

Department of Legislative Services
 Maryland General Assembly
 2018 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

House Bill 1783

(Delegate Jones, *et al.*)

Appropriations

Budget and Taxation

21st Century School Facilities Act

This bill makes comprehensive changes to public school construction funding and approval processes in the State, including (1) altering the name, composition, and role of the Interagency Committee on School Construction; (2) requiring periodic public school facilities assessments; (3) streamlining the State approval process for school construction projects; and (4) providing at least \$400 million for public school construction annually as soon as practicable, including \$10 million for school safety improvements. **The bill takes effect June 1, 2018.**

Fiscal Summary

State Effect: General fund expenditures increase by approximately \$17.7 million in FY 2019 for school safety grants, one-time costs, and staff to implement the bill. Beginning in FY 2020, general fund expenditures increase by about \$11.2 million annually for ongoing expenses. Special fund revenues and expenditures increase by \$2.0 million for the loan fund in FY 2019, with indeterminate loan activity in the out-years. No effect on total capital expenditures, but funding for other capital projects is reduced to the extent the bill’s funding goal is met. **This bill establishes a mandated appropriation beginning in FY 2020.**

(\$ in millions)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
SF Revenue	\$2.00	-	-	-	-
GF Expenditure	\$17.70	\$11.16	\$11.16	\$11.19	\$11.22
SF Expenditure	\$2.00	-	-	-	-
Net Effect	(\$17.70)	(\$11.16)	(\$11.16)	(\$11.19)	(\$11.22)

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

Local Effect: Local school systems receive \$10.0 million annually in school safety grants for public schools. Local school systems can support the maintenance and updating of the facilities’ assessment information with existing resources. To the extent that technical

reviews of school construction projects are expedited and delays avoided, local school systems benefit from foregone project delays.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Interagency Commission on School Construction and Board of Public Works

The Interagency Committee on School Construction is renamed the Interagency *Commission* on School Construction (IAC) and made an independent commission within the Maryland State Department of Education (MSDE). Its purpose is to develop and approve policies, procedures, guidelines, and regulations on State school construction allocations to local jurisdictions in an independent and merit-based manner. IAC's membership is expanded from five to nine members, which includes four additional public members: two appointed by the Governor; and two appointed by the Presiding Officers (one each). The chair of the commission is jointly selected by the Governor and the Presiding Officers. Appointed members may not (1) be regulated lobbyists, elected officials, or employees of State or local governments or (2) have a business interest in or contracts related to school construction in the State. They may not receive compensation but are entitled to reimbursement of expenses. IAC is a public body; its deliberations and decisions are subject to the Open Meetings Act, and it may employ staff in accordance with the State budget. MSDE or any other State agency may lend its employees to serve as staff to IAC.

The Board of Public Works' (BPW) authority to adopt regulations and grant final approval with respect to public school construction projects is transferred to IAC. Similarly, BPW approval is not required for a contract or other authorization to spend the proceeds of a general obligation loan for public school construction projects. However, any regulations regarding the Public School Construction Program that were adopted by BPW before the bill's effective date and that do not conflict with the bill's provisions remain in effect unless they are altered by IAC.

The bill establishes a time table for IAC's approval of public school construction projects that generally mirrors the current time table in statute, including the preliminary approval of projects that comprise 75% of the preliminary school construction allocation by December 31 of each year. However, it requires IAC to establish an appeal process to allow local jurisdictions to request funding for projects that did not receive preliminary approval. IAC's decisions on any appeal of preliminary funding, and its final approval of

public school construction projects on or after May 1 of each year, are final and not subject to additional appeals or approvals by another unit of the Executive Branch.

As directed by IAC, the State Treasurer (instead of BPW) must supervise the distribution of any money that the General Assembly appropriates for public school construction.

Public School Facilities Assessment and Workgroup on the Assessment and Funding of School Facilities

By July 1, 2018, and in consultation with local school systems, IAC must adopt educational facilities sufficiency standards and a facility condition index for Maryland public schools. The standards are defined as a uniform set of criteria and measures for evaluating the physical attributes and educational suitability of public elementary and secondary school facilities in the State. The standards include specified categories, and they must be reviewed and updated periodically. The index is defined as a calculation to determine the relative physical condition of public school facilities by dividing the total repair cost of a facility by its total replacement cost.

By July 1, 2019, IAC must complete an initial statewide facilities assessment using the sufficiency standards. In completing the assessment, IAC must incorporate the index, contract with an independent third-party vendor to conduct the data collection and assessment, use existing data sources to the extent possible, and coordinate with local school systems to identify data elements to be used. After completing the initial assessment, IAC must share the results with the Workgroup on the Assessment and Funding of School Facilities that is established by the bill. The workgroup is chaired by the State Superintendent and staffed by IAC and the Department of Legislative Services (DLS). Working together and in consultation with local jurisdictions, IAC and the workgroup must consider (1) how the relative condition of public school facilities based on the standards and index should be prioritized and (2) if appropriate, how the results of the facilities assessment should be used in making funding decisions. The workgroup must report its findings and recommendations to the Governor and General Assembly by December 1, 2019. Based on the workgroup's recommendations, IAC must adopt regulations no earlier than May 1, 2020, that establish the use of facility assessment results in annual school construction funding decisions beginning no earlier than fiscal 2021.

IAC must enter the facility assessment data into an integrated data system called the Integrated Master Facility Asset Library. IAC must manage the library and provide local school systems with access to it using a cloud-based system. Following the completion of the initial assessment, IAC must develop standards and procedures to comprehensively update the facilities assessment so that the data is not more than four years old. Local school systems must cooperate with IAC and contribute data as requested to update the assessment.

The bill specifies that IAC, not the Department of General Services (DGS), must conduct periodic inspections of school buildings and report on their condition. Each local school system must develop and adopt preventative maintenance schedules for their public schools that are based on industry standards. By July 1 of each year, local school systems must report to IAC on their compliance with the maintenance schedules, and that information must be entered into the library.

Funding Levels for Public School Construction and School Safety

The bill expresses legislative intent that the State should provide at least \$345 million for public school construction in fiscal 2019. It further expresses legislative intent that, as soon as practicable and within debt affordability guidelines, the State should provide at least \$400 million each year, which can be phased in over several years. The annual goal should be recalculated to reflect the initial school facility assessment and the findings of the facilities assessment workgroup.

The bill creates the School Safety Grant program to provide grants to local school systems for security improvements, including:

- secure and lockable doors for every classroom;
- an area of safe refuge in every classroom; and
- surveillance and other security technology for school monitoring purposes.

IAC administers the program in consultation with the Maryland Center for School Safety. The Governor is required to include \$10.0 million in the annual operating or capital budget that may be used only to make grant awards. Program funding is supplemental to and not instead of funding that would otherwise be appropriated for public school construction projects.

State Approval and Oversight of Funding for Public School Construction

While maintaining the requirement that local school systems prepare and submit 10-year facility master plans every year, the bill requires that annual planning and funding requests to IAC include only plans and funding requests for projects in the upcoming fiscal year.

Except as described below, for major school construction projects, IAC must review educational specifications and schematic designs for the projects, and the local school system must resolve any IAC concerns or recommendations before the specifications and designs are finalized. MSDE and IAC must consider altering the submission and review timelines for educational specifications and schematic designs to make the process more efficient.

For both major school construction projects and systemic renovation projects, DGS must continue to review and IAC must continue to approve design and construction documents. However, DGS, with the review and approval of IAC, must develop a certification process by which a local school system may be exempt from (1) IAC/DGS review of educational specifications, schematic designs, and design and construction documents and (2) IAC oversight of compliance with preventative maintenance schedules. Local school systems seeking certification must demonstrate that they have the capacity to complete the necessary reviews or compliance monitoring within the county. The certification must be for five years and renewable. DGS must work with local school systems to develop timelines for the submission of design and construction documents. IAC must allow all necessary documentation involved in the review and approval process to be submitted electronically.

Change orders for major construction projects and systemic renovation projects may not be reviewed by DGS and are not subject to approval by IAC. The State may not withhold a portion of its funding allocation for change orders, but local school systems must maintain contingency funds to address unanticipated costs.

IAC may not partially fund an eligible systemic renovation project unless the local school system has requested partial funding. Contingency funds reserved for use by a local school system that are applied to a project in a subsequent fiscal year may not supplant new funds allocated to a local school system in that year.

In order for an item or system to be eligible for State funding using general obligation (GO) bond proceeds, it must have a median useful life of at least 15 years.

School construction projects that are funded entirely with local funds are not subject to review by MSDE unless they substantially alter or expand an existing school built in part with State funds.

IAC is charged with updating the State and local cost-share formula every two years (instead of every three years) and adopting a common definition of local pay-as-you-go (PAYGO) funding to ensure comparability of local debt calculations.

Any land purchased by a local school system for the purpose of building a school must be submitted to the State Superintendent for approval not more than three years before the project is submitted to IAC for local planning approval.

Energy Efficient Schools

IAC must develop and provide incentives for local school systems to (1) construct net-zero buildings, as defined by the bill; (2) use energy efficient or other preferred materials in

public school construction; or (3) use prototype school designs, including expedited review of projects that use prototypes. Any incentives offered by IAC are subject to legislative review and are supplemental to, and not intended to replace, funding that otherwise would be appropriated to local governments for school construction.

The Maryland Green Building Council must develop guidelines that enable new public school buildings to meet the equivalent of current “green building” standards without requiring an independent certification that the buildings have achieved the required standards.

Revolving Loan Fund

The bill establishes the Local Share of School Construction Costs Revolving Loan Fund to provide loans to local governments to forward fund the local share of school construction projects. The fund is intended for local school systems that rely on the local share to be fully funded in order to complete a project. It may be used to provide low- or no-interest loans to local governments. Eligibility criteria for loans, to be developed by IAC, must include that a local government (1) needs a loan to forward fund the local share of a project in order to complete it and (2) can demonstrate that it is able to repay the loan at a future date. Loans from the fund are supplemental to and not intended to replace funding that otherwise would be appropriated to local governments for school construction.

Use of Alternative Financing for Public School Construction

The bill expands allowable alternative financing methods to include “design-construct-operate-maintain-finance” arrangements, which allow a local school system to contract with a county revenue authority or a private entity for the design, construction, operation, and maintenance of a public school under terms agreed to by the parties.

The bill authorizes local school systems to solicit proposals for the development of public schools and lease property from a county revenue authority or a private entity for use as a public school facility. It also allows local school systems that use alternative financing to transfer title to property used for a public school to a county revenue authority or private entity under specified circumstances. Lease payments made by a local school system to a county or private entity for property used as a public school are eligible for a State Board of Education waiver from maintenance of effort (MOE) requirements under specified circumstances and waiver procedures. Alternative financing methods may include reserves sufficient to cover operation, facility renewal, maintenance, and energy costs as part of the contract.

In consultation with the Maryland Stadium Authority (MSA), IAC must provide technical assistance and support to local school systems on the use of alternative financing and

project delivery methods for school construction. IAC in consultation with MSA must develop a public-private partnership (P3) pilot program that meets specified criteria.

IAC must explore the feasibility of regional school construction projects, including regional P3 zones and regional career and technical education high schools. It must also develop mechanisms and incentives to provide State funding for regional school construction projects. By July 1, 2018, it must report on the feasibility of regional projects to the Commission on Innovation and Excellence in Education.

Procurement of Public School Construction Services

Contracts for school construction projects must be awarded to the responsible bidder who provides the best value, with consideration given to the price offered by the bidder (among other factors in current law).

Local school boards are encouraged to use bulk purchasing, bundling, and intergovernmental purchasing, consistent with competitive bidding. They may also bundle, for both funding approval and procurement purposes, similar systemic renovation projects at different schools and interrelated systemic projects at a single school.

Technical Assistance for Local School Systems

IAC must serve as a central repository for information on (1) the use of pre-fab and building system options; (2) procurement methods; (3) school facility design and construction; and (4) best practices in school construction. It must also work with MSA to provide technical assistance to local school systems in a variety of related areas.

Workgroup on Educational Development Specifications

This workgroup must:

- review square footage allocations to identify any overly restrictive requirements and determine if alternative methodologies or allocation could result in more efficient use of space in school buildings;
- review MSDE school design standards and guidelines to ensure that they are aligned with the space allowance for each type of space and are not overly specific;
- examine the use of regional cost-per-square foot figures, which would reflect the different construction and labor markets in regions of the State;
- review the process for determining State-rated capacity of public schools; and
- review the cost per student of specified school construction projects and examine the differences in cost per student by type of school across local jurisdictions.

Other Provisions

Each local school system must determine which of its public schools should be designated as emergency management shelters, based on local emergency management plans and the availability of funds.

IAC must work with any local school system experiencing declining enrollment to identify buildings for consolidation or to find alternative uses for underutilized school buildings, subject to approval by the local school board.

IAC must examine the effects of prevailing wages on school construction costs and report its findings to the Governor and General Assembly by July 1, 2020.

Current Law: For an overview of the State's role in supporting public school construction, including the respective roles of IAC and BPW, please see the **Appendix – State Funding for Public School Construction**.

Public Schools Facilities Assessment

Chapters 306 and 307 of 2004 required that the State conduct a facility assessment every four years, but no assessment has been done since 2003 as funds have not been appropriated for one.

State Approval and Oversight of Funding for Public School Construction

IAC's review procedures for local school construction projects requesting State approval and funding is generally established in regulation and IAC's written guidelines. The technical review process is somewhat different for major construction projects (new and replacement schools and major renovations or expansions of existing schools) than for systemic renovation projects (smaller scale projects that seek to replace or upgrade a specific system within a building, such as heating and cooling, roofing, or windows). For major construction projects, MSDE reviews the educational specifications and schematic designs of the buildings to ensure that they conform to minimum State requirements for instructional and other spaces. In addition, DGS reviews all design documents and construction documents (*i.e.*, the blueprints) to ensure the integrity and constructability of the building. For systemic renovation projects, DGS reviews the design and construction documents, but MSDE has no review responsibility because these projects are technical in nature and do not directly affect the instructional program. Based on the reviews by MSDE and/or DGS, IAC makes recommendations to the Board of Public Works (BPW) regarding projects that are ready to move forward and those that should be funded. There is no provision made for local school systems that have the capacity to do their own technical reviews.

For major construction projects, projects must first receive planning approval prior to the start of any construction, confirming that the project is eligible for State funding. Funding approval is granted separately, although sometimes concurrently with planning approval, subject to the availability of funds. For major construction projects and some larger systemic renovations, funding is typically provided over several years, reflecting construction timelines and available funding. Once a contract is awarded, all change orders require review by DGS and approval by IAC.

Land purchases by a local school system for the purpose of building a school must be approved for that purpose by the State Superintendent before the purchase is finalized. If more than five years elapse from the previous approval, it must be resubmitted for approval.

Statute establishes legislative intent that IAC encourage local education agencies to reuse recently used school designs when it is educationally appropriate and cost-effective to do so.

For any project that involves constructing a new or replacement school building or upgrading the electrical system of a school building, a local school system must install emergency power supplies for any area of the building determined by the Maryland Emergency Management Agency to be necessary for emergency management shelters.

Alternative Financing

Local school boards may use any of six alternative financing methods authorized by statute. They may accept unsolicited proposals for the development of public schools in limited circumstances, but they are not authorized to solicit proposals. BPW must adopt regulations that require projects using alternative financing to meet specified requirements regarding scope, risk sharing, public need, and other factors. The projects must also meet educational and design standards, and they must be approved by the county governing body, the State Superintendent, and both IAC and BPW.

In general, only local school boards may hold title to a property that is used as a public school; in Baltimore City, title to real property used for public schools is held by the Mayor and City Council of Baltimore. However, a private entity may hold title to property for a public school if the private entity is contractually obligated to transfer title for the property to the local school board on a specified date.

Procurement of Public School Construction Services

State regulations establish a requirement for competitive sealed bidding in the procurement of school construction contracts, with limited exceptions. Competitive sealed bidding

generally requires that contracts be awarded on the basis of lowest price, as long as the bidder is deemed responsible and the proposal is responsive to the procurement specifications.

“Green” School Buildings

Chapter 124 of 2008 requires most new or renovated public school buildings to be constructed as high-performance buildings, subject to waiver processes established by the Department of Budget and Management (DBM) and DGS.

Chapter 124 defines a high-performance building as one that:

- meets or exceeds the U.S. Green Building Council’s criteria for a silver rating under the Leadership in Energy and Environmental Design (LEED) program; or
- achieves a comparable numeric rating according to a nationally recognized, accepted, and appropriate standard approved by DBM and DGS.

Based on recent actions approved by the Maryland Green Building Council, DGS, and DBM, a high-performance building is one that (1) achieves a LEED silver rating or better; (2) earns a two Green Globes rating or better under the Green Building Initiative’s Green Globes rating system; or (3) complies with the Maryland Green Building Council’s supplement to the International Green Construction Code enacted in November 2014.

Background: During the 2016 legislative session, the President of the Senate and Speaker of the House announced the formation of the 21st Century School Facilities Commission. The commission was charged with multiple responsibilities, including (1) identifying areas where innovative financing mechanisms including P3s, 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 bill implements the commission’s recommendations, among other provisions. The [commission’s website](#) contains the final report and all meeting agendas and materials presented to the commission.

The Governor’s proposed fiscal 2019 capital budget includes \$309.0 million in GO bond funding for the Public School Construction Program (PSCP), plus \$4.9 million in pay-as-
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you-go general funds in the operating budget. It also includes \$40.0 million in GO funds for school systems with high enrollment growth or a large number of relocatable classrooms. That brings the total proposed funding level to \$353.9 million, which exceeds the recommended level in the bill by \$8.9 million for fiscal 2019. The Governor's *Capital Improvement Program* includes \$320 million annually for these programs in fiscal 2020 through 2023, below the bill's \$400 million goal.

The General Assembly's fiscal 2019 capital budget plan for public school construction includes \$313.9 million in GO bond funding for PSCP and \$68.1 million in GO funds for enrollment growth/relocatable classrooms, totaling \$382.1 million, approximately \$37 million above the bill's funding goal for fiscal 2019.

State Expenditures: The bill's effects on State expenditures and the assumptions used in determining the effects are each addressed separately below.

Statewide Facilities Assessment

- The one-time cost of the facilities assessment by a third-party vendor is estimated to be \$3.5 million.
- The one-time cost of developing the cloud-based library to maintain and update the assessment data is \$350,000, with annual maintenance costs of \$25,000.
- DLS has determined that IAC requires four assessors to visit schools and update the facility condition data on a continuous, rotating basis. These assessors will be merged with two existing maintenance inspectors, for a total of six. One assessor is hired in fiscal 2019 to assist with designing the facilities assessment and the electronic library, and the remaining three assessors are hired in fiscal 2020, after the assessment is completed.
- IAC requires a database development specialist and an information technology support/webmaster position to maintain the library system and the workflow management system described below.

Other Interagency Commission on School Construction Expenditures

- The revolving loan fund for local project costs requires an initial appropriation of at least \$2.0 million to capitalize the fund, after which assets will revolve as loans are repaid.
- The bill requires IAC and its component agencies to allow electronic submission and transmission of all documents involved in the State's review and management of public school construction projects. The one-time cost of an electronic workflow management system is approximately \$1.3 million, with annual maintenance costs of \$400,000.

- IAC must (1) staff two workgroups; (2) explore the feasibility of funding regional school projects; and (3) develop incentives for local school systems to use prototypes and build energy efficient buildings. To carry out these short-term responsibilities, IAC requires a contractual special projects manager for one year.
- IAC must (1) administer the revolving loan fund and the School Safety Grant program; (2) coordinate with MSA on various initiatives, including developing a P3 pilot program; and (3) serve as a repository of information and a technical assistance provider regarding procurement, construction delivery methods, and other related topics. IAC requires two program administrators and support staff to carry out these long-term responsibilities.
- As the General Assembly cannot mandate spending in the capital budget, it is assumed that the Governor includes general fund PAYGO in the operating budget to comply with the funding mandate for the School Safety Grant program. The bill specifies that the funding may be used only to make grants, so any administrative costs related to the program are in addition to the mandated funding level.
- The fiscal 2019 operating budget, as enacted, restricts \$4.9 million in PAYGO general funds for the facilities assessment, cloud-based library, and workflow management system, contingent on the Governor releasing the funds for those purposes.

The fiscal 2019 operating budget also includes \$10.0 million in general fund PAYGO restricted in the Reserve Fund for school safety improvements, contingent on the Governor releasing the funds for this purpose, and the capital budget plan includes \$10 million in special fund PAYGO from bond premiums for school safety improvements in fiscal 2019.

Department of General Services and Maryland State Department of Education

DGS and MSDE must redesign their review processes and timelines. DGS must also develop the certification program for local school systems with the capacity to conduct their own technical reviews. Both agencies will ultimately experience a decrease in overall workload as a result of the bill because they will be conducting fewer project and change order reviews and because the workflow management system will increase efficiency. Therefore, it is anticipated that both agencies can carry out their functions with existing resources.

General fund *personnel-related* expenditures increase by \$515,012 in fiscal 2019, which accounts for a 30-day start-up delay from the bill's June 1, 2018 effective date. This estimate reflects the cost of hiring six new regular staff and one contractual staff for IAC, as discussed above. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

In addition, expenditures increase by (1) \$5,150,000 for IAC to conduct the facilities assessment and develop the cloud-based library and the workflow management system; (2) \$2.0 million to capitalize the revolving loan fund; and (3) \$10.0 million for the School Safety Grant program. **Exhibit 1** summarizes total expenditures for the first two years of the bill’s implementation, including the deferred hiring of three new assessors by IAC in fiscal 2020.

Exhibit 1
Summary of State Expenditures

Interagency Commission on School Construction	<u>FY 2019</u>	<u>FY 2020</u>
Regular Positions	6	3
Contractual Position	1	-1
Salaries and Fringe Benefits	\$515,012	\$682,890
Facilities Assessment	3,500,000	N/A
Cloud-based Library Development and Maintenance	350,000	25,000
Workflow Management System Development and Maintenance	1,300,000	400,000
Revolving Loan Fund	2,000,000	N/A
School Safety Grants	10,000,000	10,000,000
Other Operating Expenses	<u>38,605</u>	<u>50,295</u>
Total State Expenditures	\$17,703,617	\$11,158,185

Source: Department of Legislative Services

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the federal Patient Protection and Affordable Care Act.

DLS can provide staffing to the workgroup with existing resources, and MSA can assist IAC in providing technical assistance with existing resources.

Local Fiscal Effect: Local school systems receive \$10.0 million annually to make safety-related improvements to public school facilities beginning in fiscal 2019. There is no matching requirement specified in the bill, although IAC may require a local match in the regulations that it is required to adopt for the program.

The bill requires local school systems to assist in updating the school facilities assessment. However, most of that work will be done by the assessors, although local school systems will have to support the work of the assessors and contribute supplemental information on occasion. It is anticipated that they can do so with existing resources.

Local school systems with the capacity to carry out their own programmatic and technical reviews, and to ensure compliance with maintenance schedules, may benefit from less oversight from the State, allowing school construction projects in those counties to proceed more quickly. The other counties will benefit from DGS having a smaller workload and therefore being able to review their projects in a more timely fashion. To the extent school systems participate in alternative financing or the authorized P3 pilot program, they may acquire or construct school facilities more quickly.

Additional Information

Prior Introductions: None.

Cross File: SB 1243 (Senator DeGrange, *et al.*) - Rules.

Information Source(s): Montgomery County; Comptroller's Office; Maryland State Department of Education; Public School Construction Program; Department of General Services; Board of Public Works; State Department of Assessments and Taxation; Maryland Stadium Authority; Department of Legislative Services

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Appendix – State Funding for Public School Construction

School Construction Review and Approval Process

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 to BPW on which projects to fund. 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.

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, BPW 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, BPW approved the use of State funding for window air-conditioning units and associated electrical upgrades, installation, and security in schools where more than one-half of the classrooms are not temperature controlled.

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. **Exhibit 1** shows the State share of eligible school construction costs for all Maryland jurisdictions for fiscal 2017 through 2019, as approved by BPW.

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

County	FY 2017	FY 2018	FY 2019
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 Committee on School Construction

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 Governor's proposed fiscal 2019 budget includes \$309.0 million in general obligation (GO) bonds and \$4.9 million in general funds for PSCP and an additional \$40.0 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.

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

County	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY2015	FY 2016	FY 2017	FY 2018
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
Total	\$266,653	\$263,724	\$311,583	\$349,997	\$347,277	\$318,778	\$338,190	\$364,992	\$387,399
Amount Over \$250M	\$16,653	\$13,724	\$61,583	\$99,997	\$97,277	\$68,778	\$88,190	\$114,992	\$137,399

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 Committee on School Construction; Department of Legislative Services