

# SENATE BILL 626

F1, B5, L1

11r0481

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By: **Senators Glassman, Colburn, and Forehand**

Introduced and read first time: February 4, 2011

Assigned to: Budget and Taxation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public School Construction Funding Reform Act of 2011**

3 FOR the purpose of repealing the Interagency Committee on School Construction;  
4 altering the authority of the State Superintendent of Schools to approve certain  
5 public school construction projects; altering the requirements under which  
6 certain entities may hold title to certain property; altering the definition of  
7 alternative financing methods; requiring a county governing body and county  
8 board to comply with all procurement laws; repealing the authority of the Board  
9 of Public Works to promulgate certain regulations; requiring public school  
10 construction funds allocated in the annual budget to be distributed to local  
11 boards using a certain formula; requiring the county boards to submit a certain  
12 report by certain dates; requiring certain distributions to revert by a certain  
13 date; requiring the State Department of Education to adopt certain regulations;  
14 altering the membership of the Maryland Green Building Council to include the  
15 State Superintendent; exempting certain authorizations from Board of Public  
16 Works approval; making certain conforming changes; providing for the  
17 application of this Act; and generally relating to public school construction.

18 BY repealing

19 Article – Education

20 Section 5–302(a), (b), (c), (e), and (f) and 5–303

21 Annotated Code of Maryland

22 (2008 Replacement Volume and 2010 Supplement)

23 BY repealing

24 Article – State Finance and Procurement

25 Section 5–7B–07(c)

26 Annotated Code of Maryland

27 (2009 Replacement Volume and 2010 Supplement)

28 BY repealing and reenacting, with amendments,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article 66B – Land Use  
 2 Section 3.05(a)(4)(x)5.A. and 14.05(f)(5)(iv)  
 3 Annotated Code of Maryland  
 4 (2010 Replacement Volume)

5 BY repealing and reenacting, without amendments,  
 6 Article – Education  
 7 Section 2–303(a)  
 8 Annotated Code of Maryland  
 9 (2008 Replacement Volume and 2010 Supplement)

10 BY repealing and reenacting, with amendments,  
 11 Article – Education  
 12 Section 2–303(f), 4–114, 4–126, 4–205(l)(2), 5–201(a) and (c), 5–206(f)(1), 5–301,  
 13 5–301.1(a) through (c) and (f), 5–302(d), 5–307(a), and 5–312(d) through  
 14 (f)  
 15 Annotated Code of Maryland  
 16 (2008 Replacement Volume and 2010 Supplement)

17 BY repealing and reenacting, without amendments,  
 18 Article – State Finance and Procurement  
 19 Section 4–809(a) and 5–7B–04(a)  
 20 Annotated Code of Maryland  
 21 (2009 Replacement Volume and 2010 Supplement)

22 BY repealing and reenacting, with amendments,  
 23 Article – State Finance and Procurement  
 24 Section 4–809(b)(9), 5–7B–04(c)(1), 8–112(c)(3), and 8–301  
 25 Annotated Code of Maryland  
 26 (2009 Replacement Volume and 2010 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 28 MARYLAND, That Section(s) 5–302(a), (b), (c), (e), and (f) and 5–303 of Article –  
 29 Education of the Annotated Code of Maryland be repealed.

30 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 5–7B–07(c) of  
 31 Article – State Finance and Procurement of the Annotated Code of Maryland be  
 32 repealed.

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

35 **Article 66B – Land Use**

36 3.05.

37 (a) (4) The plan shall contain at a minimum the following elements:

1 (x) For a municipal corporation that exercises zoning authority,  
2 a municipal growth element, developed in accordance with subsection (e) of this  
3 section, which shall include consideration of:

4 5. Public services and infrastructure needed to  
5 accommodate growth within the proposed municipal growth areas, including those  
6 necessary for:

7 A. Public schools, sufficient to accommodate student  
8 population consistent with State rated capacity standards established by the  
9 [Interagency Committee on School Construction] **STATE DEPARTMENT OF**  
10 **EDUCATION**;

11 14.05.

12 (f) (5) The Charles County Commissioners shall report to the General  
13 Assembly on or before August 1 each year, subject to § 2–1246 of the State  
14 Government Article, on the following items, for the preceding fiscal year:

15 (iv) The number of square feet of new public school capacity  
16 approved for construction in Charles County by the [Interagency Committee on School  
17 Construction] **STATE DEPARTMENT OF EDUCATION**.

#### 18 **Article – Education**

19 2–303.

20 (a) In addition to the other powers granted and duties imposed under this  
21 article, the State Superintendent has the powers and duties set forth in this section.

22 (f) (1) Subject to the bylaws, rules, and regulations of the State Board,  
23 the State Superintendent shall approve or disapprove each[:

24 (i) Proposal] **PROPOSAL** for the purchase or sale of any ground,  
25 school site, or building[;

26 (ii) Plan or specification for the remodeling of a school building  
27 if the remodeling costs more than \$350,000;

28 (iii) Plan or specification for the construction of a new school  
29 building; and

30 (iv) Change order that costs more than \$25,000 for the  
31 remodeling, restoration, or construction of a school building].

1           (2) If the State Superintendent disapproves any [plan, specification,]  
2 proposal, [or change order, he] **THE STATE SUPERINTENDENT** shall state in writing  
3 the reasons for [his] disapproval.

4           [(3) If the construction is to be done by a county board, the board may  
5 not begin until the plans and specifications are approved in writing by the State  
6 Superintendent.

7           (4) If the construction is to be done by contract, the contract is invalid  
8 without the written approval of the State Superintendent.]

9 4-114.

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

12           (1) Except as provided in subsection (c) of this section, shall be held in  
13 trust for the benefit of the school or school system by the appropriate county board or,  
14 for real property in Baltimore City, by the Mayor and City Council of Baltimore; and

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

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

18          (c) (1) A private entity may hold title to property used for a particular  
19 public school or local school system if the private entity [is contractually obligated to  
20 transfer title to the appropriate county board on a specified date] **SIMULTANEOUSLY**  
21 **AGREES TO LEASE THE PROPERTY BACK TO THE COUNTY BOARD.**

22           (2) The conveyance of title of school property to a private entity [for a  
23 specified term] under this subsection may not be construed to prohibit the allocation of  
24 construction funds to an approved school construction project under the Public School  
25 Construction Program.

26           (3) A county or county board may convey or dispose of surplus land  
27 under the jurisdiction of the county or county board in exchange for public school  
28 construction or development services.

29 4-126.

30          (a) In this section, “alternative financing methods” includes:

31           (1) Sale-leaseback arrangements, in which a county board agrees to  
32 transfer title to a property, including improvements, to a private entity that

1 simultaneously agrees to lease the property back to the county board [and, on a  
2 specified date, transfer title back to the county board];

3 (2) Lease–leaseback arrangements, in which a county board leases a  
4 property to a private entity that improves the property and leases the property, with  
5 the improvements, back to the county board;

6 (3) Public–private partnership agreements, in which a county board  
7 contracts with a private entity for the acquisition, design, construction, improvement,  
8 renovation, expansion, equipping, or financing of a public school, and may include  
9 provisions for cooperative use of the school or an adjacent property and generation of  
10 revenue to offset the cost of construction or use of the school;

11 (4) Performance–based contracting, in which a county board enters  
12 into an energy performance contract to obtain funding for a project with guaranteed  
13 energy savings over a specified time period;

14 (5) Preference–based arrangements, by which a local governing body  
15 gives preference first to business entities located in the county and then to business  
16 entities located in other counties in the State for any construction that is not subject to  
17 prevailing wage rates under Title 17, Subtitle 2 of the State Finance and Procurement  
18 Article; [and]

19 (6) Design–build arrangements, that permit a county board to contract  
20 with a design–build business entity for the combined design and construction of  
21 qualified education facilities, including financing mechanisms where the business  
22 entity assists the local governing body in obtaining project financing; **AND**

23 **(7) OTHER ALTERNATIVE FINANCING METHODS THAT THE LOCAL**  
24 **SCHOOL BOARD AND THE LOCAL GOVERNING BODY DEEM APPROPRIATE.**

25 (b) Except when prohibited by local law, in order to finance or to speed  
26 delivery of, transfer risks of, or otherwise enhance the delivery of public school  
27 construction, a county may:

28 (1) Use alternative financing methods;

29 (2) Engage in competitive negotiation, rather than competitive  
30 bidding, in limited circumstances, including construction management at–risk  
31 arrangements and other alternative project delivery arrangements[, as provided in  
32 regulations adopted by the Board of Public Works];

33 (3) Accept unsolicited proposals for the development of public schools  
34 [in limited circumstances, as provided in regulations adopted by the Board of Public  
35 Works]; and

1           (4) Use quality-based selection, in which selection is based on a  
2 combination of qualifications and cost factors, to select developers and builders[, as  
3 provided in regulations adopted by the Board of Public Works.

4           (c) The Board of Public Works shall adopt regulations requiring a project  
5 that qualifies for alternative financing methods under this section to meet  
6 requirements regarding the advantages of the project to the public that include  
7 provisions addressing:

8           (1) The probable scope, complexity, or urgency of the project;

9           (2) Any risk sharing, added value, education enhancements, increase  
10 in funding, or economic benefit from the project that would not otherwise be available;

11           (3) The public need for the project; and

12           (4) The estimated cost or timeliness of executing the project].

13           **[(d)] (C)** Projects that qualify for alternative financing methods under this  
14 subsection]:

15           (1) Shall meet the educational standards, design standards, and  
16 procedural requirements under this article and under regulations adopted by the  
17 Board of Public Works; and

18           (2) Consistent with the requirements of this article,] shall be approved  
19 by]:

20           (i) The] **THE** county governing body **AND THE COUNTY**  
21 **BOARD**];

22           (ii) The State Superintendent of Schools; or

23           (iii) The Interagency Committee on School Construction and the  
24 Board of Public Works].

25           **[(e)] (D)** Use of alternative financing methods under this section may not be  
26 construed to prohibit the allocation of State funds for public school construction to a  
27 project under the Public School Construction Program.

28           **[(f)] (E)** [A county board may not use alternative financing methods under  
29 this section without the approval of the county governing body] **EXCEPT AS**  
30 **OTHERWISE PROVIDED IN THIS SECTION, THE COUNTY GOVERNING BODY AND**  
31 **THE COUNTY BOARD SHALL COMPLY WITH ALL STATE AND LOCAL**  
32 **PROCUREMENT LAWS.**

1           [(g) The Board of Public Works shall adopt regulations recommended by the  
2 Interagency Committee on School Construction to implement the provisions of this  
3 section, including:

4           (1) Guidelines for the content of proposals, for the acceptance and  
5 evaluation of unsolicited proposals, and for accepting competing unsolicited proposals;

6           (2) Requirements for the content and execution of a comprehensive  
7 agreement governing an arrangement authorized under this section;

8           (3) Guidelines for content and issuance of solicitations;

9           (4) Requirements for the prequalification of bidders or offerors;

10           (5) Requirements for public notice of solicited and unsolicited  
11 proposals and proposed execution of a comprehensive agreement;

12           (6) Regulations that require compliance with requirements applicable  
13 to qualified projects that would otherwise be in effect under the State procurement law  
14 if the procurement were competitively bid; and

15           (7) (i) Regulations that require that contracts and subcontracts  
16 adhere to the requirements of Title 17, Subtitle 2 and Title 14 of the State Finance and  
17 Procurement Article if the requirements would otherwise be applicable; and

18           (ii) Regulations that specify elements to be included in any  
19 preference-based arrangement adopted by a local governing body that gives  
20 preference first to business entities located in the county and then to business entities  
21 located in other counties in the State for any construction that is not subject to  
22 prevailing wage rates under Title 17, Subtitle 2 of the State Finance and Procurement  
23 Article.]

24 4-205.

25           (1) (2) [Subject to the provisions of § 2-303(f) of this article that relate to  
26 approval by the State Superintendent, the] **THE** county superintendent shall prepare  
27 all plans and specifications for remodeling an old building or constructing a new  
28 building.

29 5-201.

30           (a) Except for money appropriated for the purposes of § 5-301(b) through  
31 [(j)](I) of this title, all money appropriated by the General Assembly to aid in support  
32 of public schools constitutes the General State School Fund.

33           (c) (13) The school building construction aid as provided in [§ 5-301(c)] §  
34 **5-301(B)** of this title;

1 5-206.

2 (f) (1) In fiscal year 2006 and in each fiscal year thereafter, the State  
3 shall distribute grants to county boards under the Aging Schools Program  
4 administered by the [Interagency Committee on School Construction] DEPARTMENT  
5 in amounts equal to the funding level calculated under paragraph (2) of this  
6 subsection.

7 5-301.

8 (a) In this subtitle, ["Interagency Committee" means the Interagency  
9 Committee on School Construction established under § 5-302 of this subtitle]  
10 "FULL-TIME EQUIVALENT ENROLLMENT" HAS THE MEANING STATED IN §  
11 5-202 OF THIS TITLE.

12 (B) (1) SUBJECT TO SUBSECTION (I) OF THIS SECTION, STATE  
13 SCHOOL CONSTRUCTION FUNDS SHALL BE DISTRIBUTED TO EACH COUNTY  
14 BOARD OF EDUCATION IN THE PROPORTION THAT THE FULL-TIME EQUIVALENT  
15 ENROLLMENT OF THAT COUNTY BEARS TO THE TOTAL FULL-TIME EQUIVALENT  
16 ENROLLMENT OF THE STATE DURING THE SAME YEAR MULTIPLIED BY THE  
17 TOTAL ALLOCATION TO THE PUBLIC SCHOOL CONSTRUCTION PROGRAM IN THE  
18 ANNUAL CAPITAL BUDGET BILL.

19 (2) ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, EACH COUNTY  
20 BOARD SHALL REPORT TO THE DEPARTMENT AND THE DEPARTMENT OF  
21 LEGISLATIVE SERVICES, IN ACCORDANCE WITH § 2-1246 OF THE STATE  
22 GOVERNMENT ARTICLE, ON THE EXPENDITURE OF STATE SCHOOL  
23 CONSTRUCTION FUNDS FOR TWO PRIOR YEARS.

24 (b) (1) For the purposes of this section other than subsection (c), the  
25 Board of Public Works shall define by regulation what constitutes an eligible and  
26 ineligible public school construction or capital improvement cost.

27 (2) (i) The Board of Public Works shall include modular  
28 construction as an approved public school construction or capital cost.

29 (ii) The Board of Public Works, at the recommendation of the  
30 Interagency Committee on School Construction, shall adopt regulations that:

31 1. Define modular construction; and

32 2. Establish the minimum specifications required for  
33 approval of modular construction as a public school construction or capital  
34 improvement cost.



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

3           [(b-1)] (C) The [Board of Public Works] **DEPARTMENT**, in consultation with  
4 the Department of General Services and the Department of Housing and Community  
5 Development, shall adopt regulations establishing criteria designed to enhance indoor  
6 air quality for the occupants of relocatable classrooms purchased or leased using State  
7 or local funds, including specifications that:

8           (1) Require each unit to include appropriate air barriers to limit  
9 infiltration;

10           (2) Require that each unit be constructed in a manner that provides  
11 protection against water damage through the use of proper roofing materials, exterior  
12 sheathing, water drainage systems, and flashing;

13           (3) Require that each unit provide continuous forced ventilation when  
14 the unit is occupied;

15           (4) Require each unit to include a programmable thermostat;

16           (5) Require each unit to be outfitted with energy efficient lighting and  
17 heating and air-conditioning systems; and

18           (6) Mandate that each unit be constructed with building materials  
19 that contain low amounts of volatile organic compounds (VOC).

20           [(c) The State shall pay the costs in excess of available federal funds of the  
21 State share of public school construction projects and public school capital  
22 improvements in each county if:

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

25           (2) Contracts have been executed on or after July 1, 1971 for the  
26 projects or improvements.]

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

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

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

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

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

1 [(iii) Providing a method for establishing a maximum State  
2 construction allocation for each project approved for State funding;

3 [(iv)] (II) Referencing the policies stated in § 5–7B–07 of the  
4 State Finance and Procurement Article;

5 [(v)] (III) Requiring local school systems to adopt procedures  
6 consistent with the minority business enterprise policies of the State as required  
7 under the Code of Maryland Regulations;

8 [(vi) Establishing a process for the appeal of decisions by the  
9 Interagency Committee to the Board of Public Works;

10 [(vii)] (IV) Requiring local education agencies to adopt,  
11 implement, and periodically update comprehensive maintenance plans; and

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

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

21 (e) The [Board of Public Works] DEPARTMENT shall develop the rules,  
22 regulations, and procedures authorized by this section in consultation with  
23 representatives of the county boards and the county governing bodies.

24 (f) The regulations and procedures of the [Board of Public Works]  
25 DEPARTMENT adopted under this section and their promulgation are exempt from §  
26 8–127(b) of the State Finance and Procurement Article.

27 (g) (1) With respect to public school construction or public school capital  
28 improvements, including sites for school buildings, the authority, responsibilities,  
29 powers, and duties of the following are subject to the regulations adopted by the  
30 [Board of Public Works] DEPARTMENT under this section:

31 (i) [The State Board;

32 (ii) The State Superintendent;

33 (iii)] The county governments;

1 [(iv)] (II) The county boards; and

2 [(v)] (III) All other State or local governmental agencies under  
3 this article.

4 (2) If, as to public school construction or public school capital  
5 improvements, there is any conflict between the regulations and procedures of the  
6 [Board of Public Works] DEPARTMENT and the authority, responsibilities, powers,  
7 and duties of the individuals and agencies specified in paragraph (1) of this subsection,  
8 the regulations and procedures of the [Board of Public Works] DEPARTMENT shall  
9 prevail.

10 [(h) The obligation of the State to pay the costs of public school construction  
11 and public school capital improvements extends only to those projects or parts of  
12 projects that comply with the regulations and procedures of the Board of Public  
13 Works.]

14 [(i)] (H) (1) This subsection does not apply to the proceeds from the sale,  
15 lease, or disposition of public school buildings constructed under contracts executed  
16 before February 1, 1971.

17 (2) Consistent with § 4–115 of this article [and regulations adopted by  
18 the Board of Public Works to implement § 4–126 of this article], the Board of Public  
19 Works may require by regulation that the portion of the proceeds received by a county  
20 from the sale, lease, or disposal of any public school building that represent State  
21 funds provided within 15 years prior to the date of the transaction shall be used solely  
22 as part of the State funding of the construction of future public school buildings in the  
23 county in which the sale, lease, or disposal occurred, if the public school building was  
24 constructed under a contract executed on or after February 1, 1971.

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

29 [(j)] (I) (1) Whether by budget bill or supplementary appropriation bill,  
30 all money appropriated to carry out the purposes of this section is a separate fund that  
31 shall be administered by the State Comptroller in accordance with the regulations  
32 adopted by the [Board of Public Works] DEPARTMENT.

33 (2) (i) Except as provided in subparagraph (ii) of this paragraph,  
34 any funds [approved for a project] DISTRIBUTED UNDER SUBSECTION (B) OF THIS  
35 SECTION that [has] HAVE not been [contracted for] ENCUMBERED within 2 years of  
36 the [approval of the project] DISTRIBUTION shall revert to the fund established under  
37 paragraph (1) of this subsection.

1 (ii) The [Interagency Committee] **DEPARTMENT**, with the  
2 approval of the Board of Public Works, may extend the time period under  
3 subparagraph (i) of this paragraph if the [Interagency Committee] **DEPARTMENT**  
4 determines that unusual circumstances exist.

5 (3) Any unexpended allocations of funds for previously approved  
6 projects **OR UNENCUMBERED DISTRIBUTIONS** shall be transferred to the fund  
7 established under paragraph (1) of this subsection.

8 (4) On or before March 30, June 30, September 30, and December 31  
9 of each year, the [Interagency Committee] **DEPARTMENT** shall report to the General  
10 Assembly, in accordance with § 2-1246 of the State Government Article, and the  
11 Department of Legislative Services on the balance in the fund as of the reporting date  
12 as the result of transfers or reversions required under this subsection and any  
13 expenditures.

14 5-301.1.

15 (a) (1) There is a solar energy pilot program to promote the use of solar  
16 energy systems to generate electricity in public school buildings in the State.

17 (2) The pilot program shall be implemented and administered by the  
18 [Interagency Committee on School Construction] **DEPARTMENT** and shall operate as  
19 provided in this section.

20 (b) The [Interagency Committee] **DEPARTMENT** shall:

21 (1) Encourage all local boards in the State to study, design, and  
22 construct or renovate school buildings that are energy efficient and use solar energy  
23 systems to generate electricity to meet some of the school building's electrical energy  
24 needs, electrical energy demand, or a combination of the electrical energy needs and  
25 electrical energy demand;

26 (2) Provide grants out of State funds dedicated for this program to  
27 local boards to assist in implementing the use of solar energy systems at existing  
28 public schools or in new or renovated school building projects; and

29 (3) Develop a procedure for a local board to apply for a grant in  
30 accordance with subsection (c) of this section.

31 (c) (1) A local board may apply to the [Interagency Committee]  
32 **DEPARTMENT** for a grant to cover 90% of the cost to purchase and install a solar  
33 energy system to generate a portion of the school building's electrical energy needs or  
34 electrical energy demand.

35 (2) A local board that receives a grant under this subsection shall pay:

1 (i) 10% of the cost to purchase and install the solar energy  
2 system; and

3 (ii) All architectural or engineering fees for the design and  
4 supervision of the installation of the solar energy system.

5 (3) The [Interagency Committee] **DEPARTMENT** may award a grant  
6 under this section for a solar energy system project with the approval of the Board of  
7 Public Works.

8 (f) (1) The [Interagency Committee] **DEPARTMENT** and the Maryland  
9 Energy Administration shall cooperate with, assist, provide technical assistance to,  
10 and advise school systems to identify appropriate existing public school buildings and  
11 public school construction projects that would benefit from the installation of solar  
12 energy systems.

13 (2) The [Interagency Committee] **DEPARTMENT** shall adopt  
14 procedures necessary to implement this section.

15 5–302.

16 [(d) (1) (i)] **(A) (1)** The [Interagency Committee] **DEPARTMENT**  
17 shall prepare projections of school construction and capital improvement needs for  
18 submission to the Capital Debt Affordability Committee under § 8–112(c)(3) of the  
19 State Finance and Procurement Article.

20 [(ii)] **(2)** The projections shall be prepared in accordance with  
21 the regulations adopted [by the Board] under § 5–301 of this subtitle.

22 [(2) (i)] **(B) (1)** The [Board of Public Works or the Interagency  
23 Committee] **DEPARTMENT** shall notify each county board and each local governing  
24 body of [the] **ITS** annual allocation of school construction funds, **CALCULATED AS**  
25 **REQUIRED UNDER THIS SUBTITLE**, recommended [to the Board of Public Works] by  
26 the Governor under the consolidated capital debt program of the State Finance and  
27 Procurement Article.

28 [(ii)] **(2)** The notification shall be made immediately after the  
29 Governor has recommended the [allocations] **TOTAL STATE FUNDING ALLOCATION**  
30 **FOR THE PUBLIC SCHOOL CONSTRUCTION PROGRAM** so that each county may  
31 structure its respective school construction and capital improvement priorities in  
32 accordance with the annual allocation and any amendments.

33 5–307.

34 (a) The [Interagency Committee on Public School Construction]  
35 **DEPARTMENT** shall assist the Prince George’s County Board of Education in

1 developing an education facility master plan that encourages and supports the  
2 neighborhood school concept to improve the quality of education for all students in  
3 Prince George's County.

4 5-312.

5 (d) (1) The [Board of Public Works] **DEPARTMENT** shall establish a  
6 process to allow a school system to obtain a waiver from complying with subsection (c)  
7 of this section.

8 (2) The waiver process shall:

9 (i) Include a review by the [Interagency Committee]  
10 **DEPARTMENT** to determine if the construction of a high performance building is not  
11 practicable; and

12 (ii) Require the approval of a waiver by the [Interagency  
13 Committee] **STATE BOARD**.

14 (e) For fiscal years 2010 through 2014 only, the State shall pay 50% of the  
15 local share of the extra costs, identified and approved by the [Interagency Committee]  
16 **DEPARTMENT**, that are incurred in constructing a new school to meet the high  
17 performance building requirements of this section.

18 (f) The [Board of Public Works] **DEPARTMENT** shall adopt regulations to  
19 implement the requirements of this section.

## 20 **Article – State Finance and Procurement**

21 4-809.

22 (a) There is a Maryland Green Building Council.

23 (b) The Council shall include:

24 (9) the [Director of the Interagency Committee on Public School  
25 Construction, or the Director's designee] **STATE SUPERINTENDENT OF SCHOOLS,**  
26 **OR THE SUPERINTENDENT'S DESIGNEE;**

27 5-7B-04.

28 (a) Except as otherwise provided in this subtitle, beginning October 1, 1998,  
29 the State may not provide funding for a growth-related project if the project is not  
30 located within a priority funding area.

1 (c) (1) A growth-related project may not be funded by the State in a  
2 municipal corporation exercising zoning authority unless the municipal corporation  
3 has first adopted residential development standards relating to public school  
4 adequacy. These standards shall be substantially similar to:

5 (i) the State rated capacity standards established by the [public  
6 school interagency committee on school construction] **STATE DEPARTMENT OF**  
7 **EDUCATION**; or

8 (ii) the school capacity standards established in its county's  
9 adequate public facilities ordinance.

10 8-112.

11 (c) In making the estimate, the Committee shall consider:

12 (3) capital improvement and school construction needs during the next  
13 5 fiscal years, as projected by the [Interagency Committee on School Construction]  
14 **STATE DEPARTMENT OF EDUCATION**;

15 8-301.

16 (a) Except as provided in subsection (b) of this section or in other law, a  
17 contract to spend the proceeds of a general obligation loan that has been authorized by  
18 any act of the General Assembly may not be executed until the Board of Public Works  
19 approves the contract.

20 (b) Approval by the Board of Public Works is not required if the act:

21 (1) merely authorizes a county or municipal corporation to borrow  
22 money and no State funds are involved; **OR**

23 (2) **AUTHORIZES EXPENDITURE OF STATE FUNDS RECEIVED BY A**  
24 **COUNTY BOARD OF EDUCATION UNDER § 5-301 OF THE EDUCATION ARTICLE.**

25 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 June 1, 2011, and shall be applicable to all State funds for public school construction  
27 beginning in fiscal 2013.