

HOUSE BILL 1230

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2004 Regular Session
(4lr2330)

ENROLLED BILL

-- Appropriations and Ways and Means/Budget and Taxation --

Introduced by **Delegates Hixson and Edwards (Task Force to Study Public School Facilities) and Delegates Leopold and Conway, Conway, Griffith, Ross, Holmes, James, Niemann, Ramirez, Hurson, G. Clagett, Haynes, Madaleno, F. Turner, Stocksdale, Bozman, Boschert, Cardin, Heller, Barkley, Jones, Proctor, Aumann, Aumann, Branch, Bates, Bohanan, Cadden, DeBoy, Eckardt, Franchot, Frank, Gaines, Mitchell, Paige, Bartlett, Cryor, C. Davis, Elmore, Gilleland, Goodwin, Gordon, Healey, Howard, Kaiser, King, Marriott, McKee, Myers, Patterson, Ramirez, and Ross**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER 307

1 AN ACT concerning

2 **Public School Facilities Act of 2004**

3 FOR the purpose of authorizing counties to finance the construction or renovation of
4 public school facilities, under certain circumstances, using alternative financing
5 methods, engaging in competitive negotiation, accepting unsolicited proposals,
6 and using quality based selection; authorizing a private entity to hold title to
7 property used for a certain public school or school system under certain
8 circumstances; clarifying that the requirements of certain provisions of the
9 State Finance and Procurement Article apply to certain projects; expressing the

1 intent of the General Assembly that the State Department of Education and the
 2 Public School Construction Program encourage local education agencies to use
 3 recently used school designs under certain circumstances; requiring the
 4 Interagency Committee on School Construction to survey the condition of
 5 certain school buildings; requiring the Department of General Services to
 6 conduct certain inspections; requiring the Interagency Committee to make a
 7 certain annual report to the Governor and the General Assembly; requiring the
 8 Department of General Services to submit a certain annual report to the State
 9 Department of Education and local education agencies; authorizing certain
 10 counties to issue certain bonds under certain circumstances; providing for the
 11 issuance and administration of the bonds; providing for the repayment of the
 12 bonds; ~~authorizing certain counties to impose a sales tax on certain retail sales,~~
 13 ~~subject to certain limits; authorizing certain counties to impose a certain~~
 14 ~~transfer tax on certain instruments, subject to certain limits;~~ repealing a certain
 15 exemption from the Administrative Procedure Act; altering the amount of
 16 grants provided to counties under the Aging Schools Program; providing an
 17 exception to a certain mandatory level of State funds to be granted to Prince
 18 George's County and Baltimore City; expressing the intent of the General
 19 Assembly that the Board of Public Works establish an emergency repair fund to
 20 be used to finance certain renovations and improvements to public schools;
 21 specifying that the purchase of relocatable classrooms ~~are~~ is eligible for State
 22 funding; requiring the Public School Construction Program to provide assistance
 23 to Baltimore City, counties, and local education agencies in using alternative
 24 financing mechanisms; requiring the Capital Debt Affordability Committee to
 25 review certain school funding needs and to make a certain annual
 26 recommendation; providing that private ownership of public schools does not
 27 affect the status of local school system employees; requiring the State
 28 Department of Education to adopt certain regulations; requiring the Board of
 29 Public Works to adopt certain regulations; defining certain terms; providing for
 30 the effective dates of this Act; and generally relating to the funding and
 31 administration of public school construction.

32 BY repealing and reenacting, with amendments,
 33 Article - Education
 34 Section 4-114, 5-206(f), 5-301, and 5-302
 35 Annotated Code of Maryland
 36 (2001 Replacement Volume and 2003 Supplement)

37 BY adding to
 38 Article - Education
 39 Section 4-126 and 5-309 through 5-311; and 5-601 through 5-604, inclusive, to
 40 be under the new subtitle "Subtitle 6. Authorization to Issue Bonds to
 41 Fund Public School Construction"
 42 Annotated Code of Maryland
 43 (2001 Replacement Volume and 2003 Supplement)

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

1 ~~Article Tax General~~
 2 ~~Section 11-102(b)~~
 3 ~~Annotated Code of Maryland~~
 4 ~~(1997 Replacement Volume and 2003 Supplement)~~

5 BY repealing and reenacting, with amendments,
 6 Chapter 704 of the Acts of the General Assembly of 1998, as amended by
 7 Chapter 420 of the Acts of the General Assembly of 2001 and Chapter 289
 8 of the Acts of the General Assembly of 2002
 9 Section 3

10 BY repealing and reenacting, with amendments,
 11 Chapter 280 of the Acts of the General Assembly of 2001, as amended by
 12 Chapter 288 of the Acts of the General Assembly of 2002 and Chapter 388
 13 of the Acts of the General Assembly of 2003
 14 Section 1

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

17 **Article - Education**

18 4-114.

19 (a) All property granted, conveyed, devised, or bequeathed for the use of a
 20 particular public school or school system:

21 (1) [Shall] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,
 22 SHALL be held in trust for the benefit of the school or school system by the
 23 appropriate county board; and

24 (2) Is exempt from all State and local taxes.

25 (b) Money invested in trust for the benefit of the public schools for any county
 26 or city is exempt from all State and local taxes.

27 (C) (1) A PRIVATE ENTITY MAY HOLD TITLE TO PROPERTY USED FOR A
 28 PARTICULAR PUBLIC SCHOOL OR LOCAL SCHOOL SYSTEM IF THE PRIVATE ENTITY IS
 29 CONTRACTUALLY OBLIGATED TO TRANSFER TITLE TO THE APPROPRIATE COUNTY
 30 BOARD ON A SPECIFIED DATE.

31 (2) THE CONVEYANCE OF TITLE OF SCHOOL PROPERTY TO A PRIVATE
 32 ENTITY FOR A SPECIFIED TERM UNDER THIS SUBSECTION MAY NOT BE CONSTRUED
 33 TO PROHIBIT THE ALLOCATION OF CONSTRUCTION FUNDS TO AN APPROVED
 34 SCHOOL CONSTRUCTION PROJECT UNDER THE PUBLIC SCHOOL CONSTRUCTION
 35 PROGRAM.

1 (3) A COUNTY OR COUNTY BOARD MAY CONVEY OR DISPOSE OF
2 SURPLUS LAND UNDER THE JURISDICTION OF THE COUNTY OR COUNTY BOARD IN
3 EXCHANGE FOR PUBLIC SCHOOL CONSTRUCTION OR DEVELOPMENT SERVICES.

4 4-126.

5 (A) IN THIS SECTION, "ALTERNATIVE FINANCING METHODS" INCLUDES:

6 (1) SALE-LEASEBACK ARRANGEMENTS, IN WHICH A COUNTY BOARD
7 AGREES TO TRANSFER TITLE TO A PROPERTY, INCLUDING IMPROVEMENTS, TO A
8 PRIVATE ENTITY THAT SIMULTANEOUSLY AGREES TO LEASE THE PROPERTY BACK
9 TO THE COUNTY BOARD AND, ON A SPECIFIED DATE, TRANSFER TITLE BACK TO THE
10 COUNTY BOARD;

11 (2) LEASE-LEASEBACK ARRANGEMENTS, IN WHICH A COUNTY BOARD
12 LEASES A PROPERTY TO A PRIVATE ENTITY THAT IMPROVES THE PROPERTY AND
13 LEASES THE PROPERTY, WITH THE IMPROVEMENTS, BACK TO THE COUNTY BOARD;

14 (3) PUBLIC-PRIVATE PARTNERSHIP AGREEMENTS, IN WHICH A COUNTY
15 BOARD CONTRACTS WITH A PRIVATE ENTITY FOR THE ACQUISITION, DESIGN,
16 CONSTRUCTION, IMPROVEMENT, RENOVATION, EXPANSION, EQUIPPING, OR
17 FINANCING OF A PUBLIC SCHOOL, AND MAY INCLUDE PROVISIONS FOR
18 COOPERATIVE USE OF THE SCHOOL OR AN ADJACENT PROPERTY AND GENERATION
19 OF REVENUE TO OFFSET THE COST OF CONSTRUCTION OR USE OF THE SCHOOL; ~~AND~~

20 (4) PERFORMANCE-BASED CONTRACTING, IN WHICH A COUNTY BOARD
21 ENTERS INTO AN ENERGY PERFORMANCE CONTRACT TO OBTAIN FUNDING FOR A
22 PROJECT WITH GUARANTEED ENERGY SAVINGS OVER A SPECIFIED TIME PERIOD;
23 AND

24 (5) DESIGN-BUILD ARRANGEMENTS, THAT PERMIT A COUNTY BOARD TO
25 CONTRACT WITH A DESIGN-BUILD BUSINESS ENTITY FOR THE COMBINED DESIGN
26 AND CONSTRUCTION OF QUALIFIED EDUCATION FACILITIES, INCLUDING
27 FINANCING MECHANISMS WHERE THE BUSINESS ENTITY ASSISTS THE LOCAL
28 GOVERNING BODY IN OBTAINING PROJECT FINANCING.

29 (B) EXCEPT WHEN PROHIBITED BY LOCAL LAW, IN ORDER TO FINANCE OR TO
30 SPEED DELIVERY OF, TRANSFER RISKS OF, OR OTHERWISE ENHANCE THE DELIVERY
31 OF PUBLIC SCHOOL CONSTRUCTION, A COUNTY MAY:

32 (1) USE ALTERNATIVE FINANCING METHODS;

33 (2) ENGAGE IN COMPETITIVE NEGOTIATION, RATHER THAN
34 COMPETITIVE BIDDING, IN LIMITED CIRCUMSTANCES, INCLUDING CONSTRUCTION
35 MANAGEMENT AT-RISK ARRANGEMENTS AND OTHER ALTERNATIVE PROJECT
36 DELIVERY ARRANGEMENTS, AS PROVIDED IN REGULATIONS ADOPTED BY THE
37 BOARD OF PUBLIC WORKS;

1 (3) ACCEPT UNSOLICITED PROPOSALS FOR THE DEVELOPMENT OF
2 PUBLIC SCHOOLS IN LIMITED CIRCUMSTANCES, AS PROVIDED IN REGULATIONS
3 ADOPTED BY THE BOARD OF PUBLIC WORKS; AND

4 (4) USE QUALITY-BASED SELECTION, IN WHICH SELECTION IS BASED
5 ON A COMBINATION OF QUALIFICATIONS AND COST FACTORS, TO SELECT
6 DEVELOPERS AND BUILDERS, AS PROVIDED IN REGULATIONS ADOPTED BY THE
7 BOARD OF PUBLIC WORKS.

8 (C) THE BOARD OF PUBLIC WORKS SHALL ADOPT REGULATIONS REQUIRING A
9 PROJECT THAT QUALIFIES FOR ALTERNATIVE FINANCING METHODS UNDER THIS
10 SECTION TO MEET REQUIREMENTS REGARDING THE ADVANTAGES OF THE PROJECT
11 TO THE PUBLIC THAT INCLUDE PROVISIONS ADDRESSING:

12 (1) THE PROBABLE SCOPE, COMPLEXITY, OR URGENCY OF THE PROJECT;

13 (2) ANY RISK SHARING, ADDED VALUE, EDUCATION ENHANCEMENTS,
14 INCREASE IN FUNDING, OR ECONOMIC BENEFIT FROM THE PROJECT THAT WOULD
15 NOT OTHERWISE BE AVAILABLE;

16 (3) THE PUBLIC NEED FOR THE PROJECT; AND

17 (4) THE ESTIMATED COST OR TIMELINESS OF EXECUTING THE PROJECT.

18 (D) PROJECTS THAT QUALIFY FOR ALTERNATIVE FINANCING METHODS
19 UNDER THIS SUBSECTION:

20 (1) SHALL MEET THE EDUCATIONAL STANDARDS, DESIGN STANDARDS,
21 AND PROCEDURAL REQUIREMENTS UNDER THIS ARTICLE AND UNDER
22 REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS; AND

23 (2) CONSISTENT WITH THE REQUIREMENTS OF THIS ARTICLE, SHALL BE
24 APPROVED BY:

25 (I) THE COUNTY GOVERNING BODY;

26 (II) THE STATE SUPERINTENDENT OF SCHOOLS; OR

27 (III) THE INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION
28 AND THE BOARD OF PUBLIC WORKS.

29 (E) USE OF ALTERNATIVE FINANCING METHODS UNDER THIS SECTION MAY
30 NOT BE CONSTRUED TO PROHIBIT THE ALLOCATION OF STATE FUNDS FOR PUBLIC
31 SCHOOL CONSTRUCTION TO A PROJECT UNDER THE PUBLIC SCHOOL
32 CONSTRUCTION PROGRAM.

33 (F) A COUNTY BOARD MAY NOT USE ALTERNATIVE FINANCING METHODS
34 UNDER THIS SECTION WITHOUT THE APPROVAL OF THE COUNTY GOVERNING BODY.

35 (G) ~~(C)~~ (G) AT THE REQUEST OF THE INTERAGENCY COMMITTEE ON SCHOOL
36 CONSTRUCTION, THE BOARD OF PUBLIC WORKS MAY SHALL ADOPT REGULATIONS

1 RECOMMENDED BY THE INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION TO
2 IMPLEMENT THE PROVISIONS OF THIS SECTION, INCLUDING:

3 (1) GUIDELINES FOR THE CONTENT OF PROPOSALS, FOR ~~THE~~ THE
4 ACCEPTANCE AND EVALUATION OF UNSOLICITED PROPOSALS, AND FOR ACCEPTING
5 COMPETING UNSOLICITED PROPOSALS;

6 (2) REQUIREMENTS FOR THE CONTENT AND EXECUTION OF A
7 COMPREHENSIVE AGREEMENT GOVERNING AN ARRANGEMENT AUTHORIZED UNDER
8 THIS SECTION; ~~AND~~

9 (3) ~~THE APPLICABILITY OF STATE PROCUREMENT LAWS TO~~
10 ~~PROCUREMENT OR FINANCING OF PUBLIC SCHOOL CONSTRUCTION AUTHORIZED~~
11 ~~UNDER THIS SECTION.~~

12 (3) GUIDELINES FOR CONTENT AND ISSUANCE OF SOLICITATIONS;

13 (4) REQUIREMENTS FOR THE PREQUALIFICATION OF BIDDERS OR
14 OFFERORS;

15 (5) REQUIREMENTS FOR PUBLIC NOTICE OF SOLICITED AND
16 UNSOLICITED PROPOSALS AND PROPOSED EXECUTION OF A COMPREHENSIVE
17 AGREEMENT;

18 (6) REGULATIONS THAT REQUIRE COMPLIANCE WITH REQUIREMENTS
19 APPLICABLE TO QUALIFIED PROJECTS THAT WOULD OTHERWISE BE IN EFFECT
20 UNDER THE STATE PROCUREMENT LAW IF THE PROCUREMENT WERE
21 COMPETITIVELY BID; AND

22 (7) REGULATIONS THAT REQUIRE THAT CONTRACTS AND
23 SUBCONTRACTS ADHERE TO THE REQUIREMENTS OF TITLE 17, SUBTITLE 2 AND
24 TITLE 14 OF THE STATE FINANCE AND PROCUREMENT ARTICLE *IF THE*
25 *REQUIREMENTS WOULD OTHERWISE BE APPLICABLE.*

26 5-302.

27 (a) (1) The BOARD OF PUBLIC WORKS SHALL ESTABLISH THE Interagency
28 Committee on School Construction [established by the Board of Public Works is] AS
29 a unit within the Department for administrative and budgetary purposes.

30 (2) THE INTERAGENCY COMMITTEE CONSISTS OF THE FOLLOWING
31 MEMBERS:

32 (I) THE STATE SUPERINTENDENT OF SCHOOLS, OR THE
33 SUPERINTENDENT'S DESIGNEE;

34 (II) THE SECRETARY OF THE DEPARTMENT OF PLANNING, OR THE
35 SECRETARY'S DESIGNEE; AND

1 (III) THE SECRETARY OF GENERAL SERVICES, OR THE SECRETARY'S
2 DESIGNEE.

3 (3) THE STATE SUPERINTENDENT OF SCHOOLS, OR THE
4 SUPERINTENDENT'S DESIGNEE, SHALL BE THE CHAIRMAN OF THE INTERAGENCY
5 COMMITTEE.

6 (4) THE BOARD OF PUBLIC WORKS MAY DELEGATE THE
7 ADMINISTRATIVE AND BUDGETARY AUTHORITY OF THE BOARD TO THE
8 INTERAGENCY COMMITTEE AS DETERMINED BY THE BOARD TO BE NECESSARY AND
9 APPROPRIATE.

10 (b) (1) The Department or any other State agency may lend its employees to
11 serve as the staff for the Interagency Committee.

12 (2) These employees shall be paid by the agency that employs them.

13 (c) The Executive Director of the Interagency Committee shall be appointed
14 by the Interagency Committee with the approval of the Board of Public Works.

15 (d) (1) (I) The Interagency Committee [on School Construction] shall
16 prepare projections of school construction and capital improvement needs for
17 submission to the Capital Debt Affordability Committee under § 8-112(c)(3) of the
18 State Finance and Procurement Article.

19 (II) The projections shall be prepared in accordance with the [rules,
20 regulations, and procedures] REGULATIONS adopted by the Board under § 5-301 of
21 this subtitle.

22 (2) (I) The Board of Public Works or the Interagency Committee [on
23 School Construction] shall notify each county board and each local governing body of
24 the annual allocation of school construction funds recommended to the Board of
25 Public Works by the Governor under the consolidated capital debt program of the
26 State Finance and Procurement Article.

27 (II) The notification shall be made immediately after the Governor
28 has recommended the allocations so that each county may structure its respective
29 school construction and capital improvement priorities in accordance with the annual
30 allocation and any amendments.

31 (E) (1) ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE INTERAGENCY
32 COMMITTEE SHALL PROVIDE RECOMMENDATIONS TO THE BOARD OF PUBLIC WORKS
33 FOR PUBLIC SCHOOL CONSTRUCTION PROJECTS THAT COMPRISE AT LEAST 75% OF
34 THE ANTICIPATED SCHOOL CONSTRUCTION ALLOCATION FOR THE FOLLOWING
35 FISCAL YEAR.

36 (2) THE REMAINING PUBLIC SCHOOL CONSTRUCTION ALLOCATION FOR
37 THE FOLLOWING FISCAL YEAR MAY BE ALLOCATED BY THE BOARD OF PUBLIC
38 WORKS AS PROVIDED IN REGULATION.

1 5-309.

2 IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE DEPARTMENT AND
3 THE PUBLIC SCHOOL CONSTRUCTION PROGRAM ENCOURAGE LOCAL EDUCATION
4 AGENCIES TO REUSE RECENTLY USED SCHOOL DESIGNS, WHEN EDUCATIONALLY
5 APPROPRIATE AND COST EFFECTIVE OVER THE USEFUL LIFE OF THE PROJECT,
6 WITHIN EACH COUNTY AND ACROSS LOCAL SCHOOL SYSTEM BOUNDARIES.

7 5-310.

8 (A) EACH FISCAL YEAR, THE INTERAGENCY COMMITTEE SHALL SURVEY THE
9 CONDITION OF SCHOOL BUILDINGS IDENTIFIED BY THE DEPARTMENT.

10 (B) THE DEPARTMENT OF GENERAL SERVICES SHALL CONDUCT THE
11 INSPECTIONS OF INDIVIDUAL SCHOOL BUILDINGS THAT THE INTERAGENCY
12 COMMITTEE REQUIRES TO COMPLETE THE SURVEY REQUIRED IN SUBSECTION (A) OF
13 THIS SECTION.

14 (C) THE INTERAGENCY COMMITTEE SHALL REPORT TO THE GOVERNOR AND
15 THE GENERAL ASSEMBLY, ON OR BEFORE OCTOBER 1 OF EACH YEAR, IN
16 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE
17 RESULTS OF THE SURVEY FOR THE PRIOR FISCAL YEAR.

18 5-311.

19 ON OR BEFORE JULY 1 OF EACH YEAR, THE DEPARTMENT OF GENERAL
20 SERVICES SHALL PROVIDE A REPORT TO THE DEPARTMENT AND EACH LOCAL
21 EDUCATION AGENCY THAT DESCRIBES EXISTING STATE PURCHASING CONTRACTS
22 THAT LOCAL EDUCATION AGENCIES MAY USE TO PURCHASE SCHOOL FURNITURE,
23 EQUIPMENT, COMMODITIES, AND SERVICES.

24 SUBTITLE 6. AUTHORIZATION TO ISSUE BONDS TO FUND PUBLIC SCHOOL
25 CONSTRUCTION.

26 5-601.

27 ~~EXCEPT AS PROVIDED IN § 5-603(B) AND (C) OF THIS SUBTITLE,~~ THE PROVISIONS
28 OF THIS SUBTITLE DO NOT APPLY TO A COUNTY OTHERWISE AUTHORIZED TO ISSUE
29 BONDS TO FUND PUBLIC SCHOOL CONSTRUCTION UNDER OTHER PROVISIONS OF
30 THE CODE.

31 5-602.

32 (A) IN THIS SUBTITLE, "CONSTRUCTION OR IMPROVEMENT" MEANS THE
33 PLANNING, DESIGN, ENGINEERING, ALTERATION, CONSTRUCTION,
34 RECONSTRUCTION, ENLARGEMENT, EXPANSION, EXTENSION, IMPROVEMENT,
35 REPLACEMENT, REHABILITATION, RENOVATION, UPGRADING, REPAIR, OR CAPITAL
36 EQUIPPING.

1 (B) A COUNTY MAY ISSUE BONDS TO FINANCE ANY OR ALL OF THE COSTS OF
2 CONSTRUCTION OR IMPROVEMENT OF PUBLIC SCHOOLS IN THE COUNTY PROVIDED
3 THAT THE CONSTRUCTION AND IMPROVEMENT CONTRACTS AND SUBCONTRACTS
4 COMPLY WITH THE REQUIREMENTS OF TITLE 17, SUBTITLE 2 AND TITLE 14 OF THE
5 STATE FINANCE AND PROCUREMENT ARTICLE IF THE REQUIREMENTS WOULD
6 OTHERWISE BE APPLICABLE.

7 (C) (1) BONDS SHALL BE AUTHORIZED BY A RESOLUTION OF THE
8 GOVERNING BODY OF THE COUNTY.

9 (2) THE RESOLUTION SHALL:

10 (I) GENERALLY DESCRIBE THE PUBLIC SCHOOL CONSTRUCTION
11 OR IMPROVEMENTS TO BE FINANCED THROUGH THE SALE OF THE BONDS;

12 (II) STATE THE MAXIMUM PRINCIPAL AMOUNT OF THE BONDS;

13 (III) DESCRIBE THE SOURCES OF REPAYMENT OF THE BONDS;

14 (IV) STATE THE MAXIMUM TERM OF THE BONDS, WHICH MAY NOT
15 EXCEED 30 YEARS; AND

16 (V) DESCRIBE ANY TERMS OR CONDITIONS UNDER WHICH THE
17 BONDS MAY BE REDEEMED BEFORE MATURITY.

18 (D) THE BONDS SHALL:

19 (1) BE DATED AND BEAR INTEREST AT A RATE SPECIFIED IN THE
20 RESOLUTION;

21 (2) MATURE WITHIN 30 YEARS OF THE DATE OF ISSUANCE OF THE
22 BONDS;

23 (3) BE ISSUED AT, ABOVE, OR BELOW PAR VALUE, FOR CASH OR OTHER
24 CONSIDERATION;

25 (4) BE PAYABLE AT A TIME, IN THE DENOMINATION, IN REGISTERED
26 FORM, WITHIN THE MEANING OF ARTICLE 31, § 30 OF THE CODE, AS SPECIFIED IN
27 THE RESOLUTION;

28 (5) CARRY THE REGISTRATION AND PRIVILEGES AS TO CONVERSION
29 AND FOR THE REPLACEMENT OF MUTILATED, LOST, OR DESTROYED BONDS, AS
30 SPECIFIED IN THE RESOLUTION;

31 (6) BE PAYABLE IN LAWFUL MONEY OF THE UNITED STATES OF
32 AMERICA AT A DESIGNATED PLACE;

33 (7) BE SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED IN THE
34 RESOLUTION; AND

1 (8) BE SOLD IN THE MANNER, INCLUDING PRIVATE OR NEGOTIATED
2 SALE, AND UPON THE TERMS, SPECIFIED IN THE RESOLUTION.

3 (E) THE COUNTY MAY ENTER INTO AGREEMENTS WITH AGENTS, BANKS,
4 FIDUCIARIES, INSURERS, OR OTHERS TO:

5 (1) ENHANCE THE MARKETABILITY OF AND SECURITY FOR THE BONDS;
6 OR

7 (2) SECURE ANY TENDER OPTION GRANTED TO THE HOLDERS OF THE
8 BONDS.

9 (F) IF ANY OFFICER WHOSE SIGNATURE APPEARS ON A BOND CEASES TO BE
10 AN OFFICER BEFORE DELIVERY OF THE BONDS, THE SIGNATURE IS VALID AND
11 SUFFICIENT FOR ALL PURPOSES.

12 (G) THE BONDS, THEIR ISSUE, AND THEIR SALE MAY BE EXEMPT FROM THE
13 PROVISIONS OF SECTIONS 9, 10, AND 11 OF ARTICLE 31 OF THE CODE.

14 (H) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
15 NET PROCEEDS OF THE SALE OF THE BONDS MAY ONLY BE APPLIED TO THE
16 CONSTRUCTION OR IMPROVEMENT OF PUBLIC SCHOOL FACILITIES, AS DESCRIBED
17 IN THE RESOLUTION AUTHORIZING THE ISSUANCE OF THE BONDS.

18 (2) IF THE NET PROCEEDS OF THE SALE OF ANY BONDS EXCEEDS THE
19 AMOUNT NEEDED FOR THE CONSTRUCTION OR IMPROVEMENT OF THE PUBLIC
20 SCHOOL FACILITIES, AS DESCRIBED IN THE RESOLUTION, THE EXCESS FUNDS SHALL
21 BE APPLIED TO:

22 (I) THE PAYMENT OF INTEREST ON THE BONDS;

23 (II) THE PAYMENT OF THE NEXT PRINCIPAL MATURITY OF THE
24 BONDS;

25 (III) THE REDEMPTION OF ANY PART OF THE BONDS THAT ARE
26 REDEEMABLE BEFORE MATURITY; OR

27 (IV) IF AUTHORIZED BY A RESOLUTION ISSUED BY THE GOVERNING
28 BODY OF THE COUNTY, THE CONSTRUCTION OR IMPROVEMENT OF OTHER PUBLIC
29 SCHOOL FACILITIES.

30 (I) BONDS ISSUED UNDER THIS SUBTITLE ARE NEGOTIABLE INSTRUMENTS
31 UNDER THE LAWS OF THIS STATE.

32 (J) BEFORE THE PREPARATION OF BONDS, THE COUNTY MAY ISSUE BOND
33 ANTICIPATION NOTES IN ACCORDANCE WITH ARTICLE 31, § 12 OF THE CODE.

34 5-603.

35 (A) BONDS ISSUED UNDER THIS SUBTITLE CONSTITUTE AN IRREVOCABLE
36 PLEDGE OF THE FULL FAITH AND CREDIT AND UNLIMITED TAXING POWER OF THE

1 COUNTY TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS
2 WHEN THE BONDS BECOME PAYABLE.

3 ~~(B)~~ ~~(1)~~ EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE
4 GOVERNING BODY OF A COUNTY MAY IMPOSE A TRANSFER TAX ON AN INSTRUMENT
5 OF WRITING, AS DEFINED IN § 13-101(C) OF THE TAX PROPERTY ARTICLE:

6 ~~(I)~~ RECORDED WITH THE CLERK OF THE CIRCUIT COURT FOR THE
7 COUNTY; OR

8 ~~(II)~~ FILED WITH THE STATE DEPARTMENT OF ASSESSMENTS AND
9 TAXATION.

10 ~~(2)~~ A TRANSFER TAX IMPOSED UNDER THIS SUBSECTION:

11 ~~(I)~~ MAY NOT EXCEED THE AMOUNT REQUIRED TO MAKE
12 PAYMENTS, WHEN DUE, ON THE PRINCIPAL OF AND INTEREST ON BONDS ISSUED TO
13 FUND PUBLIC SCHOOL CONSTRUCTION; AND

14 ~~(II)~~ DOES NOT APPLY TO AN INSTRUMENT OF WRITING EXEMPT
15 FROM THE STATE TRANSFER TAX UNDER § 13-207 OF THE TAX PROPERTY ARTICLE.

16 ~~(3)~~ THIS SUBSECTION DOES NOT APPLY TO A COUNTY OTHERWISE
17 AUTHORIZED TO IMPOSE A TRANSFER TAX ON JUNE 30, 2004.

18 ~~(C)~~ ~~(1)~~ IN THIS SUBSECTION, "RETAIL SALE", "SALE", AND "TAXABLE PRICE"
19 HAVE THE MEANINGS STATED IN § 11-101 OF THE TAX GENERAL ARTICLE.

20 ~~(2)~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE
21 GOVERNING BODY OF A COUNTY MAY IMPOSE, BY ORDINANCE, AND COLLECT A
22 SALES TAX ON A RETAIL SALE WITHIN THE COUNTY.

23 ~~(3)~~ A TAX IMPOSED UNDER THIS SECTION DOES NOT APPLY TO A SALE
24 THAT IS EXEMPT FROM THE STATE SALES AND USE TAX UNDER TITLE 11 OF THE TAX
25 GENERAL ARTICLE.

26 ~~(4)~~ A TAX IMPOSED UNDER THIS SECTION MAY NOT EXCEED THE
27 AMOUNT REQUIRED TO MAKE PAYMENTS, WHEN DUE, ON THE PRINCIPAL OF AND
28 INTEREST ON BONDS ISSUED TO FUND PUBLIC SCHOOL CONSTRUCTION.

29 ~~(D)~~ (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
30 IN EVERY FISCAL YEAR IN WHICH ANY OF THE BONDS ARE OUTSTANDING, THE
31 COUNTY SHALL LEVY AD VALOREM TAXES ON ALL ASSESSABLE PROPERTY WITHIN
32 THE CORPORATE LIMITS OF THE COUNTY IN AN AMOUNT SUFFICIENT TO MAKE
33 PAYMENTS, WHEN DUE, ON THE PRINCIPAL OF AND INTEREST ON THE BONDS.

34 (2) IF OTHER FUNDS ARE AVAILABLE TO PAY THE PRINCIPAL OF AND
35 INTEREST ON THE BONDS, THE COUNTY MAY REDUCE THE TAXES THAT WOULD
36 OTHERWISE NEED TO BE LEVIED UNDER THIS SECTION.

1 ~~(E)~~ (C) THE COUNTY MAY APPLY FUNDS RECEIVED FROM ANY SOURCE TO
 2 THE PAYMENT OF PRINCIPAL OF AND INTEREST ON THE BONDS.

3 5-604.

4 BONDS ISSUED UNDER THIS SUBTITLE ARE EXEMPT FROM STATE, COUNTY,
 5 AND MUNICIPAL TAXATION.

6 ~~Article - Tax - General~~

7 ~~41-102.~~

8 (b) ~~(1)~~ A county, municipal corporation, special taxing district, or other
 9 political subdivision of the State may not impose any retail sales or use tax except:

10 (i) a sales tax or use tax that was in effect on January 1, 1971;

11 (ii) a tax on the sale or use of:

12 1. fuels;

13 2. utilities;

14 3. space rentals; or

15 4. any controlled dangerous substance, as defined in § 5-101
 16 of the Criminal Law Article, unless the sale is made by a person who registers under
 17 and complies with Title 5, Subtitle 3 of the Criminal Law Article; [or]

18 (iii) a tax imposed by a code county on the sale or use of food and
 19 beverages authorized under Article 25B, § 13H of the Code; OR

20 (IV) A SALES TAX IMPOSED BY A COUNTY AUTHORIZED TO IMPOSE A
 21 SALES TAX UNDER § 5-603(C) OF THE EDUCATION ARTICLE.

22 (2) Paragraph (1) of this subsection may not be construed as conferring
 23 authority to impose a sales and use tax.

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

26 **Article - Education**

27 5-301.

28 (a) IN THIS SUBTITLE, "INTERAGENCY COMMITTEE" MEANS THE
 29 INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION ESTABLISHED UNDER §
 30 5-302 OF THIS SUBTITLE.

1 (B) (1) For the purposes of this section other than subsection (c), the Board
2 of Public Works shall define by regulation what constitutes an [approved] ELIGIBLE
3 AND INELIGIBLE public school construction or capital improvement cost.

4 (2) (I) THE PURCHASE OF RELOCATABLE CLASSROOMS SHALL BE AN
5 ELIGIBLE PUBLIC SCHOOL CONSTRUCTION OR CAPITAL COST.

6 (II) THE BOARD OF PUBLIC WORKS SHALL ADOPT REGULATIONS
7 THAT DEFINE RELOCATABLE CLASSROOMS AND ESTABLISH THE MINIMUM
8 SPECIFICATIONS FOR RELOCATABLE CLASSROOMS WHICH MAY BE PURCHASED
9 USING STATE FUNDS.

10 (III) IN THE BUDGETS FOR FISCAL YEARS 2006 THROUGH 2008, THE
11 GOVERNOR SHALL INCLUDE \$1,000,000 FOR PUBLIC SCHOOL CONSTRUCTION, IN
12 EXCESS OF THE ESTIMATES OF FUNDING FOR PUBLIC SCHOOL CONSTRUCTION
13 CONTAINED IN THE FISCAL YEAR 2005 THROUGH FISCAL YEAR 2009 CAPITAL
14 IMPROVEMENT PLAN, TO BE USED TO FUND THE STATE SHARE OF THE COST OF
15 PURCHASING RELOCATABLE CLASSROOMS.

16 (3) The cost of acquiring land may not be considered a construction or
17 capital improvement cost and may not be paid by the State.

18 [(b)] (C) The State shall pay the costs in excess of available federal funds of
19 [all] THE STATE SHARE OF public school construction projects and public school
20 capital improvements in each county if:

21 (1) The projects or improvements have been approved by the Board of
22 Public Works; and

23 (2) Contracts have been executed on or after July 1, 1971 for the projects
24 or improvements.

25 [(c)] (1) In this subsection, "local debt for school construction" includes any
26 debt incurred as the result of money made available to a county under a bond issue
27 that obligates the credit of the State.

28 (2) Except for general public school construction loan debt outstanding
29 or obligated as of June 30, 1967 for which repayment by a county is no longer
30 required, the State shall reimburse each county for the full costs of principal and
31 interest payments on any local debt for school construction outstanding or obligated
32 as of June 30, 1967.

33 (d) The State shall pay all of the annual cost of debt service on school
34 construction debt incurred by each county that was outstanding or obligated on or
35 after June 30, 1967 for contracts let before June 30, 1967.]

36 [(e)] (D) (1) The Board of Public Works may adopt [rules, regulations, and
37 procedures] REGULATIONS for the administration of the programs provided for [by
38 subsections (b) and (d) of] IN this section.

1 (2) The [rules, regulations, and procedures] REGULATIONS adopted by
2 the Board of Public Works may contain requirements for:

3 (i) The development and submission of long range plans;

4 (ii) The submission of annual plans and plans for specific projects;

5 (iii) The submission of other data or information that is relevant to
6 school construction or capital improvement;

7 (iv) The approval of sites, plans, and specifications for the
8 construction of new school buildings or the improvement of existing buildings;

9 (v) Site improvements;

10 (vi) Competitive bidding;

11 (vii) The hiring of personnel in connection with school construction
12 or capital improvements;

13 (viii) The actual construction of school buildings or their
14 improvements;

15 (ix) The relative roles of different State and local governmental
16 agencies in the planning and construction of school buildings or school capital
17 improvements; [and]

18 (x) School construction and capital improvements necessary or
19 appropriate for the proper implementation of this section;

20 (XI) AT THE RECOMMENDATION OF THE INTERAGENCY
21 COMMITTEE, THE ESTABLISHMENT OF PRIORITY PUBLIC SCHOOL CONSTRUCTION
22 PROGRAMS;

23 (XII) DEVELOPMENT OF COOPERATIVE ARRANGEMENTS THAT
24 PERMIT THE SHARING OF FACILITIES AMONG TWO OR MORE SCHOOL SYSTEMS;

25 (XIII) THE SELECTION OF ARCHITECTS AND ENGINEERS BY SCHOOL
26 SYSTEMS;

27 (XIV) THE AWARD OF CONTRACTS BY SCHOOL SYSTEMS; AND

28 (XV) METHOD OF PAYMENTS MADE BY THE STATE UNDER THE
29 PUBLIC SCHOOL CONSTRUCTION PROGRAM.

30 (3) THE REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS
31 SHALL CONTAIN PROVISIONS:

32 (I) ESTABLISHING A STATE AND LOCAL COST-SHARE FORMULA
33 FOR EACH COUNTY THAT IDENTIFIES THE FACTORS USED IN ESTABLISHING THE
34 FORMULAS;

1 (II) REQUIRING LOCAL EDUCATION AGENCIES TO ADOPT
2 EDUCATIONAL FACILITIES MASTER PLANS AND ANNUAL CAPITAL IMPROVEMENT
3 PROGRAMS;

4 (III) PROVIDING A METHOD FOR ESTABLISHING A MAXIMUM STATE
5 CONSTRUCTION ALLOCATION FOR EACH PROJECT APPROVED FOR STATE FUNDING;

6 (IV) REFERENCING THE POLICIES STATED IN § 5-7B-07 OF THE
7 STATE FINANCE AND PROCUREMENT ARTICLE;

8 (V) REQUIRING LOCAL SCHOOL SYSTEMS TO ADOPT PROCEDURES
9 CONSISTENT WITH THE MINORITY BUSINESS ENTERPRISE POLICIES OF THE STATE
10 AS REQUIRED UNDER THE CODE OF MARYLAND REGULATIONS;

11 (VI) ESTABLISHING A PROCESS FOR THE APPEAL OF DECISIONS BY
12 THE INTERAGENCY COMMITTEE TO THE BOARD OF PUBLIC WORKS;

13 (VII) REQUIRING LOCAL EDUCATION AGENCIES TO ADOPT,
14 IMPLEMENT, AND PERIODICALLY UPDATE COMPREHENSIVE MAINTENANCE PLANS;
15 AND

16 (VIII) AUTHORIZING THE BOARD OF PUBLIC WORKS TO WITHHOLD
17 STATE PUBLIC SCHOOL CONSTRUCTION FUNDS FROM A LOCAL EDUCATION AGENCY
18 THAT FAILS TO COMPLY WITH THE REQUIREMENTS OF ITEM (VII) OF THIS
19 PARAGRAPH.

20 (4) In adopting any of these requirements, the State Board and the
21 Board of Public Works shall provide for the maximum exercise of initiative by school
22 personnel in each county to insure that the school buildings and improvements meet
23 both the needs of the local communities and the rules and regulations necessary to
24 insure the proper operation of this section and the prudent expenditure of State
25 funds.

26 [(f)] (E) [(1)] The Board of Public Works shall develop the rules, regulations,
27 and procedures authorized by this section in consultation with representatives of the
28 county boards and the county governing bodies.

29 [(2)] Before the adoption, amendment, or repeal of any rule, regulation, or
30 procedure under this section, the Board of Public Works shall give notice of its
31 intended action to the county boards and to the county governing bodies.

32 (3) The Board of Public Works shall permit each county board and
33 county governing body to submit its views with respect to the intended action.]

34 [(g)] (F) The [rules, regulations, and procedures] REGULATIONS AND
35 PROCEDURES of the Board of Public Works adopted under this section and their
36 promulgation are exempt from [§§ 10-101 through 10-305 of the State Government
37 Article and] § 8-127(b) of the State Finance and Procurement Article of the Code.

1 [(h)] (G) (1) With respect to public school construction or public school
 2 capital improvements, including sites for school buildings, the authority,
 3 responsibilities, powers, and duties of the following are subject to the [rules,
 4 regulations, and procedures] REGULATIONS adopted by the Board of Public Works
 5 under this section:

- 6 (i) The State Board;
- 7 (ii) The State Superintendent;
- 8 (iii) The county governments;
- 9 (iv) The county boards; and
- 10 (v) All other State or local governmental agencies under this
 11 article.

12 (2) If, as to public school construction or public school capital
 13 improvements, there is any conflict between the [rules, regulations, and procedures]
 14 REGULATIONS AND PROCEDURES of the Board of Public Works and the authority,
 15 responsibilities, powers, and duties of the individuals and agencies specified in
 16 paragraph (1) of this subsection, the [rules, regulations, and procedures]
 17 REGULATIONS AND PROCEDURES of the Board of Public Works shall prevail.

18 [(i)] (H) The obligation of the State to pay the costs of public school
 19 construction and public school capital improvements extends only to those projects or
 20 parts of projects that comply with the [rules, regulations, and procedures]
 21 REGULATIONS AND PROCEDURES of the Board of Public Works.

22 [(j)] (I) (1) This subsection does not apply to the proceeds from the sale,
 23 lease, or disposition of public school buildings constructed under contracts executed
 24 before February 1, 1971.

25 (2) [By rule or regulation] CONSISTENT WITH § 4-115 OF THIS ARTICLE
 26 AND REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS TO IMPLEMENT §
 27 4-126 OF THIS ARTICLE, the Board of Public Works may require BY REGULATION that
 28 the PORTION OF THE proceeds received by a county from the sale, lease, or disposal of
 29 any public school building THAT REPRESENT STATE FUNDS PROVIDED WITHIN 15
 30 YEARS PRIOR TO THE DATE OF THE TRANSACTION shall be used solely as part of the
 31 State funding of the construction of future public school buildings in the county in
 32 which the sale, lease, or disposal occurred, if the public school building was:
 33 CONSTRUCTED UNDER A CONTRACT EXECUTED ON OR AFTER FEBRUARY 1, 1971.

34 (i) ~~Constructed under a contract executed on or after February 1,~~
 35 ~~1971; and~~

36 (ii) ~~Paid for primarily with State funds under this section.~~

37 (3) The part of the proceeds from the sale, lease, or disposal of a public
 38 school building that fairly represents the appraised value of land and that part of the

1 cost of the public school building that was funded by the county shall remain as the
2 funds of the county.

3 [(k)] (J) (1) Whether by budget bill or supplementary appropriation bill, all
4 money appropriated to carry out the purposes of this section is a separate fund that
5 shall be administered by the State Comptroller in accordance with the [rules and]
6 regulations adopted by the Board of Public Works.

7 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
8 PARAGRAPH, NOTWITHSTANDING ANY OTHER CONTRARY PROVISION OF THE
9 ANNOTATED CODE, ANY FUNDS APPROVED FOR A PROJECT THAT HAS NOT BEEN
10 CONTRACTED FOR WITHIN 2 YEARS OF THE APPROVAL OF THE PROJECT SHALL
11 REVERT TO THE FUND ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

12 (II) THE INTERAGENCY COMMITTEE, WITH THE APPROVAL OF THE
13 BOARD OF PUBLIC WORKS, MAY EXTEND THE TIME PERIOD UNDER SUBPARAGRAPH
14 (I) OF THIS PARAGRAPH IF THE INTERAGENCY COMMITTEE DETERMINES THAT
15 UNUSUAL CIRCUMSTANCES EXIST.

16 (3) ANY UNEXPENDED ALLOCATIONS OF FUNDS FOR PREVIOUSLY
17 APPROVED PROJECTS SHALL BE TRANSFERRED TO THE FUND ESTABLISHED UNDER
18 PARAGRAPH (1) OF THIS SUBSECTION.

19 (4) ON OR BEFORE JUNE 1 AND DECEMBER 1 OF EACH YEAR, THE
20 INTERAGENCY COMMITTEE SHALL REPORT TO THE GENERAL ASSEMBLY, IN
21 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE
22 BALANCE IN THE FUND AS THE RESULT OF TRANSFERS OR REVERSIONS REQUIRED
23 UNDER THIS SUBSECTION.

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

26 **Article - Education**

27 5-301.

28 (a) IN THIS SUBTITLE, "INTERAGENCY COMMITTEE" MEANS THE
29 INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION ESTABLISHED UNDER §
30 5-302 OF THIS SUBTITLE.

31 (B) (1) For the purposes of this section other than subsection (c), the Board
32 of Public Works shall define by regulation what constitutes an [approved] ELIGIBLE
33 AND INELIGIBLE public school construction or capital improvement cost.

34 (2) The cost of acquiring land may not be considered a construction or
35 capital improvement cost and may not be paid by the State.

36 [(b)] (C) The State shall pay the costs in excess of available federal funds of
37 [all] THE STATE SHARE OF public school construction projects and public school
38 capital improvements in each county if:

1 (1) The projects or improvements have been approved by the Board of
2 Public Works; and

3 (2) Contracts have been executed on or after July 1, 1971 for the projects
4 or improvements.

5 [(c) (1) In this subsection, "local debt for school construction" includes any
6 debt incurred as the result of money made available to a county under a bond issue
7 that obligates the credit of the State.

8 (2) Except for general public school construction loan debt outstanding
9 or obligated as of June 30, 1967 for which repayment by a county is no longer
10 required, the State shall reimburse each county for the full costs of principal and
11 interest payments on any local debt for school construction outstanding or obligated
12 as of June 30, 1967.

13 (d) The State shall pay all of the annual cost of debt service on school
14 construction debt incurred by each county that was outstanding or obligated on or
15 after June 30, 1967 for contracts let before June 30, 1967.]

16 [(e)] (D) (1) The Board of Public Works may adopt [rules, regulations, and
17 procedures] REGULATIONS for the administration of the programs provided for [by
18 subsections (b) and (d) of] IN this section.

19 (2) The [rules, regulations, and procedures] REGULATIONS adopted by
20 the Board of Public Works may contain requirements for:

21 (i) The development and submission of long range plans;

22 (ii) The submission of annual plans and plans for specific projects;

23 (iii) The submission of other data or information that is relevant to
24 school construction or capital improvement;

25 (iv) The approval of sites, plans, and specifications for the
26 construction of new school buildings or the improvement of existing buildings;

27 (v) Site improvements;

28 (vi) Competitive bidding;

29 (vii) The hiring of personnel in connection with school construction
30 or capital improvements;

31 (viii) The actual construction of school buildings or their
32 improvements;

33 (ix) The relative roles of different State and local governmental
34 agencies in the planning and construction of school buildings or school capital
35 improvements; [and]

1 (x) School construction and capital improvements necessary or
2 appropriate for the proper implementation of this section;

3 (XI) AT THE RECOMMENDATION OF THE INTERAGENCY
4 COMMITTEE, THE ESTABLISHMENT OF PRIORITY PUBLIC SCHOOL CONSTRUCTION
5 PROGRAMS;

6 (XII) DEVELOPMENT OF COOPERATIVE ARRANGEMENTS THAT
7 PERMIT THE SHARING OF FACILITIES AMONG TWO OR MORE SCHOOL SYSTEMS;

8 (XIII) THE SELECTION OF ARCHITECTS AND ENGINEERS BY SCHOOL
9 SYSTEMS;

10 (XIV) THE AWARD OF CONTRACTS BY SCHOOL SYSTEMS; AND

11 (XV) METHOD OF PAYMENTS MADE BY THE STATE UNDER THE
12 PUBLIC SCHOOL CONSTRUCTION PROGRAM.

13 (3) THE REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS
14 SHALL CONTAIN PROVISIONS:

15 (I) ESTABLISHING A STATE AND LOCAL COST-SHARE FORMULA
16 FOR EACH COUNTY THAT IDENTIFIES THE FACTORS USED IN ESTABLISHING THE
17 FORMULAS;

18 (II) REQUIRING LOCAL EDUCATION AGENCIES TO ADOPT
19 EDUCATIONAL FACILITIES MASTER PLANS AND ANNUAL CAPITAL IMPROVEMENT
20 PROGRAMS;

21 (III) PROVIDING A METHOD FOR ESTABLISHING A MAXIMUM STATE
22 CONSTRUCTION ALLOCATION FOR EACH PROJECT APPROVED FOR STATE FUNDING;

23 (IV) REFERENCING THE POLICIES STATED IN § 5-7B-07 OF THE
24 STATE FINANCE AND PROCUREMENT ARTICLE;

25 (V) REQUIRING LOCAL SCHOOL SYSTEMS TO ADOPT PROCEDURES
26 CONSISTENT WITH THE MINORITY BUSINESS ENTERPRISE POLICIES OF THE STATE
27 AS REQUIRED UNDER THE CODE OF MARYLAND REGULATIONS;

28 (VI) ESTABLISHING A PROCESS FOR THE APPEAL OF DECISIONS BY
29 THE INTERAGENCY COMMITTEE TO THE BOARD OF PUBLIC WORKS;

30 (VII) REQUIRING LOCAL EDUCATION AGENCIES TO ADOPT,
31 IMPLEMENT, AND PERIODICALLY UPDATE COMPREHENSIVE MAINTENANCE PLANS;
32 AND

33 (VIII) AUTHORIZING THE BOARD OF PUBLIC WORKS TO WITHHOLD
34 STATE PUBLIC SCHOOL CONSTRUCTION FUNDS FROM A LOCAL EDUCATION AGENCY
35 THAT FAILS TO COMPLY WITH THE REQUIREMENTS OF ITEM (VII) OF THIS
36 PARAGRAPH.

1 (4) In adopting any of these requirements, the State Board and the
2 Board of Public Works shall provide for the maximum exercise of initiative by school
3 personnel in each county to insure that the school buildings and improvements meet
4 both the needs of the local communities and the rules and regulations necessary to
5 insure the proper operation of this section and the prudent expenditure of State
6 funds.

7 [(f)] (E) [(1)] The Board of Public Works shall develop the rules, regulations,
8 and procedures authorized by this section in consultation with representatives of the
9 county boards and the county governing bodies.

10 [(2) Before the adoption, amendment, or repeal of any rule, regulation, or
11 procedure under this section, the Board of Public Works shall give notice of its
12 intended action to the county boards and to the county governing bodies.

13 (3) The Board of Public Works shall permit each county board and
14 county governing body to submit its views with respect to the intended action.]

15 [(g)] (F) The [rules, regulations, and procedures] REGULATIONS AND
16 PROCEDURES of the Board of Public Works adopted under this section and their
17 promulgation are exempt from [§§ 10-101 through 10-305 of the State Government
18 Article and] § 8-127(b) of the State Finance and Procurement Article of the Code.

19 [(h)] (G) (1) With respect to public school construction or public school
20 capital improvements, including sites for school buildings, the authority,
21 responsibilities, powers, and duties of the following are subject to the [rules,
22 regulations, and procedures] REGULATIONS adopted by the Board of Public Works
23 under this section:

24 (i) The State Board;

25 (ii) The State Superintendent;

26 (iii) The county governments;

27 (iv) The county boards; and

28 (v) All other State or local governmental agencies under this
29 article.

30 (2) If, as to public school construction or public school capital
31 improvements, there is any conflict between the [rules, regulations, and procedures]
32 REGULATIONS AND PROCEDURES of the Board of Public Works and the authority,
33 responsibilities, powers, and duties of the individuals and agencies specified in
34 paragraph (1) of this subsection, the[rules, regulations, and procedures]
35 REGULATIONS AND PROCEDURES of the Board of Public Works shall prevail.

36 [(i)] (H) The obligation of the State to pay the costs of public school
37 construction and public school capital improvements extends only to those projects or

1 parts of projects that comply with the [rules, regulations, and procedures]
 2 REGULATIONS AND PROCEDURES of the Board of Public Works.

3 [(j)] (I) (1) This subsection does not apply to the proceeds from the sale,
 4 lease, or disposition of public school buildings constructed under contracts executed
 5 before February 1, 1971.

6 (2) [By rule or regulation] CONSISTENT WITH § 4-115 OF THIS ARTICLE
 7 AND REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS TO IMPLEMENT §
 8 4-126 OF THIS ARTICLE, the Board of Public Works may require BY REGULATION that
 9 the PORTION OF THE proceeds received by a county from the sale, lease, or disposal of
 10 any public school building THAT REPRESENT STATE FUNDS PROVIDED WITHIN 15
 11 YEARS PRIOR TO THE DATE OF THE TRANSACTION shall be used solely as part of the
 12 State funding of the construction of future public school buildings in the county in
 13 which the sale, lease, or disposal occurred, if the public school building was:
 14 CONSTRUCTED UNDER A CONTRACT EXECUTED ON OR AFTER FEBRUARY 1, 1971.

15 (i) ~~Constructed under a contract executed on or after February 1,~~
 16 ~~1971; and~~

17 (ii) ~~Paid for primarily with State funds under this section.~~

18 (3) The part of the proceeds from the sale, lease, or disposal of a public
 19 school building that fairly represents the appraised value of land and that part of the
 20 cost of the public school building that was funded by the county shall remain as the
 21 funds of the county.

22 [(k)] (J) (1) Whether by budget bill or supplementary appropriation bill, all
 23 money appropriated to carry out the purposes of this section is a separate fund that
 24 shall be administered by the State Comptroller in accordance with the [rules and]
 25 regulations adopted by the Board of Public Works.

26 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
 27 PARAGRAPH, ANY FUNDS APPROVED FOR A PROJECT THAT HAS NOT BEEN
 28 CONTRACTED FOR WITHIN 2 YEARS OF THE APPROVAL OF THE PROJECT SHALL
 29 REVERT TO THE FUND ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

30 (II) THE INTERAGENCY COMMITTEE, WITH THE APPROVAL OF THE
 31 BOARD OF PUBLIC WORKS, MAY EXTEND THE TIME PERIOD UNDER SUBPARAGRAPH
 32 (I) OF THIS PARAGRAPH IF THE INTERAGENCY COMMITTEE DETERMINES THAT
 33 UNUSUAL CIRCUMSTANCES EXIST.

34 (3) ANY UNEXPENDED ALLOCATIONS OF FUNDS FOR PREVIOUSLY
 35 APPROVED PROJECTS SHALL BE TRANSFERRED TO THE FUND ESTABLISHED UNDER
 36 PARAGRAPH (1) OF THIS SUBSECTION.

37 (4) ON OR BEFORE JUNE 1 AND DECEMBER 1 OF EACH YEAR, THE
 38 INTERAGENCY COMMITTEE SHALL REPORT TO THE GENERAL ASSEMBLY, IN
 39 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE

1 BALANCE IN THE FUND AS THE RESULT OF TRANSFERS OR REVERSIONS REQUIRED
2 UNDER THIS SUBSECTION.

3 SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland
4 read as follows:

5 **Article - Education**

6 5-206.

7 (f) In fiscal year [2004] 2006 and in each fiscal year thereafter, the State shall
8 distribute grants to county boards under the Aging Schools Program administered by
9 the Interagency Committee on School Construction in the following amounts:

10	(1)	Allegany County	[\$355,000]	\$166,000
11	(2)	Anne Arundel County	[\$570,000]	\$859,000
12	(3)	Baltimore City	[\$1,635,000]	\$2,356,000
13	(4)	Baltimore County.....	[\$2,940,000]	\$1,484,000
14	(5)	Calvert County	\$65,000	
15	(6)	Caroline County	\$85,000	
16	(7)	Carroll County	[\$385,000]	\$233,000
17	(8)	Cecil County	[\$355,000]	\$163,000
18	(9)	Charles County	[\$65,000]	\$85,000
19	(10)	Dorchester County	\$65,000	
20	(11)	Frederick County	[\$85,000]	\$310,000
21	(12)	Garrett County	[\$85,000]	\$65,000
22	(13)	Harford County	[\$400,000]	\$369,000
23	(14)	Howard County	[\$65,000]	\$149,000
24	(15)	Kent County	\$65,000	
25	(16)	Montgomery County	[\$1,170,000]	\$1,023,000
26	(17)	Prince George's County	[\$970,000]	\$2,053,000
27	(18)	Queen Anne's County	\$85,000	
28	(19)	St. Mary's County	\$85,000	

1	(20)	Somerset County	\$65,000
2	(21)	Talbot County	[\$155,000] \$65,000
3	(22)	Washington County	[\$200,000] \$229,000
4	(23)	Wicomico County	[\$355,000] \$181,000
5	(24)	Worcester County	\$65,000

6 SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland
7 read as follows:

8 **Chapter 704 of the Acts of 1998, as amended by Chapter 420 of the Acts of**
9 **2001 and Chapter 289 of the Acts of 2002**

10 SECTION 3. AND BE IT FURTHER ENACTED, That, UNLESS REGULATIONS
11 ADOPTED BY THE BOARD OF PUBLIC WORKS REQUIRE THE STATE TO PROVIDE A
12 LARGER PERCENTAGE, for fiscal years 1999 through 2007, in each year, the State
13 shall provide 75 percent of the eligible costs for up to \$35 million in public school
14 construction costs in Prince George's County. At least \$20 million of the State funds
15 must be spent each year on neighborhood school projects. For fiscal years 1999
16 through 2003, UNLESS REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS
17 REQUIRE THE STATE TO PROVIDE A LARGER PERCENTAGE, for funding above \$35
18 million, the State shall provide 60 percent of the eligible costs. For fiscal years 2004
19 through 2007, UNLESS REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS
20 REQUIRE THE STATE TO PROVIDE A LARGER PERCENTAGE, for funding above \$35
21 million, the State shall provide 65 percent of the eligible costs. Neighborhood school
22 projects shall be identified by the Interagency Committee on Public School
23 Construction and shall include new public schools and additions or improvements to
24 existing public schools which serve students reassigned to their local communities
25 based upon the Community Schools Education Plan developed by the Prince George's
26 County Board of Education.

27 SECTION 6. AND BE IT FURTHER ENACTED, That the Laws of Maryland
28 read as follows:

29 **Chapter 280 of the Acts of 2001, as amended by Chapter 288 of the Acts of**
30 **2002 and Chapter 388 of the Acts of 2003**

31 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
32 MARYLAND, That, notwithstanding any other provision of law, UNLESS
33 REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS REQUIRE THE STATE TO
34 PROVIDE A LARGER PERCENTAGE, for fiscal years 2002 through 2005, in each year,
35 the State shall provide 90 percent of the eligible costs for up to and including \$20
36 million in public school construction projects in Baltimore City, and for funding above
37 \$20 million, the State shall provide 75 percent of the eligible costs.

38 SECTION 7. AND BE IT FURTHER ENACTED, That, on or before July 1,
39 2005, at the request of the Interagency Committee on School Construction, the Board

1 of Public Works shall adopt regulations, in accordance with Title 10, Subtitle 1 of the
2 State Government Article, to implement the provisions of this Act and that:

3 (1) reduce the State rated classroom capacity for elementary grades 1 to 5 to
4 23 students per classroom;

5 (2) establish a planning priority process to evaluate requests for State
6 planning approval in the annual Capital Improvement Programs of local education
7 agencies;

8 (3) develop design guidelines and provide financial incentives, such as
9 supplemental design funds or additional construction funding, for school construction
10 projects that use innovative building techniques or include energy conservation,
11 sustainable building, or green architecture design features; and

12 (4) establish a new State and local cost-share formula for each county for use
13 beginning in fiscal year 2006, consistent with the recommendations contained in the
14 Report of the Task Force to Study Public School Facilities, issued in February 2004
15 provided that:

16 (i) pay-as-you-go funding provided by a county shall be included in the
17 local debt calculation used to determine the State share; and

18 (ii) the new State and local cost-share formula adopted under this
19 section shall ensure that during fiscal year 2006 through fiscal year 2008, no county
20 has a State share that is less than the county's State share in fiscal year 2005.

21 SECTION 8. AND BE IT FURTHER ENACTED, That the State Department
22 of Education shall adopt regulations that provide for periodic surveys of the condition
23 of public school facilities in Maryland at least every 4 years. The surveys should be
24 similar to the Facility Assessment Survey that the State Department conducted, at
25 the direction of the Task Force to Study Public School Facilities, in 2003. The State
26 shall provide funds necessary to conduct the survey.

27 SECTION 9. AND BE IT FURTHER ENACTED, That it is the intent of the
28 General Assembly that the Board of Public Works and the Interagency Committee on
29 School Construction establish an emergency repair fund to finance renovations and
30 improvements to public schools that resolve deficiencies that present an immediate
31 hazard to the health or safety of the students or staff of the schools, as certified by
32 local education agencies and approved by the Interagency Committee on School
33 Construction. By July 1, 2004, the Board of Public Works and the Interagency
34 Committee on School Construction shall develop procedures for use of the emergency
35 repair fund to resolve deficiencies that present an immediate health or safety hazard
36 and to resolve deficiencies that, if not corrected, may present an immediate health or
37 safety hazard. It is the intent of the General Assembly that at least \$2 million be
38 provided for the emergency repair fund in fiscal year 2005.

39 SECTION 10. AND BE IT FURTHER ENACTED, That it is the intent of the
40 Governor and the General Assembly that the State should pursue a goal of fully
41 funding by fiscal 2013 a minimum of \$3.85 billion in school facility needs, as

1 identified by the 2003 School Facility Assessment Survey of minimum standards
2 conducted at the request of the Task Force to Study Public School Facilities.
3 Achieving this goal in light of the fiscal outlook will be challenging and will require a
4 significant commitment by the State to provide approximately \$2 billion and by local
5 governments to provide approximately \$1.85 billion over the next 8 years for school
6 construction projects. It is recognized that this amount does not include many projects
7 that local education agencies believe are necessary, but it does include basic,
8 minimum facility standards for all public schools in Maryland.

9 SECTION 11. AND BE IT FURTHER ENACTED, That in 2005, and each year
10 thereafter, the Capital Debt Affordability Committee shall review the additional
11 school construction funding needs as identified in the 2004 Task Force to Study Public
12 School Facilities report and shall make a specific recommendation regarding
13 additional funding for school construction when recommending the State's annual
14 debt limit. The recommendation by the Capital Debt Affordability Committee shall
15 include a multiyear funding recommendation that will provide stability in the annual
16 funding for school construction.

17 SECTION 12. AND BE IT FURTHER ENACTED, That notwithstanding any
18 private ownership of public schools authorized under this Act, all certificated and
19 noncertificated employees of local school systems shall remain employees of the local
20 school system.

21 ~~SECTION 44.~~ 13. AND BE IT FURTHER ENACTED, That the Public School
22 Construction Program shall provide assistance to Baltimore City, counties, and local
23 education agencies in using alternative financing mechanisms to fund school
24 construction, when appropriate. The Public School Construction Program shall
25 prepare a guide for Baltimore City, counties, and local education agencies to use when
26 evaluating alternative financing proposals. The guide should include model contracts,
27 model solicitations, and references to other documents which provide information on
28 alternative financing. The Public School Construction Program should help Baltimore
29 City, counties, and local education agencies identify when an alternative financing
30 mechanism may be appropriate for a particular project and to develop the
31 procurement, contractual, and technical instruments that will meet State and local
32 procurement requirements and bring the project to a successful conclusion. The
33 Public School Construction Program shall report to the Board of Public Works,
34 Baltimore City, the county governments, local education agencies, and the General
35 Assembly on or before September 1 of each year, in accordance with § 2-1246 of the
36 State Government Article, on the use of alternative financing mechanisms to finance
37 public school construction in Maryland in the prior fiscal year.

38 ~~SECTION 12.~~ 14. AND BE IT FURTHER ENACTED, That Section 3 of this
39 Act shall take effect July 1, 2008.

40 ~~SECTION 13.~~ 15. AND BE IT FURTHER ENACTED, That Sections 2 and 4 of
41 this Act shall take effect July 1, 2005. Section 2 of this Act shall remain effective for
42 a period of 3 years and, at the end of June 30, 2008, with no further action required by
43 the General Assembly, Section 2 of this Act shall be abrogated and of no further force
44 and effect.

1 SECTION ~~14.~~ 16. AND BE IT FURTHER ENACTED, That, except as provided
2 in Sections ~~12 and 13~~ 14 and 15 of this Act, this Act shall take effect July 1, 2004.