

## Appendix C.2

### Maintenance of Effort Under BEP 2.0

#### Discussion Points

#### Current Law

Under current law, regulation and policy, a school system's adopted budget must allocate locally contributed funds, excluding capital outlay, in an amount at least equal to the amount of such funds allocated in the prior year's budget. The exception to this rule is an adjustment permitted for actual year over year declines in student enrollment.

#### The Problem

1. Through the combination of regular revenue growth and the increase in cigarette taxes in FY 2008, an additional \$290 million was provided to fully fund BEP 1.0 and to begin implementation of BEP 2.0.
2. BEP 2.0 made substantive improvements to funding categories, increased the state's funding responsibility and modified the methodology used to determine local capacity and the resulting required local effort under the BEP.
3. Many legislators, and other supporters of BEP 2.0, expected that increased BEP funding would result in corresponding increases in related expenditures in school systems, **over and above what would have been spent in the absence of the new state funding.**
4. Even though every school system in the state was determined to be in compliance with the Department's maintenance of effort test for FY 2008, various local governments took a variety of actions that created a widely held perception that new state funds were used to replace local funding that **would have been provided** had no new state funding been available.
5. The FY 2009 budget controversy between the City of Memphis and the Memphis City Schools has focused even more attention on the issues around maintenance of effort.

#### Issues Identified in the Course of Discussions

1. What is the policy rationale for maintenance of effort provisions?
2. Why should any effort be required beyond the local funding responsibility under the BEP?
3. How should maintenance of effort be defined (nominal amounts vs. purchasing power)?
4. Should maintenance of effort provisions apply uniformly across all systems irrespective of systems' relative efforts and capacities?
5. *How does the maintenance of effort requirement relate to disparity and equalization issues, and what will be the impact of any changes?*

#### Conceptual "Solutions"

1. Do nothing.
  - a. An argument can be made that other than making the current law clearer, the system in place has worked pretty well. The problem may have arisen only in the context of substantial new state funding availability without a corresponding increase in local responsibility. How often can we expect that to occur?
2. Recast maintenance of effort in terms of purchasing power, i.e., mandate an inflation adjustment from year to year for all systems.
  - a. “Purchasing power” may be thought of in terms of total dollars or on a per student basis. This approach would likely improve the ability of a school system to make longer term plans and strategic decisions.
  - b. The inflation adjustment could be an index like the CPI, the state and local government price deflator, etc. or an index could be constructed from the unit cost adjustments used in the BEP or it could be a pre-determined percentage increase, say 2%, to be applied subject to future review in subsequent years.
  - c. Requiring subsequent increases to local “voluntary” funding may act as a disincentive for local governments to contribute more since they would be “locked in” to future increases, (irrespective of fiscal realities that may be different from year to year).
  - d. A major decision point would be whether to include labor cost in the base to which the adjustment would be applied. Historically, most labor costs, i.e. teacher salaries, have been considered as discreet budget issues at both the state and local level. Applying an index to voluntary local salary contributions has some probably has significant implications for disparity/equity issues.
3. Recast maintenance of effort in terms of tax rates or tax share allocations.
  - a. This might be manifested as a property or sales tax rate that carries over from year to year (e.g. \$1.00 property tax rate, ¾% sales tax, etc.)
  - b. This could also be expressed as an “earmark” of a share of a revenue source (e.g. ½ of the wheel tax, 25% of TVA in lieu of tax payments, 100% of impact fees, etc.)
  - c. Again, limiting future flexibility of local governments to address future budget requirements by “earmarking” revenues may cause them to be more reluctant to make additional voluntary contributions.
4. Allow systems above some threshold of voluntary contribution to forego a required inflation adjustment or make subsequent changes in tax allocations.
  - a. Choosing the appropriate threshold may present significant challenges in reaching a consensus.
  - b. This policy choice would help mitigate potential disparity/equity impacts.
5. Allow systems over some threshold of voluntary contributions to actually reduce local contributions in light of new state funding so long as total revenue available to the school system is not diminished (this might or might not be coupled with some inflation factor).

- a. Choosing the appropriate threshold presents significant challenges in reaching a general consensus; but it probably can be done. This threshold might also be conditioned upon satisfactory AYP assessments.
  - b. This policy choice would help mitigate potential disparity/equity impacts.
- 6. Identify the reason that the various stake-holders believe local contributions beyond the required local match under the BEP should be required.
  - a. Arguably, until we address the fundamental issue of adequacy of the BEP, trying to rationalize funding responsibilities among levels of government and achieving a constitutionally permissible system of educational funding will be problematic at best.