

(PRE-FILED)

By: **Delegate Impallaria**
Requested: October 9, 2003
Introduced and read first time: January 14, 2004
Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Education - Public School Construction - Plans and Specifications**

3 FOR the purpose of providing that certain plans and specifications for a school
4 construction project or capital improvement are the exclusive property of the
5 county board that commissioned the plans and specifications; authorizing a
6 county board to use, sell, or otherwise convey, subject to a fee limitation, certain
7 school construction or capital improvement plans and specifications; providing
8 that the authority to use, sell, or otherwise convey certain plans and
9 specifications for a school construction project or capital improvement is
10 exclusive to the county board that commissioned the original plans and
11 specifications, and that that authority supersedes any claim or right to the
12 contrary asserted by any other person or entity; providing for the application of
13 this Act; and generally relating to the use, sale, or other conveyance by a county
14 board of the plans and specifications for a school construction project or capital
15 improvement.

16 BY repealing and reenacting, with amendments,
17 Article - Education
18 Section 5-301
19 Annotated Code of Maryland
20 (2001 Replacement Volume and 2003 Supplement)

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

23 **Article - Education**

24 5-301.

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

1 (2) 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) The State shall pay the costs in excess of available federal funds of all
4 public school construction projects and public school capital improvements in each
5 county if:

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

8 (2) Contracts have been executed on or after July 1, 1971 for the projects
9 or improvements.

10 (c) (1) In this subsection, "local debt for school construction" includes any
11 debt incurred as the result of money made available to a county under a bond issue
12 that obligates the credit of the State.

13 (2) Except for general public school construction loan debt outstanding
14 or obligated as of June 30, 1967 for which repayment by a county is no longer
15 required, the State shall reimburse each county for the full costs of principal and
16 interest payments on any local debt for school construction outstanding or obligated
17 as of June 30, 1967.

18 (d) The State shall pay all of the annual cost of debt service on school
19 construction debt incurred by each county that was outstanding or obligated on or
20 after June 30, 1967 for contracts let before June 30, 1967.

21 (e) (1) The Board of Public Works may adopt rules, regulations, and
22 procedures for the administration of the programs provided for by subsections (b) and
23 (d) of this section.

24 (2) The rules, regulations, and procedures adopted by the Board of Public
25 Works may contain requirements for:

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

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

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

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

32 (v) Site improvements;

33 (vi) Competitive bidding;

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

1 (viii) The actual construction of school buildings or their
2 improvements;

3 (ix) The relative roles of different State and local governmental
4 agencies in the planning and construction of school buildings or school capital
5 improvements; and

6 (x) School construction and capital improvements necessary or
7 appropriate for the proper implementation of this section.

8 (3) In adopting any of these requirements, the State Board and the
9 Board of Public Works shall provide for the maximum exercise of initiative by school
10 personnel in each county to insure that the school buildings and improvements meet
11 both the needs of the local communities and the rules and regulations necessary to
12 insure the proper operation of this section and the prudent expenditure of State
13 funds.

14 (f) (1) The Board of Public Works shall develop the rules, regulations, and
15 procedures authorized by this section in consultation with representatives of the
16 county boards and the county governing bodies.

17 (2) Before the adoption, amendment, or repeal of any rule, regulation, or
18 procedure under this section, the Board of Public Works shall give notice of its
19 intended action to the county boards and to the county governing bodies.

20 (3) The Board of Public Works shall permit each county board and
21 county governing body to submit its views with respect to the intended action.

22 (g) The rules, regulations, and procedures of the Board of Public Works
23 adopted under this section and their promulgation are exempt from §§ 10-101
24 through 10-305 of the State Government Article and § 8-127(b) of the State Finance
25 and Procurement Article of the Code.

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

30 (i) The State Board;

31 (ii) The State Superintendent;

32 (iii) The county governments;

33 (iv) The county boards; and

34 (v) All other State or local governmental agencies under this
35 article.

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

6 (i) The obligation of the State to pay the costs of public school construction
7 and public school capital improvements extends only to those projects or parts of
8 projects that comply with the rules, regulations, and procedures of the Board of Public
9 Works.

10 (j) (1) This subsection does not apply to the proceeds from the sale, lease, or
11 disposition of public school buildings constructed under contracts executed before
12 February 1, 1971.

13 (2) By rule or regulation, the Board of Public Works may require that the
14 proceeds received by a county from the sale, lease, or disposal of any public school
15 building shall be used solely as part of the State funding of the construction of future
16 public school buildings in the county in which the sale, lease, or disposal occurred, if
17 the public school building was:

18 (i) Constructed under a contract executed on or after February 1,
19 1971; and

20 (ii) Paid for primarily with State funds under this section.

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

25 (k) Whether by budget bill or supplementary appropriation bill, all money
26 appropriated to carry out the purposes of this section is a separate fund that shall be
27 administered by the State Comptroller in accordance with the rules and regulations
28 adopted by the Board of Public Works.

29 (L) (1) THE ORIGINAL PLANS AND SPECIFICATIONS FOR A SCHOOL
30 CONSTRUCTION PROJECT OR A PUBLIC SCHOOL CAPITAL IMPROVEMENT ARE THE
31 PROPERTY OF THE COUNTY BOARD THAT COMMISSIONED THE PLANS AND
32 SPECIFICATIONS.

33 (2) (I) ON COMPLETION OF A SCHOOL CONSTRUCTION PROJECT OR A
34 PUBLIC SCHOOL CAPITAL IMPROVEMENT, THE COUNTY BOARD MAY USE, SELL, OR
35 OTHERWISE CONVEY ITS ORIGINAL PLANS AND SPECIFICATIONS FOR THE SCHOOL
36 CONSTRUCTION PROJECT OR THE PUBLIC SCHOOL CAPITAL IMPROVEMENT TO
37 ANOTHER COUNTY BOARD.

38 (II) A COUNTY BOARD MAY NOT CHARGE ANOTHER COUNTY BOARD
39 A FEE FOR THE USE, SALE, OR OTHER CONVEYANCE OF ITS ORIGINAL PLANS AND
40 SPECIFICATIONS AS AUTHORIZED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH

1 THAT IS GREATER THAN 50% OF THE COST TO THE COUNTY BOARD FOR THE
2 ORIGINAL PLANS AND SPECIFICATIONS.

3 (3) THE AUTHORITY GRANTED TO A COUNTY BOARD UNDER THIS
4 SUBSECTION TO USE, SELL, OR OTHERWISE CONVEY ITS ORIGINAL PLANS AND
5 SPECIFICATIONS FOR A SCHOOL CONSTRUCTION PROJECT OR A PUBLIC SCHOOL
6 CAPITAL IMPROVEMENT TO ANOTHER COUNTY BOARD:

7 (I) IS THE EXCLUSIVE AUTHORITY OF THE COUNTY BOARD THAT
8 COMMISSIONED THE ORIGINAL PLANS AND SPECIFICATIONS; AND

9 (II) SUPERSEDES ANY CONTRACT OR RIGHT TO THE CONTRARY
10 ASSERTED BY ANY OTHER PERSON OR ENTITY.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act:

12 (1) shall apply only to the preparation and development of original plans
13 and specifications for a school construction project or a public school capital
14 improvement for which a county board executes a contract on or after the effective
15 date of this Act; and

16 (2) may not be applied to any original plans and specifications for a
17 school construction project or a public school capital improvement for which a county
18 board executed a contract prior to the effective date of this Act.

19 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2004.