

**Department of Legislative Services**  
 Maryland General Assembly  
 2013 Session

**FISCAL AND POLICY NOTE**

House Bill 115  
 Appropriations

(The Speaker)(By Request - Administration)

Budget and Taxation

**Creation of a State Debt - Qualified Zone Academy Bonds**

This Administration bill authorizes the Board of Public Works to issue \$4,549,000 in interest-free Qualified Zone Academy Bonds (QZABs) by December 31, 2013, and grant the proceeds to the Interagency Committee on School Construction (IAC) and the Maryland State Department of Education (MSDE) for the renovation, repair, and capital improvements of qualified zone academies, including public charter schools, as defined in the federal Internal Revenue Code. Proceeds from the sale of QZABs must be spent no later than three years after the issuance of the bonds.

The bill takes effect June 1, 2013.

**Fiscal Summary**

**State Effect:** Bond revenues and expenditures increase by \$4.5 million in FY 2014 from the issuance of QZABs. Annuity Bond Fund expenditures increase by an estimated \$151,600 in FY 2014 and then by \$303,300 for each of 14 years, with one additional payment of \$151,600 in the sixteenth year to pay off the principal on the QZABs. The Public School Construction Program (PSCP) and MSDE can administer the QZAB program with existing budgeted resources.

(in dollars)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Bond Rev.	\$4,549,000	\$0	\$0	\$0	\$0
SF Expenditure	\$151,600	\$303,300	\$303,300	\$303,300	\$303,300
Bond Exp.	\$4,549,000	\$0	\$0	\$0	\$0
Net Effect	(\$151,600)	(\$303,300)	(\$303,300)	(\$303,300)	(\$303,300)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Local school board revenues for school renovation increase by \$4.5 million in FY 2014 from the distribution of QZAB proceeds.

**Small Business Effect:** The Administration has determined that this bill has a meaningful impact on small business (attached). The Department of Legislative Services concurs with this assessment.

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## Analysis

**Bill Summary:** IAC and MSDE may use QZAB proceeds provided by the Board of Public Works for the following purposes, in accordance with criteria established under the Aging Schools Program:

1. for competitively awarded grants by IAC to eligible school systems for qualified academies, including public charter schools; and
2. for targeted grants awarded by MSDE to eligible school systems for qualified academies, including public charter schools, under the Breakthrough Center Program.

**Current Law:** The federal Tax Reform Act of 1997 created QZABs as a new type of debt instrument to finance education projects. Financial institutions, insurance companies, and investment houses are the only entities allowed to purchase the bonds, which provide for a federal tax credit instead of interest earnings. The program has been extended several times, most recently under the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, which included \$400 million of additional QZAB authorization. Under current federal guidelines, QZAB funds may be used only to rehabilitate or repair school facilities, provide equipment, develop course materials, or train teachers and other school personnel; they may not be used for new construction. They can be used only for qualified zone academies, which are defined as public schools that (1) are designed in cooperation with business to enhance the academic curriculum, increase graduation and employment rates, and prepare students for college and the workforce and (2) require students to meet the same academic standards and assessments as other students in the same school system. Qualified zone academies must either be located in a federal Enterprise or Empowerment Zone or have at least 35% of their student population qualify for free or reduced-price meals.

Maryland has allowed QZAB proceeds to be used only for renovation and repair (brick-and-mortar) projects as part of the Aging Schools Program administered by IAC. However, Chapter 707 of 2009 (HB 1081) expanded the use of *previously* authorized QZABs to include equipment, which is an authorized use under Section 1397E (revised and recodified as Section 54E by the federal Tax Extenders and Alternative Minimum

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Tax Relief Act of 2008) of the Internal Revenue Code. Chapter 707 also authorized MSDE to allocate QZAB funds to local education agencies. QZABs are issued with the full faith and credit of the State. Therefore, QZABs are considered State debt. For purposes of calculating State debt affordability, QZABs are included in the State's general obligation bond debt outstanding and debt service.

Chapter 96 of 2011 (HB 86) first authorized the use of QZABs for public charter schools, and each successive authorization has also included charter schools.

## **Background:**

### *QZABs*

Maryland first authorized the sale of QZABs in Chapter 322 of 2000 (SB 894). Additional issuances were authorized by Chapter 139 of 2001 (SB 288), Chapter 55 of 2003 (SB 7), Chapter 431 of 2005 (HB 1325), Chapter 585 of 2007 (SB 986), Chapter 523 of 2010 (SB 202), Chapter 96 of 2011, and Chapter 3 of the first special session of 2012 (SB 1303). The \$4.5 million in QZAB sales authorized by this bill represents the final authorization of QZABs currently allocated to the State under federal law.

Federal law requires that QZAB projects receive a 10% private-sector match, which may be in the form of cash, in-kind goods such as equipment or technology, services such as help developing curriculum, and internships or field trips. While Maryland law authorizes QZABs to be spent on brick-and-mortar projects and – in the case of QZABs authorized before 2009 – equipment, federal law also allows spending on curriculum development and training for teachers and other school personnel.

To date, Maryland's allocation under the federal program has totaled \$83.2 million from eight prior-year bills that authorized the sale of the bonds; including interest earned on QZAB proceeds brings total proceeds for the State to \$85.9 million, as shown in **Exhibit 1**. Omitting the most recent sale, which was completed in August 2012, 81.0% of QZAB proceeds had been spent as of December 31, 2012, with most of the unspent balance stemming from the 2011 sale.

Even though more than three-quarters of the QZAB proceeds have been spent, a small number of local school systems have poor track records in spending their allocations. The large unexpended balances in a few jurisdictions prompted IAC to propose, beginning with the 2011 sale of QZABs, awarding QZAB funds using a competitive grant process instead of relying on the Aging Schools Program's need-based allocation.

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**Exhibit 1**  
**QZAB Proceeds and Expenditures as of December 31, 2012**

<b>Year of Sale</b>	<b><u>Proceeds</u></b>	<b><u>Interest Income</u></b>	<b><u>Proceeds + Interest</u></b>	<b><u>Expenditures</u></b>	<b><u>Unexpended Balance</u></b>	<b><u>% Expended</u></b>
2001	\$18,098,000	\$1,321,124	\$19,419,124	\$19,419,071	\$53	100.00%
2004	9,043,000	979,640	10,022,640	9,872,441	150,199	98.50%
2006	4,378,000	327,660	4,705,660	4,694,114	11,546	99.75%
2007	4,986,000	130,042	5,116,042	5,097,633	18,409	99.64%
2008	5,563,000	73	5,563,073	5,563,073	0	100.00%
2009	5,563,000	13,752	5,576,752	5,576,752	0	100.00%
2010	4,543,000	11,604	4,554,604	3,547,532	1,007,072	77.89%
2011	15,731,348	85,292	15,816,640	3,552,677	12,263,963	22.46%
2012	15,166,643	0	15,166,643	7,541	15,159,102	0.05%
<b>Total</b>	<b>\$83,071,991</b>	<b>\$2,869,187</b>	<b>\$85,941,178</b>	<b>\$57,330,834</b>	<b>\$28,610,344</b>	

Notes: In anticipation of closing the 2008 QZAB account, most of the interest balance for 2008 is reflected in the Proceeds column. As \$593,868 of the expenditures for QZAB 2001 was spent on nonqualified projects, this amount must be deducted from expenditures for federal tax purposes, reducing the percent expended to 96.7%.

Source: Interagency Committee on School Construction

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*Aging Schools Program*

Eligible Aging Schools Program expenditures include asbestos and lead paint abatement; upgrade of fire protection systems and equipment; painting; plumbing; roofing; upgrade of heating, ventilation, and air conditioning systems; site redevelopment; wiring schools for technology; and renovation projects related to education programs and services. Projects must cost at least \$10,000 to be funded through the program. MSDE and PSCP review aging schools project requests submitted by local school systems, approve eligible projects, and determine if additional review of any construction documents will be required. The Governor's proposed fiscal 2014 capital budget includes \$6.1 million for the program, which is allocated in statute to each local school system based on each county's proportion of pre-1970 square footage in public school facilities.

*Breakthrough Center*

The Breakthrough Center's primary focus is to efficiently coordinate MSDE's resources for 16 schools and their 20 feeder schools in Baltimore City and Prince George's County. Without the center, schools and districts have to work with different MSDE

divisions to access different resources. Furthermore, the Breakthrough Center coordinates resources from government and private-sector partners and provides funding for supplemental instructional support, such as job-embedded professional development for teachers. To provide long-term support, the Breakthrough Center develops multiyear memoranda of understanding signed by the participating schools, districts, and MSDE that specify the roles and responsibilities of each.

While the center's focus is on low-performing schools, it is launching voluntary statewide initiatives and will offer webinars and e-learning communities, all centered on what works in school improvement. The center plans to develop evaluation mechanisms, and the results will be an important measure of MSDE's targeted assistance. The center's pilot phase was completed in summer 2010, and full operation began in fiscal 2011. Beginning with the 2011 QZAB allocation, IAC has worked with MSDE to identify large projects in schools that are targeted for intervention by the Breakthrough Center so that eligible capital costs associated with the improvement efforts can be funded with QZAB proceeds. Therefore, in addition to the competitive grant process noted above, a portion of the QZAB proceeds is distributed to schools being assisted by the Breakthrough Center.

### *Public Charter Schools*

Public charter schools are public schools that provide alternative approaches to learning to improve student academic performance. They operate under the supervision of a local board of education or the State Board of Education and, with certain exceptions, in accordance with the laws and regulations that govern other public schools. Local school boards must give public charter schools a per-student amount of county, State, and federal money that is commensurate to the amount given to other public schools in the same jurisdiction. The State Board of Education or a local board may give surplus educational materials, supplies, furniture, and other equipment to a public charter school. Public charter schools do not receive a specific allocation for capital facilities, but schools located in buildings owned by the local board are eligible for State capital funding through IAC.

There are currently 52 public charter schools in the State: 38 in Baltimore City; 7 in Prince George's County; 2 each in Anne Arundel and Frederick counties; and 1 each in Baltimore, Montgomery, and St. Mary's counties. Many public charter schools are located in former public school buildings, especially in Baltimore City. Some public charter schools lease space in private buildings. Under the bill, any public charter school in Maryland could be eligible to receive QZAB funds if it meets the qualifications.

**State Fiscal Effect:** Bond revenues and expenditures increase by up to \$4.5 million in fiscal 2014 from the issuance of QZABs, with the funding distributed to local school

systems, either through competitive grants or the Breakthrough Center, for eligible school renovation and repair projects, including public charter schools. The State is required to repay the principal on the bonds within 15 years after the date of issuance. As QZABs are tax-credit bonds, the State is responsible for repaying only the principal. However, federal arbitrage rules prohibit the State from earning interest on the proceeds of tax-credit bonds. Therefore, debt service payments consist of annual payments of \$303,267 from the Annuity Bond Fund with the intent of paying off the full \$4.5 million at the end of the 15-year period. However, in fiscal 2014, only one of two annual payments is made, due to the timing of the sale of the bonds, so fiscal 2014 Annuity Bond Fund expenditures are only \$151,633. When the Annuity Bond Fund is unable to fully fund the debt service on bonds issued by the State, general funds are used to pay the remaining amount. The Governor's proposed fiscal 2014 budget includes \$101 million in general funds for debt service payments.

**Local Fiscal Effect:** Local school revenues for public school renovation and repair increase by up to \$4.5 million in fiscal 2014. Distribution of the QZAB proceeds among local school systems will be determined by a competitive grant process administered by IAC and also by the Breakthrough Center. There is no local match for QZABs, although local school systems must raise private-entity matches equal to 10% of their QZAB distributions in order to receive the QZAB funds.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 141 (The President)(By Request - Administration) - Budget and Taxation.

**Information Source(s):** Maryland State Department of Education, Public School Construction Program, Department of Legislative Services

**Fiscal Note History:** First Reader - January 30, 2013  
ncs/rhh

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Creation of a State Debt – Qualified Zone Academy Bond

BILL NUMBER: SB 141/HB 115

PREPARED BY: Kwame Kwakye, Department of Budget and Management

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

Yes. The legislation may create additional contracting opportunities for small businesses. Based on historical data, the average value of a QZAB project is \$118,000. The FY 2014 projects are likely to be generally consistent with the historical average of \$118,000.