

**Department of Legislative Services**  
 Maryland General Assembly  
 2018 Session

**FISCAL AND POLICY NOTE**  
**Enrolled - Revised**

Senate Bill 92

(Senator Rosapepe)

Budget and Taxation

Appropriations

**Public School Construction – Innovation Incentive Pilot Program**

This bill establishes an incentive pilot program to encourage local school systems in Harford, Prince George’s, and Washington counties to pursue innovative, cost-saving public school construction projects. Projects participating in the program with a below-average cost per student receive a higher State share of eligible project costs, as specified in the bill. **The bill takes effect July 1, 2018, and terminates June 30, 2023.**

**Fiscal Summary**

**State Effect:** No effect on total State spending for public school construction, but State support for *individual* school construction projects in the three local school systems eligible to participate in the pilot program may increase or decrease, depending on the impact of the incentive program on the actual costs of participating projects. General fund expenditures increase by \$46,200 in FY 2019 to administer the pilot program; out-year costs reflect annualization and inflation. Expenditures terminate after FY 2023. No effect on revenues.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	46,200	55,600	57,100	59,200	61,400
Net Effect	(\$46,200)	(\$55,600)	(\$57,100)	(\$59,200)	(\$61,400)

*Note: ( ) = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** State support for individual public school construction projects in Harford, Prince George’s, and Washington counties may increase or decrease, depending on the impact of the incentive program on the actual costs of participating projects.

**Small Business Effect:** Minimal.

## Analysis

**Bill Summary:** The Public School Facility Construction Innovation Incentive Pilot Program (program) is established to accelerate public school construction projects by providing State incentives for local school systems in Harford, Prince George’s, and Washington counties to reduce the costs of construction and renovation. Systemic renovation projects are excluded from the program, but all other major construction and renovation projects are included. The Interagency Commission on School Construction (IAC) must develop an application process for the pilot program, implement and administer the program, and promote the program.

If a public school construction project in the three counties has an estimated cost that is 30% or more below the rolling State average for the appropriate type of school, IAC must approve that project for participation in the incentive program. For each fiscal year, IAC must calculate the rolling State average of public school construction costs for elementary schools, preK-8 schools, middle schools, and high schools. The “rolling State average of public school construction costs” means the average State cost *per student* for public school construction projects and capital improvements over the previous three years for each type of school.

The State share of eligible costs is 20% higher than under current law for projects approved for the pilot program before January 1, 2020. Beginning January 1, 2020, the State share of eligible costs for projects approved on or after that date is 10% higher than under current law. However, if *actual* total project costs of approved projects are not at least 30% below the rolling State average, the portion of costs that exceed the 30% threshold are not eligible for the higher State share.

In addition, projects in the pilot program are not subject to the oversight and approval of IAC or the State Superintendent with respect to specified State regulations and statutes. However, they remain subject to other requirements, including minority business enterprise and prevailing wage requirements. For any project in the incentive program, a local school system may use any other source of financing or system of bidding under current law to fund the project.

**Current Law:** Information on the calculation of the State share of eligible costs is provided in the **Appendix – State Funding for Public School Construction**. There are no provisions in current law that allow the State share to be altered for an individual project.

**Background:** During the 2016 legislative session, the President of the Senate and Speaker of the House announced the formation of the 21<sup>st</sup> Century School Facilities Commission. The commission is charged with multiple responsibilities, including (1) identifying areas where innovative financing mechanisms including public-private partnerships, as well as

alternatives to traditional general obligation debt can be used for construction; (2) determining areas for efficiencies and cost-saving measures for construction and maintenance; and (3) reviewing the relationship between State agencies and local governments. The commission met 17 times over two years, including six subcommittee meetings, and submitted its findings and recommendations to the Governor and General Assembly in January 2018. The report includes five major conclusions in the areas of (1) flexibility; (2) streamlining the process; (3) providing incentives; (4) focusing the role of the State on providing technical assistance and serving as a clearinghouse for best practices; and (5) transparency, as well as 36 recommendations that stem from the conclusions. The [commission's website](#) contains all meeting agendas and materials presented to the commission; including the commission's final report.

### **State Fiscal Effect:**

#### *Pilot Program*

The bill does not affect the total amount of State funding dedicated to public school construction, which is established annually by the Governor and General Assembly through the capital budget process. However, to the extent that the three local school systems submit school construction projects that meet the required threshold to receive incentive funding, it affects the level of State funding provided to *individual* projects in those counties. As the bill is expected to affect a small number of projects in the three counties, the bill likely has no material effect on funding for projects in other counties.

Under the bill, any project in the pilot program that requests funding that has a per student cost that is at least 30% below the rolling average receives a 20% increase in the State share until January 1, 2020, and then a 10% increase in the State share through June 30, 2023. This may result in more or less State funding for a project, depending on the amount of savings generated by the project and the amount of incentive funding.

#### *Administrative Costs*

The bill requires IAC to administer the new incentive pilot program, including calculating and updating the rolling average State average of per student construction costs, developing and reviewing applications for the program, and monitoring actual project costs to determine any adjustments to the State share. Therefore, general fund expenditures increase by \$46,157 in fiscal 2019, which accounts for a 90-day start-up delay from the bill's July 1, 2018 effective date. This estimate reflects the cost of hiring an administrative specialist to administer the incentive program within the Public School Construction Program. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. As the program extends for more than three years, the analysis reflects the use of a regular position rather than a contractual position.

Position	1
Salary and Fringe Benefits	\$40,798
Operating Expenses	<u>5,359</u>
<b>Total FY 2019 State Expenditures</b>	<b>\$46,157</b>

Future year expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses. Expenditures end after fiscal 2023 when the pilot program terminates.

**Local Fiscal Effect:** Total local revenues for public school construction projects are not affected but, as discussed above, State support for individual projects in Harford, Prince George's, and Washington counties may increase or decrease for projects that qualify for the bill's incentive program.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** HB 968 (Delegate B. Barnes, *et al.*) - Appropriations.

**Information Source(s):** Charles and Montgomery counties; Maryland Association of Counties; Maryland State Department of Education; Public School Construction Program; Board of Public Works; Department of Legislative Services

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## Appendix – State Funding for Public School Construction

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### *School Construction Review and Approval Process*

As enacted by Chapter 14 of 2018, the Interagency Commission 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 determines which projects to fund. By December 31 of each year, IAC must approve projects comprising 75% of the preliminary school construction allocation projected to be available by the Governor for the upcoming fiscal year. Local school systems may appeal these preliminary decisions by IAC. By March 1 of each year, IAC must recommend to the General Assembly projects comprising 90% of the allocation for school construction submitted in the Governor's capital budget. Following the legislative session, IAC approves projects comprising the remaining school construction funds included in the enacted capital budget, no earlier than May 1.

### *Eligible School Construction Costs*

IAC establishes a range of appropriate per student, square foot allocations for elementary, middle, and high schools as well as for special education students, career and technology students, and specialized programs. IAC also establishes, on an annual basis, a *cost per square foot* that is applicable to major school construction projects. For fiscal 2019, the cost per square foot is \$302 for new construction *without* site development (up from \$293 in fiscal 2018) and \$360 for new construction *with* site development (up from \$348.67 in fiscal 2018). In general, multiplying the cost per square foot allocation by the allowable square feet (based primarily on the State-rated capacity of a building) yields the maximum allowable cost that is subject to the State/local cost-share formula.

The cost of acquiring land may not be considered an eligible construction cost and may not be paid by the State. Otherwise, regulations specify public school construction-related costs that are eligible and ineligible for State funding. In general, the following costs are included among eligible expenses:

- construction of a new facility, a renovation of a new facility, an addition to an existing facility, or a replacement of an existing building or building portion (*i.e.*, “bricks and mortar”);
- building and site development;
- modular construction that meets specified standards;
- State-owned relocatable facilities and temporary facilities that are required to be on site during construction; and
- built-in equipment and furnishings.

Beginning in fiscal 2018, the Board of Public Works (BPW) approved the use of State funding for window air-conditioning units and associated electrical upgrades and installation in schools where more than one-half of the classrooms are not temperature controlled. However, under Chapter 14 of 2018, items that do not have a useful life of at least 15 years are not eligible for State funding.

Among the major items that explicitly are *not* eligible for State funding (besides site acquisition) are (1) architectural, engineering, and other consulting fees; (2) master plans and feasibility studies; (3) projects or systemic renovations for buildings and systems that have been replaced, upgraded, or renovated within the last 15 years; and (4) movable equipment and furnishings.

#### *State Share of Eligible Costs*

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) requires that the cost-share formula be recalculated every three years. The first recalculation occurred in 2007, the second recalculation occurred in 2010, and the third was completed in 2014. The most recent recalculation was completed in 2017. IAC recommended updating the formula for the next three years, but BPW approved new cost shares *only* for fiscal 2019, which held harmless several jurisdictions that otherwise would have experienced a decrease in State support based on the 2017 recalculation of the formula. Chapter 14 of 2018 requires the formula to be recalculated every two years and approved by IAC. **Exhibit 1** shows the State share of eligible school construction costs for all Maryland jurisdictions for fiscal 2017 through 2019, as approved by BPW.

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**Exhibit 1**  
**State Share of Eligible School Construction Costs**  
**Fiscal 2017-2019**

<b>County</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
Allegany	83%	83%	85%
Anne Arundel	50%	50%	50%
Baltimore City	93%	93%	93%
Baltimore	52%	52%	56%
Calvert	53%	53%	53%
Caroline	80%	80%	81%
Carroll	59%	59%	59%
Cecil	63%	63%	66%
Charles	61%	61%	61%
Dorchester	76%	76%	76%
Frederick	64%	64%	64%
Garrett	50%	50%	50%
Harford	63%	63%	63%
Howard	55%	55%	55%
Kent	50%	50%	50%
Montgomery	50%	50%	50%
Prince George's	63%	63%	70%
Queen Anne's	50%	50%	51%
St. Mary's	58%	58%	58%
Somerset	100%	100%	100%
Talbot	50%	50%	50%
Washington	71%	71%	71%
Wicomico	97%	97%	97%
Worcester	50%	50%	50%
MD School for the Blind	93%	93%	93%

Source: Interagency Commission on School Construction

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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. The State achieved the \$2.0 billion target ahead of schedule, and Public School Construction Program (PSCP) funding has remained above the \$250.0 million target each year since. **Exhibit 2** shows annual State public school construction funding from fiscal 2010 through 2018, by county.

The fiscal 2019 capital budget includes \$313.9 million in general obligation (GO) bonds for PSCP and an additional \$68.2 million in GO bonds for a supplemental grant program for school systems that have high enrollment growth or a large number of relocatable classrooms, as established by statute. The fiscal 2019 *Capital Improvement Program* includes \$280.0 million annually for PSCP in fiscal 2020 through 2023 and \$40.0 million annually for the supplemental grant program. Chapter 14 of 2018 sets a new goal of at least \$400 million in total State funding for public school construction annually as soon as practicable.

**Exhibit 2**  
**State Public School Construction Funding**  
**Fiscal 2010-2018**  
**(\$ in Thousands)**

<b>County</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
Allegany	\$0	842	\$727	\$1,999	\$2,496	\$6,597	\$10,837	\$24,242	12,873
Anne Arundel	25,020	26,200	32,400	33,349	34,870	36,200	39,419	42,598	36,829
Baltimore City	27,733	28,559	41,000	46,102	39,478	35,329	36,788	37,500	37,303
Baltimore	28,000	29,000	39,000	47,394	52,068	34,561	42,177	45,775	45,186
Calvert	8,181	8,450	7,317	7,129	5,577	2,653	1,500	9,964	14,575
Caroline	6,000	3,767	235	756	7,788	0	2,902	36	1,646
Carroll	10,520	8,444	9,079	15,211	4,874	3,915	6,415	3,418	3,853
Cecil	1,538	1,744	2,830	1,915	1,268	8,194	4,723	6,650	6,730
Charles	8,898	8,335	9,180	12,480	9,426	8,200	12,817	8,951	10,516
Dorchester	6,469	5,436	3,639	979	1,590	768	179	5,009	10,975
Frederick	16,226	14,000	16,532	19,254	20,163	15,901	21,000	21,295	19,564
Garrett	666	0	382	319	134	0	0	0	1,567
Harford	16,253	13,835	17,040	16,573	13,214	12,791	9,309	8,732	13,592
Howard	18,262	18,290	26,936	32,811	25,931	20,772	27,820	31,206	21,066
Kent	388	0	104	123	95	817	615	0	0
Montgomery	28,350	30,183	42,000	43,794	38,592	39,950	45,708	50,128	59,194
Prince George's	28,200	29,500	40,348	42,192	39,371	38,539	41,729	44,675	49,625
Queen Anne's	3,947	5,750	5,374	649	4,371	5,112	0	249	2,455
St. Mary's	4,028	6,600	3,354	3,172	7,472	11,876	7,015	1,273	815
Somerset	6,000	6,000	3,371	289	3,811	2,752	2,222	1,771	14,720
Talbot	436	344	135	35	634	0	308	0	0
Washington	7,965	7,970	8,571	9,117	8,494	7,467	8,404	4,847	2,592
Wicomico	13,170	9,975	1,864	11,290	13,327	10,991	7,440	10,373	11,847
Worcester	403	0	165	166	4,882	0	72	0	0
MD School for the Blind				2,800	6,063	14,733	8,616	6,000	9,376
Statewide		500		100	500	660	175	300	500
<b>Total</b>	<b>\$266,653</b>	<b>\$263,724</b>	<b>\$311,583</b>	<b>\$349,997</b>	<b>\$347,277</b>	<b>\$318,778</b>	<b>\$338,190</b>	<b>\$364,992</b>	<b>\$387,399</b>
<b>Amount Over \$250M</b>	<b>\$16,653</b>	<b>\$13,724</b>	<b>\$61,583</b>	<b>\$99,997</b>	<b>\$97,277</b>	<b>\$68,778</b>	<b>\$88,190</b>	<b>\$114,992</b>	<b>\$137,399</b>

Note: Includes new general obligation bonds, pay-as-you-go funds, and reallocated funds that were previously authorized. Counties receiving \$0 did not request any eligible projects to be funded in that year. Fiscal 2016-2018 include funds allocated for the Enrollment Growth and Relocatable Classroom program totaling \$20 million in fiscal 2016, \$40 million in fiscal 2017, and \$62.5 million in fiscal 2018. Fiscal 2017 total for Baltimore County includes \$5 million withheld by the Board of Public Works and later reauthorized by the General Assembly in fiscal 2018.

Source: Interagency Commission on School Construction; Department of Legislative Services