

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

House Bill 269

(Delegate Luedtke, *et al.*)

Ways and Means

Budget and Taxation and Education, Health,
and Environmental Affairs

Public Schools - Requirements for Controlled Access

This bill requires any new or renovated school that receives State funding, including Aging Schools Program (ASP) and Qualified Zone Academy Bond (QZAB) funds, to be constructed to have “controlled access.” Controlled access includes the ability of school staff to (1) lock the school’s doors; (2) only allow visitors to enter after they have identified themselves using a camera and intercom; and (3) use a remote buzzer to allow visitors to enter the building. The bill applies only to school construction or renovation projects that have been approved by the Interagency Committee on School Construction (IAC) on or after July 1, 2013. The Board of Public Works (BPW) must develop regulations to implement the bill.

The bill takes effect July 1, 2013.

Fiscal Summary

State Effect: No effect on total State funding for public school construction, which is established annually by the Governor and General Assembly through the capital budget process. To the extent that school construction projects would not have otherwise included the mandated security features and those features are more costly than the alternatives, the cost of individual projects may increase. As a result, fewer projects may receive State funding beginning in FY 2015. (Most projects for FY 2014 will be approved by IAC before July 1, 2013.) BPW can adopt regulations, and other agencies can ensure compliance, with existing resources.

Local Effect: Local school systems may in some cases bear the cost of adding controlled access to other requests for school renovation projects to the extent that State funds are not available. To the extent that a local school system would not have otherwise included the controlled access features in designs for new or renovated schools, the local share of the cost of those projects may increase. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Minimal.

Analysis

Current Law: For a description of the State's Public School Construction Program (PSCP), please see the **Appendix – State Funding for Public School Construction Projects**.

Background: On December 14, 2012, a 20-year-old gunman fatally shot 20 children and 6 adult staff members at Sandy Hook Elementary School in Newtown, Connecticut. The incident was the second-deadliest school shooting in U.S. history, after the 2007 Virginia Tech massacre. In the aftermath of the shooting, school security issues have been widely discussed in the media and the political arena.

The Governor's proposed fiscal 2014 capital budget includes \$325 million for public school construction projects, which includes \$25 million for school safety improvements. The fiscal 2014-2018 *Capital Improvement Program* includes \$250 million annually for school construction in the out-years.

PSCP advises that, in many respects, the bill's requirements have become standard practice for new school buildings or substantial renovations of existing buildings in the State. However, for financial or other reasons, some local jurisdictions may opt not to include these features in new or renovated school designs. PSCP estimates that the controlled access requirements in the bill will cost approximately \$4,000 to \$8,000 per school and, in some cases, as much as \$25,000.

Subject to two limited exemptions that do not apply to this bill, PSCP regulations require that systemic renovation projects cost at least \$200,000 to qualify for State funding. Systemic renovation projects typically replace or upgrade a single system within a school building, such as roofs, windows, electrical, plumbing, etc. Therefore, any proposal to upgrade a school's security system that is not part of a larger renovation would have to meet the minimum cost threshold to qualify for State PSCP funding.

QZABs

The federal Tax Reform Act of 1997 created QZABs as a new type of debt instrument to finance education projects. Financial institutions, insurance companies, and investment houses are the only entities allowed to purchase the bonds, which provide for a federal tax credit instead of interest earnings. Under current federal guidelines, QZAB funds may be used only to rehabilitate or repair school facilities, provide equipment, develop course materials, or train teachers and other school personnel; they may not be used for new construction. They can be used only for qualified zone academies, which must either be located in a federal Enterprise or Empowerment Zone or have at least 35% of their student population qualify for free or reduced-price meals.

The Governor's proposed fiscal 2014 capital budget includes \$4.5 million in QZAB funds, which is contingent on the enactment of legislation pending before the General Assembly that authorizes the sale of QZABs. To date, Maryland's allocation under the federal program has totaled \$83.2 million from eight prior-year bills that authorized the sale of the bonds; including interest earned on QZAB proceeds brings total proceeds for the State to \$85.9 million. Omitting the most recent sale, which was completed in August 2012, 81.0% of QZAB proceeds had been spent as of December 31, 2012, with most of the unspent balance stemming from the 2011 sale.

A small number of local school systems have poor track records in spending their allocations. The large unexpended balances in a few jurisdictions prompted IAC to propose, beginning with the 2011 sale of QZABs, awarding QZAB funds using a competitive grant process instead of relying on a need-based allocation. IAC has established a minimum size for proposed QZAB projects of \$30,000.

Aging Schools Program

Eligible ASP expenditures include asbestos and lead paint abatement; upgrade of fire protection systems and equipment; painting; plumbing; roofing; upgrade of heating, ventilation, and air conditioning systems; site redevelopment; wiring schools for technology; and renovation projects related to education programs and services. Projects must cost at least \$10,000 to be funded through the program. The Maryland State Department of Education and PSCP review aging schools project requests submitted by local school systems, approve eligible projects, and determine if additional review of any construction documents will be required. The Governor's proposed fiscal 2014 capital budget includes \$6.1 million for the program, which is allocated in statute to each local school system based on each county's proportion of pre-1970 square footage in public school facilities.

Local Fiscal Effect: The bill likely has little or no effect on the cost of new or substantially renovated schools because, as PSCP advises, controlled access features are now largely standard practice for such projects. However, smaller projects funded by QZABs, ASP, or as systemic renovations are different. As noted above, such projects tend to be small scale, often addressing a single system or deficiency in a school building. Under the bill, each project submitted to IAC for funding approval must now include a controlled access component that may increase the total cost of projects and require a larger local matching requirement in some cases. In addition, fewer projects will receive funding due to the limited State resources available. To the extent that State funds are not available for local projects, they may be deferred or may require additional local funds to be carried out.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Board of Public Works, Department of Budget and Management, Maryland State Department of Education, Department of General Services, Public School Construction Program, Department of Legislative Services

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Appendix – State Funding for Public School Construction Projects

Subject to the final approval of the Board of Public Works (BPW), the Interagency Committee on School Construction (IAC) manages State review and approval of local school construction projects. Each year, local systems develop and submit to IAC a facilities master plan that includes an analysis of future school facility needs based on the current condition of school buildings and projected enrollment. The master plan must be approved by the local school board. Subsequently, each local school system submits a capital improvement plan to IAC that includes projects for which it seeks planning and/or funding approval for the upcoming fiscal year, which may include projects that the local system has forward funded. In addition to approval from the local school board, the request for the upcoming fiscal year must be approved by the county's governing body. Typically, the submission letter to IAC contains signatures of both the school board president and either the county executive and county council president or chair of the board of county commissioners.

Based on its assessment of the relative merit of all the project proposals it receives, and subject to the projected level of school construction funds available, IAC makes recommendations for which projects to fund to BPW. By December 31 of each year, IAC must recommend to BPW projects comprising 75% of the preliminary school construction allocation projected to be available by the Governor for the upcoming fiscal year. Local school boards may then appeal the IAC recommendations directly to BPW. By March 1 of each year, IAC must recommend to BPW and the General Assembly projects comprising 90% of the allocation for school construction submitted in the Governor's capital budget. Following the legislative session, IAC recommends projects comprising the remaining school construction funds included in the enacted capital budget for BPW approval, no earlier than May 1.

The State pays at least 50% of eligible costs of school construction and renovation projects, based on a funding formula that takes into account numerous factors including each local school system's wealth and ability to pay. The Public School Facilities Act (Chapters 306 and 307 of 2004, SB 787/HB 1230) requires that the cost-share formula be recalculated every three years. The first recalculation occurred in 2007, and the second recalculation occurred in 2010. **Exhibit 1** shows the State share of eligible school construction costs for all Maryland jurisdictions for fiscal 2012, which was determined by the 2007 recalculation, and for fiscal 2013 through 2015, as determined by the 2010 recalculation. The 2013 recalculation will be conducted prior to fall 2013 for implementation beginning in fiscal 2016.

Chapters 306 and 307 also established the State's intent to provide \$2.0 billion of funding for school construction by fiscal 2013, an average of \$250.0 million each year for eight years. As a result, the Public School Construction Program funding increased from

\$125.9 million in fiscal 2005 to \$253.8 million in fiscal 2006, and it has remained above the \$250.0 million target each year since, which resulted in significant increases in school construction assistance to local school boards. As a result, the State achieved the \$2.0 billion goal ahead of schedule. **Exhibit 2** shows annual State public school construction funding since fiscal 2006, by county.

Exhibit 1
State Share of Eligible School Construction Costs
Fiscal 2012-2015

<u>County</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>
Allegany	91%	93%	93%	93%
Anne Arundel	50%	50%	50%	50%
Baltimore City	94%	93%	93%	93%
Baltimore	50%	50%	50%	50%
Calvert	61%	56%	56%	56%
Caroline	86%	81%	78%	78%
Carroll	61%	58%	58%	58%
Cecil	75%	70%	69%	69%
Charles	77%	72%	67%	63%
Dorchester	71%	69%	69%	69%
Frederick	72%	67%	62%	60%
Garrett	59%	54%	50%	50%
Harford	59%	63%	63%	63%
Howard	61%	60%	60%	60%
Kent	50%	50%	50%	50%
Montgomery	50%	50%	50%	50%
Prince George's	73%	68%	63%	62%
Queen Anne's	55%	50%	50%	50%
St. Mary's	75%	70%	65%	64%
Somerset	88%	83%	82%	82%
Talbot	50%	50%	50%	50%
Washington	73%	71%	71%	71%
Wicomico	87%	96%	96%	96%
Worcester	50%	50%	50%	50%

Source: Public School Construction Program

Exhibit 2
State Funding for Public School Construction
(\$ in Thousands)

County	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	Total FY 06-13
Allegany	\$12,000	\$18,650	\$412	\$0	\$0	842	603	741	\$33,248
Anne Arundel	19,457	22,675	27,827	27,420	25,020	26,200	27,400	33,300	209,299
Baltimore City	21,523	39,436	52,665	41,000	27,733	28,559	32,000	42,600	285,516
Baltimore	25,218	35,053	52,250	40,985	28,000	29,000	32,000	43,300	285,806
Calvert	3,437	2,723	12,644	7,824	8,181	8,450	6,907	7,018	57,184
Caroline	4,699	2,935	2,426	8,100	6,000	3,767	86	350	28,363
Carroll	7,434	8,282	8,219	11,741	10,520	8,444	8,905	12,748	76,293
Cecil	8,656	8,271	9,533	2,674	1,538	1,744	2,414	1,514	36,344
Charles	8,267	10,200	13,170	11,704	8,898	8,335	8,630	8,000	77,204
Dorchester	656	872	6,137	10,400	6,469	5,436	3,502	0	33,472
Frederick	11,910	17,942	18,728	14,759	16,226	14,000	16,300	19,092	128,957
Garrett	1,507	1,235	6,243	3,020	666	0	333	0	13,004
Harford	8,287	11,096	16,238	14,751	16,253	13,835	16,206	14,512	111,177
Howard	15,273	17,808	23,206	18,265	18,262	18,290	22,936	32,490	166,530
Kent	2,000	3,479	1,335	0	388	0	0	0	7,202
Montgomery	30,431	40,040	52,297	53,312	28,350	30,183	33,000	43,106	310,720
Prince George's	29,833	37,425	52,250	41,000	28,200	29,500	31,348	40,375	289,931
Queen Anne's	6,897	3,000	3,925	4,951	3,947	5,750	5,195	0	33,665
St. Mary's	3,271	5,495	9,806	7,266	4,028	6,600	3,064	2,314	41,844
Somerset	14,300	12,022	5,153	0	6,000	6,000	3,257	0	46,732
Talbot	2,422	2,405	2,038	0	436	344	0	0	7,645
Washington	6,431	4,478	8,970	9,368	7,965	7,970	8,400	9,000	62,582
Wicomico	7,616	4,178	8,143	12,960	13,170	9,975	1,597	10,808	68,447
Worcester	2,241	6,872	8,213	5,483	403	0	0	0	23,212
MD School for the Blind								2,800	2,800
Bond Premium		6,100							6,100
Statewide						500	47,500	25,100	73,100
Total	\$253,766	\$322,672	\$401,828	\$346,983	\$266,653	\$263,724	\$311,583	\$349,167	\$2,516,376
Over \$250 million	\$3,766	\$72,672	\$151,828	\$96,983	\$16,653	\$13,724	\$61,583	\$99,167	\$516,376

Note: \$25.0 million of the statewide allocation in fiscal 2013 is for the Energy Efficiency Initiative and is to be distributed based on local requests and need for funding to replace inefficient systems.