearly 10 percent of our total annual tax supported revenues. Attached is a copy of the County's latest review of economic indicators. In addition, some pertinent facts provided below indicate how the recession has impacted Montgomery County residents and led to this sharp decrease in revenues:

- Since December 2007, Montgomery County's unemployment rate has increased by 84 percent to 4.6 percent in January 2009. This is the highest level of unemployment in Montgomery County since 1990.
- Resident employment has been stagnant since calendar year 2006, with no increase in resident employment, despite the entry of thousands of residents into the job market.

- Home sales have declined 17.8 percent in 2008, 23.4 percent in 2007, and 20.5 percent in 2006.
- Average home sale prices have declined 11.9 percent in 2008. The most recent residential assessments plummeted 16.3 percent.
- The value of new residential construction (~\$400,000,000) in CY2008 was the lowest since 1999.

These economic factors have dramatically affected the County's revenue collections for income, transfer, and recordation taxes. Moreover, the Federal Reserve rate cuts have reduced projected FY10 investment income by nearly 60 percent.

To close the budget deficit, produce a balanced budget, and fund essential services including K-12 Education, the County Executive and the County Council have made a number of significant budget reductions for FY09, and the County Executive has also recommended major reductions for FY10, including the following:

- Total mid-year FY09 reductions of \$48.8 million in Montgomery County Government, Montgomery College, the Maryland-National Capital Park and Planning Commission, and MCPS;
- Total FY10 reductions of \$130.4 million across the same four agencies;
- The abolishment of nearly 400 positions in Montgomery County Government, with nearly half of these positions filled;
- The elimination of all General Wage Adjustments for all employees across all agencies of local government;
- The elimination of the planned \$25 million increase in pre-funding of retiree health insurance;
- A reduction of \$50 million in current revenue funding to the capital budget; and
- A reduction in the County's reserve of nearly \$40 million.

If the County were required to fund the additional \$94.8 million local contribution, it would mean even deeper reductions in locally funded services, at a time when local crime rates are rising and the need for emergency assistance for individuals and families in crisis is steeply increasing.

Montgomery County has benefited in several ways from funding received or expected to be received from the Federal Fiscal Stabilization Act and the American Recovery and Reinvestment Act of 2009. In FY10, MCPS will receive \$6.1 million for Title I programs for disadvantaged children and \$15.3 million for Individuals with Disabilities Education Act (IDEA) programs. The Title I funding will be used to add three schools to receive Title I funding and add eight new full-day Head Start classes, so that all Title I schools that have Head Start classes can offer full-day Head Start classes. The Title I funding will also allow recipient schools to restore teacher positions to reduce class size, support reading and mathematics intervention, and provide ESOL support. The IDEA funding will allow for the restoration of reductions originally proposed for

the FY10 budget, including 20.5 special education teachers, five secondary intensive reading teachers, and tuition for students in non-public placement, special educational instructional materials. The IDEA funding will also allow the addition of hours based staffing at 15 additional middle schools, technology to implement the Universal Design for Learning program, and other program improvements. The additional funding from the Title I grants and IDEA grants, however, are targeted grants for specific purposes and does not represent general aid. While a portion of this funding will allow MCPS to restore certain positions and activities that may have otherwise been eliminated in the FY10 budget, this aid generally did not have a positive or negative impact on meeting the State MOE requirement.

In addition, on February 20, 2009, Governor O'Malley announced more than \$720 million of funding for Maryland public education resulting from the American Recovery and Reinvestment Act. Under the Governor's plan, every school district in Maryland will be made whole and the Geographic Cost of Education Index (GCEI) will be funded at 100 percent for the first time. For Montgomery County this meant an increase of \$21.6 million in funding. The Governor's proposal also included restoration of proposed reductions in supplemental grant and non-public placement funding to local school systems. For Montgomery County, this meant an increase of \$4.8 million in funding. The anticipated receipt of this funding in the FY10 budget allowed the County to limit the amount of this waiver request by approximately \$26.4 million.

While we are still exploring other formula funding and competitive grant opportunities under the ARRA, Montgomery County Government and other local public agencies expect to receive approximately \$36 million in funding for a variety of specific purposes, including transportation projects, bus replacement, workforce training, energy projects, public safety equipment, housing, weatherization, emergency shelter grants, Community Development Block Grants, homelessness prevention, and Community Services Block Grants. Since this funding is targeted for specific purposes and frequently carries standard Federal non-supplantation requirements, it cannot be used to supplement the County's local contribution or provide capacity for Montgomery County to increase its local contribution for K-12 schools.

We are confident that granting this waiver request will not adversely affect the quality of our local public schools. In fact, the County Executive's recommended budget for FY10 would fund nearly 99 percent of the Montgomery County Board of Education's request. The only recommended reductions are to additional funding increases requested for certain benefit funds, including additional pre-funding for retiree health insurance (\$12.3 million), the employee health insurance benefit fund (\$7.1 million), and the MCPS Employees' Retirement and Pension Systems Plan (\$4.3 million). These reductions can be made without affecting the existing level of benefits for these employees.

In addition, as you are aware, the State has recently revised downward its own revenue estimates for FY09 and FY10 by over \$1 billion. This has very troubling implications for Montgomery County and other subdivisions across the State because of impending reductions in local aid formulas that may be necessary to produce a balanced budget for the State. Further

James H. DeGraffenreidt, Jr.,
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reductions in local aid will require Montgomery County to identify additional programmatic and service reductions to its own residents to maintain a balanced and sustainable budget.

Montgomery County's ability to raise further revenue from additional local taxes has two major constraints. First, Section 305 of the Montgomery County Charter (see attached) requires the unanimous vote of the nine members of the County Council to increase real property tax revenue beyond the rate of inflation (less new construction and other minor categories). We do not support such an increase in the property tax rate, since it would impose an additional burden on families and businesses during this difficult economic time, and also given the fact that the County exceeded the limits imposed by Section 305 of the Charter in FY09 (an increase of 13 percent). Second, Montgomery County's income tax rate is currently at the State-allowed maximum rate, 3.2 percent.

In closing, we want to stress that education, especially K-12 Education, is one of the most important priorities of Montgomery County. We are very proud of the accomplishments of our Public School system in reducing class size, significantly improving test scores, and preparing our children to be productive, well-educated, and responsible citizens. We are committed to investing the resources necessary to achieve these important results for our County and the State.

However, the severity and duration of the current economic recession and the consequent reduction in revenues leave us no responsible choice except to temporarily reduce the County's local contribution. The Montgomery County Board of Education leadership, working collaboratively with the County Executive and County Council, is aware of this waiver application, and will recommend support for the waiver provided that the funds for educational programs recommended by the Montgomery County Board of Education are not reduced. We urge the State Board of Education to approve this request with all deliberate speed in view of the County's fast-approaching budget deadlines. Thank you for your consideration.

Sincerely,



Isiah Leggett
Montgomery County Executive



Phil Andrews, President
Montgomery County Council

IL/PA:jb

c: Anthony South, Executive Director, Maryland State Board of Education
Montgomery County Council
Shirley Brandman, President, Montgomery County Board of Education
Jerry D. Weast, Ed.D, Superintendent, Montgomery County Public Schools
Richard S. Madaleno, Jr., Senator, District 18
Brian J. Feldman, Delegate, District 15

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Attachments:

- Tax Supported Current Revenue FY09-FY10¹
- March Revenue Update FY08-10 Reflecting County Executive Recommended Budget
- Revenues: Excerpt from County Executive's Recommended FY10 Operating Budget
- Section 305 of the Montgomery County Charter: Approval of the Budget; Tax Levies
- Comprehensive Annual Financial Reports (Audited) FYs 2006-2008
- County Executive's Recommended FY10 Operating Budget
- Approved Montgomery County Operating Budget FY2009
- Supplemental Information on County Fiscal Condition for FY09 and FY10:
 - Presentation of Economic Indicators: Montgomery County Economic Indicators (Montgomery County Department of Finance, prepared March 2009)
 - FY09 Operating Budget Issues, Memo from County Executive Isiah Leggett to Council President Michael J. Knapp, September 4, 2008
 - FY09 Savings Plan, Memo from County Executive Isiah Leggett to Council President Michael J. Knapp, November 13, 2008
 - County Council Approval of FY09 Savings Plan, November 25, 2008
 - Fiscal Plan Update, Memo from County Executive Isiah Leggett to Council President Michael J. Knapp, December 1, 2008
 - FY09 and FY10 Required Budget Actions, Memo from County Executive Isiah Leggett to County Government Department Heads, December 17, 2008

¹ Additional information on County Revenue Streams can be found in the County Executive's Recommended FY10 Operating Budget pages 5-1 to 5-22 and 72-1 to 72-20.