
By: **Delegates G. Clagett, Barkley, Hubbard, King, Love, Madaleno,
Montgomery, and Murray**

Introduced and read first time: February 5, 2004

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Education - Public School Construction - Obligation of State to Pay**

3 FOR the purpose of obligating the State to pay, each fiscal year, at least a certain
4 percentage of the aggregate costs of public school construction and public school
5 capital improvements requested by county boards and county governing bodies
6 that comply with the rules, regulations, and procedures of the Board of Public
7 Works; and generally relating to the requirement that the State fund at least a
8 certain portion of the costs of certain public school construction and public
9 school capital improvements for counties each fiscal year.

10 BY repealing and reenacting, with amendments,
11 Article - Education
12 Section 5-301
13 Annotated Code of Maryland
14 (2001 Replacement Volume and 2003 Supplement)

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

17 **Article - Education**

18 5-301.

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

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

24 (b) The State shall pay the costs in excess of available federal funds of all
25 public school construction projects and public school capital improvements in each
26 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 projects
4 or improvements.

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

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

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

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

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

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

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

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

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

27 (v) Site improvements;

28 (vi) Competitive bidding;

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

31 (viii) The actual construction of school buildings or their
32 improvements;

33 (ix) The relative roles of different State and local governmental
34 agencies in the planning and construction of school buildings or school capital
35 improvements; and

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

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

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

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

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

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

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

25 (i) The State Board;

26 (ii) The State Superintendent;

27 (iii) The county governments;

28 (iv) The county boards; and

29 (v) All other State or local governmental agencies under this
30 article.

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

36 (i) (1) [The] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE
37 obligation of the State to pay the costs of public school construction and public school

1 capital improvements extends only to those projects or parts of projects that comply
2 with the rules, regulations, and procedures of the Board of Public Works.

3 (2) (I) EACH FISCAL YEAR, THE STATE SHALL OBLIGATE ITSELF TO
4 PAY AT LEAST 50% OF THE AGGREGATE COSTS OF PUBLIC SCHOOL CONSTRUCTION
5 AND PUBLIC SCHOOL CAPITAL IMPROVEMENTS REQUESTED BY COUNTY BOARDS
6 AND COUNTY GOVERNING BODIES FROM THROUGHOUT THE STATE THAT COMPLY
7 WITH THE RULES, REGULATIONS, AND PROCEDURES OF THE BOARD OF PUBLIC
8 WORKS.

9 (II) THE BOARD OF PUBLIC WORKS MAY ALLOCATE THE STATE'S
10 SHARE OF THE COSTS SPECIFIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IN
11 THE MANNER IT DETERMINES.

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

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

20 (i) Constructed under a contract executed on or after February 1,
21 1971; and

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

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

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

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2004.