

HOUSE BILL 376

P2, F1, M3

8lr0245
CF SB 208

By: **The Speaker (By Request – Administration) and Delegates Morhaim, Bronrott, Barve, Conway, Hammen, Ali, Aumann, Barkley, Beitzel, Bobo, Bohanan, Branch, Bromwell, Cardin, Carr, G. Clagett, V. Clagett, Doory, Dumais, Eckardt, Elliott, Elmore, Feldman, Frank, Frick, Gaines, Gutierrez, Guzzone, Haddaway, Haynes, Healey, Hecht, Heller, Hixson, Howard, Hucker, Ivey, James, Jones, Kach, Kaiser, Krebs, Kullen, Lafferty, Lee, Levy, Love, Manno, Mathias, McHale, McIntosh, Miller, Mizeur, Montgomery, Murphy, Nathan-Pulliam, Oaks, Pena-Melnyk, Proctor, Ramirez, Reznik, Rice, Riley, Schuh, Shank, Shewell, Simmons, Smigiel, Sophocleus, Sossi, Stein, Tarrant, Taylor, F. Turner, Vaughn, Waldstreicher, Walker, ~~and Weldon~~ Weldon, Pendergrass, Benson, Costa, Donoghue, Hubbard, Kipke, McDonough, and V. Turner**

Introduced and read first time: January 25, 2008

Assigned to: Health and Government Operations and Appropriations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 16, 2008

CHAPTER _____

1 AN ACT concerning

2 **High Performance Buildings Act**

3 FOR the purpose of requiring certain buildings to be high performance buildings;
4 requiring certain buildings that are renovated to be high performance buildings
5 under certain circumstances; exempting certain building types from certain
6 high performance building standards; providing for a certain waiver process
7 from certain high performance building requirements; repealing certain
8 provisions of law relating to high performance buildings; expressing a certain
9 intent of the General Assembly; requiring certain new schools receiving State
10 public school construction funds to be high performance buildings; requiring the
11 Board of Public Works to establish a certain waiver process from certain high
12 performance building requirements; requiring that a certain waiver process
13 include a certain review and approval by the Interagency Committee on School
14 Construction; requiring the State to pay a certain amount of certain local costs

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 related to the construction of schools that are high performance buildings for
2 certain fiscal years; requiring the Board of Public Works to adopt certain
3 regulations; providing for the applicability of certain provisions of this Act;
4 defining certain terms; and generally relating to high performance buildings.

5 BY repealing and reenacting, with amendments,
6 Article – State Finance and Procurement
7 Section 3–602(d)
8 Annotated Code of Maryland
9 (2006 Replacement Volume and 2007 Supplement)

10 BY adding to
11 Article – State Finance and Procurement
12 Section 3–602.1
13 Annotated Code of Maryland
14 (2006 Replacement Volume and 2007 Supplement)

15 BY repealing and reenacting, without amendments,
16 Article – Education
17 Section 5–301(d)
18 Annotated Code of Maryland
19 (2006 Replacement Volume and 2007 Supplement)

20 BY adding to
21 Article – Education
22 Section 5–312
23 Annotated Code of Maryland
24 (2006 Replacement Volume and 2007 Supplement)

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

27 **Article – State Finance and Procurement**

28 3–602.

29 (d) [(1) (i) In this paragraph, “high performance building” means a
30 building that:

31 1. achieves at least a silver rating according to the U.S.
32 Green Building Council’s LEED (Leadership in Energy and Environmental Design)
33 Green Building Rating System as adopted in 2001 or subsequently by the Maryland
34 Green Building Council;

35 2. achieves at least a two globe rating according to the
36 Green Globes Program as adopted by the Green Building Initiative;

1 3. achieves at least a comparable numeric rating
2 according to a nationally recognized, accepted, and appropriate numeric sustainable
3 development rating system, guideline, or standard; or

4 4. meets nationally recognized, consensus-based, and
5 accepted green building guidelines, standards, or systems approved by the State.

6 (ii) 1. A unit of State government requesting an
7 appropriation for preliminary planning of a proposed capital project may include in its
8 request a justification for proposing that a building in the project is appropriate for
9 design as a high performance building.

10 2. If justification is submitted under subsubparagraph 1
11 of this subparagraph concerning a building in a proposed capital project, the
12 Department shall review whether it is practicable and fiscally prudent to incorporate
13 in the capital project the use of a comprehensive process of design and construction
14 that would result in the building being a high performance building.

15 (2)] (1) Before an appropriation may be authorized for preliminary
16 planning of a proposed capital project:

17 (i) the unit of the State government requesting the
18 appropriation shall submit to the Department a program describing, in detail, the
19 scope and purpose of the project; and

20 (ii) the Secretary of Budget and Management must approve the
21 program.

22 [(3)] (2) Before an appropriation may be authorized for construction
23 of a proposed capital project:

24 (i) the unit of State government requesting the appropriation
25 shall submit to the Departments of Budget and Management and General Services a
26 detailed design program, which shall include all information required by the
27 Departments; and

28 (ii) both the Secretary of Budget and Management and the
29 Secretary of General Services must approve the detailed design program.

30 **3-602.1.**

31 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
32 MEANINGS INDICATED.

33 (2) "HIGH PERFORMANCE BUILDING" MEANS A BUILDING THAT:

1 (I) MEETS OR EXCEEDS THE CURRENT VERSION OF THE
2 U.S. GREEN BUILDING COUNCIL'S LEED (LEADERSHIP IN ENERGY AND
3 ENVIRONMENTAL DESIGN) GREEN BUILDING RATING SYSTEM SILVER RATING;
4 OR

5 (II) ACHIEVES AT LEAST A COMPARABLE NUMERIC RATING
6 ACCORDING TO A NATIONALLY RECOGNIZED, ACCEPTED, AND APPROPRIATE
7 NUMERIC SUSTAINABLE DEVELOPMENT RATING SYSTEM, GUIDELINE, OR
8 STANDARD APPROVED BY THE SECRETARIES OF BUDGET AND MANAGEMENT
9 AND GENERAL SERVICES.

10 (3) "MAJOR RENOVATION" MEANS THE RENOVATION OF A
11 BUILDING WHERE:

12 (I) THE BUILDING SHELL IS TO BE REUSED FOR THE NEW
13 CONSTRUCTION;

14 (II) THE HEATING, VENTILATING, AND AIR CONDITIONING
15 (HVAC), ELECTRICAL, AND PLUMBING SYSTEMS ARE TO BE REPLACED; AND

16 (III) THE SCOPE OF THE RENOVATION IS 7,500 SQUARE FEET
17 OR GREATER.

18 (B) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT, TO THE
19 EXTENT PRACTICABLE:

20 (1) THE STATE SHALL EMPLOY GREEN BUILDING TECHNOLOGIES
21 WHEN CONSTRUCTING OR RENOVATING A STATE BUILDING NOT SUBJECT TO
22 THIS SECTION; AND

23 (2) HIGH PERFORMANCE BUILDINGS SHALL MEET THE CRITERIA
24 AND STANDARDS ESTABLISHED UNDER THE "HIGH EFFICIENCY GREEN
25 BUILDING PROGRAM" ADOPTED BY THE MARYLAND GREEN BUILDING
26 COUNCIL.

27 (C) (1) THIS SUBSECTION APPLIES TO CAPITAL PROJECTS THAT ARE
28 FUNDED SOLELY WITH STATE FUNDS.

29 (2) EXCEPT AS PROVIDED IN SUBSECTIONS (D) AND (E) OF THIS
30 SECTION, IF A CAPITAL PROJECT INCLUDES THE CONSTRUCTION OR MAJOR
31 RENOVATION OF A BUILDING THAT IS 7,500 SQUARE FEET OR GREATER, THE
32 BUILDING SHALL BE CONSTRUCTED OR RENOVATED TO BE A HIGH
33 PERFORMANCE BUILDING.

1 **(D) THE FOLLOWING TYPES OF UNOCCUPIED BUILDINGS ARE NOT**
2 **REQUIRED TO BE CONSTRUCTED OR RENOVATED TO BE HIGH PERFORMANCE**
3 **BUILDINGS:**

4 **(1) WAREHOUSE AND STORAGE FACILITIES;**

5 **(2) GARAGES;**

6 **(3) MAINTENANCE FACILITIES;**

7 **(4) TRANSMITTER BUILDINGS;**

8 **(5) PUMPING STATIONS; AND**

9 **(6) OTHER SIMILAR TYPES OF BUILDINGS, AS DETERMINED BY**
10 **THE DEPARTMENT.**

11 **(E) (1) THE DEPARTMENT OF BUDGET AND MANAGEMENT AND THE**
12 **DEPARTMENT OF GENERAL SERVICES SHALL JOINTLY ESTABLISH A PROCESS**
13 **TO ALLOW A UNIT OF STATE GOVERNMENT TO OBTAIN A WAIVER FROM**
14 **COMPLYING WITH SUBSECTION (C) OF THIS SECTION.**

15 **(2) THE WAIVER PROCESS SHALL:**

16 **(I) INCLUDE A REVIEW BY THE MARYLAND GREEN**
17 **BUILDING COUNCIL ESTABLISHED UNDER § 4-809 OF THIS ARTICLE, TO**
18 **DETERMINE IF THE USE OF A HIGH PERFORMANCE BUILDING IN A PROPOSED**
19 **CAPITAL PROJECT IS NOT PRACTICABLE; AND**

20 **(II) REQUIRE THE APPROVAL OF A WAIVER BY THE**
21 **SECRETARIES OF BUDGET AND MANAGEMENT, GENERAL SERVICES, AND**
22 **TRANSPORTATION.**

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

25 **Article - Education**

26 5-301.

27 **(d) (1) The Board of Public Works may adopt regulations for the**
28 **administration of the programs provided for in this section.**

29 **(2) The regulations adopted by the Board of Public Works may contain**
30 **requirements for:**

- 1 (i) The development and submission of long range plans;
- 2 (ii) The submission of annual plans and plans for specific
3 projects;
- 4 (iii) The submission of other data or information that is relevant
5 to school construction or capital improvement;
- 6 (iv) The approval of sites, plans, and specifications for the
7 construction of new school buildings or the improvement of existing buildings;
- 8 (v) Site improvements;
- 9 (vi) Competitive bidding;
- 10 (vii) The hiring of personnel in connection with school
11 construction or capital improvements;
- 12 (viii) The actual construction of school buildings or their
13 improvements;
- 14 (ix) The relative roles of different State and local governmental
15 agencies in the planning and construction of school buildings or school capital
16 improvements;
- 17 (x) School construction and capital improvements necessary or
18 appropriate for the proper implementation of this section;
- 19 (xi) At the recommendation of the Interagency Committee, the
20 establishment of priority public school construction programs;
- 21 (xii) Development of cooperative arrangements that permit the
22 sharing of facilities among two or more school systems;
- 23 (xiii) The selection of architects and engineers by school systems;
- 24 (xiv) The award of contracts by school systems; and
- 25 (xv) Method of payments made by the State under the Public
26 School Construction Program.
- 27 (3) The regulations adopted by the Board of Public Works shall
28 contain provisions:
- 29 (i) Establishing a State and local cost-share formula for each
30 county that identifies the factors used in establishing the formulas;

1 (ii) Requiring local education agencies to adopt educational
2 facilities master plans and annual capital improvement programs;

3 (iii) Providing a method for establishing a maximum State
4 construction allocation for each project approved for State funding;

5 (iv) Referencing the policies stated in § 5-7B-07 of the State
6 Finance and Procurement Article;

7 (v) Requiring local school systems to adopt procedures
8 consistent with the minority business enterprise policies of the State as required
9 under the Code of Maryland Regulations;

10 (vi) Establishing a process for the appeal of decisions by the
11 Interagency Committee to the Board of Public Works;

12 (vii) Requiring local education agencies to adopt, implement, and
13 periodically update comprehensive maintenance plans; and

14 (viii) Authorizing the Board of Public Works to withhold State
15 public school construction funds from a local education agency that fails to comply
16 with the requirements of item (vii) of this paragraph.

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

22 **5-312.**

23 (A) IN THIS SECTION, "HIGH PERFORMANCE BUILDING" HAS THE
24 MEANING STATED IN § 3-602.1 OF THE STATE FINANCE AND PROCUREMENT
25 ARTICLE.

26 (B) THIS SECTION APPLIES TO THE CONSTRUCTION OF NEW SCHOOLS
27 THAT HAVE NOT INITIATED A REQUEST FOR PROPOSAL FOR THE SELECTION OF
28 AN ARCHITECTURAL AND ENGINEERING CONSULTANT ON OR BEFORE JULY 1,
29 2009.

30 (C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A NEW
31 SCHOOL THAT RECEIVES STATE PUBLIC SCHOOL CONSTRUCTION FUNDS SHALL
32 BE CONSTRUCTED TO BE A HIGH PERFORMANCE BUILDING.

1 **(D) (1) THE BOARD OF PUBLIC WORKS SHALL ESTABLISH A PROCESS**
 2 **TO ALLOW A SCHOOL SYSTEM TO OBTAIN A WAIVER FROM COMPLYING WITH**
 3 **SUBSECTION (C) OF THIS SECTION.**

4 **(2) THE WAIVER PROCESS SHALL:**

5 **(I) INCLUDE A REVIEW BY THE INTERAGENCY COMMITTEE**
 6 **TO DETERMINE IF THE CONSTRUCTION OF A HIGH PERFORMANCE BUILDING IS**
 7 **NOT PRACTICABLE; AND**

8 **(II) REQUIRE THE APPROVAL OF A WAIVER BY THE**
 9 **INTERAGENCY COMMITTEE.**

10 **(E) FOR FISCAL YEARS 2010 THROUGH 2014 ONLY, THE STATE SHALL**
 11 **PAY 50% OF THE LOCAL SHARE OF THE EXTRA COSTS, IDENTIFIED AND**
 12 **APPROVED BY THE INTERAGENCY COMMITTEE, THAT ARE INCURRED IN**
 13 **CONSTRUCTING A NEW SCHOOL TO MEET THE HIGH PERFORMANCE BUILDING**
 14 **REQUIREMENTS OF THIS SECTION.**

15 **(F) THE BOARD OF PUBLIC WORKS SHALL ADOPT REGULATIONS TO**
 16 **IMPLEMENT THE REQUIREMENTS OF THIS SECTION.**

17 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
 18 apply to capital projects that have not initiated a Request For Proposal for the
 19 selection of an architectural and engineering consultant on or before the effective date
 20 of this Act.

21 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
 22 July 1, 2008.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.