

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 786

(Senators Peters and Robey)

Budget and Taxation

Public Schools - State Aid for School Construction - Planning and Design Costs

This bill requires the Board of Public Works (BPW) to include planning and design costs associated with public school construction or capital improvements as approved public school construction costs, thereby making them eligible for State funding. It further requires BPW to adopt regulations that define planning and design and that establish minimum specifications for their approval as eligible school construction costs.

The bill takes effect June 1, 2010, and terminates May 31, 2013; it applies only to the construction of new schools that have not initiated a request for proposals for the selection of an architectural and engineering consultant on or before the bill's effective date.

Fiscal Summary

State Effect: The bill does not alter total State funding for school construction but may reduce the number of school construction projects that receive State funding. Given the bill's limited applicability, the Public School Construction Program (PSCP) and BPW can handle the bill's requirements with existing resources.

Local Effect: Increased State funding for planning and design costs related to local school construction projects allows counties to reallocate local capital funds to other uses beginning in FY 2011. However, some local school construction and renovation projects may be delayed due to fewer projects receiving State funding.

Small Business Effect: None.

Analysis

Current Law:

Public School Construction Program: The State pays at least 50% of eligible costs of school construction and renovation projects, based on a funding formula that takes into account numerous factors including each local school system's wealth and ability to pay. Chapters 306 and 307 of 2004 (The Public School Facilities Act) require that the cost-share formulas be recalculated every three years. The first recalculation occurred in 2007. **Exhibit 1** shows the State share of eligible school construction costs for all Maryland jurisdictions for fiscal 2006-2009 and for the three years beginning in fiscal 2010, following the 2007 recalculation. New rates are being phased in over two or three years for Calvert, Dorchester, Garrett, Harford, Queen Anne's, and Somerset counties because the 2007 recalculation resulted in a reduction of 5% or more in the State share of school construction costs compared with the fiscal 2006 to 2009 levels.

Subject to the final approval of BPW, the Interagency Committee on School Construction (IAC) manages State review and approval of local school construction projects. Each year, local systems develop and submit to IAC a facilities master plan that includes an analysis of future school facility needs based on the current condition of school buildings and projected enrollment. The master plan must be approved by the local school board. Subsequently, each local school system submits a capital improvement plan to IAC that includes projects for which it seeks planning approval, projects for which it seeks funding approval, and projects that the local system has forward funded. In addition to approval from the local school board, the capital improvement plan must be approved by the county's governing body. Typically, the submission letter to IAC contains signatures of both the school board president and either the county council president or chair of the board of county commissioners.

Based on its assessment of the relative merit of all the project proposals it receives, and subject to the projected level of school construction funds available, IAC determines which projects to recommend to BPW for State funding. By December 31 of each year, IAC recommends to BPW projects comprising 75% of the preliminary school construction allocation projected to be available. Local school districts may then appeal the IAC recommendations directly to BPW. By March 1 of each year, beginning in 2008, IAC recommends to BPW and the General Assembly projects comprising 90% of the allocation for school construction submitted in the Governor's capital budget. Following the legislative session, IAC recommends projects comprising the remaining school construction funds included in the enacted capital budget for BPW approval.

Exhibit 1
State Share of Eligible School Construction Costs
Fiscal 2006-2012

<u>County</u>	<u>FY 2006-2009</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>
Allegany	90%	91%	91%	91%
Anne Arundel	50%	50%	50%	50%
Baltimore City	97%	94%	94%	94%
Baltimore	50%	50%	50%	50%
Calvert	69%	64%	61%	61%
Caroline	89%	86%	86%	86%
Carroll	65%	61%	61%	61%
Cecil	70%	75%	75%	75%
Charles	70%	77%	77%	77%
Dorchester	77%	72%	71%	71%
Frederick	72%	72%	72%	72%
Garrett	70%	65%	60%	59%
Harford	65%	60%	59%	59%
Howard	58%	61%	61%	61%
Kent	50%	50%	50%	50%
Montgomery	50%	50%	50%	50%
Prince George's	69-75%*	73%	73%	73%
Queen Anne's	70%	65%	60%	55%
St. Mary's	72%	75%	75%	75%
Somerset	97%	92%	88%	88%
Talbot	50%	50%	50%	50%
Washington	65%	73%	73%	73%
Wicomico	81%	87%	87%	87%
Worcester	50%	50%	50%	50%

*For fiscal 2006-2008, the State share for Prince George's County is 75% for funding allocated up to \$35 million, and 69% for funding allocated in excess of \$35 million as required in law. The split share expired in June 2008 and for fiscal 2009 the State share for Prince George's County is 69%.

Source: Public School Construction Program

Eligible School Construction Costs: Planning and design costs are generally not eligible for State funding. The Code of Maryland Regulations (COMAR) identifies the following school construction costs as being eligible for State funding:

- construction of a new facility, including building and site development;
- additions to an existing facility, including building and site development and work to physically integrate the addition into the existing building;
- replacement of a building or portion of a building, including building and site development;
- modular construction that meets standards set forth in State regulations;
- renovation of a school building, including systemic renovations as defined in State regulations;
- State-owned relocatable classrooms;
- temporary facilities that are necessary during construction of a State-funded project;
- built-in equipment;
- off-site development costs required by State, local, or federal agencies; and
- emergency repairs as defined in State regulations.

COMAR also designates certain school construction costs as being ineligible for State funding, among them site acquisition costs; off-site development costs except those required by State, local, or federal agencies; and architectural, engineering, or other consultant fees, unless they are for innovative project designs.

Background: Project planning activities that determine the project scope and location are generally carried out by local school system staff, with the exception of feasibility studies to determine the viability of proposed building sites. Design work is typically carried out by architectural and engineering consultants.

At its inception in 1971, PSCP allowed State funds to be used to reimburse local school systems for design fees. A few years later, those costs became ineligible for State funding so that State resources could be used to fund a wider range of projects, specifically systemic renovations (*e.g.*, heating/cooling systems, windows, and roofs). To date this year, BPW has approved \$35.3 million to fund 34 systemic renovations for fiscal 2011, compared to local requests of \$122 million for systemic renovations.

The Governor's fiscal 2011 capital budget, as introduced, includes \$255.2 million for school construction programs, including \$250.0 million in new funds and \$5.2 million in

recycled funds. It projects funding levels of \$200 million for each of the next four fiscal years.

State Fiscal Effect: Both the funding level for school construction and the configuration of funded projects in the *Capital Improvement Plan* (CIP) are determined annually, so a precise calculation of the fiscal effect of this bill is not feasible. However, an examination of the fiscal 2011 CIP can illustrate the potential effect of the bill.

To date this year, 16 school construction and renovation projects have received planning approval from IAC and BPW for fiscal 2011. The combined total cost of those projects, including both State and local shares, is \$461 million. However, only seven of those projects, with a total cost of \$306 million, are new or replacement schools that would be subject to this bill in fiscal 2011. On average, planning and design costs account for approximately 5% of total school construction project costs. If this bill had been in effect before those projects were approved, Legislative Services estimates that planning and design costs for those seven projects would have totaled \$15.3 million. Assuming a composite State share of 65% of the cost of school construction projects, the State would have been responsible for approximately \$9.9 million in planning and design costs. Those funds, equivalent to about half the cost of one new elementary school or approximately 10 systemic renovations, would not have been available to fund other local projects.

The bill requires PSCP to review and approve all planning and design-related contracts for approved projects, which currently are entirely under the purview of local school boards. Even though school construction contracts are procured by local governments, they are subject to PSCP review and approval because of the involvement of State funding in school construction. Under this bill, PSCP would have to expand its activities to include reviewing and approving planning and design contracts. It is unclear if the bill applies to all school construction projects in fiscal 2012 and 2013 or only new (or replacement) schools. Given the bill's termination provision in three years and assuming it only affects new schools, in fiscal 2011 through 2013, Legislative Services believes PSCP can implement the bill with existing resources.

Local Fiscal Effect: As noted, planning and design costs account for approximately 5% of total school construction project costs. Requiring the State to share those costs currently borne entirely by local school systems allows county governments to reallocate local resources to other uses. The precise effect on each county's capital expenditures cannot be estimated reliably because of the annual variation in the size and scope of school construction projects initiated by each county.

To the extent that State funds pay for a portion of future planning and design costs for school construction projects, fewer funds are available for other projects. Therefore, the

total number of school construction and renovation projects that receive State funds is likely to be reduced, which may cause some local school construction and renovation projects to be delayed. Systemic renovation projects are most likely to be affected.

Additional Information

Prior Introductions: SB 24 of 2009 received a hearing from the Senate Budget and Taxation Committee, but no further action was taken on the bill.

Cross File: None.

Information Source(s): Anne Arundel, Charles, Frederick, Montgomery, and Somerset counties; Board of Public Works; Public School Construction Program; Department of Legislative Services

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ncs/rhh

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