

SENATE BILL 533

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2lr2052

By: **Senators Jones–Rodwell, Conway, Ferguson, Gladden, McFadden, and Pugh**

Introduced and read first time: February 3, 2012

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore City – School Construction – Block Grant**

3 FOR the purpose of requiring the State to provide a certain block grant each year to
4 Baltimore City for certain public school construction projects; providing for the
5 initial amount, the source of funding, and an annual increase in the amount of a
6 certain annual block grant for certain school construction projects in Baltimore
7 City; specifying the uses for a certain block grant; authorizing the Baltimore
8 City Board of School Commissioners to acquire, construct, reconstruct, equip,
9 maintain, repair, or renovate facilities at any location in Baltimore City through
10 another entity acting as its agent and enter into contracts with public or private
11 entities for such purposes; defining certain terms; and generally relating to
12 school construction projects in Baltimore City.

13 BY repealing and reenacting, with amendments,
14 Article – Education
15 Section 4–306.1(a) and 5–301(d) through (j)
16 Annotated Code of Maryland
17 (2008 Replacement Volume and 2011 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article – Education
20 Section 5–301(c)
21 Annotated Code of Maryland
22 (2008 Replacement Volume and 2011 Supplement)

23 BY adding to
24 Article – Education
25 Section 5–301(d)
26 Annotated Code of Maryland
27 (2008 Replacement Volume and 2011 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Education**

4 4–306.1.

5 (a) In order to provide public school facilities, the board may:

6 (1) **[Acquire] DIRECTLY OR THROUGH ANOTHER ENTITY ACTING**
7 **AS THE DESIGNATED AGENT OF THE BOARD, ACQUIRE**, construct, reconstruct,
8 equip, maintain, repair, or renovate facilities at any location in the City of Baltimore,
9 now existing or hereafter acquired **AND ENTER INTO CONTRACTS WITH PUBLIC OR**
10 **PRIVATE ENTITIES TO ACCOMPLISH THE ACQUISITION, CONSTRUCTION,**
11 **RECONSTRUCTION, EQUIPPING, MAINTENANCE, REPAIR, OR RENOVATION;**

12 (2) Issue bonds in accordance with § 4–306.2 of this subtitle;

13 (3) In accordance with State law and the June 24, 1998, memorandum
14 of understanding between the board and the Mayor and City Council of Baltimore,
15 acquire, hold, and dispose of real and personal property in the exercise of its powers
16 and the performance of its duties under this subtitle;

17 (4) Enter into all contracts and agreements necessary or incidental to
18 the performance of its duties and the execution of its powers under this subtitle,
19 employ consulting engineers, architects, attorneys, construction and financial experts,
20 and other employees and agents, and determine their compensation;

21 (5) Receive and accept from the United States of America or any
22 agency of the federal government grants and loans for the purpose of financing or
23 refinancing all or any part of the costs of any project;

24 (6) Receive and accept aid or contributions from any sources of money,
25 property, labor, or other things of value, to be held, used, and applied for the purposes
26 for which the grants and contributions were made; and

27 (7) Perform all acts and things necessary to carry out the powers
28 expressly granted by the provisions of this subtitle.

29 5–301.

30 (c) The State shall pay the costs in excess of available federal funds of the
31 State share of public school construction projects and public school capital
32 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
4 projects or improvements.

5 **(D) (1) THIS SUBSECTION APPLIES ONLY TO BALTIMORE CITY.**

6 **(2) IN THIS SUBSECTION, "BLOCK GRANT" MEANS A LUMP-SUM**
7 **PAYMENT OF FUNDS.**

8 **(3) THE STATE SHALL PROVIDE A BLOCK GRANT EACH YEAR TO**
9 **PAY THE COST OF PUBLIC SCHOOL CONSTRUCTION PROJECTS AND PUBLIC**
10 **SCHOOL CAPITAL IMPROVEMENTS IN THE CITY OF BALTIMORE.**

11 **(4) THE AMOUNT OF THE BLOCK GRANT SHALL BE IN THE**
12 **AMOUNT OF THE GREATER OF:**

13 **(I) 15% OF THE ENTIRE STATE CAPITAL PUBLIC SCHOOL**
14 **CONSTRUCTION PROGRAM; OR**

15 **(II) \$32,000,000, ADJUSTED ANNUALLY BY THE GREATER**
16 **OF:**

17 **1. THE CONSUMER PRICE INDEX-URBAN FOR THE**
18 **BALTIMORE METROPOLITAN AREA, PUBLISHED BY THE U.S. DEPARTMENT OF**
19 **LABOR, BUREAU OF LABOR STATISTICS;**

20 **2. THE IMPLICIT PRICE DEFLATOR FOR STATE AND**
21 **LOCAL GOVERNMENT EXPENDITURES; OR**

22 **3. 5%.**

23 **(5) THE BLOCK GRANT SHALL BE FUNDED FROM AVAILABLE**
24 **MONEY THAT DOES NOT CONSTITUTE PROCEEDS OF OBLIGATIONS EXEMPT**
25 **FROM FEDERAL INCOME TAXATION BEFORE THE USE OF THE PROCEEDS OF ANY**
26 **TAX-EXEMPT OBLIGATIONS.**

27 **(6) THE BLOCK GRANT MAY BE USED TO MAKE PAYMENTS UNDER**
28 **LEASES, INSTALLMENT PURCHASE, OR OTHER SIMILAR ARRANGEMENTS FOR**
29 **THE FINANCING OF PUBLIC SCHOOL FACILITIES AS AUTHORIZED UNDER § 4-126**
30 **OF THIS ARTICLE.**

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

3 (2) The regulations adopted by the Board of Public Works may contain
4 requirements for:

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

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

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

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

12 (v) Site improvements;

13 (vi) Competitive bidding;

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

16 (viii) The actual construction of school buildings or their
17 improvements;

18 (ix) The relative roles of different State and local governmental
19 agencies in the planning and construction of school buildings or school capital
20 improvements;

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

23 (xi) At the recommendation of the Interagency Committee, the
24 establishment of priority public school construction programs;

25 (xii) Development of cooperative arrangements that permit the
26 sharing of facilities among two or more school systems;

27 (xiii) The selection of architects and engineers by school systems;

28 (xiv) The award of contracts by school systems; and

29 (xv) Method of payments made by the State under the Public
30 School Construction Program.

1 (3) The regulations adopted by the Board of Public Works shall
2 contain provisions:

3 (i) Establishing a State and local cost–share formula for each
4 county that identifies the factors used in establishing the formulas;

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

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

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

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

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

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

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

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

26 **[(e)] (F)** 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 **[(f)] (G)** The regulations and procedures of the Board of Public Works
30 adopted under this section and their promulgation are exempt from § 8–127(b) of the
31 State Finance and Procurement Article.

32 **[(g)] (H)** (1) With respect to public school construction or public school
33 capital improvements, including sites for school buildings, the authority,
34 responsibilities, powers, and duties of the following are subject to the regulations
35 adopted by the Board of Public Works under this section:

- 1 (i) The State Board;
- 2 (ii) The State Superintendent;
- 3 (iii) The county governments;
- 4 (iv) The county boards; and
- 5 (v) All other State or local governmental agencies under this
6 article.

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

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

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

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

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

31 **(4) IN THIS SECTION, A TRANSFER OF INTEREST IN A PUBLIC**
32 **SCHOOL BUILDING IN CONNECTION WITH A FINANCING AS AUTHORIZED UNDER**
33 **§ 4–126 OF THIS ARTICLE IS NOT A SALE, LEASE, OR DISPOSAL OF THE PUBLIC**
34 **SCHOOL FACILITY.**

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

5 (2) (i) Except as provided in subparagraph (ii) of this paragraph,
6 any funds approved for a project that has not been contracted for within 2 years of the
7 approval of the project shall revert to the fund established under paragraph (1) of this
8 subsection.

9 (ii) The Interagency Committee, with the approval of the Board
10 of Public Works, may extend the time period under subparagraph (i) of this paragraph
11 if the Interagency Committee determines that unusual circumstances exist.

12 (3) Any unexpended allocations of funds for previously approved
13 projects shall be transferred to the fund established under paragraph (1) of this
14 subsection.

15 (4) On or before March 30, June 30, September 30, and December 31
16 of each year, the Interagency Committee shall report to the General Assembly, in
17 accordance with § 2-1246 of the State Government Article, and the Department of
18 Legislative Services on the balance in the fund as of the reporting date as the result of
19 transfers or reversions required under this subsection and any expenditures.

20 SECTION 2. AND BE IT FURTHER ENACTED, That any authority granted
21 under this Act is not in derogation of any other existing power or authority.

22 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 June 1, 2012.