
By: **Delegates Hixson and Edwards (Task Force to Study Public School Facilities) and Delegates Leopold and Conway, Conway, Griffith, Ross, Holmes, James, Niemann, Ramirez, Hurson, G. Clagett, Haynes, Madaleno, F. Turner, Stocksdale, Bozman, Boschert, Cardin, Heller, Barkley, Jones, Proctor, ~~Aumann~~, Aumann, Branch, Bates, Bohanan, Cadden, DeBoy, Eckardt, Franchot, Frank, Gaines, Mitchell, Paige, Bartlett, Cryor, C. Davis, Elmore, Gilleland, Goodwin, Gordon, Healey, Howard, Kaiser, King, Marriott, McKee, Myers, Patterson, Ramirez, and Ross**

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Committee Report: Favorable with amendments
House action: Adopted with floor amendments
Read second time: March 27, 2004

CHAPTER _____

1 AN ACT concerning

2 **Public School Facilities Act of 2004**

3 FOR the purpose of authorizing counties to finance the construction or renovation of
4 public school facilities, under certain circumstances, using alternative financing
5 methods, engaging in competitive negotiation, accepting unsolicited proposals,
6 and using quality based selection; authorizing a private entity to hold title to
7 property used for a certain public school or school system under certain
8 circumstances; clarifying that the requirements of certain provisions of the
9 State Finance and Procurement Article apply to certain projects; expressing the
10 intent of the General Assembly that the State Department of Education and the
11 Public School Construction Program encourage local education agencies to use
12 recently used school designs under certain circumstances; requiring the
13 Interagency Committee on School Construction to survey the condition of
14 certain school buildings; requiring the Department of General Services to
15 conduct certain inspections; requiring the Interagency Committee to make a
16 certain annual report to the Governor and the General Assembly; requiring the
17 Department of General Services to submit a certain annual report to the State
18 Department of Education and local education agencies; authorizing certain
19 counties to issue certain bonds under certain circumstances; providing for the
20 issuance and administration of the bonds; providing for the repayment of the

1 bonds; ~~authorizing certain counties to impose a sales tax on certain retail sales,~~
 2 ~~subject to certain limits;~~ authorizing certain counties to impose a certain
 3 transfer tax on certain instruments, subject to certain limits; repealing a certain
 4 exemption from the Administrative Procedure Act; altering the amount of
 5 grants provided to counties under the Aging Schools Program; providing an
 6 exception to a certain mandatory level of State funds to be granted to Prince
 7 George's County and Baltimore City; expressing the intent of the General
 8 Assembly that the Board of Public Works establish an emergency repair fund to
 9 be used to finance certain renovations and improvements to public schools;
 10 specifying that the purchase of relocatable classrooms are eligible for State
 11 funding; requiring the Public School Construction Program to provide assistance
 12 to Baltimore City, counties, and local education agencies in using alternative
 13 financing mechanisms; requiring the Capital Debt Affordability Committee to
 14 review certain school funding needs and to make a certain annual
 15 recommendation; providing that private ownership of public schools does not
 16 affect the status of local school system employees; requiring the State
 17 Department of Education to adopt certain regulations; requiring the Board of
 18 Public Works to adopt certain regulations; defining certain terms; providing for
 19 the effective dates of this Act; and generally relating to the funding and
 20 administration of public school construction.

21 BY repealing and reenacting, with amendments,
 22 Article - Education
 23 Section 4-114, 5-206(f), 5-301, and 5-302
 24 Annotated Code of Maryland
 25 (2001 Replacement Volume and 2003 Supplement)

26 BY adding to
 27 Article - Education
 28 Section 4-126 and 5-309 through 5-311; and 5-601 through 5-604, inclusive, to
 29 be under the new subtitle "Subtitle 6. Authorization to Issue Bonds to
 30 Fund Public School Construction"
 31 Annotated Code of Maryland
 32 (2001 Replacement Volume and 2003 Supplement)

33 ~~BY repealing and reenacting, with amendments,~~
 34 ~~Article - Tax - General~~
 35 ~~Section 11-102(b)~~
 36 ~~Annotated Code of Maryland~~
 37 ~~(1997 Replacement Volume and 2003 Supplement)~~

38 BY repealing and reenacting, with amendments,
 39 Chapter 704 of the Acts of the General Assembly of 1998, as amended by
 40 Chapter 420 of the Acts of the General Assembly of 2001 and Chapter 289
 41 of the Acts of the General Assembly of 2002
 42 Section 3

1 BY repealing and reenacting, with amendments,
2 Chapter 280 of the Acts of the General Assembly of 2001, as amended by
3 Chapter 288 of the Acts of the General Assembly of 2002 and Chapter 388
4 of the Acts of the General Assembly of 2003
5 Section 1

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

8 **Article - Education**

9 4-114.

10 (a) All property granted, conveyed, devised, or bequeathed for the use of a
11 particular public school or school system:

12 (1) [Shall] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,
13 SHALL be held in trust for the benefit of the school or school system by the
14 appropriate county board; and

15 (2) Is exempt from all State and local taxes.

16 (b) Money invested in trust for the benefit of the public schools for any county
17 or city is exempt from all State and local taxes.

18 (C) (1) A PRIVATE ENTITY MAY HOLD TITLE TO PROPERTY USED FOR A
19 PARTICULAR PUBLIC SCHOOL OR LOCAL SCHOOL SYSTEM IF THE PRIVATE ENTITY IS
20 CONTRACTUALLY OBLIGATED TO TRANSFER TITLE TO THE APPROPRIATE COUNTY
21 BOARD ON A SPECIFIED DATE.

22 (2) THE CONVEYANCE OF TITLE OF SCHOOL PROPERTY TO A PRIVATE
23 ENTITY FOR A SPECIFIED TERM UNDER THIS SUBSECTION MAY NOT BE CONSTRUED
24 TO PROHIBIT THE ALLOCATION OF CONSTRUCTION FUNDS TO AN APPROVED
25 SCHOOL CONSTRUCTION PROJECT UNDER THE PUBLIC SCHOOL CONSTRUCTION
26 PROGRAM.

27 (3) A COUNTY OR COUNTY BOARD MAY CONVEY OR DISPOSE OF
28 SURPLUS LAND UNDER THE JURISDICTION OF THE COUNTY OR COUNTY BOARD IN
29 EXCHANGE FOR PUBLIC SCHOOL CONSTRUCTION OR DEVELOPMENT SERVICES.

30 4-126.

31 (A) IN THIS SECTION, "ALTERNATIVE FINANCING METHODS" INCLUDES:

32 (1) SALE-LEASEBACK ARRANGEMENTS, IN WHICH A COUNTY BOARD
33 AGREES TO TRANSFER TITLE TO A PROPERTY, INCLUDING IMPROVEMENTS, TO A
34 PRIVATE ENTITY THAT SIMULTANEOUSLY AGREES TO LEASE THE PROPERTY BACK
35 TO THE COUNTY BOARD AND, ON A SPECIFIED DATE, TRANSFER TITLE BACK TO THE
36 COUNTY BOARD;

1 (2) LEASE-LEASEBACK ARRANGEMENTS, IN WHICH A COUNTY BOARD
2 LEASES A PROPERTY TO A PRIVATE ENTITY THAT IMPROVES THE PROPERTY AND
3 LEASES THE PROPERTY, WITH THE IMPROVEMENTS, BACK TO THE COUNTY BOARD;

4 (3) PUBLIC-PRIVATE PARTNERSHIP AGREEMENTS, IN WHICH A COUNTY
5 BOARD CONTRACTS WITH A PRIVATE ENTITY FOR THE ACQUISITION, DESIGN,
6 CONSTRUCTION, IMPROVEMENT, RENOVATION, EXPANSION, EQUIPPING, OR
7 FINANCING OF A PUBLIC SCHOOL, AND MAY INCLUDE PROVISIONS FOR
8 COOPERATIVE USE OF THE SCHOOL OR AN ADJACENT PROPERTY AND GENERATION
9 OF REVENUE TO OFFSET THE COST OF CONSTRUCTION OR USE OF THE SCHOOL; ~~AND~~

10 (4) PERFORMANCE-BASED CONTRACTING, IN WHICH A COUNTY BOARD
11 ENTERS INTO AN ENERGY PERFORMANCE CONTRACT TO OBTAIN FUNDING FOR A
12 PROJECT WITH GUARANTEED ENERGY SAVINGS OVER A SPECIFIED TIME PERIOD;
13 AND

14 (5) DESIGN-BUILD ARRANGEMENTS, THAT PERMIT A COUNTY BOARD TO
15 CONTRACT WITH A DESIGN-BUILD BUSINESS ENTITY FOR THE COMBINED DESIGN
16 AND CONSTRUCTION OF QUALIFIED EDUCATION FACILITIES, INCLUDING
17 FINANCING MECHANISMS WHERE THE BUSINESS ENTITY ASSISTS THE LOCAL
18 GOVERNING BODY IN OBTAINING PROJECT FINANCING.

19 (B) EXCEPT WHEN PROHIBITED BY LOCAL LAW, IN ORDER TO FINANCE OR TO
20 SPEED DELIVERY OF, TRANSFER RISKS OF, OR OTHERWISE ENHANCE THE DELIVERY
21 OF PUBLIC SCHOOL CONSTRUCTION, A COUNTY MAY:

22 (1) USE ALTERNATIVE FINANCING METHODS;

23 (2) ENGAGE IN COMPETITIVE NEGOTIATION, RATHER THAN
24 COMPETITIVE BIDDING, IN LIMITED CIRCUMSTANCES, INCLUDING CONSTRUCTION
25 MANAGEMENT AT-RISK ARRANGEMENTS AND OTHER ALTERNATIVE PROJECT
26 DELIVERY ARRANGEMENTS, AS PROVIDED IN REGULATIONS ADOPTED BY THE
27 BOARD OF PUBLIC WORKS;

28 (3) ACCEPT UNSOLICITED PROPOSALS FOR THE DEVELOPMENT OF
29 PUBLIC SCHOOLS IN LIMITED CIRCUMSTANCES, AS PROVIDED IN REGULATIONS
30 ADOPTED BY THE BOARD OF PUBLIC WORKS; AND

31 (4) USE QUALITY-BASED SELECTION, IN WHICH SELECTION IS BASED
32 ON A COMBINATION OF QUALIFICATIONS AND COST FACTORS, TO SELECT
33 DEVELOPERS AND BUILDERS, AS PROVIDED IN REGULATIONS ADOPTED BY THE
34 BOARD OF PUBLIC WORKS.

35 (C) THE BOARD OF PUBLIC WORKS SHALL ADOPT REGULATIONS REQUIRING A
36 PROJECT THAT QUALIFIES FOR ALTERNATIVE FINANCING METHODS UNDER THIS
37 SECTION TO MEET REQUIREMENTS REGARDING THE ADVANTAGES OF THE PROJECT
38 TO THE PUBLIC THAT INCLUDE PROVISIONS ADDRESSING:

39 (1) THE PROBABLE SCOPE, COMPLEXITY, OR URGENCY OF THE PROJECT;

1 (2) ANY RISK SHARING, ADDED VALUE, EDUCATION ENHANCEMENTS,
2 INCREASE IN FUNDING, OR ECONOMIC BENEFIT FROM THE PROJECT THAT WOULD
3 NOT OTHERWISE BE AVAILABLE;

4 (3) THE PUBLIC NEED FOR THE PROJECT; AND

5 (4) THE ESTIMATED COST OR TIMELINESS OF EXECUTING THE PROJECT.

6 (D) PROJECTS THAT QUALIFY FOR ALTERNATIVE FINANCING METHODS
7 UNDER THIS SUBSECTION:

8 (1) SHALL MEET THE EDUCATIONAL STANDARDS, DESIGN STANDARDS,
9 AND PROCEDURAL REQUIREMENTS UNDER THIS ARTICLE AND UNDER
10 REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS; AND

11 (2) CONSISTENT WITH THE REQUIREMENTS OF THIS ARTICLE, SHALL BE
12 APPROVED BY:

13 (I) THE COUNTY GOVERNING BODY;

14 (II) THE STATE SUPERINTENDENT OF SCHOOLS; OR

15 (III) THE INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION
16 AND THE BOARD OF PUBLIC WORKS.

17 (E) USE OF ALTERNATIVE FINANCING METHODS UNDER THIS SECTION MAY
18 NOT BE CONSTRUED TO PROHIBIT THE ALLOCATION OF STATE FUNDS FOR PUBLIC
19 SCHOOL CONSTRUCTION TO A PROJECT UNDER THE PUBLIC SCHOOL
20 CONSTRUCTION PROGRAM.

21 (F) A COUNTY BOARD MAY NOT USE ALTERNATIVE FINANCING METHODS
22 UNDER THIS SECTION WITHOUT THE APPROVAL OF THE COUNTY GOVERNING BODY.

23 ~~(C)~~ (G) ~~AT THE REQUEST OF THE INTERAGENCY COMMITTEE ON SCHOOL~~
24 ~~CONSTRUCTION, THE BOARD OF PUBLIC WORKS MAY SHALL ADOPT REGULATIONS~~
25 RECOMMENDED BY THE INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION TO
26 IMPLEMENT THE PROVISIONS OF THIS SECTION, INCLUDING:

27 (1) GUIDELINES FOR THE CONTENT OF PROPOSALS, FOR THE THE
28 ACCEPTANCE AND EVALUATION OF UNSOLICITED PROPOSALS, AND FOR ACCEPTING
29 COMPETING UNSOLICITED PROPOSALS;

30 (2) REQUIREMENTS FOR THE CONTENT AND EXECUTION OF A
31 COMPREHENSIVE AGREEMENT GOVERNING AN ARRANGEMENT AUTHORIZED UNDER
32 THIS SECTION; AND

33 ~~(3)~~ ~~THE APPLICABILITY OF STATE PROCUREMENT LAWS TO~~
34 ~~PROCUREMENT OR FINANCING OF PUBLIC SCHOOL CONSTRUCTION AUTHORIZED~~
35 ~~UNDER THIS SECTION.~~

36 (3) GUIDELINES FOR CONTENT AND ISSUANCE OF SOLICITATIONS;

1 (4) REQUIREMENTS FOR THE PREQUALIFICATION OF BIDDERS OR
2 OFFERORS;

3 (5) REQUIREMENTS FOR PUBLIC NOTICE OF SOLICITED AND
4 UNSOLICITED PROPOSALS AND PROPOSED EXECUTION OF A COMPREHENSIVE
5 AGREEMENT;

6 (6) REGULATIONS THAT REQUIRE COMPLIANCE WITH REQUIREMENTS
7 APPLICABLE TO QUALIFIED PROJECTS THAT WOULD OTHERWISE BE IN EFFECT
8 UNDER THE STATE PROCUREMENT LAW IF THE PROCUREMENT WERE
9 COMPETITIVELY BID; AND

10 (7) REGULATIONS THAT REQUIRE THAT CONTRACTS AND
11 SUBCONTRACTS ADHERE TO THE REQUIREMENTS OF TITLE 17, SUBTITLE 2 AND
12 TITLE 14 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

13 5-302.

14 (a) (1) The BOARD OF PUBLIC WORKS SHALL ESTABLISH THE Interagency
15 Committee on School Construction [established by the Board of Public Works is] AS
16 a unit within the Department for administrative and budgetary purposes.

17 (2) THE INTERAGENCY COMMITTEE CONSISTS OF THE FOLLOWING
18 MEMBERS:

19 (I) THE STATE SUPERINTENDENT OF SCHOOLS, OR THE
20 SUPERINTENDENT'S DESIGNEE;

21 (II) THE SECRETARY OF THE DEPARTMENT OF PLANNING, OR THE
22 SECRETARY'S DESIGNEE; AND

23 (III) THE SECRETARY OF GENERAL SERVICES, OR THE SECRETARY'S
24 DESIGNEE.

25 (3) THE STATE SUPERINTENDENT OF SCHOOLS, OR THE
26 SUPERINTENDENT'S DESIGNEE, SHALL BE THE CHAIRMAN OF THE INTERAGENCY
27 COMMITTEE.

28 (4) THE BOARD OF PUBLIC WORKS MAY DELEGATE THE
29 ADMINISTRATIVE AND BUDGETARY AUTHORITY OF THE BOARD TO THE
30 INTERAGENCY COMMITTEE AS DETERMINED BY THE BOARD TO BE NECESSARY AND
31 APPROPRIATE.

32 (b) (1) The Department or any other State agency may lend its employees to
33 serve as the staff for the Interagency Committee.

34 (2) These employees shall be paid by the agency that employs them.

35 (c) The Executive Director of the Interagency Committee shall be appointed
36 by the Interagency Committee with the approval of the Board of Public Works.

1 (d) (1) (I) The Interagency Committee [on School Construction] shall
2 prepare projections of school construction and capital improvement needs for
3 submission to the Capital Debt Affordability Committee under § 8-112(c)(3) of the
4 State Finance and Procurement Article.

5 (II) The projections shall be prepared in accordance with the [rules,
6 regulations, and procedures] REGULATIONS adopted by the Board under § 5-301 of
7 this subtitle.

8 (2) (I) The Board of Public Works or the Interagency Committee [on
9 School Construction] shall notify each county board and each local governing body of
10 the annual allocation of school construction funds recommended to the Board of
11 Public Works by the Governor under the consolidated capital debt program of the
12 State Finance and Procurement Article.

13 (II) The notification shall be made immediately after the Governor
14 has recommended the allocations so that each county may structure its respective
15 school construction and capital improvement priorities in accordance with the annual
16 allocation and any amendments.

17 (E) (1) ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE INTERAGENCY
18 COMMITTEE SHALL PROVIDE RECOMMENDATIONS TO THE BOARD OF PUBLIC WORKS
19 FOR PUBLIC SCHOOL CONSTRUCTION PROJECTS THAT COMPRISE AT LEAST 75% OF
20 THE ANTICIPATED SCHOOL CONSTRUCTION ALLOCATION FOR THE FOLLOWING
21 FISCAL YEAR.

22 (2) THE REMAINING PUBLIC SCHOOL CONSTRUCTION ALLOCATION FOR
23 THE FOLLOWING FISCAL YEAR MAY BE ALLOCATED BY THE BOARD OF PUBLIC
24 WORKS AS PROVIDED IN REGULATION.

25 5-309.

26 IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE DEPARTMENT AND
27 THE PUBLIC SCHOOL CONSTRUCTION PROGRAM ENCOURAGE LOCAL EDUCATION
28 AGENCIES TO REUSE RECENTLY USED SCHOOL DESIGNS, WHEN EDUCATIONALLY
29 APPROPRIATE AND COST EFFECTIVE OVER THE USEFUL LIFE OF THE PROJECT,
30 WITHIN EACH COUNTY AND ACROSS LOCAL SCHOOL SYSTEM BOUNDARIES.

31 5-310.

32 (A) EACH FISCAL YEAR, THE INTERAGENCY COMMITTEE SHALL SURVEY THE
33 CONDITION OF SCHOOL BUILDINGS IDENTIFIED BY THE DEPARTMENT.

34 (B) THE DEPARTMENT OF GENERAL SERVICES SHALL CONDUCT THE
35 INSPECTIONS OF INDIVIDUAL SCHOOL BUILDINGS THAT THE INTERAGENCY
36 COMMITTEE REQUIRES TO COMPLETE THE SURVEY REQUIRED IN SUBSECTION (A) OF
37 THIS SECTION.

38 (C) THE INTERAGENCY COMMITTEE SHALL REPORT TO THE GOVERNOR AND
39 THE GENERAL ASSEMBLY, ON OR BEFORE OCTOBER 1 OF EACH YEAR, IN

1 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE
2 RESULTS OF THE SURVEY FOR THE PRIOR FISCAL YEAR.

3 5-311.

4 ON OR BEFORE JULY 1 OF EACH YEAR, THE DEPARTMENT OF GENERAL
5 SERVICES SHALL PROVIDE A REPORT TO THE DEPARTMENT AND EACH LOCAL
6 EDUCATION AGENCY THAT DESCRIBES EXISTING STATE PURCHASING CONTRACTS
7 THAT LOCAL EDUCATION AGENCIES MAY USE TO PURCHASE SCHOOL FURNITURE,
8 EQUIPMENT, COMMODITIES, AND SERVICES.

9 SUBTITLE 6. AUTHORIZATION TO ISSUE BONDS TO FUND PUBLIC SCHOOL
10 CONSTRUCTION.

11 5-601.

12 ~~EXCEPT AS PROVIDED IN § 5-603(B) AND (C) OF THIS SUBTITLE,~~ THE PROVISIONS
13 OF THIS SUBTITLE DO NOT APPLY TO A COUNTY OTHERWISE AUTHORIZED TO ISSUE
14 BONDS TO FUND PUBLIC SCHOOL CONSTRUCTION UNDER OTHER PROVISIONS OF
15 THE CODE.

16 5-602.

17 (A) IN THIS SUBTITLE, "CONSTRUCTION OR IMPROVEMENT" MEANS THE
18 PLANNING, DESIGN, ENGINEERING, ALTERATION, CONSTRUCTION,
19 RECONSTRUCTION, ENLARGEMENT, EXPANSION, EXTENSION, IMPROVEMENT,
20 REPLACEMENT, REHABILITATION, RENOVATION, UPGRADING, REPAIR, OR CAPITAL
21 EQUIPPING.

22 (B) A COUNTY MAY ISSUE BONDS TO FINANCE ANY OR ALL OF THE COSTS OF
23 CONSTRUCTION OR IMPROVEMENT OF PUBLIC SCHOOLS IN THE COUNTY PROVIDED
24 THAT THE CONSTRUCTION AND IMPROVEMENT CONTRACTS AND SUBCONTRACTS
25 COMPLY WITH THE REQUIREMENTS OF TITLE 17, SUBTITLE 2 AND TITLE 14 OF THE
26 STATE FINANCE AND PROCUREMENT ARTICLE.

27 (C) (1) BONDS SHALL BE AUTHORIZED BY A RESOLUTION OF THE
28 GOVERNING BODY OF THE COUNTY.

29 (2) THE RESOLUTION SHALL:

30 (I) GENERALLY DESCRIBE THE PUBLIC SCHOOL CONSTRUCTION
31 OR IMPROVEMENTS TO BE FINANCED THROUGH THE SALE OF THE BONDS;

32 (II) STATE THE MAXIMUM PRINCIPAL AMOUNT OF THE BONDS;

33 (III) DESCRIBE THE SOURCES OF REPAYMENT OF THE BONDS;

34 (IV) STATE THE MAXIMUM TERM OF THE BONDS, WHICH MAY NOT
35 EXCEED 30 YEARS; AND

1 (V) DESCRIBE ANY TERMS OR CONDITIONS UNDER WHICH THE
2 BONDS MAY BE REDEEMED BEFORE MATURITY.

3 (D) THE BONDS SHALL:

4 (1) BE DATED AND BEAR INTEREST AT A RATE SPECIFIED IN THE
5 RESOLUTION;

6 (2) MATURE WITHIN 30 YEARS OF THE DATE OF ISSUANCE OF THE
7 BONDS;

8 (3) BE ISSUED AT, ABOVE, OR BELOW PAR VALUE, FOR CASH OR OTHER
9 CONSIDERATION;

10 (4) BE PAYABLE AT A TIME, IN THE DENOMINATION, IN REGISTERED
11 FORM, WITHIN THE MEANING OF ARTICLE 31, § 30 OF THE CODE, AS SPECIFIED IN
12 THE RESOLUTION;

13 (5) CARRY THE REGISTRATION AND PRIVILEGES AS TO CONVERSION
14 AND FOR THE REPLACEMENT OF MUTILATED, LOST, OR DESTROYED BONDS, AS
15 SPECIFIED IN THE RESOLUTION;

16 (6) BE PAYABLE IN LAWFUL MONEY OF THE UNITED STATES OF
17 AMERICA AT A DESIGNATED PLACE;

18 (7) BE SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED IN THE
19 RESOLUTION; AND

20 (8) BE SOLD IN THE MANNER, INCLUDING PRIVATE OR NEGOTIATED
21 SALE, AND UPON THE TERMS, SPECIFIED IN THE RESOLUTION.

22 (E) THE COUNTY MAY ENTER INTO AGREEMENTS WITH AGENTS, BANKS,
23 FIDUCIARIES, INSURERS, OR OTHERS TO:

24 (1) ENHANCE THE MARKETABILITY OF AND SECURITY FOR THE BONDS;
25 OR

26 (2) SECURE ANY TENDER OPTION GRANTED TO THE HOLDERS OF THE
27 BONDS.

28 (F) IF ANY OFFICER WHOSE SIGNATURE APPEARS ON A BOND CEASES TO BE
29 AN OFFICER BEFORE DELIVERY OF THE BONDS, THE SIGNATURE IS VALID AND
30 SUFFICIENT FOR ALL PURPOSES.

31 (G) THE BONDS, THEIR ISSUE, AND THEIR SALE MAY BE EXEMPT FROM THE
32 PROVISIONS OF SECTIONS 9, 10, AND 11 OF ARTICLE 31 OF THE CODE.

33 (H) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
34 NET PROCEEDS OF THE SALE OF THE BONDS MAY ONLY BE APPLIED TO THE
35 CONSTRUCTION OR IMPROVEMENT OF PUBLIC SCHOOL FACILITIES, AS DESCRIBED
36 IN THE RESOLUTION AUTHORIZING THE ISSUANCE OF THE BONDS.

1 (2) IF THE NET PROCEEDS OF THE SALE OF ANY BONDS EXCEEDS THE
2 AMOUNT NEEDED FOR THE CONSTRUCTION OR IMPROVEMENT OF THE PUBLIC
3 SCHOOL FACILITIES, AS DESCRIBED IN THE RESOLUTION, THE EXCESS FUNDS SHALL
4 BE APPLIED TO:

5 (I) THE PAYMENT OF INTEREST ON THE BONDS;

6 (II) THE PAYMENT OF THE NEXT PRINCIPAL MATURITY OF THE
7 BONDS;

8 (III) THE REDEMPTION OF ANY PART OF THE BONDS THAT ARE
9 REDEEMABLE BEFORE MATURITY; OR

10 (IV) IF AUTHORIZED BY A RESOLUTION ISSUED BY THE GOVERNING
11 BODY OF THE COUNTY, THE CONSTRUCTION OR IMPROVEMENT OF OTHER PUBLIC
12 SCHOOL FACILITIES.

13 (I) BONDS ISSUED UNDER THIS SUBTITLE ARE NEGOTIABLE INSTRUMENTS
14 UNDER THE LAWS OF THIS STATE.

15 (J) BEFORE THE PREPARATION OF BONDS, THE COUNTY MAY ISSUE BOND
16 ANTICIPATION NOTES IN ACCORDANCE WITH ARTICLE 31, § 12 OF THE CODE.

17 5-603.

18 (A) BONDS ISSUED UNDER THIS SUBTITLE CONSTITUTE AN IRREVOCABLE
19 PLEDGE OF THE FULL FAITH AND CREDIT AND UNLIMITED TAXING POWER OF THE
20 COUNTY TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS
21 WHEN THE BONDS BECOME PAYABLE.

22 ~~(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE~~
23 ~~GOVERNING BODY OF A COUNTY MAY IMPOSE A TRANSFER TAX ON AN INSTRUMENT~~
24 ~~OF WRITING, AS DEFINED IN § 13-101(C) OF THE TAX PROPERTY ARTICLE:~~

25 ~~(I) RECORDED WITH THE CLERK OF THE CIRCUIT COURT FOR THE~~
26 ~~COUNTY; OR~~

27 ~~(II) FILED WITH THE STATE DEPARTMENT OF ASSESSMENTS AND~~
28 ~~TAXATION.~~

29 ~~(2) A TRANSFER TAX IMPOSED UNDER THIS SUBSECTION:~~

30 ~~(I) MAY NOT EXCEED THE AMOUNT REQUIRED TO MAKE~~
31 ~~PAYMENTS, WHEN DUE, ON THE PRINCIPAL OF AND INTEREST ON BONDS ISSUED TO~~
32 ~~FUND PUBLIC SCHOOL CONSTRUCTION; AND~~

33 ~~(II) DOES NOT APPLY TO AN INSTRUMENT OF WRITING EXEMPT~~
34 ~~FROM THE STATE TRANSFER TAX UNDER § 13-207 OF THE TAX PROPERTY ARTICLE.~~

35 ~~(3) THIS SUBSECTION DOES NOT APPLY TO A COUNTY OTHERWISE~~
36 ~~AUTHORIZED TO IMPOSE A TRANSFER TAX ON JUNE 30, 2004.~~

1 ~~(C)~~ (1) IN THIS SUBSECTION, "RETAIL SALE", "SALE", AND "TAXABLE PRICE"
2 HAVE THE MEANINGS STATED IN § 11-101 OF THE TAX—GENERAL ARTICLE.

3 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE
4 GOVERNING BODY OF A COUNTY MAY IMPOSE, BY ORDINANCE, AND COLLECT A
5 SALES TAX ON A RETAIL SALE WITHIN THE COUNTY.

6 ~~(3)~~ A TAX IMPOSED UNDER THIS SECTION DOES NOT APPLY TO A SALE
7 THAT IS EXEMPT FROM THE STATE SALES AND USE TAX UNDER TITLE 11 OF THE TAX
8 —GENERAL ARTICLE.

9 (4) A TAX IMPOSED UNDER THIS SECTION MAY NOT EXCEED THE
10 AMOUNT REQUIRED TO MAKE PAYMENTS, WHEN DUE, ON THE PRINCIPAL OF AND
11 INTEREST ON BONDS ISSUED TO FUND PUBLIC SCHOOL CONSTRUCTION.

12 ~~(D)~~ (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
13 IN EVERY FISCAL YEAR IN WHICH ANY OF THE BONDS ARE OUTSTANDING, THE
14 COUNTY SHALL LEVY AD VALOREM TAXES ON ALL ASSESSABLE PROPERTY WITHIN
15 THE CORPORATE LIMITS OF THE COUNTY IN AN AMOUNT SUFFICIENT TO MAKE
16 PAYMENTS, WHEN DUE, ON THE PRINCIPAL OF AND INTEREST ON THE BONDS.

17 (2) IF OTHER FUNDS ARE AVAILABLE TO PAY THE PRINCIPAL OF AND
18 INTEREST ON THE BONDS, THE COUNTY MAY REDUCE THE TAXES THAT WOULD
19 OTHERWISE NEED TO BE LEVIED UNDER THIS SECTION.

20 ~~(E)~~ (C) THE COUNTY MAY APPLY FUNDS RECEIVED FROM ANY SOURCE TO
21 THE PAYMENT OF PRINCIPAL OF AND INTEREST ON THE BONDS.

22 5-604.

23 BONDS ISSUED UNDER THIS SUBTITLE ARE EXEMPT FROM STATE, COUNTY,
24 AND MUNICIPAL TAXATION.

25 **Article—Tax—General**

26 ~~11-102.~~

27 (b) (1) A county, municipal corporation, special taxing district, or other
28 political subdivision of the State may not impose any retail sales or use tax except:

29 (i) a sales tax or use tax that was in effect on January 1, 1971;

30 (ii) a tax on the sale or use of:

31 1. fuels;

32 2. utilities;

33 3. space rentals; or

1 4. ~~any controlled dangerous substance, as defined in § 5-101~~
 2 ~~of the Criminal Law Article, unless the sale is made by a person who registers under~~
 3 ~~and complies with Title 5, Subtitle 3 of the Criminal Law Article; [or]~~

4 (iii) ~~a tax imposed by a code county on the sale or use of food and~~
 5 ~~beverages authorized under Article 25B, § 13H of the Code; OR~~

6 (IV) ~~A SALES TAX IMPOSED BY A COUNTY AUTHORIZED TO IMPOSE A~~
 7 ~~SALES TAX UNDER § 5-603(C) OF THE EDUCATION ARTICLE.~~

8 (2) ~~Paragraph (1) of this subsection may not be construed as conferring~~
 9 ~~authority to impose a sales and use tax.~~

10 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 11 read as follows:

12 **Article - Education**

13 5-301.

14 (a) IN THIS SUBTITLE, "INTERAGENCY COMMITTEE" MEANS THE
 15 INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION ESTABLISHED UNDER §
 16 5-302 OF THIS SUBTITLE.

17 (B) (1) For the purposes of this section other than subsection (c), the Board
 18 of Public Works shall define by regulation what constitutes an [approved] ELIGIBLE
 19 AND INELIGIBLE public school construction or capital improvement cost.

20 (2) (I) THE PURCHASE OF RELOCATABLE CLASSROOMS SHALL BE AN
 21 ELIGIBLE PUBLIC SCHOOL CONSTRUCTION OR CAPITAL COST.

22 (II) THE BOARD OF PUBLIC WORKS SHALL ADOPT REGULATIONS
 23 THAT DEFINE RELOCATABLE CLASSROOMS AND ESTABLISH THE MINIMUM
 24 SPECIFICATIONS FOR RELOCATABLE CLASSROOMS WHICH MAY BE PURCHASED
 25 USING STATE FUNDS.

26 (III) IN THE BUDGETS FOR FISCAL YEARS 2006 THROUGH 2008, THE
 27 GOVERNOR SHALL INCLUDE \$1,000,000 FOR PUBLIC SCHOOL CONSTRUCTION, IN
 28 EXCESS OF THE ESTIMATES OF FUNDING FOR PUBLIC SCHOOL CONSTRUCTION
 29 CONTAINED IN THE FISCAL YEAR 2005 THROUGH FISCAL YEAR 2009 CAPITAL
 30 IMPROVEMENT PLAN, TO BE USED TO FUND THE STATE SHARE OF THE COST OF
 31 PURCHASING RELOCATABLE CLASSROOMS.

32 (3) The cost of acquiring land may not be considered a construction or
 33 capital improvement cost and may not be paid by the State.

34 [(b)] (C) The State shall pay the costs in excess of available federal funds of
 35 [all] THE STATE SHARE OF public school construction projects and public school
 36 capital 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 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) (D) (1) The Board of Public Works may adopt [rules, regulations, and
17 procedures] REGULATIONS for the administration of the programs provided for [by
18 subsections (b) and (d) of] IN this section.

19 (2) The [rules, regulations, and procedures] REGULATIONS adopted by
20 the Board of Public 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 (XI) AT THE RECOMMENDATION OF THE INTERAGENCY
4 COMMITTEE, THE ESTABLISHMENT OF PRIORITY PUBLIC SCHOOL CONSTRUCTION
5 PROGRAMS;

6 (XII) DEVELOPMENT OF COOPERATIVE ARRANGEMENTS THAT
7 PERMIT THE SHARING OF FACILITIES AMONG TWO OR MORE SCHOOL SYSTEMS;

8 (XIII) THE SELECTION OF ARCHITECTS AND ENGINEERS BY SCHOOL
9 SYSTEMS;

10 (XIV) THE AWARD OF CONTRACTS BY SCHOOL SYSTEMS; AND

11 (XV) METHOD OF PAYMENTS MADE BY THE STATE UNDER THE
12 PUBLIC SCHOOL CONSTRUCTION PROGRAM.

13 (3) THE REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS
14 SHALL CONTAIN PROVISIONS:

15 (I) ESTABLISHING A STATE AND LOCAL COST-SHARE FORMULA
16 FOR EACH COUNTY THAT IDENTIFIES THE FACTORS USED IN ESTABLISHING THE
17 FORMULAS;

18 (II) REQUIRING LOCAL EDUCATION AGENCIES TO ADOPT
19 EDUCATIONAL FACILITIES MASTER PLANS AND ANNUAL CAPITAL IMPROVEMENT
20 PROGRAMS;

21 (III) PROVIDING A METHOD FOR ESTABLISHING A MAXIMUM STATE
22 CONSTRUCTION ALLOCATION FOR EACH PROJECT APPROVED FOR STATE FUNDING;

23 (IV) REFERENCING THE POLICIES STATED IN § 5-7B-07 OF THE
24 STATE FINANCE AND PROCUREMENT ARTICLE;

25 (V) REQUIRING LOCAL SCHOOL SYSTEMS TO ADOPT PROCEDURES
26 CONSISTENT WITH THE MINORITY BUSINESS ENTERPRISE POLICIES OF THE STATE
27 AS REQUIRED UNDER THE CODE OF MARYLAND REGULATIONS;

28 (VI) ESTABLISHING A PROCESS FOR THE APPEAL OF DECISIONS BY
29 THE INTERAGENCY COMMITTEE TO THE BOARD OF PUBLIC WORKS;

30 (VII) REQUIRING LOCAL EDUCATION AGENCIES TO ADOPT,
31 IMPLEMENT, AND PERIODICALLY UPDATE COMPREHENSIVE MAINTENANCE PLANS;
32 AND

33 (VIII) AUTHORIZING THE BOARD OF PUBLIC WORKS TO WITHHOLD
34 STATE PUBLIC SCHOOL CONSTRUCTION FUNDS FROM A LOCAL EDUCATION AGENCY
35 THAT FAILS TO COMPLY WITH THE REQUIREMENTS OF ITEM (VII) OF THIS
36 PARAGRAPH.

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

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

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

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

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

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

24 (i) The State Board;

25 (ii) The State Superintendent;

26 (iii) The county governments;

27 (iv) The county boards; and

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

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

36 [(i)] (H) The obligation of the State to pay the costs of public school
37 construction and public school capital improvements extends only to those projects or

1 parts of projects that comply with the [rules, regulations, and procedures]
 2 REGULATIONS AND PROCEDURES of the Board of Public Works.

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

6 (2) [By rule or regulation] CONSISTENT WITH § 4-115 OF THIS ARTICLE
 7 AND REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS TO IMPLEMENT §
 8 4-126 OF THIS ARTICLE, the Board of Public Works may require BY REGULATION that
 9 the PORTION OF THE proceeds received by a county from the sale, lease, or disposal of
 10 any public school building THAT REPRESENT STATE FUNDS PROVIDED WITHIN 15
 11 YEARS PRIOR TO THE DATE OF THE TRANSACTION shall be used solely as part of the
 12 State funding of the construction of future public school buildings in the county in
 13 which the sale, lease, or disposal occurred, if the public school building was:
 14 CONSTRUCTED UNDER A CONTRACT EXECUTED ON OR AFTER FEBRUARY 1, 1971.

15 (i) ~~Constructed under a contract executed on or after February 1,~~
 16 ~~1971; and~~

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

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

22 [(k)] (J) (1) Whether by budget bill or supplementary appropriation bill, all
 23 money appropriated to carry out the purposes of this section is a separate fund that
 24 shall be administered by the State Comptroller in accordance with the [rules and]
 25 regulations adopted by the Board of Public Works.

26 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
 27 PARAGRAPH, NOTWITHSTANDING ANY OTHER CONTRARY PROVISION OF THE
 28 ANNOTATED CODE, ANY FUNDS APPROVED FOR A PROJECT THAT HAS NOT BEEN
 29 CONTRACTED FOR WITHIN 2 YEARS OF THE APPROVAL OF THE PROJECT SHALL
 30 REVERT TO THE FUND ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

31 (II) THE INTERAGENCY COMMITTEE, WITH THE APPROVAL OF THE
 32 BOARD OF PUBLIC WORKS, MAY EXTEND THE TIME PERIOD UNDER SUBPARAGRAPH
 33 (I) OF THIS PARAGRAPH IF THE INTERAGENCY COMMITTEE DETERMINES THAT
 34 UNUSUAL CIRCUMSTANCES EXIST.

35 (3) ANY UNEXPENDED ALLOCATIONS OF FUNDS FOR PREVIOUSLY
 36 APPROVED PROJECTS SHALL BE TRANSFERRED TO THE FUND ESTABLISHED UNDER
 37 PARAGRAPH (1) OF THIS SUBSECTION.

38 (4) ON OR BEFORE JUNE 1 AND DECEMBER 1 OF EACH YEAR, THE
 39 INTERAGENCY COMMITTEE SHALL REPORT TO THE GENERAL ASSEMBLY, IN
 40 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE

1 BALANCE IN THE FUND AS THE RESULT OF TRANSFERS OR REVERSIONS REQUIRED
2 UNDER THIS SUBSECTION.

3 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
4 read as follows:

5 **Article - Education**

6 5-301.

7 (a) IN THIS SUBTITLE, "INTERAGENCY COMMITTEE" MEANS THE
8 INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION ESTABLISHED UNDER §
9 5-302 OF THIS SUBTITLE.

10 (B) (1) For the purposes of this section other than subsection (c), the Board
11 of Public Works shall define by regulation what constitutes an [approved] ELIGIBLE
12 AND INELIGIBLE public school construction or capital improvement cost.

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

15 [(b)] (C) The State shall pay the costs in excess of available federal funds of
16 [all] THE STATE SHARE OF public school construction projects and public school
17 capital improvements in each county if:

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

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

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

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

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

33 [(e)] (D) (1) The Board of Public Works may adopt [rules, regulations, and
34 procedures] REGULATIONS for the administration of the programs provided for [by
35 subsections (b) and (d) of] IN this section.

1 (2) The [rules, regulations, and procedures] REGULATIONS adopted by
2 the Board of Public Works may contain requirements for:

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

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

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

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

9 (v) Site improvements;

10 (vi) Competitive bidding;

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

13 (viii) The actual construction of school buildings or their
14 improvements;

15 (ix) The relative roles of different State and local governmental
16 agencies in the planning and construction of school buildings or school capital
17 improvements; [and]

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

20 (XI) AT THE RECOMMENDATION OF THE INTERAGENCY
21 COMMITTEE, THE ESTABLISHMENT OF PRIORITY PUBLIC SCHOOL CONSTRUCTION
22 PROGRAMS;

23 (XII) DEVELOPMENT OF COOPERATIVE ARRANGEMENTS THAT
24 PERMIT THE SHARING OF FACILITIES AMONG TWO OR MORE SCHOOL SYSTEMS;

25 (XIII) THE SELECTION OF ARCHITECTS AND ENGINEERS BY SCHOOL
26 SYSTEMS;

27 (XIV) THE AWARD OF CONTRACTS BY SCHOOL SYSTEMS; AND

28 (XV) METHOD OF PAYMENTS MADE BY THE STATE UNDER THE
29 PUBLIC SCHOOL CONSTRUCTION PROGRAM.

30 (3) THE REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS
31 SHALL CONTAIN PROVISIONS:

32 (I) ESTABLISHING A STATE AND LOCAL COST-SHARE FORMULA
33 FOR EACH COUNTY THAT IDENTIFIES THE FACTORS USED IN ESTABLISHING THE
34 FORMULAS;

1 (II) REQUIRING LOCAL EDUCATION AGENCIES TO ADOPT
2 EDUCATIONAL FACILITIES MASTER PLANS AND ANNUAL CAPITAL IMPROVEMENT
3 PROGRAMS;

4 (III) PROVIDING A METHOD FOR ESTABLISHING A MAXIMUM STATE
5 CONSTRUCTION ALLOCATION FOR EACH PROJECT APPROVED FOR STATE FUNDING;

6 (IV) REFERENCING THE POLICIES STATED IN § 5-7B-07 OF THE
7 STATE FINANCE AND PROCUREMENT ARTICLE;

8 (V) REQUIRING LOCAL SCHOOL SYSTEMS TO ADOPT PROCEDURES
9 CONSISTENT WITH THE MINORITY BUSINESS ENTERPRISE POLICIES OF THE STATE
10 AS REQUIRED UNDER THE CODE OF MARYLAND REGULATIONS;

11 (VI) ESTABLISHING A PROCESS FOR THE APPEAL OF DECISIONS BY
12 THE INTERAGENCY COMMITTEE TO THE BOARD OF PUBLIC WORKS;

13 (VII) REQUIRING LOCAL EDUCATION AGENCIES TO ADOPT,
14 IMPLEMENT, AND PERIODICALLY UPDATE COMPREHENSIVE MAINTENANCE PLANS;
15 AND

16 (VIII) AUTHORIZING THE BOARD OF PUBLIC WORKS TO WITHHOLD
17 STATE PUBLIC SCHOOL CONSTRUCTION FUNDS FROM A LOCAL EDUCATION AGENCY
18 THAT FAILS TO COMPLY WITH THE REQUIREMENTS OF ITEM (VII) OF THIS
19 PARAGRAPH.

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

26 [(f)] (E) [(1)] 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 [(2)] Before the adoption, amendment, or repeal of any rule, regulation, or
30 procedure under this section, the Board of Public Works shall give notice of its
31 intended action to the county boards and to the county governing bodies.

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

34 [(g)] (F) The [rules, regulations, and procedures] REGULATIONS AND
35 PROCEDURES of the Board of Public Works adopted under this section and their
36 promulgation are exempt from [§§ 10-101 through 10-305 of the State Government
37 Article and] § 8-127(b) of the State Finance and Procurement Article of the Code.

1 [(h)] (G) (1) With respect to public school construction or public school
 2 capital improvements, including sites for school buildings, the authority,
 3 responsibilities, powers, and duties of the following are subject to the [rules,
 4 regulations, and procedures] REGULATIONS adopted by the Board of Public Works
 5 under this section:

- 6 (i) The State Board;
- 7 (ii) The State Superintendent;
- 8 (iii) The county governments;
- 9 (iv) The county boards; and
- 10 (v) All other State or local governmental agencies under this
 11 article.

12 (2) If, as to public school construction or public school capital
 13 improvements, there is any conflict between the [rules, regulations, and procedures]
 14 REGULATIONS AND PROCEDURES of the Board of Public Works and the authority,
 15 responsibilities, powers, and duties of the individuals and agencies specified in
 16 paragraph (1) of this subsection, the[rules, regulations, and procedures]
 17 REGULATIONS AND PROCEDURES of the Board of Public Works shall prevail.

18 [(i)] (H) The obligation of the State to pay the costs of public school
 19 construction and public school capital improvements extends only to those projects or
 20 parts of projects that comply with the [rules, regulations, and procedures]
 21 REGULATIONS AND PROCEDURES of the Board of Public Works.

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

25 (2) [By rule or regulation] CONSISTENT WITH § 4-115 OF THIS ARTICLE
 26 AND REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS TO IMPLEMENT §
 27 4-126 OF THIS ARTICLE, the Board of Public Works may require BY REGULATION that
 28 the PORTION OF THE proceeds received by a county from the sale, lease, or disposal of
 29 any public school building THAT REPRESENT STATE FUNDS PROVIDED WITHIN 15
 30 YEARS PRIOR TO THE DATE OF THE TRANSACTION shall be used solely as part of the
 31 State funding of the construction of future public school buildings in the county in
 32 which the sale, lease, or disposal occurred, if the public school building was:
 33 CONSTRUCTED UNDER A CONTRACT EXECUTED ON OR AFTER FEBRUARY 1, 1971.

34 (i) ~~Constructed under a contract executed on or after February 1,~~
 35 ~~1971; and~~

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

37 (3) The part of the proceeds from the sale, lease, or disposal of a public
 38 school building that fairly represents the appraised value of land and that part of the

1 cost of the public school building that was funded by the county shall remain as the
2 funds of the county.

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

7 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
8 PARAGRAPH, ANY FUNDS APPROVED FOR A PROJECT THAT HAS NOT BEEN
9 CONTRACTED FOR WITHIN 2 YEARS OF THE APPROVAL OF THE PROJECT SHALL
10 REVERT TO THE FUND ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

11 (II) THE INTERAGENCY COMMITTEE, WITH THE APPROVAL OF THE
12 BOARD OF PUBLIC WORKS, MAY EXTEND THE TIME PERIOD UNDER SUBPARAGRAPH
13 (I) OF THIS PARAGRAPH IF THE INTERAGENCY COMMITTEE DETERMINES THAT
14 UNUSUAL CIRCUMSTANCES EXIST.

15 (3) ANY UNEXPENDED ALLOCATIONS OF FUNDS FOR PREVIOUSLY
16 APPROVED PROJECTS SHALL BE TRANSFERRED TO THE FUND ESTABLISHED UNDER
17 PARAGRAPH (1) OF THIS SUBSECTION.

18 (4) ON OR BEFORE JUNE 1 AND DECEMBER 1 OF EACH YEAR, THE
19 INTERAGENCY COMMITTEE SHALL REPORT TO THE GENERAL ASSEMBLY, IN
20 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE
21 BALANCE IN THE FUND AS THE RESULT OF TRANSFERS OR REVERSIONS REQUIRED
22 UNDER THIS SUBSECTION.

23 SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland
24 read as follows:

25 **Article - Education**

26 5-206.

27 (f) In fiscal year [2004] 2006 and in each fiscal year thereafter, the State shall
28 distribute grants to county boards under the Aging Schools Program administered by
29 the Interagency Committee on School Construction in the following amounts:

30	(1)	Allegany County	[\$355,000] \$166,000
31	(2)	Anne Arundel County	[\$570,000] \$859,000
32	(3)	Baltimore City	[\$1,635,000] \$2,356,000
33	(4)	Baltimore County.....	[\$2,940,000] \$1,484,000
34	(5)	Calvert County	\$65,000
35	(6)	Caroline County	\$85,000

1	(7)	Carroll County	.....	[\$385,000]	\$233,000
2	(8)	Cecil County	.....	[\$355,000]	\$163,000
3	(9)	Charles County	.....	[\$65,000]	\$85,000
4	(10)	Dorchester County	.....		\$65,000
5	(11)	Frederick County	.....	[\$85,000]	\$310,000
6	(12)	Garrett County	.....	[\$85,000]	\$65,000
7	(13)	Harford County	.....	[\$400,000]	\$369,000
8	(14)	Howard County	.....	[\$65,000]	\$149,000
9	(15)	Kent County	.....		\$65,000
10	(16)	Montgomery County	.....	[\$1,170,000]	\$1,023,000
11	(17)	Prince George's County	.....	[\$970,000]	\$2,053,000
12	(18)	Queen Anne's County	.....		\$85,000
13	(19)	St. Mary's County	.....		\$85,000
14	(20)	Somerset County	.....		\$65,000
15	(21)	Talbot County	.....	[\$155,000]	\$65,000
16	(22)	Washington County	.....	[\$200,000]	\$229,000
17	(23)	Wicomico County	.....	[\$355,000]	\$181,000
18	(24)	Worcester County	.....		\$65,000

19 SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland
20 read as follows:

21 **Chapter 704 of the Acts of 1998, as amended by Chapter 420 of the Acts of**
22 **2001 and Chapter 289 of the Acts of 2002**

23 SECTION 3. AND BE IT FURTHER ENACTED, That, UNLESS REGULATIONS
24 ADOPTED BY THE BOARD OF PUBLIC WORKS REQUIRE THE STATE TO PROVIDE A
25 LARGER PERCENTAGE, for fiscal years 1999 through 2007, in each year, the State
26 shall provide 75 percent of the eligible costs for up to \$35 million in public school
27 construction costs in Prince George's County. At least \$20 million of the State funds
28 must be spent each year on neighborhood school projects. For fiscal years 1999
29 through 2003, UNLESS REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS
30 REQUIRE THE STATE TO PROVIDE A LARGER PERCENTAGE, for funding above \$35
31 million, the State shall provide 60 percent of the eligible costs. For fiscal years 2004

1 through 2007, UNLESS REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS
2 REQUIRE THE STATE TO PROVIDE A LARGER PERCENTAGE, for funding above \$35
3 million, the State shall provide 65 percent of the eligible costs. Neighborhood school
4 projects shall be identified by the Interagency Committee on Public School
5 Construction and shall include new public schools and additions or improvements to
6 existing public schools which serve students reassigned to their local communities
7 based upon the Community Schools Education Plan developed by the Prince George's
8 County Board of Education.

9 SECTION 6. AND BE IT FURTHER ENACTED, That the Laws of Maryland
10 read as follows:

11 **Chapter 280 of the Acts of 2001, as amended by Chapter 288 of the Acts of**
12 **2002 and Chapter 388 of the Acts of 2003**

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That, notwithstanding any other provision of law, UNLESS
15 REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS REQUIRE THE STATE TO
16 PROVIDE A LARGER PERCENTAGE, for fiscal years 2002 through 2005, in each year,
17 the State shall provide 90 percent of the eligible costs for up to and including \$20
18 million in public school construction projects in Baltimore City, and for funding above
19 \$20 million, the State shall provide 75 percent of the eligible costs.

20 SECTION 7. AND BE IT FURTHER ENACTED, That, on or before July 1,
21 2005, at the request of the Interagency Committee on School Construction, the Board
22 of Public Works shall adopt regulations, in accordance with Title 10, Subtitle 1 of the
23 State Government Article, to implement the provisions of this Act and that:

24 (1) reduce the State rated classroom capacity for elementary grades 1 to 5 to
25 23 students per classroom;

26 (2) establish a planning priority process to evaluate requests for State
27 planning approval in the annual Capital Improvement Programs of local education
28 agencies;

29 (3) develop design guidelines and provide financial incentives, such as
30 supplemental design funds or additional construction funding, for school construction
31 projects that use innovative building techniques or include energy conservation,
32 sustainable building, or green architecture design features; and

33 (4) establish a new State and local cost-share formula for each county for use
34 beginning in fiscal year 2006, consistent with the recommendations contained in the
35 Report of the Task Force to Study Public School Facilities, issued in February 2004
36 provided that:

37 (i) pay-as-you-go funding provided by a county shall be included in the
38 local debt calculation used to determine the State share; and

1 (ii) the new State and local cost-share formula adopted under this
2 section shall ensure that during fiscal year 2006 through fiscal year 2008, no county
3 has a State share that is less than the county's State share in fiscal year 2005.

4 SECTION 8. AND BE IT FURTHER ENACTED, That the State Department
5 of Education shall adopt regulations that provide for periodic surveys of the condition
6 of public school facilities in Maryland at least every 4 years. The surveys should be
7 similar to the Facility Assessment Survey that the State Department conducted, at
8 the direction of the Task Force to Study Public School Facilities, in 2003. The State
9 shall provide funds necessary to conduct the survey.

10 SECTION 9. AND BE IT FURTHER ENACTED, That it is the intent of the
11 General Assembly that the Board of Public Works and the Interagency Committee on
12 School Construction establish an emergency repair fund to finance renovations and
13 improvements to public schools that resolve deficiencies that present an immediate
14 hazard to the health or safety of the students or staff of the schools, as certified by
15 local education agencies and approved by the Interagency Committee on School
16 Construction. By July 1, 2004, the Board of Public Works and the Interagency
17 Committee on School Construction shall develop procedures for use of the emergency
18 repair fund to resolve deficiencies that present an immediate health or safety hazard
19 and to resolve deficiencies that, if not corrected, may present an immediate health or
20 safety hazard. It is the intent of the General Assembly that at least \$2 million be
21 provided for the emergency repair fund in fiscal year 2005.

22 SECTION 10. AND BE IT FURTHER ENACTED, That it is the intent of the
23 Governor and the General Assembly that the State should pursue a goal of fully
24 funding by fiscal 2013 a minimum of \$3.85 billion in school facility needs, as
25 identified by the 2003 School Facility Assessment Survey of minimum standards
26 conducted at the request of the Task Force to Study Public School Facilities.
27 Achieving this goal in light of the fiscal outlook will be challenging and will require a
28 significant commitment by the State to provide approximately \$2 billion and by local
29 governments to provide approximately \$1.85 billion over the next 8 years for school
30 construction projects. It is recognized that this amount does not include many projects
31 that local education agencies believe are necessary, but it does include basic,
32 minimum facility standards for all public schools in Maryland.

33 SECTION 11. AND BE IT FURTHER ENACTED, That in 2005, and each year
34 thereafter, the Capital Debt Affordability Committee shall review the additional
35 school construction funding needs as identified in the 2004 Task Force to Study Public
36 School Facilities report and shall make a specific recommendation regarding
37 additional funding for school construction when recommending the State's annual
38 debt limit. The recommendation by the Capital Debt Affordability Committee shall
39 include a multiyear funding recommendation that will provide stability in the annual
40 funding for school construction.

41 SECTION 12. AND BE IT FURTHER ENACTED, That notwithstanding any
42 private ownership of public schools authorized under this Act, all certificated and
43 noncertificated employees of local school systems shall remain employees of the local
44 school system.

1 SECTION ~~11~~. 13. AND BE IT FURTHER ENACTED, That the Public School
2 Construction Program shall provide assistance to Baltimore City, counties, and local
3 education agencies in using alternative financing mechanisms to fund school
4 construction, when appropriate. The Public School Construction Program shall
5 prepare a guide for Baltimore City, counties, and local education agencies to use when
6 evaluating alternative financing proposals. The guide should include model contracts,
7 model solicitations, and references to other documents which provide information on
8 alternative financing. The Public School Construction Program should help Baltimore
9 City, counties, and local education agencies identify when an alternative financing
10 mechanism may be appropriate for a particular project and to develop the
11 procurement, contractual, and technical instruments that will meet State and local
12 procurement requirements and bring the project to a successful conclusion. The
13 Public School Construction Program shall report to the Board of Public Works,
14 Baltimore City, the county governments, local education agencies, and the General
15 Assembly on or before September 1 of each year, in accordance with § 2-1246 of the
16 State Government Article, on the use of alternative financing mechanisms to finance
17 public school construction in Maryland in the prior fiscal year.

18 SECTION ~~12~~. 14. AND BE IT FURTHER ENACTED, That Section 3 of this
19 Act shall take effect July 1, 2008.

20 SECTION ~~13~~. 15. AND BE IT FURTHER ENACTED, That Sections 2 and 4 of
21 this Act shall take effect July 1, 2005. Section 2 of this Act shall remain effective for
22 a period of 3 years and, at the end of June 30, 2008, with no further action required by
23 the General Assembly, Section 2 of this Act shall be abrogated and of no further force
24 and effect.

25 SECTION ~~14~~. 16. AND BE IT FURTHER ENACTED, That, except as provided
26 in Sections ~~12 and 13~~ 14 and 15 of this Act, this Act shall take effect July 1, 2004.