

Department of Legislative Services  
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 189

(Senator Peters, *et al.*)

Budget and Taxation

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

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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, 2011, and terminates May 31, 2014; 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.

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**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 2012. However, some local school construction and renovation projects may be delayed due to fewer projects receiving State funding.

**Small Business Effect:** None.

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## 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, and the second recalculation occurred in 2010. **Exhibit 1** shows the State share of eligible school construction costs for all Maryland jurisdictions for fiscal 2012, which was determined by the 2007 recalculation, and for fiscal 2013 through 2015, as determined by the 2010 recalculation.

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, 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.

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**Exhibit 1**  
**State Share of Eligible School Construction Costs**  
**Fiscal 2012-2015**

| <b><u>County</u></b> | <b><u>FY 2012</u></b> | <b><u>FY 2013</u></b> | <b><u>FY 2014</u></b> | <b><u>FY 2015</u></b> |
|----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| Allegany             | 91%                   | 93%                   | 93%                   | 93%                   |
| Anne Arundel         | 50%                   | 50%                   | 50%                   | 50%                   |
| Baltimore City       | 94%                   | 93%                   | 93%                   | 93%                   |
| Baltimore            | 50%                   | 50%                   | 50%                   | 50%                   |
| Calvert              | 61%                   | 56%                   | 56%                   | 56%                   |
| Caroline             | 86%                   | 81%                   | 78%                   | 78%                   |
| Carroll              | 61%                   | 58%                   | 58%                   | 58%                   |
| Cecil                | 75%                   | 70%                   | 69%                   | 69%                   |
| Charles              | 77%                   | 72%                   | 67%                   | 63%                   |
| Dorchester           | 71%                   | 69%                   | 69%                   | 69%                   |
| Frederick            | 72%                   | 67%                   | 62%                   | 60%                   |
| Garrett              | 59%                   | 54%                   | 50%                   | 50%                   |
| Harford              | 59%                   | 63%                   | 63%                   | 63%                   |
| Howard               | 61%                   | 60%                   | 60%                   | 60%                   |
| Kent                 | 50%                   | 50%                   | 50%                   | 50%                   |
| Montgomery           | 50%                   | 50%                   | 50%                   | 50%                   |
| Prince George's      | 73%                   | 68%                   | 63%                   | 62%                   |
| Queen Anne's         | 55%                   | 50%                   | 50%                   | 50%                   |
| St. Mary's           | 75%                   | 70%                   | 65%                   | 64%                   |
| Somerset             | 88%                   | 83%                   | 82%                   | 82%                   |
| Talbot               | 50%                   | 50%                   | 50%                   | 50%                   |
| Washington           | 73%                   | 71%                   | 71%                   | 71%                   |
| Wicomico             | 87%                   | 96%                   | 96%                   | 96%                   |
| Worcester            | 50%                   | 50%                   | 50%                   | 50%                   |

Source: Public School Construction Program

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*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, BPW has approved \$46.5 million to fund 75 systemic renovations for fiscal 2012, compared to local requests of \$104.7 million for systemic renovations.

The Governor's fiscal 2012 capital budget, as introduced, includes \$250.0 million for school construction programs, including \$240.3 million in new funds and \$9.7 million in recycled funds. It projects funding levels of \$250 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 PSCP's *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 2012 CIP can illustrate the potential effect of the bill.

To date, 18 school construction and renovation projects have received planning approval from IAC and BPW for fiscal 2012. However, only seven of those projects, with a total cost of \$218.6 million, are new or replacement schools. 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 \$10.9 million. Assuming a composite State share of 65% of the cost of school construction projects, the State would have been responsible for approximately \$7.1 million in planning and design costs. Those funds, equivalent to about one-third of the cost of a new elementary school, or approximately seven 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 for approved projects. It is unclear if the bill applies to all school construction projects in fiscal 2012 through 2014 or only to new (or replacement) schools. The agency typically approves about 20 projects for planning each year, of which about half are for new or replacement schools. In either case, the increased workload is minimal. In addition, the bill's effective date makes it applicable beginning in fiscal 2012 after fiscal 2012 school construction allocations have been approved by BPW. The practical effect is that the bill only affects allocations in fiscal 2013 and 2014. Given the bill's termination provision after three years and the minimal increase in workload for PSCP, 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 786 of 2010 and SB 24 of 2009 received a hearing in the Senate Budget and Taxation Committee, but no further action was taken on either bill.

**Cross File:** None.

**Information Source(s):** Board of Public Works, Maryland Department of Planning, Department of General Services, Public School Construction Program, Department of Legislative Services

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Analysis by: Michael C. Rubenstein

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510