

SENATE BILL 208

P2, F1, M3

8lr0244

By: **The President (By Request – Administration) and Senators Madaleno, King, Brochin, Forehand, Frosh, Garagiola, Lenett, Pinsky, and Rosapepe**

Introduced and read first time: January 18, 2008

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **High Performance Buildings Act**

3 FOR the purpose of requiring certain buildings to be high performance buildings;
4 requiring certain buildings that are renovated to be high performance buildings
5 under certain circumstances; exempting certain building types from certain
6 high performance building standards; providing for a certain waiver process
7 from certain high performance building requirements; repealing certain
8 provisions of law relating to high performance buildings; expressing a certain
9 intent of the General Assembly; requiring certain new schools receiving State
10 public school construction funds to be high performance buildings; requiring the
11 Board of Public Works to establish a certain waiver process from certain high
12 performance building requirements; requiring that a certain waiver process
13 include a certain review and approval by the Interagency Committee on School
14 Construction; requiring the State to pay a certain amount of certain local costs
15 related to the construction of schools that are high performance buildings for
16 certain fiscal years; requiring the Board of Public Works to adopt certain
17 regulations; providing for the applicability of certain provisions of this Act;
18 defining certain terms; and generally relating to high performance buildings.

19 BY repealing and reenacting, with amendments,
20 Article – State Finance and Procurement
21 Section 3–602(d)
22 Annotated Code of Maryland
23 (2006 Replacement Volume and 2007 Supplement)

24 BY adding to
25 Article – State Finance and Procurement
26 Section 3–602.1
27 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2006 Replacement Volume and 2007 Supplement)

2 BY repealing and reenacting, without amendments,
3 Article – Education
4 Section 5–301(d)
5 Annotated Code of Maryland
6 (2006 Replacement Volume and 2007 Supplement)

7 BY adding to
8 Article – Education
9 Section 5–312
10 Annotated Code of Maryland
11 (2006 Replacement Volume and 2007 Supplement)

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

14 **Article – State Finance and Procurement**

15 3–602.

16 (d) [(1) (i) In this paragraph, “high performance building” means a
17 building that:

18 1. achieves at least a silver rating according to the U.S.
19 Green Building Council’s LEED (Leadership in Energy and Environmental Design)
20 Green Building Rating System as adopted in 2001 or subsequently by the Maryland
21 Green Building Council;

22 2. achieves at least a two globe rating according to the
23 Green Globes Program as adopted by the Green Building Initiative;

24 3. achieves at least a comparable numeric rating
25 according to a nationally recognized, accepted, and appropriate numeric sustainable
26 development rating system, guideline, or standard; or

27 4. meets nationally recognized, consensus–based, and
28 accepted green building guidelines, standards, or systems approved by the State.

29 (ii) 1. A unit of State government requesting an
30 appropriation for preliminary planning of a proposed capital project may include in its
31 request a justification for proposing that a building in the project is appropriate for
32 design as a high performance building.

33 2. If justification is submitted under subparagraph 1
34 of this subparagraph concerning a building in a proposed capital project, the
35 Department shall review whether it is practicable and fiscally prudent to incorporate

1 in the capital project the use of a comprehensive process of design and construction
2 that would result in the building being a high performance building.

3 (2)] (1) Before an appropriation may be authorized for preliminary
4 planning of a proposed capital project:

5 (i) the unit of the State government requesting the
6 appropriation shall submit to the Department a program describing, in detail, the
7 scope and purpose of the project; and

8 (ii) the Secretary of Budget and Management must approve the
9 program.

10 [(3)] (2) Before an appropriation may be authorized for construction
11 of a proposed capital project:

12 (i) the unit of State government requesting the appropriation
13 shall submit to the Departments of Budget and Management and General Services a
14 detailed design program, which shall include all information required by the
15 Departments; and

16 (ii) both the Secretary of Budget and Management and the
17 Secretary of General Services must approve the detailed design program.

18 **3-602.1.**

19 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
20 MEANINGS INDICATED.

21 (2) "HIGH PERFORMANCE BUILDING" MEANS A BUILDING THAT:

22 (I) MEETS OR EXCEEDS THE CURRENT VERSION OF THE
23 U.S. GREEN BUILDING COUNCIL'S LEED (LEADERSHIP IN ENERGY AND
24 ENVIRONMENTAL DESIGN) GREEN BUILDING RATING SYSTEM SILVER RATING;
25 OR

26 (II) ACHIEVES AT LEAST A COMPARABLE NUMERIC RATING
27 ACCORDING TO A NATIONALLY RECOGNIZED, ACCEPTED, AND APPROPRIATE
28 NUMERIC SUSTAINABLE DEVELOPMENT RATING SYSTEM, GUIDELINE, OR
29 STANDARD APPROVED BY THE SECRETARIES OF BUDGET AND MANAGEMENT
30 AND GENERAL SERVICES.

31 (3) "MAJOR RENOVATION" MEANS THE RENOVATION OF A
32 BUILDING WHERE:

1 (I) THE BUILDING SHELL IS TO BE REUSED FOR THE NEW
2 CONSTRUCTION;

3 (II) THE HEATING, VENTILATING, AND AIR CONDITIONING
4 (HVAC), ELECTRICAL, AND PLUMBING SYSTEMS ARE TO BE REPLACED; AND

5 (III) THE SCOPE OF THE RENOVATION IS 7,500 SQUARE FEET
6 OR GREATER.

7 (B) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT, TO THE
8 EXTENT PRACTICABLE:

9 (1) THE STATE SHALL EMPLOY GREEN BUILDING TECHNOLOGIES
10 WHEN CONSTRUCTING OR RENOVATING A STATE BUILDING NOT SUBJECT TO
11 THIS SECTION; AND

12 (2) HIGH PERFORMANCE BUILDINGS SHALL MEET THE CRITERIA
13 AND STANDARDS ESTABLISHED UNDER THE “HIGH EFFICIENCY GREEN
14 BUILDING PROGRAM” ADOPTED BY THE MARYLAND GREEN BUILDING
15 COUNCIL.

16 (C) (1) THIS SUBSECTION APPLIES TO CAPITAL PROJECTS THAT ARE
17 FUNDED SOLELY WITH STATE FUNDS.

18 (2) EXCEPT AS PROVIDED IN SUBSECTIONS (D) AND (E) OF THIS
19 SECTION, IF A CAPITAL PROJECT INCLUDES THE CONSTRUCTION OR MAJOR
20 RENOVATION OF A BUILDING THAT IS 7,500 SQUARE FEET OR GREATER, THE
21 BUILDING SHALL BE CONSTRUCTED OR RENOVATED TO BE A HIGH
22 PERFORMANCE BUILDING.

23 (D) THE FOLLOWING TYPES OF UNOCCUPIED BUILDINGS ARE NOT
24 REQUIRED TO BE CONSTRUCTED OR RENOVATED TO BE HIGH PERFORMANCE
25 BUILDINGS:

26 (1) WAREHOUSE AND STORAGE FACILITIES;

27 (2) GARAGES;

28 (3) MAINTENANCE FACILITIES;

29 (4) TRANSMITTER BUILDINGS;

30 (5) PUMPING STATIONS; AND

1 **(6) OTHER SIMILAR TYPES OF BUILDINGS, AS DETERMINED BY**
2 **THE DEPARTMENT.**

3 **(E) (1) THE DEPARTMENT OF BUDGET AND MANAGEMENT AND THE**
4 **DEPARTMENT OF GENERAL SERVICES SHALL JOINTLY ESTABLISH A PROCESS**
5 **TO ALLOW A UNIT OF STATE GOVERNMENT TO OBTAIN A WAIVER FROM**
6 **COMPLYING WITH SUBSECTION (C) OF THIS SECTION.**

7 **(2) THE WAIVER PROCESS SHALL:**

8 **(I) INCLUDE A REVIEW BY THE MARYLAND GREEN**
9 **BUILDING COUNCIL ESTABLISHED UNDER § 4-809 OF THIS ARTICLE, TO**
10 **DETERMINE IF THE USE OF A HIGH PERFORMANCE BUILDING IN A PROPOSED**
11 **CAPITAL PROJECT IS NOT PRACTICABLE; AND**

12 **(II) REQUIRE THE APPROVAL OF A WAIVER BY THE**
13 **SECRETARIES OF BUDGET AND MANAGEMENT, GENERAL SERVICES, AND**
14 **TRANSPORTATION.**

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

17 **Article – Education**

18 5-301.

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

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

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

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

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

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

30 (v) Site improvements;

31 (vi) Competitive bidding;

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

3 (viii) The actual construction of school buildings or their
4 improvements;

5 (ix) The relative roles of different State and local governmental
6 agencies in the planning and construction of school buildings or school capital
7 improvements;

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

10 (xi) At the recommendation of the Interagency Committee, the
11 establishment of priority public school construction programs;

12 (xii) Development of cooperative arrangements that permit the
13 sharing of facilities among two or more school systems;

14 (xiii) The selection of architects and engineers by school systems;

15 (xiv) The award of contracts by school systems; and

16 (xv) Method of payments made by the State under the Public
17 School Construction Program.

18 (3) The regulations adopted by the Board of Public Works shall
19 contain provisions:

20 (i) Establishing a State and local cost-share formula for each
21 county that identifies the factors used in establishing the formulas;

22 (ii) Requiring local education agencies to adopt educational
23 facilities master plans and annual capital improvement programs;

24 (iii) Providing a method for establishing a maximum State
25 construction allocation for each project approved for State funding;

26 (iv) Referencing the policies stated in § 5-7B-07 of the State
27 Finance and Procurement Article;

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

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

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

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

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

11 **5-312.**

12 (A) IN THIS SECTION, "HIGH PERFORMANCE BUILDING" HAS THE
13 MEANING STATED IN § 3-602.1 OF THE STATE FINANCE AND PROCUREMENT
14 ARTICLE.

15 (B) THIS SECTION APPLIES TO THE CONSTRUCTION OF NEW SCHOOLS
16 THAT HAVE NOT INITIATED A REQUEST FOR PROPOSAL FOR THE SELECTION OF
17 AN ARCHITECTURAL AND ENGINEERING CONSULTANT ON OR BEFORE JULY 1,
18 2009.

19 (C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A NEW
20 SCHOOL THAT RECEIVES STATE PUBLIC SCHOOL CONSTRUCTION FUNDS SHALL
21 BE CONSTRUCTED TO BE A HIGH PERFORMANCE BUILDING.

22 (D) (1) THE BOARD OF PUBLIC WORKS SHALL ESTABLISH A PROCESS
23 TO ALLOW A SCHOOL SYSTEM TO OBTAIN A WAIVER FROM COMPLYING WITH
24 SUBSECTION (C) OF THIS SECTION.

25 (2) THE WAIVER PROCESS SHALL:

26 (I) INCLUDE A REVIEW BY THE INTERAGENCY COMMITTEE
27 TO DETERMINE IF THE CONSTRUCTION OF A HIGH PERFORMANCE BUILDING IS
28 NOT PRACTICABLE; AND

29 (II) REQUIRE THE APPROVAL OF A WAIVER BY THE
30 INTERAGENCY COMMITTEE.

31 (E) FOR FISCAL YEARS 2010 THROUGH 2014 ONLY, THE STATE SHALL
32 PAY 50% OF THE LOCAL SHARE OF THE EXTRA COSTS, IDENTIFIED AND
33 APPROVED BY THE INTERAGENCY COMMITTEE, THAT ARE INCURRED IN

1 **CONSTRUCTING A NEW SCHOOL TO MEET THE HIGH PERFORMANCE BUILDING**
2 **REQUIREMENTS OF THIS SECTION.**

3 **(F) THE BOARD OF PUBLIC WORKS SHALL ADOPT REGULATIONS TO**
4 **IMPLEMENT THE REQUIREMENTS OF THIS SECTION.**

5 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
6 apply to capital projects that have not initiated a Request For Proposal for the
7 selection of an architectural and engineering consultant on or before the effective date
8 of this Act.

9 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 July 1, 2008.