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By: **Delegates Barkley, Bobo, Bohanan, Bronrott, Brown, G. Clagett,  
Franchot, Holmes, Howard, James, Jones, and F. Turner**

Introduced and read first time: February 13, 2004

Assigned to: Appropriations

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A BILL ENTITLED

1 AN ACT concerning

2 **Public School Construction - Minimum Annual Funding Level**

3 FOR the purpose of requiring the Governor to include at least a certain amount of  
4 funding for school construction in the capital budget each fiscal year; providing  
5 that a certain amount of funding for school construction may not be included in  
6 the estimate of total new State debt for the fiscal year recommended by the  
7 Capital Debt Affordability Committee; and generally relating to the minimum  
8 annual funding level for public school construction.

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

14 BY repealing and reenacting, without amendments,  
15 Article - State Finance and Procurement  
16 Section 8-112  
17 Annotated Code of Maryland  
18 (2001 Replacement Volume and 2003 Supplement)

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

21 **Article - Education**

22 5-301.

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

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

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

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

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

8 (C) (1) THE GOVERNOR SHALL INCLUDE AT LEAST \$200,000,000 FOR PUBLIC  
9 SCHOOL CONSTRUCTION IN THE CAPITAL BUDGET FOR EACH FISCAL YEAR.

10 (2) \$100,000,000 OF THE APPROPRIATION FOR PUBLIC SCHOOL  
11 CONSTRUCTION MAY NOT BE INCLUDED AS PART OF THE ESTIMATE OF TOTAL NEW  
12 STATE DEBT AUTHORIZED FOR THE FISCAL YEAR RECOMMENDED BY THE CAPITAL  
13 DEBT AFFORDABILITY COMMITTEE, IN ACCORDANCE WITH § 8-112 OF THE STATE  
14 FINANCE AND PROCUREMENT ARTICLE.

15 [(c)] (D) (1) In this subsection, "local debt for school construction" includes  
16 any debt incurred as the result of money made available to a county under a bond  
17 issue that obligates the credit of the State.

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

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

26 [(e)] (F) (1) The Board of Public Works may adopt rules, regulations, and  
27 procedures for the administration of the programs provided for by subsections (b) and  
28 (d) of this section.

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

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

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

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

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

- 1 (v) Site improvements;
- 2 (vi) Competitive bidding;
- 3 (vii) The hiring of personnel in connection with school construction  
4 or capital improvements;
- 5 (viii) The actual construction of school buildings or their  
6 improvements;
- 7 (ix) The relative roles of different State and local governmental  
8 agencies in the planning and construction of school buildings or school capital  
9 improvements; and
- 10 (x) School construction and capital improvements necessary or  
11 appropriate for the proper implementation of this section.

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

18 [(f)] (G) (1) The Board of Public Works shall develop the rules, regulations,  
19 and procedures authorized by this section in consultation with representatives of the  
20 county boards and the county governing bodies.

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

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

26 [(g)] (H) The rules, regulations, and procedures of the Board of Public Works  
27 adopted under this section and their promulgation are exempt from §§ 10-101  
28 through 10-305 of the State Government Article and § 8-127(b) of the State Finance  
29 and Procurement Article of the Code.

30 [(h)] (I) (1) With respect to public school construction or public school  
31 capital improvements, including sites for school buildings, the authority,  
32 responsibilities, powers, and duties of the following are subject to the rules,  
33 regulations, and procedures adopted by the Board of Public Works under this section:

- 34 (i) The State Board;
- 35 (ii) The State Superintendent;
- 36 (iii) The county governments;

- 1 (iv) The county boards; and  
2 (v) All other State or local governmental agencies under this  
3 article.

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

9 [(i)] (J) The obligation of the State to pay the costs of public school  
10 construction and public school capital improvements extends only to those projects or  
11 parts of projects that comply with the rules, regulations, and procedures of the Board  
12 of Public Works.

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

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

21 (i) Constructed under a contract executed on or after February 1,  
22 1971; and

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

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

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

#### 32 **Article - State Finance and Procurement**

33 8-112.

34 (a) The Committee shall review on a continuing basis the size and condition of  
35 the State tax supported debt as well as other debt of State units, including the  
36 University System of Maryland, Morgan State University, St. Mary's College of  
37 Maryland, and the Baltimore City Community College.

1 (b) On or before September 10 of each year, the Committee shall submit to the  
2 Governor and the General Assembly the Committee's estimate of the total amount of  
3 new State debt that prudently may be authorized for the next fiscal year.

4 (c) In making the estimate, the Committee shall consider:

5 (1) the amount of State bonds that, during the next fiscal year:

6 (i) will be outstanding; and

7 (ii) will be authorized but unissued;

8 (2) the capital program prepared by the Department of Budget and  
9 Management;

10 (3) capital improvement and school construction needs during the next 5  
11 fiscal years, as projected by the Interagency Committee on School Construction;

12 (4) projections of debt service requirements during the next 10 fiscal  
13 years;

14 (5) the criteria that recognized bond rating agencies use to judge the  
15 quality of issues of State bonds;

16 (6) any other factor that is relevant to:

17 (i) the ability of the State to meet its projected debt service  
18 requirements for the next 5 fiscal years; or

19 (ii) the marketability of State bonds;

20 (7) the effect of authorizations of new State debt on each of the factors  
21 set out in this subsection; and

22 (8) the amount of issuances, debt outstanding, and debt service  
23 requirement of other classes of State tax supported debt as well as other debt of State  
24 units, including the University System of Maryland, Morgan State University, St.  
25 Mary's College of Maryland, and the Baltimore City Community College.

26 (d) The estimate of the Committee:

27 (1) is advisory; and

28 (2) does not bind the General Assembly, the Board, or the Governor.

29 (e) (1) In addition to its other duties under this section, the Committee shall  
30 review on a continuing basis the size and condition of any debt of the University  
31 System of Maryland, Morgan State University, St. Mary's College of Maryland, and  
32 the Baltimore City Community College.

1           (2)     In preparing an estimate with respect to the authorization of any new  
2 State debt, the Committee shall take into account as part of the affordability analysis  
3 any debt for academic facilities to be issued by a System.

4           (3)     At the same time that the Committee makes its report as required  
5 under paragraph (b) of this section, the Committee shall submit to the Governor and  
6 the General Assembly the Committee's estimate of the amount of new bonds for  
7 academic facilities that prudently may be authorized in the aggregate for the next  
8 fiscal year by the University System of Maryland, Morgan State University, and St.  
9 Mary's College of Maryland.

10          (4)     For purposes of this subtitle, the terms "System" and "academic  
11 facilities" have the meanings stated in § 19-101 of the Education Article.

12          (5)     The Committee may request any needed information from a System  
13 and shall consider the information in making its estimates, including any information  
14 submitted by a System at its own initiative.

15          (6)     This estimate:

16                 (i)     is advisory; and

17                 (ii)    does not bind the General Assembly, the Board, or the Governor.

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