
By: **Senators Brochin, Hollinger, Klausmeier, and Stone**
Introduced and read first time: February 23, 2005
Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore County - Proposed New School Buildings - High Performance**
3 **Buildings**

4 FOR the purpose of requiring that, in Baltimore County, each new school building
5 shall be a high performance building; prohibiting the State or the Baltimore
6 County Board of Education from authorizing an appropriation for the
7 preliminary planning of a proposed capital project for a new school building
8 until a certain program is submitted to the Department of Budget and
9 Management; defining a certain term; authorizing the Board of Public Works to
10 adopt certain regulations; and generally relating to the construction of new
11 school buildings as high performance buildings in Baltimore County.

12 BY repealing and reenacting, without amendments,
13 Article - Education
14 Section 2-303(f)
15 Annotated Code of Maryland
16 (2004 Replacement Volume and 2004 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article - Education
19 Section 5-112 and 5-301
20 Annotated Code of Maryland
21 (2004 Replacement Volume and 2004 Supplement)

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

24 **Article - Education**

25 2-303.

26 (f) (1) Subject to the bylaws, rules, and regulations of the State Board, the
27 State Superintendent shall approve or disapprove each:

1 (i) Proposal for the purchase or sale of any ground, school site, or
2 building;

3 (ii) Plan or specification for the remodeling of a school building if
4 the remodeling costs more than \$350,000;

5 (iii) Plan or specification for the construction of a new school
6 building; and

7 (iv) Change order that costs more than \$25,000 for the remodeling,
8 restoration, or construction of a school building.

9 (2) If the State Superintendent disapproves any plan, specification,
10 proposal, or change order, he shall state in writing the reasons for his disapproval.

11 (3) If the construction is to be done by a county board, the board may not
12 begin until the plans and specifications are approved in writing by the State
13 Superintendent.

14 (4) If the construction is to be done by contract, the contract is invalid
15 without the written approval of the State Superintendent.

16 5-112.

17 (a) This section does not apply to:

18 (1) Contracts for the purchase of books and other materials of instruction
19 as defined in the State Department of Education Financial Reporting Manual;

20 (2) Emergency repairs; and

21 (3) A county board's participation in contracts for goods or commodities
22 that are awarded by other public agencies or by intergovernmental purchasing
23 organizations if the lead agency for the contract follows public bidding procedures.

24 (b) (1) If the cost of any school building, improvement, supplies, or
25 equipment is more than \$15,000, the county board, at least 2 weeks before bids are to
26 be filed, shall advertise for bids in a medium accessible to the general public, which
27 includes:

28 (i) A newspaper of general circulation in the region;

29 (ii) The Maryland Contract Weekly or comparable State
30 publication; or

31 (iii) An electronic posting on a bid board and physical posting on the
32 local school system bid board.

33 (2) (i) The county board shall draft specifications that provide a clear
34 and accurate description of the functional characteristics or the nature of an item to
35 be procured, without modifying the county board's requirements.

- 1 (ii) The specifications may:
- 2 1. Include a statement of any of the county board's
- 3 requirements; and
- 4 2. Provide for the submission of samples, inspection, or
- 5 testing of the item before procurement.

6 (3) (i) Except as provided in subparagraph (ii) of this subsection,

7 specifications that use one or more manufacturer's product to describe the standard of

8 quality, performance, or other characteristics needed to meet the county board's

9 requirements, must allow for the submission of equivalent products.

10 (ii) Subparagraph (i) of this paragraph does not apply if the county

11 board determines in the written specification that:

- 12 1. A particular manufacturer's product is required to
- 13 maintain compatibility of service or equipment;
- 14 2. A particular manufacturer's product is required to meet
- 15 the health needs of students;
- 16 3. Replacement parts or maintenance are a paramount
- 17 consideration; or
- 18 4. A product is purchased for resale.

19 (c) (1) [A] SUBJECT TO SUBSECTION (F) OF THIS SECTION, A contract for

20 the school building, improvements, supplies, or other equipment shall be awarded to

21 the lowest responsible bidder who conforms to specifications with consideration given

22 to:

- 23 (i) The quantities involved;
- 24 (ii) The time required for delivery;
- 25 (iii) The purpose for which required;
- 26 (iv) The competency and responsibility of the bidder;
- 27 (v) The ability of the bidder to perform satisfactory service; and
- 28 (vi) The plan for utilization of minority contractors.

29 (2) The county board may reject any and all bids and readvertise for

30 other bids.

31 (d) (1) In this subsection, the term "minority business enterprise" has the

32 meaning stated in § 14-301 of the State Finance and Procurement Article.

1 (2) In Montgomery County, by resolution and by implementing
2 regulations, the Montgomery County Board of Education shall establish a minority
3 business utilization program to facilitate the participation of responsible certified
4 minority business enterprises in contracts awarded by the Montgomery County Board
5 of Education in accordance with competitive bidding procedures.

6 (e) Nonpublic schools may participate under any contracts for goods or
7 commodities that are awarded by county boards, other public agencies, or
8 intergovernmental purchasing organizations, if the lead agency for the contract
9 award follows public bidding procedures.

10 (F) (1) IN THIS SUBSECTION, "HIGH PERFORMANCE BUILDING" MEANS A
11 BUILDING THAT ACHIEVES AT LEAST:

12 (I) A SILVER RATING ACCORDING TO THE U.S. GREEN BUILDING
13 COUNCIL'S LEED (LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN) GREEN
14 BUILDING RATING SYSTEM AS ADOPTED IN 2001 OR SUBSEQUENTLY BY THE
15 MARYLAND GREEN BUILDING COUNCIL;

16 (II) A TWO GLOBE RATING ACCORDING TO THE GREEN GLOBES
17 PROGRAM AS ADOPTED BY THE GREEN BUILDING INITIATIVE; OR

18 (III) A COMPARABLE NUMERIC RATING ACCORDING TO A
19 NATIONALLY RECOGNIZED, ACCEPTED, AND APPROPRIATE NUMERIC SUSTAINABLE
20 DEVELOPMENT RATING SYSTEM, GUIDELINE, OR STANDARD.

21 (2) IN BALTIMORE COUNTY, EACH NEW SCHOOL BUILDING SHALL BE A
22 HIGH PERFORMANCE BUILDING.

23 (3) BEFORE THE STATE OR THE COUNTY BOARD MAY AUTHORIZE AN
24 APPROPRIATION FOR PRELIMINARY PLANNING OF A PROPOSED CAPITAL PROJECT
25 FOR THE CONSTRUCTION OF A NEW SCHOOL BUILDING UNDER THIS SUBSECTION,
26 THE UNIT OF THE STATE GOVERNMENT OR THE COUNTY BOARD REQUESTING THE
27 APPROPRIATION SHALL SUBMIT TO THE STATE DEPARTMENT OF BUDGET AND
28 MANAGEMENT A DETAILED PROGRAM DESCRIBING THE SCOPE AND PURPOSE OF
29 THE PROJECT.

30 (4) A PROPOSED CAPITAL PROJECT FOR THE CONSTRUCTION OF A NEW
31 SCHOOL BUILDING UNDER THIS SUBSECTION IS SUBJECT TO THE REQUIREMENTS
32 OF § 3-602(B)(2) OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

33 [(f)] (G) A contract entered into or purchase made in violation of this section
34 is void.

35 5-301.

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

1 (2) (i) The Board of Public Works shall include modular construction
2 as an approved public school construction or capital cost.

3 (ii) The Board of Public Works, at the recommendation of the
4 Interagency Committee on School Construction, shall adopt regulations that:

5 1. Define modular construction; and

6 2. Establish the minimum specifications required for
7 approval of modular construction as a public school construction or capital
8 improvement cost.

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (v) Site improvements;

6 (vi) Competitive bidding;

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

9 (viii) The actual construction of school buildings or their
10 improvements;

11 (ix) The relative roles of different State and local governmental
12 agencies in the planning and construction of school buildings or school capital
13 improvements; and

14 (x) School construction and capital improvements necessary or
15 appropriate for the proper implementation of this section, INCLUDING HIGH
16 PERFORMANCE BUILDING REQUIREMENTS FOR THE CONSTRUCTION OF NEW
17 SCHOOL BUILDINGS IN BALTIMORE COUNTY IN ACCORDANCE WITH § 5-112(F) OF
18 THIS TITLE.

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

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

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

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

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

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

5 (i) The State Board;

6 (ii) The State Superintendent;

7 (iii) The county governments;

8 (iv) The county boards; and

9 (v) All other State or local governmental agencies under this
10 article.

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

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

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

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

28 (i) Constructed under a contract executed on or after February 1,
29 1971; and

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

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

35 (k) Whether by budget bill or supplementary appropriation bill, all money
36 appropriated to carry out the purposes of this section is a separate fund that shall be

1 administered by the State Comptroller in accordance with the rules and regulations
2 adopted by the Board of Public Works.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2005.