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By: **Delegates Walkup and Sossi**

Introduced and read first time: January 26, 2006

Assigned to: Appropriations

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A BILL ENTITLED

1 AN ACT concerning

2 **Kent County - School Construction - Cost-Share**

3 FOR the purpose of altering the State and local cost-share formula for school  
4 construction in Kent County; providing for the effective date of certain  
5 provisions of this Act; providing for the termination of certain provisions of this  
6 Act; and generally relating to school construction funding in Kent County.

7 BY repealing and reenacting, with amendments,  
8 Article - Education  
9 Section 5-301  
10 Annotated Code of Maryland  
11 (2004 Replacement Volume and 2005 Supplement)

12 BY repealing and reenacting, with amendments,  
13 Article - Education  
14 Section 5-301  
15 Annotated Code of Maryland  
16 (2004 Replacement Volume and 2005 Supplement)  
17 (As enacted by Chapters 306 and 307 of the Acts of the General Assembly of  
18 2004)

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) In this subtitle, "Interagency Committee" means the Interagency  
24 Committee on School Construction established under § 5-302 of this subtitle.

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

1                   (2)    (i)       The purchase of relocatable classrooms shall be an eligible  
2 public school construction or capital cost.

3                   (ii)       The Board of Public Works shall adopt regulations that define  
4 relocatable classrooms and establish the minimum specifications for relocatable  
5 classrooms which may be purchased using State funds.

6                   (iii)       In the budgets for fiscal years 2006 through 2008, the Governor  
7 shall include \$1,000,000 for public school construction, in excess of the estimates of  
8 funding for public school construction contained in the fiscal year 2005 through fiscal  
9 year 2009 Capital Improvement Plan, to be used to fund the State share of the cost of  
10 purchasing relocatable classrooms.

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

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

15                               1.       Define modular construction; and

16                               2.       Establish the minimum specifications required for  
17 approval of modular construction as a public school construction or capital  
18 improvement cost.

19                  (4)       The cost of acquiring land may not be considered a construction or  
20 capital improvement cost and may not be paid by the State.

21                  (c)       The State shall pay the costs in excess of available federal funds of the  
22 State share of public school construction projects and public school capital  
23 improvements in each county if:

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

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

28                  (d)    (1)       The Board of Public Works may adopt regulations for the  
29 administration of the programs provided for in this section.

30                  (2)       The regulations adopted by the Board of Public Works may contain  
31 requirements for:

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

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

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

- 1 (iv) The approval of sites, plans, and specifications for the  
2 construction of new school buildings or the improvement of existing buildings;
- 3 (v) Site improvements;
- 4 (vi) Competitive bidding;
- 5 (vii) The hiring of personnel in connection with school construction  
6 or capital improvements;
- 7 (viii) The actual construction of school buildings or their  
8 improvements;
- 9 (ix) The relative roles of different State and local governmental  
10 agencies in the planning and construction of school buildings or school capital  
11 improvements;
- 12 (x) School construction and capital improvements necessary or  
13 appropriate for the proper implementation of this section;
- 14 (xi) At the recommendation of the Interagency Committee, the  
15 establishment of priority public school construction programs;
- 16 (xii) Development of cooperative arrangements that permit the  
17 sharing of facilities among two or more school systems;
- 18 (xiii) The selection of architects and engineers by school systems;
- 19 (xiv) The award of contracts by school systems; and
- 20 (xv) Method of payments made by the State under the Public School  
21 Construction Program.
- 22 (3) The regulations adopted by the Board of Public Works shall contain  
23 provisions:
- 24 (i) [Establishing] SUBJECT TO PARAGRAPH (4) OF THIS  
25 SUBSECTION, ESTABLISHING a State and local cost-share formula for each county  
26 that identifies the factors used in establishing the formulas;
- 27 (ii) Requiring local education agencies to adopt educational  
28 facilities master plans and annual capital improvement programs;
- 29 (iii) Providing a method for establishing a maximum State  
30 construction allocation for each project approved for State funding;
- 31 (iv) Referencing the policies stated in § 5-7B-07 of the State  
32 Finance and Procurement Article;

1 (v) Requiring local school systems to adopt procedures consistent  
2 with the minority business enterprise policies of the State as required under the Code  
3 of Maryland Regulations;

4 (vi) Establishing a process for the appeal of decisions by the  
5 Interagency Committee to the Board of Public Works;

6 (vii) Requiring local education agencies to adopt, implement, and  
7 periodically update comprehensive maintenance plans; and

8 (viii) Authorizing the Board of Public Works to withhold State public  
9 school construction funds from a local education agency that fails to comply with the  
10 requirements of item (vii) of this paragraph.

11 (4) THE STATE AND LOCAL COST-SHARE FORMULA FOR KENT COUNTY  
12 SHALL BE:

13 (I) 60% STATE SHARE; AND

14 (II) 40% KENT COUNTY SHARE.

15 [(4)] (5) In adopting any of these requirements, the State Board and the  
16 Board of Public Works shall provide for the maximum exercise of initiative by school  
17 personnel in each county to insure that the school buildings and improvements meet  
18 both the needs of the local communities and the rules and regulations necessary to  
19 insure the proper operation of this section and the prudent expenditure of State  
20 funds.

21 (e) The Board of Public Works shall develop the rules, regulations, and  
22 procedures authorized by this section in consultation with representatives of the  
23 county boards and the county governing bodies.

24 (f) The regulations and procedures of the Board of Public Works adopted  
25 under this section and their promulgation are exempt from § 8-127(b) of the State  
26 Finance and Procurement Article of the Code.

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

31 (i) The State Board;

32 (ii) The State Superintendent;

33 (iii) The county governments;

34 (iv) The county boards; and

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

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

6           (h)     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 regulations and procedures of the Board of Public  
9 Works.

10          (i)     (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)     Consistent with § 4-115 of this article and regulations adopted by the  
14 Board of Public Works to implement § 4-126 of this article, the Board of Public Works  
15 may require by regulation that the portion of the proceeds received by a county from  
16 the sale, lease, or disposal of any public school building that represent State funds  
17 provided within 15 years prior to the date of the transaction shall be used solely as  
18 part of the State funding of the construction of future public school buildings in the  
19 county in which the sale, lease, or disposal occurred, if the public school building was  
20 constructed under a contract executed on or after February 1, 1971.

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          (j)     (1)     Whether by budget bill or supplementary appropriation bill, all  
26 money appropriated to carry out the purposes of this section is a separate fund that  
27 shall be administered by the State Comptroller in accordance with the regulations  
28 adopted by the Board of Public Works.

29          (2)     (i)     Except as provided in subparagraph (ii) of this paragraph,  
30 notwithstanding any other contrary provision of the Annotated Code, any funds  
31 approved for a project that has not been contracted for within 2 years of the approval  
32 of the project shall revert to the fund established under paragraph (1) of this  
33 subsection.

34                   (ii)     The Interagency Committee, with the approval of the Board of  
35 Public Works, may extend the time period under subparagraph (i) of this paragraph if  
36 the Interagency Committee determines that unusual circumstances exist.

37          (3)     Any unexpended allocations of funds for previously approved projects  
38 shall be transferred to the fund established under paragraph (1) of this subsection.

39          (4)     On or before March 30, June 30, September 30, and December 31 of  
40 each year, the Interagency Committee shall report to the General Assembly, in  
41 accordance with § 2-1246 of the State Government Article, and the Department of

1 Legislative Services on the balance in the fund as of the reporting date as the result  
2 of transfers or reversions required under this subsection and any expenditures.

3 SECTION 2. 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 Interagency  
8 Committee on School Construction established under § 5-302 of this subtitle.

9 (b) (1) For the purposes of this section other than subsection (c), the Board  
10 of Public Works shall define by regulation what constitutes an eligible and ineligible  
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13 as an approved public school construction or capital cost.

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23 State share of public school construction projects and public school capital  
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30 administration of the programs provided for in this section.

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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;
- 14 (x) School construction and capital improvements necessary or  
15 appropriate for the proper implementation of this section;
- 16 (xi) At the recommendation of the Interagency Committee, the  
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- 18 (xii) Development of cooperative arrangements that permit the  
19 sharing of facilities among two or more school systems;
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19 insure the proper operation of this section and the prudent expenditure of State  
20 funds.

21 (e) The Board of Public Works shall develop the rules, regulations, and  
22 procedures authorized by this section in consultation with representatives of the  
23 county boards and the county governing bodies.

24 (f) The regulations and procedures of the Board of Public Works adopted  
25 under this section and their promulgation are exempt from § 8-127(b) of the State  
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27 (g) (1) With respect to public school construction or public school capital  
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35 (v) All other State or local governmental agencies under this  
36 article.



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

6           (h)     The obligation of the State to pay the costs of public school construction  
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8 projects that comply with the regulations and procedures of the Board of Public  
9 Works.

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36          (3)     Any unexpended allocations of funds for previously approved projects  
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39 each year, the Interagency Committee shall report to the General Assembly, in  
40 accordance with § 2-1246 of the State Government Article, and the Department of

1 Legislative Services on the balance in the fund as of the reporting date as the result  
2 of transfers or reversions required under this subsection and any expenditures.

3 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall  
4 take effect July 1, 2006. It shall remain effective until the taking effect of Section 2 of  
5 this Act. If Section 2 of this Act takes effect, Section 1 of this Act shall be abrogated  
6 and of no further force and effect.

7 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall  
8 take effect July 1, 2008, the effective date of Chapters 306 and 307 of the Acts of the  
9 General Assembly of 2004. If the effective date of Chapters 306 and 307 is amended,  
10 Section 2 of this Act shall take effect on the taking effect of Chapters 306 and 307.

11 SECTION 5. AND BE IT FURTHER ENACTED, That, subject to the provisions  
12 of Sections 3 and 4 of this Act, this Act shall take effect July 1, 2006.