

Chapter 14

(House Bill 1783)

AN ACT concerning

21st Century School Facilities Act

FOR the purpose of requiring a county board of education to submit the purchase of ground or a school site to the State Superintendent of Schools to approve or disapprove within a certain period of time; authorizing certain exceptions to the requirement that certain public school property must be held in trust by a county board; authorizing a county board to contract with a county revenue authority in a public-private partnership agreement; establishing a design-construct-operate-maintain-finance arrangement as an alternative financing method available for use by ~~a county or~~ a county board; authorizing a county board to solicit certain proposals and lease certain property; authorizing certain alternative financing methods to include certain reserves; repealing certain requirements relating to regulations for alternative financing methods; repealing the requirement for the use of certain standards and procedures for qualifying and approving certain alternative financing methods; providing that certain provisions of law and regulations do not apply to projects that use alternative financing methods; prohibiting a certain construction of certain provisions of this Act; requiring projects that use alternative financing methods and receive State funding to be submitted to the Interagency Commission on School Construction for review and to comply with certain requirements; requiring each county board to make a certain determination regarding the designation of a school as an emergency management shelter; altering the requirements for awarding contracts to bidders for school buildings, improvements, supplies, or equipment; encouraging and authorizing county boards to use certain procurement methods; exempting certain lease payments from a certain county funding requirement under certain circumstances; requiring the State Board of Education to approve a certain waiver request subject to certain limitations; authorizing the State Board to approve a certain waiver request subject to a certain limitation; requiring the State Board to determine the number of fiscal years that a certain waiver is applicable and the minimum requirement of certain funding for the fiscal year following the expiration of a certain waiver; renaming the Interagency Committee on School Construction to be the Interagency Commission on School Construction; repealing the requirement that the Board of Public Works establish the Interagency Committee; providing that the Interagency Commission is an independent commission that functions within the State Department of Education; providing for the purpose, membership, and chair of the Interagency Commission; prohibiting a certain individual from being an appointed member of the Interagency Commission ~~from being a certain elected official or government employee;~~ repealing a provision authorizing the Board of Public Works to delegate certain administrative and budgetary authority; prohibiting a member of the Interagency Commission from receiving compensation, but authorizing the reimbursement of certain expenses; authorizing the Interagency

Commission to employ staff; repealing the requirement that the Board of Public Works approve the appointment of the Executive Director; requiring the Interagency Commission, rather than the Board of Public Works, to define by regulation certain eligible and ineligible public school construction or capital improvement costs; requiring certain systems or items to have a certain median useful life to be an eligible public school construction cost; requiring the Interagency Commission, rather than the Board of Public Works, to adopt certain regulations regarding modular construction and indoor air quality; requiring the State to pay certain costs of certain projects and improvements approved by the Interagency Commission, rather than by the Board of Public Works; authorizing the Interagency Commission, rather than the Board of Public Works, to adopt regulations for the administration of the Public School Construction Program; requiring the regulations that govern the Public School Construction Program to establish a process for appeal of Interagency Commission decisions, alter the agency authorized to withhold certain funds in certain circumstances, and contain requirements for preventative maintenance plans and the submission of long-range plans and certain annual plans that include plans for specific projects; exempting certain regulations and procedures of the Interagency Commission from certain restrictions on the use of certain bond sale proceeds; establishing that certain authority, responsibilities, powers, and duties of certain governmental entities are subject to the regulations adopted by the Interagency Commission for the Public School Construction Program; prohibiting the Interagency Commission from partially funding a certain school construction project unless the local education agency has requested partial funding; establishing that certain reserved funds may not supplant certain additional funding; requiring the Interagency Commission, rather than the Board of Public Works, to provide certain notice of a certain recommended allocation of school construction funds; requiring the Interagency Commission, rather than the Board of Public Works, to approve projects comprising a certain percent of a certain preliminary school construction allocation during a certain period of time each year; requiring the Interagency Commission to establish a certain appeal process for local jurisdictions; repealing the provision authorizing the Board of Public Works to allocate a certain remaining allocation; requiring the Interagency Commission, on or after a certain date each year, to approve a certain percent of the school construction allocation included in the capital budget bill as enacted; providing that certain decisions and project approvals by the Interagency Commission are final and not subject to additional appeals or approvals by certain other units; requiring the Interagency ~~Committee on School Construction~~ Commission to establish and provide certain incentives after a certain review and comment period; requiring certain incentives to be supplemental to certain other funding; requiring the Interagency ~~Committee~~ Commission to allow electronic submission of any documents or data required by the Interagency ~~Committee~~ Commission; requiring the Interagency ~~Committee~~ Commission to be a central repository for certain information; requiring the Interagency ~~Committee~~ Commission to take certain actions in consultation with the ~~School Construction Technical and Innovative Assistance Office~~ Maryland Stadium Authority; requiring the Interagency Commission to work with a local education agency with declining enrollment to take certain actions; altering the State agency

responsible for conducting inspections of public school buildings; requiring the Interagency ~~Committee~~ Commission, in consultation with local education agencies, to develop and adopt certain standards and to create a certain index for educational facilities on or before a certain date; providing for the purpose of certain standards and requiring the standards to include certain categories; requiring the Interagency Commission to periodically review and update certain standards; requiring the Interagency ~~Committee~~ Commission to conduct a certain facility assessment under certain conditions on or before a certain date and ~~annually thereafter~~ to develop standards and procedures for certain updates; requiring local education agencies to ~~follow certain standards~~ cooperate and contribute certain data ~~annually~~ to update a certain facility assessment; ~~requiring the Interagency Committee to compare certain data;~~ requiring the Interagency ~~Committee~~ Commission to manage the Integrated Master Facility Asset Library and to enter certain data into the Library; requiring the Interagency ~~Committee~~ Commission to ~~establish rankings annually based on certain criteria~~ share the data results with the Workgroup on the Assessment and Funding of School Facilities and, with the Workgroup, consider certain matters; requiring the Interagency Commission to adopt certain regulations based on the Workgroup's recommendations, and not before a certain date, for use in certain funding decisions; requiring each county board to develop and adopt certain preventative maintenance schedules, based on industry standards, for certain public school facilities; ~~requiring certain preventative maintenance schedules to be based on certain standards and to be subject to certain review and approval;~~ requiring each county board to report annually on or before a certain date to the Interagency ~~Committee~~ Commission on the board's compliance with certain preventative maintenance schedules; requiring the Interagency ~~Committee~~ Commission to enter certain information into the Integrated Master Facility Asset Library; requiring the Interagency Commission, rather than the Board of Public Works, to establish a process to allow a school system to obtain a waiver from certain high performance building requirements and to adopt certain regulations; specifying the process for the review and approval of public school construction projects; requiring certain reviews and approvals of certain educational specifications and schematic designs for certain projects; prohibiting certain change orders for certain projects from being subject to certain reviews and approvals; prohibiting a certain percentage of a certain State allocation from being withheld; requiring certain reviews and approvals of certain design and construction documents for certain projects; exempting certain local education agencies from the requirements for certain reviews and approvals if certain conditions are met; requiring the Department of General Services to develop a certain certification process and requiring the certification process to be subject to certain review and approval; exempting certain school construction projects from review by the Maryland State Department of Education; requiring certain provisions of law to prevail in the event of a conflict with certain regulations and procedures; establishing the Local Share of School Construction Costs Revolving Loan Fund as a special, nonlapsing fund; specifying the purpose of the Fund; requiring the Interagency ~~Committee~~ Commission to administer the Fund; requiring the State Treasurer to hold the Fund and the Comptroller to account for the Fund; specifying the contents of the Fund; specifying the purpose for which the Fund may be used;

providing for the investment of money in and expenditures from the Fund; requiring interest earnings of the Fund to be credited to the Fund; specifying that money expended from the Fund is supplemental to certain other funds; requiring the Interagency ~~Committee~~ Commission to establish application procedures and certain eligibility criteria for loans from the Fund; exempting the Fund from a certain provision of law requiring interest earnings on State money to accrue to the General Fund of the State; requiring the State Treasurer, as directed by the Interagency Commission, to supervise the distribution of any money that the General Assembly appropriates for certain public school construction; establishing the School Safety Grant Program; establishing the purpose of the Program; requiring the Interagency Commission on School Construction to implement and administer the Program, in consultation with the Maryland Center for School Safety; requiring the Interagency Commission to provide certain grants under the Program; requiring the Interagency Commission to develop certain application procedures and eligibility requirements for the Program; requiring the Governor to provide a certain amount of money in the annual operating or capital budget bill for the Program; specifying that funding provided under the Program is supplemental to public school construction funding from other sources; requiring the Interagency Commission to adopt certain regulations for the Program; repealing the requirement that the Board of Public Works approve a grant under the solar energy pilot program; requiring the Interagency Commission, rather than the Board of Public Works, to adopt regulations requiring certain school construction project documents to include an evaluation of the use of solar technologies and regulations for funding certain projects at the Maryland School for the Blind; requiring the Maryland Green Building Council to develop certain guidelines for certain public school buildings; ~~establishing the School Construction Technical and Innovative Assistance Office in the Maryland Stadium Authority; providing for the purpose of the Office; authorizing the Office to take certain actions;~~ altering the State agency responsible for approving the use of money credited to the Public School Construction Fund; providing that Board of Public Works approval is not required for a contract or other authorization to spend the proceeds of a general obligation loan for public school construction projects; exempting capital expenditures for certain public school construction from certain review and approval requirements; declaring the intent of the General Assembly regarding funding for public school construction; providing for the recalculation of a certain funding goal after certain conditions are met; establishing the Workgroup on Educational Development Specifications; establishing the Workgroup on the Assessment and Funding of School Facilities; providing for the composition, chair, and staffing of the workgroups; prohibiting a member of the workgroups from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the workgroups to study and make recommendations regarding certain matters; requiring the workgroups to report their findings and recommendations to the Governor and the General Assembly on or before certain dates; requiring the Interagency ~~Committee~~ Commission to take certain actions, review certain matters, and examine certain requirements and to provide certain reports to the Governor and the General Assembly on or before certain dates; requiring the Interagency ~~Committee~~ Commission to explore the

feasibility and funding of certain regional school construction projects and to report to the Commission on Innovation and Excellence in Education on or before a certain date; providing that certain regulations regarding the Public School Construction Program continue to be in force and effect unless altered by the Interagency Commission; providing that the Interagency Commission on School Construction is the successor of the Interagency Committee on School Construction; providing that certain names and titles of a certain unit and officials in laws and other documents mean the names and titles of the successor unit and officials; providing for the continuity of certain matters and persons; requiring the publisher of the Annotated Code, in consultation with the Department of Legislative Services, to correct cross-references and terminology in the Code that are rendered incorrect by this Act; making certain conforming changes; making certain stylistic changes; defining certain terms; and generally relating to the funding and administration of public school construction.

BY repealing and reenacting, with amendments,

Article – Education

Section 2–303(f), 4–114, 4–126, 5–112(c) and (h), 5–202(d)(8) and (11) through (13), 5–301, ~~5–302, 5–309, and 5–310~~ 5–301.1, 5–301.2, 5–302, 5–303, 5–304, 5–307(a), 5–309, 5–310, 5–312, and 8–315

Annotated Code of Maryland

(2014 Replacement Volume and 2017 Supplement)

BY adding to

Article – Education

Section 4–134, 5–112(h), ~~5–301.3, 5–314, and 5–315~~ 5–202(d)(11), and 5–314 through 5–317

Annotated Code of Maryland

(2014 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, without amendments,

Article – Education

Section 5–202(d)(2)

Annotated Code of Maryland

(2018 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – State Finance and Procurement

Section 4–809(a) and ~~6–226(a)(2)(i)~~, 6–226(a)(2)(i), 7–326(a), and 12–202(g)

Annotated Code of Maryland

(2015 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement

Section 4–809(f) and ~~6–226(a)(2)(ii)101. and 102.~~, 5–7B–07, 6–226(a)(2)(ii)101. and 102., 7–326(e), 8–301, and 12–202(a)

Annotated Code of Maryland
(2015 Replacement Volume and 2017 Supplement)

BY adding to

Article – State Finance and Procurement

Section 6–226(a)(2)(ii)103.

Annotated Code of Maryland

(2015 Replacement Volume and 2017 Supplement)

BY ~~adding to~~ repealing and reenacting, with amendments,

Article – Economic Development

Section ~~10–610.1~~ 10–645(l) and 10–646(a), (d), and (e)

Annotated Code of Maryland

(2008 Volume and 2017 Supplement)

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

Article – Education

2–303.

(f) (1) Subject to the bylaws, rules, and regulations of the State Board, **AND EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION**, the State Superintendent shall approve or disapprove each:

(i) Proposal for the purchase or sale of any ground, school site, or building;

(ii) Plan or specification for the remodeling of a school building if the remodeling costs more than \$350,000;

(iii) Plan or specification for the construction of a new school building;
and

(iv) Change order that costs more than \$25,000 for the remodeling, restoration, or construction of a school building.

(2) If the State Superintendent disapproves any plan, specification, proposal, or change order, he shall state in writing the reasons for his disapproval.

(3) If the construction is to be done by a county board, the board may not begin until the plans and specifications are approved in writing by the State Superintendent.

(4) If the construction is to be done by contract, the contract is invalid without the written approval of the State Superintendent.

(5) FOR THE PURCHASE OF ANY GROUND OR SCHOOL SITE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COUNTY BOARD SHALL SUBMIT THE PURCHASE TO THE STATE SUPERINTENDENT FOR APPROVAL OR DISAPPROVAL NOT MORE THAN 3 YEARS BEFORE THE PROJECT IS SUBMITTED TO THE INTERAGENCY ~~COMMITTEE~~ COMMISSION ON SCHOOL CONSTRUCTION FOR LOCAL PLANNING APPROVAL.

4-114.

(a) All property granted, conveyed, devised, or bequeathed for the use of a particular public school or school system:

(1) Except as provided in [subsection] **SUBSECTIONS (c) THROUGH (E)** of this section, shall be held in trust for the benefit of the school or school system by the appropriate county board or, for real property in Baltimore City, by the Mayor and City Council of Baltimore; and

(2) Is exempt from all State and local taxes.

(b) Money invested in trust for the benefit of the public schools for any county or city is exempt from all State and local taxes.

(c) (1) A private entity **OR A COUNTY REVENUE AUTHORITY** may hold title to property used for a particular public school or local school system if the private entity **OR COUNTY REVENUE AUTHORITY** is contractually obligated to transfer title to the appropriate county board on a specified date.

(2) The conveyance of title of school property to a private entity **OR A COUNTY REVENUE AUTHORITY** for a specified term under this subsection may not be construed to prohibit the allocation of construction funds to an approved school construction project under the Public School Construction Program.

(3) A county or county board may convey or dispose of surplus land under the jurisdiction of the county or county board in exchange for public school construction or development services.

(D) (1) THIS SUBSECTION APPLIES ONLY TO A PROJECT THAT USES AN ALTERNATIVE FINANCING METHOD UNDER § 4-126 OF THIS SUBTITLE.

(2) A COUNTY BOARD MAY TRANSFER TITLE TO PROPERTY USED FOR A PARTICULAR PUBLIC SCHOOL OR LOCAL SCHOOL SYSTEM TO A ~~COUNTY~~, COUNTY REVENUE AUTHORITY, OR PRIVATE ENTITY IF THE ~~COUNTY~~, COUNTY REVENUE

AUTHORITY, OR PRIVATE ENTITY IS CONTRACTUALLY OBLIGATED TO OPERATE AND MAINTAIN THE PROPERTY UNTIL:

(I) THE PROPERTY OUTLIVES ITS USEFUL LIFE;

(II) THE PROPERTY IS NO LONGER NEEDED FOR SCHOOL PURPOSES; OR

(III) AS OTHERWISE AGREED TO BY THE PARTIES.

(E) A COUNTY, COUNTY REVENUE AUTHORITY, OR PRIVATE ENTITY MAY HOLD TITLE TO PROPERTY LEASED BY A COUNTY BOARD TO BE USED FOR A PARTICULAR PUBLIC SCHOOL OR LOCAL SCHOOL SYSTEM UNDER TERMS AGREED TO BY THE PARTIES.

4-126.

(a) (1) In this section[, “alternative] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “ALTERNATIVE financing methods” includes ONE OR MORE OF THE FOLLOWING METHODS:

[(1)] (I) Sale-leaseback arrangements, in which a county board agrees to transfer title to a property, including improvements, to a private entity that simultaneously agrees to lease the property back to the county board and, on a specified date, transfer title back to the county board;

[(2)] (II) Lease-leaseback arrangements, in which a county board leases a property to a private entity that improves the property and leases the property, with the improvements, back to the county board;

[(3)] (III) Public-private partnership agreements, in which a county board contracts with a COUNTY REVENUE AUTHORITY OR A private entity for the acquisition, design, construction, improvement, renovation, expansion, equipping, or financing of a public school, and may include provisions for cooperative use of the school or an adjacent property and generation of revenue to offset the cost of construction or use of the school;

[(4)] (IV) Performance-based contracting, in which a county board enters into an energy performance contract to obtain funding for a project with guaranteed energy savings over a specified time period;

[(5)] (V) Preference-based arrangements, by which a local governing body gives preference first to business entities located in the county and then to business entities

located in other counties in the State for any construction that is not subject to prevailing wage rates under Title 17, Subtitle 2 of the State Finance and Procurement Article; [and]

[(6)] (VI) Design–build arrangements, that permit a county board to contract with a design–build business entity for the combined design and construction of qualified education facilities, including financing mechanisms where the business entity assists the local governing body in obtaining project financing; AND

(VII) DESIGN–CONSTRUCT–OPERATE–MAINTAIN–FINANCE ARRANGEMENTS THAT PERMIT A COUNTY BOARD 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.

~~(3) “COUNTY” INCLUDES, UNLESS THE CONTEXT REQUIRES OTHERWISE, A COUNTY REVENUE AUTHORITY.~~

(b) (1) Except when prohibited by local law, in order to finance or to speed delivery of, transfer risks of, or otherwise enhance the delivery of public school construction, a county **BOARD, WITH THE APPROVAL OF THE COUNTY GOVERNING BODY IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION,** may:

[(1)] (I) Use alternative financing methods;

[(2)] (II) Engage in competitive negotiation, rather than competitive bidding, in limited circumstances, including construction management at–risk arrangements and other alternative project delivery arrangements, as provided in regulations adopted by the ~~Board of Public Works~~ **INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION;**

[(3)] (III) Accept unsolicited proposals for the development of public schools in limited circumstances, as provided in regulations adopted by the ~~Board of Public Works~~ **INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION;** [and]

(IV) SOLICIT PROPOSALS FOR THE DEVELOPMENT OF PUBLIC SCHOOLS;

(V) LEASE PROPERTY FROM A COUNTY REVENUE AUTHORITY OR A PRIVATE ENTITY FOR USE AS A PUBLIC SCHOOL FACILITY; AND

[(4)] (VI) Use quality–based selection, in which selection is based on a combination of qualifications and cost factors, to select developers and builders, as provided in regulations adopted by the ~~Board of Public Works~~ **INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION.**

(2) THE ALTERNATIVE FINANCING METHODS DESCRIBED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION MAY INCLUDE RESERVES SUFFICIENT TO COVER OPERATION, FACILITY RENEWAL, MAINTENANCE, AND ENERGY COSTS AS PART OF A CONTRACT.

~~(e) The Board of Public Works shall adopt regulations requiring a project that qualifies for alternative financing methods under this section to meet requirements regarding the advantages of the project to the public that include provisions addressing:~~

~~(1) The probable scope, complexity, or urgency of the project;~~

~~(2) Any risk sharing, added value, education enhancements, increase in funding, or economic benefit from the project that would not otherwise be available;~~

~~(3) The public need for the project; and~~

~~(4) The estimated cost or timeliness of executing the project.~~

~~(d) Projects that qualify for alternative financing methods under this subsection:~~

~~(1) Shall meet the educational standards, design standards, and procedural requirements under this article and under regulations adopted by the Board of Public Works; and~~

~~(2) Consistent with the requirements of this article, shall be approved by:~~

~~(i) The county governing body;~~

~~(ii) The State Superintendent of Schools; or~~

~~(iii) The Interagency Committee on School Construction and the Board of Public Works.~~

~~(e) (C)~~ Use of alternative financing methods under this section may not be construed to prohibit the allocation of State funds for public school construction to a project under the Public School Construction Program.

~~(f) (D)~~ A county board may not use alternative financing methods under this section without the approval of the county governing body.

~~(g) The Board of Public Works shall adopt regulations recommended by the Interagency Committee on School Construction to implement the provisions of this section, including:~~

- ~~(1) Guidelines for the content of proposals, for the acceptance and evaluation of unsolicited proposals, and for accepting competing unsolicited proposals;~~
- ~~(2) Requirements for the content and execution of a comprehensive agreement governing an arrangement authorized under this section;~~
- ~~(3) Guidelines for content and issuance of solicitations;~~
- ~~(4) Requirements for the prequalification of bidders or offerors;~~
- ~~(5) Requirements for public notice of solicited and unsolicited proposals and proposed execution of a comprehensive agreement;~~
- ~~(6) Regulations that require compliance with requirements applicable to qualified projects that would otherwise be in effect under the State procurement law if the procurement were competitively bid; and~~
- ~~(7) (i) Regulations that require that contracts and subcontracts adhere to the requirements of Title 17, Subtitle 2 and Title 14 of the State Finance and Procurement Article if the requirements would otherwise be applicable; and~~
- ~~(ii) Regulations that specify elements to be included in any preference based arrangement adopted by a local governing body that gives preference first to business entities located in the county and then to business entities located in other counties in the State for any construction that is not subject to prevailing wage rates under Title 17, Subtitle 2 of the State Finance and Procurement Article.~~

(E) (1) (I) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, § 2-303(F) AND TITLE 5, SUBTITLE 3 OF THIS ARTICLE AND THE REGULATIONS THAT GOVERN THE PUBLIC SCHOOL CONSTRUCTION PROGRAM DO NOT APPLY TO PROJECTS THAT USE ALTERNATIVE FINANCING METHODS UNDER THIS SECTION.

(II) NOTHING IN THIS SECTION MAY BE CONSTRUED TO AUTHORIZE OR REQUIRE STATE APPROVAL BEFORE AN ALTERNATIVE FINANCING METHOD MAY BE USED BY A LOCAL SCHOOL SYSTEM.

(2) IF A PROJECT THAT RECEIVES STATE FUNDING USES ALTERNATIVE FINANCING METHODS UNDER THIS SECTION, THE PROJECT SHALL BE SUBMITTED TO THE INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION FOR REVIEW.

(3) PROJECTS THAT USE ALTERNATIVE FINANCING METHODS UNDER THIS SECTION AND RECEIVE STATE FUNDING SHALL COMPLY WITH THE FOLLOWING REQUIREMENTS:

(I) THE STATE AND LOCAL COST-SHARE ESTABLISHED FOR EACH COUNTY IN REGULATIONS;

(II) THE MAXIMUM STATE CONSTRUCTION ALLOCATION FOR EACH PROJECT APPROVED FOR STATE FUNDING;

(III) THE APPROVAL OF PROJECT FUNDING BY THE INTERAGENCY COMMISSION;

(IV) SMART GROWTH REQUIREMENTS;

(V) MINORITY BUSINESS ENTERPRISE REQUIREMENTS;

(VI) PREVAILING WAGE REQUIREMENTS;

(VII) ENVIRONMENTAL REQUIREMENTS; AND

(VIII) A REQUIREMENT FOR A PROCUREMENT PROCESS THAT INCLUDES PUBLIC NOTICE AND RESULTS IN THE MOST ADVANTAGEOUS PROPOSAL.

4-134.

(A) EACH COUNTY BOARD SHALL MAKE A DETERMINATION OF THE PUBLIC SCHOOLS WITHIN THE JURISDICTION OF THE COUNTY BOARD THAT SHOULD BE DESIGNATED AS EMERGENCY MANAGEMENT SHELTERS.

(B) THE DETERMINATION OF THE COUNTY BOARD SHALL BE BASED ON:

(1) CONSISTENCY WITH LOCAL EMERGENCY MANAGEMENT PLANS AND CRITERIA; AND

(2) THE AVAILABILITY OF FUNDING.

5-112.

(c) (1) A contract for the school building, improvements, supplies, or other equipment shall be awarded to the [lowest] responsible bidder who PROVIDES THE BEST VALUE AND conforms to specifications with consideration given to:

(i) The quantities involved;

(ii) The time required for delivery;

- (iii) The purpose for which required;
 - (iv) The competency and responsibility of the bidder;
 - (v) The ability of the bidder to perform satisfactory service; [and]
 - (vi) The plan for utilization of minority contractors; AND
- (VII) THE PRICE OFFERED BY THE BIDDER.**

(2) The county board may reject any and all bids and readvertise for other bids.

(H) (1) A COUNTY BOARD IS ENCOURAGED, CONSISTENT WITH COMPETITIVE BIDDING, TO USE BULK PURCHASING, BUNDLING, AND INTERGOVERNMENTAL PURCHASING.

(2) A COUNTY BOARD MAY BUNDLE, FOR APPROVAL AND PROCUREMENT PURPOSES:

(I) SIMILAR SYSTEMIC RENOVATION PROJECTS AT DIFFERENT SCHOOLS; AND

(II) INTERRELATED SYSTEMIC PROJECTS AT A SINGLE SCHOOL.

[(h)] (I) A contract entered into or purchase made in violation of this section is void.

5-202.

(d) (2) Except as provided in paragraph (3)(i) of this subsection, for purposes of this subsection, the local appropriation on a per pupil basis for the prior fiscal year for a county is derived by dividing the county's highest local appropriation to its school operating budget for the prior fiscal year by the county's full-time equivalent enrollment for the prior fiscal year. For example, the calculation of the foundation aid for fiscal year 2003 shall be based on the highest local appropriation for the school operating budget for a county for fiscal year 2002. Program shifts between a county operating budget and a county school operating budget may not be used to artificially satisfy the requirements of this paragraph.

(8) (i) The maintenance of effort requirement in paragraph (1)(ii) of this subsection does not apply to a county if the county requests and is granted a waiver from the requirement by the State Board based on:

1. A determination under this paragraph that the county's fiscal condition significantly impedes the county's ability to fund the maintenance of effort requirement;

2. Subject to paragraph (9) of this subsection, an agreement between the county and the county board to reduce recurring costs; [or]

3. Subject to paragraph (10) of this subsection, a determination that a county's ability to meet the maintenance of effort requirement is permanently impeded; OR

4. SUBJECT TO PARAGRAPH (11) OF THIS SUBSECTION, A DETERMINATION THAT LEASE PAYMENTS MADE BY THE COUNTY BOARD TO A COUNTY OR PRIVATE ENTITY HOLDING TITLE TO PROPERTY USED AS A PUBLIC SCHOOL BY A COUNTY BOARD IN ACCORDANCE WITH § 4-114(C)(1) OR (D) OF THIS ARTICLE.

(ii) In order to qualify for a waiver for a fiscal year, a county shall make a request for a waiver to the State Board by the earlier of the seventh day following the end of the legislative regular session or April 20 of the prior fiscal year.

(iii) The State Superintendent shall provide a preliminary assessment of a waiver request to the State Board before a public hearing held in accordance with subparagraph (iv) of this paragraph.

(iv) Before acting on a request for a waiver, the State Board shall hold a public hearing in accordance with regulations adopted by the State Board.

(v) Except as provided in paragraph (9) of this subsection, when considering whether to grant a county's waiver request, the State Board shall consider the following factors:

1. External environmental factors such as a loss of a major employer or industry affecting a county or a broad economic downturn affecting more than one county;

2. A county's tax base;

3. Rate of inflation relative to growth of student population in a county;

4. Maintenance of effort requirement relative to a county's statutory ability to raise revenues;

5. A county's history of exceeding the required maintenance of effort amount under paragraph (1)(ii) of this subsection;

6. An agreement between a county and a county board that a waiver should be granted;

7. Significant reductions in State aid to a county and municipalities of the county for the fiscal year for which a waiver is requested;

8. The number of waivers a county has received in the past 5 years; and

9. The history of compensation adjustments for employees of the county board and county government.

(vi) The State Board shall inform the county whether the waiver for a fiscal year is approved or denied in whole or in part no later than 30 days after receipt of an application or May 20 of the prior fiscal year, whichever is earlier.

(vii) Except as provided in paragraphs (9) and (10) of this subsection, if a county is granted a waiver from the provisions of this subsection by either the State Board or the General Assembly for any fiscal year, the minimum appropriation of local funds required under this subsection for the next fiscal year shall be calculated based on the per pupil local appropriation for the prior fiscal year in which the county met the maintenance of effort requirement under paragraph (1)(ii) of this subsection.

(11) (I) THIS PARAGRAPH APPLIES TO A COUNTY THAT REQUESTS A WAIVER UNDER PARAGRAPH (8)(I)4 OF THIS SUBSECTION.

(II) 1. THE STATE BOARD SHALL GRANT A WAIVER REQUEST IN THE AMOUNT THAT HAS BEEN AGREED ON BY THE COUNTY AND THE COUNTY BOARD THAT IS ATTRIBUTABLE TO THE AMOUNT OF THE LEASE PAYMENT.

2. THE AMOUNT OF THE AGREED-ON WAIVER MAY BE LESS THAN THE ENTIRE AMOUNT OF THE LEASE PAYMENT.

3. THE AMOUNT OF THE AGREED-ON WAIVER MAY NOT:

A. EXCEED THE ENTIRE AMOUNT OF THE LEASE PAYMENT; OR

B. REDUCE A COUNTY'S EDUCATION APPROPRIATION BELOW THE AMOUNT REQUIRED IN PARAGRAPH (1)(I) OF THIS SUBSECTION.

(III) IF THE COUNTY AND COUNTY BOARD HAVE NOT AGREED ON AN AMOUNT, THE STATE BOARD MAY GRANT A WAIVER ON A DETERMINATION THAT THE LEASE PAYMENTS ARE COMPARABLE TO THE AMOUNT OF DEBT SERVICE THAT WOULD OTHERWISE BE REQUIRED IF THE ALTERNATIVE FINANCING HAD NOT BEEN USED.

(IV) IF THE STATE BOARD GRANTS A WAIVER UNDER THIS PARAGRAPH, THE STATE BOARD SHALL DETERMINE THE NUMBER OF FISCAL YEARS FOR WHICH THE WAIVER IS APPLICABLE AND THE MINIMUM APPROPRIATION OF LOCAL FUNDS REQUIRED UNDER THIS SUBSECTION FOR THE FISCAL YEAR AFTER THE EXPIRATION OF THE WAIVER.

[(11)] (12) In making the calculations required under this subsection, the Department shall consult with the Department of Budget and Management and the Department of Legislative Services.

[(12)] (13) (i) A county shall submit to the Superintendent the county's approved budget no later than 7 days after approval of the budget or June 30, whichever is earlier.

(ii) No later than 15 days after receipt of the county's approved budget the Superintendent shall certify whether the county has met the funding requirements established under this subsection and shall notify the county and county board of that certification.

[(13)] (14) On or before December 31 of each year the Department shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly, on all waiver requests, maintenance of effort calculations made by the Department and the county, the Department's decisions regarding waiver requests, the Department's certification of whether a county has met the requirement, and any other information relating to a county's request for a waiver and the Department's maintenance of effort decisions.

5-301.

~~(a)~~ In this subtitle, "Interagency ~~Committee~~ **COMMISSION**" means the Interagency ~~Committee~~ **COMMISSION** on School Construction established under § 5-302 of this subtitle.

5-302.

(a) [(1) The Board of Public Works shall establish the] **THERE IS AN Interagency [Committee] COMMISSION on School Construction.**

(B) THE INTERAGENCY COMMISSION IS AN INDEPENDENT COMMISSION THAT FUNCTIONS [as a unit] within the Department [for administrative and budgetary purposes].

(C) THE PURPOSE OF THE INTERAGENCY COMMISSION 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.

[(2)] (D) The Interagency [Committee] COMMISSION consists of the following members:

[(i)] (1) The State Superintendent of Schools, or the Superintendent’s designee;

(2) THE SECRETARY OF PLANNING, OR THE SECRETARY’S DESIGNEE;

(3) THE SECRETARY OF GENERAL SERVICES, OR THE SECRETARY’S DESIGNEE;

(4) TWO MEMBERS OF THE PUBLIC APPOINTED BY THE GOVERNOR;

[(ii)] (5) [A member] TWO MEMBERS of the public appointed by the President of the Senate; AND

[(iii)] (6) [A member] TWO MEMBERS of the public appointed by the Speaker of the House[;

(iv) The Secretary of the Department of Planning, or the Secretary’s designee; and

(v) The Secretary of General Services, or the Secretary’s designee].

[(3)] (E) The [State Superintendent of Schools, or the Superintendent’s designee.] GOVERNOR, PRESIDENT OF THE SENATE, AND SPEAKER OF THE HOUSE JOINTLY shall [be the Chairman] SELECT THE CHAIR of the Interagency [Committee] COMMISSION.

[(4)] (F) [A] AN APPOINTED member of the Interagency [Committee on School Construction] COMMISSION may not be:

[(i)] (1) An individual who is a regulated lobbyist as described in § 5-702(a)(1), (2), (3), or (4) of the General Provisions Article;

[(ii)] (2) A [member of the General Assembly] FEDERAL, STATE, OR LOCAL ELECTED OFFICIAL; ~~OR~~

[(iii)] (3) An employee of [a] STATE OR county government or A COUNTY board of education; OR

(4) AN INDIVIDUAL WHO HAS A BUSINESS INTEREST IN, OR CONTRACTS RELATED TO, SCHOOL CONSTRUCTION IN ANY JURISDICTION IN THE STATE]; or

(iv) A local elected official].

[(5) The Board of Public Works may delegate the administrative and budgetary authority of the Board to the Interagency Committee as determined by the Board to be necessary and appropriate.]

(G) AN APPOINTED MEMBER OF THE INTERAGENCY COMMISSION:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMISSION; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

[(b) (1) The Department or any other State agency may lend its employees to serve as the staff for the Interagency Committee.

(2) These employees shall be paid by the agency that employs them.

(c) The Executive Director of the Interagency Committee shall be appointed by the Interagency Committee with the approval of the Board of Public Works.]

(H) (1) THE INTERAGENCY COMMISSION IS A PUBLIC BODY AND SUBJECT TO TITLE 3 OF THE GENERAL PROVISIONS ARTICLE.

(2) DELIBERATIONS AND DECISIONS REGARDING THE ELIGIBILITY OF PROJECTS AND ALLOCATION OF FUNDING SHALL BE CONSIDERED QUASI-LEGISLATIVE FUNCTIONS FOR THE PURPOSES OF THE OPEN MEETINGS ACT.

(I) (1) THE INTERAGENCY COMMISSION MAY EMPLOY STAFF, INCLUDING CONTRACTUAL STAFF, IN ACCORDANCE WITH THE STATE BUDGET.

(2) THE INTERAGENCY COMMISSION SHALL APPOINT AN EXECUTIVE DIRECTOR OF THE INTERAGENCY COMMISSION.

(3) (I) THE DEPARTMENT OR ANY OTHER STATE AGENCY MAY LEND ITS EMPLOYEES TO SERVE AS THE STAFF FOR THE INTERAGENCY COMMISSION.

(II) THESE EMPLOYEES SHALL BE PAID BY THE AGENCY THAT EMPLOYS THEM.

5-303.

~~(b) (A) (1) (I) For the purposes of this section other than subsection (c), the Board of Public Works~~ **THE INTERAGENCY COMMISSION** shall define by regulation what constitutes an eligible and ineligible public school construction or capital improvement cost.

(II) IN ORDER FOR THE COST OF AN ITEM OR A SYSTEM FUNDED WITH THE PROCEEDS OF GENERAL OBLIGATION BONDS TO BE CONSIDERED AN ELIGIBLE COST, IT MUST HAVE A MEDIAN USEFUL LIFE OF AT LEAST 15 YEARS.

(2) (i) ~~The Board of Public Works~~ **INTERAGENCY COMMISSION** shall include modular construction as an approved public school construction or capital cost.

(ii) ~~The Board of Public Works, at the recommendation of the Interagency Committee on School Construction~~ **INTERAGENCY COMMISSION**, shall adopt regulations that:

1. Define modular construction; and

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

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

~~(b-1) (B) The Board of Public Works~~ **INTERAGENCY COMMISSION**, in consultation with the Department of General Services and the Department of Housing and Community Development, shall adopt regulations establishing criteria designed to enhance indoor air quality for the occupants of relocatable classrooms constructed after July 1, 2014, that are purchased or leased using State or local funds, including specifications that:

(1) Require each unit to include appropriate air barriers to limit infiltration;

(2) Require that each unit be constructed in a manner that provides protection against water damage through the use of proper roofing materials, exterior sheathing, water drainage systems, and flashing;

(3) Require that each unit provide continuous forced ventilation when the unit is occupied;

(4) Require each unit to include a programmable thermostat;

(5) Require each unit to be outfitted with energy efficient lighting and heating and air-conditioning systems; and

(6) Mandate that each unit be constructed with building materials that contain low amounts of volatile organic compounds (VOC) in accordance with industry standards.

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

(1) The projects or improvements have been approved by the ~~Board of Public Works~~ **INTERAGENCY COMMISSION**; and

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

(d) (1) The ~~Board of Public Works~~ **INTERAGENCY COMMISSION** may adopt regulations for the administration of the programs provided for in this section.

(2) The regulations adopted by the ~~Board of Public Works~~ **INTERAGENCY COMMISSION** may contain requirements for:

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

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

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

[(iv)] **(II)** The approval of sites, plans, and specifications for the construction of new school buildings or the improvement of existing buildings;

[(v)] **(III)** Site improvements;

[(vi)] **(IV)** Competitive bidding;

[(vii)] (V) The hiring of personnel in connection with school construction or capital improvements;

[(viii)] (VI) The actual construction of school buildings or their improvements;

[(ix)] (VII) The relative roles of different State and local governmental agencies in the planning and construction of school buildings or school capital improvements;

[(x)] (VIII) School construction and capital improvements necessary or appropriate for the proper implementation of this section;

[(xi)] (IX) ~~At the recommendation of the Interagency Committee,~~ the establishment of priority public school construction programs;

[(xii)] (X) Development of cooperative arrangements that permit the sharing of facilities among two or more school systems;

[(xiii)] (XI) The selection of architects and engineers by school systems;

[(xiv)] (XII) The award of contracts by school systems; and

[(xv)] (XIII) Method of payments made by the State under the Public School Construction Program.

(3) The regulations adopted by the ~~Board of Public Works~~ **INTERAGENCY COMMISSION** shall contain provisions:

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

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

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

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

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

(vi) Establishing a process for ~~the~~ appeal of INTERAGENCY COMMISSION decisions ~~by the Interagency Committee to the Board of Public Works;~~

(vii) Requiring local education agencies to adopt, implement, and periodically update comprehensive maintenance plans AND PREVENTATIVE MAINTENANCE PLANS; [and]

(viii) Authorizing the ~~Board of Public Works~~ INTERAGENCY COMMISSION to withhold State public school construction funds from a local education agency that fails to comply with the requirements of item (vii) of this paragraph;

(IX) REQUIRING THE DEVELOPMENT AND SUBMISSION OF LONG-RANGE PLANS, INCLUDING A REQUIREMENT FOR THE ANNUAL SUBMISSION OF A 10-YEAR EDUCATIONAL FACILITIES MASTER PLAN; AND

(X) REQUIRING THE SUBMISSION OF AN ANNUAL CAPITAL IMPROVEMENT ~~PLAN~~ PROGRAM, WHICH MAY ONLY BE REQUIRED TO INCLUDE PLANS FOR SPECIFIC PROJECTS AND REQUESTS FOR PLANNING AND CONSTRUCTION PROJECTS FOR THE UPCOMING FISCAL YEAR.

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

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

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

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

- (i) The State Board;
- (ii) The State Superintendent;

- (iii) The county governments;
- (iv) The county boards; and
- (v) All other State or local governmental agencies under this article.

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

(h) **(1)** The obligation of the State to pay the costs of public school construction and public school capital improvements extends only to those projects or parts of projects that comply with the regulations and procedures of the ~~Board of Public Works~~ **INTERAGENCY COMMISSION**.

(2) THE INTERAGENCY COMMISSION MAY NOT PARTIALLY FUND AN ELIGIBLE SCHOOL CONSTRUCTION PROJECT FOR A SYSTEMIC RENOVATION UNLESS THE LOCAL EDUCATION AGENCY HAS REQUESTED PARTIAL FUNDING.

(i) (1) This subsection does not apply to the proceeds from the sale, lease, or disposition of public school buildings constructed under contracts executed before February 1, 1971.

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

(3) The part of the proceeds from the sale, lease, or disposal of a public school building that fairly represents the appraised value of land and that part of the cost of the public school building that was funded by the county shall remain as the funds of the county.

(4) A transfer of interest in a public school building in connection with a financing of the cost of construction and improvements to such buildings is not a sale, lease, or disposal of the public school facility.

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

(2) Subject to paragraph (3) of this subsection, any unexpended allocations of funds for previously approved projects shall be transferred to the fund established under paragraph (1) of this subsection.

(3) (i) Any funds approved for a county for a project that has not been contracted for within 2 years of the approval of the project, shall be:

1. Available for another eligible project in the county in the current fiscal year; or

2. Reserved for eligible projects in the county in the next fiscal year, in addition to the new funds allocated for eligible projects in the county in the next fiscal year, AND MAY NOT SUPPLANT NEW FUNDS ALLOCATED IN THE NEXT FISCAL YEAR OR IN LATER FISCAL YEARS.

(ii) Any funds reserved under subparagraph (i)2 of this paragraph that have not been used to contract for a project within 2 years of the date the funds were reserved shall be available for allocation to an eligible project in any county.

(4) On or before March 30, June 30, September 30, and December 31 of each year, the Interagency ~~Committee~~ **COMMISSION** shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, and the Department of Legislative Services on the balance in the fund as of the reporting date as the result of transfers or reversions required under this subsection and any expenditures.

~~5-301.3.~~

~~(A) IN THIS SECTION, "NET-ZERO" MEANS THAT THE TOTAL AMOUNT OF ENERGY USED BY A BUILDING ON AN ANNUAL BASIS IS EQUAL TO OR LESS THAN THE AMOUNT OF RENEWABLE ENERGY CREATED ON THE SITE.~~

~~(B) THE INTERAGENCY COMMITTEE SHALL ESTABLISH INCENTIVES FOR:~~

~~(1) THE CONSTRUCTION OF NET-ZERO SCHOOL BUILDINGS; AND~~

~~(2) THE USE OF ENERGY EFFICIENT OR OTHER PREFERRED MATERIALS IN PUBLIC SCHOOL CONSTRUCTION.~~

~~(c) BEFORE THE INTERAGENCY COMMITTEE MAY PROVIDE ANY INCENTIVES ESTABLISHED IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION, THE INTERAGENCY COMMITTEE SHALL:~~

~~(1) NOTIFY THE BUDGET COMMITTEES OF THE GENERAL ASSEMBLY IN WRITING OF THE PROPOSED INCENTIVES; AND~~

~~(2) ALLOW THE BUDGET COMMITTEES 30 DAYS TO REVIEW AND COMMENT ON THE PROPOSED INCENTIVES.~~

~~5-302.~~

~~(a) (1) The Board of Public Works shall establish the Interagency Committee on School Construction as a unit within the Department for administrative and budgetary purposes.~~

~~(2) The Interagency Committee consists of the following members:~~

~~(i) The State Superintendent of Schools, or the Superintendent's designee;~~

~~(ii) A member of the public appointed by the President of the Senate;~~

~~(iii) A member of the public appointed by the Speaker of the House;~~

~~(iv) The Secretary of the Department of Planning, or the Secretary's designee; and~~

~~(v) The Secretary of General Services, or the Secretary's designee.~~

~~(3) The State Superintendent of Schools, or the Superintendent's designee, shall be the Chairman of the Interagency Committee.~~

~~(4) A member of the Interagency Committee on School Construction may not be:~~

~~(i) An individual who is a regulated lobbyist as described in § 5-702(a)(1), (2), (3), or (4) of the General Provisions Article;~~

~~(ii) A member of the General Assembly;~~

~~(iii) An employee of a county government or board of education; or~~

~~(iv) A local elected official.~~

~~(5) The Board of Public Works may delegate the administrative and budgetary authority of the Board to the Interagency Committee as determined by the Board to be necessary and appropriate.~~

~~(b) (1) The Department or any other State agency may lend its employees to serve as the staff for the Interagency Committee.~~

~~(2) These employees shall be paid by the agency that employs them.~~

~~(e) The Executive Director of the Interagency Committee shall be appointed by the Interagency Committee with the approval of the Board of Public Works.~~

5-304.

~~(d) (A)~~ (1) (i) The Interagency ~~Committee~~ COMMISSION shall prepare projections of school construction and capital improvement needs for submission to the Capital Debt Affordability Committee under § 8-112(c)(3) of the State Finance and Procurement Article.

(ii) The projections shall be prepared in accordance with the regulations adopted by the ~~Board~~ INTERAGENCY COMMISSION under ~~§ 5-301~~ § 5-303 of this subtitle.

(2) (i) The ~~Board of Public Works or the Interagency Committee~~ INTERAGENCY COMMISSION shall notify each county board and each local governing body of the annual allocation of school construction funds recommended ~~to the Board of Public Works~~ by the Governor under ~~the consolidated capital debt program~~ § 8-113 of the State Finance and Procurement Article.

(ii) The notification shall be made immediately after the Governor has recommended the allocations so that each county may structure its respective school construction and capital improvement priorities in accordance with the annual allocation and any amendments.

~~(e) (B)~~ (1) Before May 1 of each year, the ~~Board of Public Works~~ INTERAGENCY COMMISSION may not approve public school construction projects that comprise more than 75% of the preliminary school construction allocation, determined under § 8-113 of the State Finance and Procurement Article, for the following fiscal year.

(2) On or before December 31 of each year, the Interagency ~~Committee~~ COMMISSION shall ~~provide recommendations to the Board of Public Works for~~ APPROVE public school construction projects that comprise 75% of the preliminary school construction allocation, determined under § 8-113 of the State Finance and Procurement Article, for the following fiscal year.

(3) THE INTERAGENCY COMMISSION SHALL ESTABLISH AN APPEAL PROCESS TO ALLOW LOCAL JURISDICTIONS TO REQUEST FUNDING FOR PROJECTS THAT WERE NOT APPROVED BY THE INTERAGENCY COMMISSION UNDER PARAGRAPH (2) OF THIS SUBSECTION.

~~(3)~~ **(4)** On or before March 1 of each year, the Interagency ~~Committee~~ **COMMISSION** shall provide recommendations to ~~the Board of Public Works,~~ the presiding officers and the budget committees of the General Assembly, and the Department of Legislative Services for public school construction projects that comprise 90% of the school construction allocation included in the capital budget submitted by the Governor for the following fiscal year.

~~(4)~~ ~~The remaining public school construction allocation for the following fiscal year may be allocated by the Board of Public Works as provided in regulation.~~

~~(f)~~ ~~(1) The Interagency Committee on School Construction is a public body and subject to Title 3 of the General Provisions Article.~~

~~(2) Deliberations and decisions regarding the eligibility of projects and allocation of funding shall be considered quasi-legislative functions for the purposes of the Open Meetings Law.~~

(5) ON OR AFTER MAY 1 EACH YEAR, THE INTERAGENCY COMMISSION SHALL APPROVE 100% OF THE SCHOOL CONSTRUCTION ALLOCATION INCLUDED IN THE CAPITAL BUDGET BILL AS ENACTED.

(C) THE FOLLOWING ACTIONS BY THE INTERAGENCY COMMISSION ARE FINAL AND ARE NOT SUBJECT TO ADDITIONAL APPEALS OR APPROVALS BY ANOTHER UNIT OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT:

(1) A DECISION MADE BY THE INTERAGENCY COMMISSION UNDER THE APPEAL PROCESS ESTABLISHED BY THE INTERAGENCY COMMISSION; AND

(2) THE APPROVAL OF PUBLIC SCHOOL CONSTRUCTION PROJECTS UNDER THIS SUBTITLE.

~~(g)~~ **(D) THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL ALLOW ANY DOCUMENTS OR DATA REQUIRED BY THE INTERAGENCY ~~COMMITTEE~~ COMMISSION FROM ANY SOURCE, INCLUDING LOCAL EDUCATION AGENCIES AND STATE AGENCIES, TO BE SUBMITTED ELECTRONICALLY TO THE INTERAGENCY ~~COMMITTEE~~ COMMISSION.**

~~(h)~~ **(E) THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL BE 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.

~~(F)~~ (F) IN CONSULTATION WITH ~~THE SCHOOL CONSTRUCTION TECHNICAL AND INNOVATIVE ASSISTANCE OFFICE IN~~ THE MARYLAND STADIUM AUTHORITY, THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL:

(1) PROVIDE TECHNICAL ASSISTANCE AND SUPPORT TO LOCAL EDUCATION AGENCIES ON THE USE OF ALTERNATIVE FINANCING AND ALTERNATIVE PROJECT DELIVERY METHODS FOR SCHOOL CONSTRUCTION;

(2) DEVELOP A PUBLIC-PRIVATE PARTNERSHIP PILOT PROGRAM THAT:

(I) PROVIDES FINANCIAL ASSISTANCE THAT SHALL BE SUPPLEMENTAL TO AND MAY NOT TAKE THE PLACE OF FUNDING THAT WOULD OTHERWISE BE APPROPRIATED FOR SCHOOL CONSTRUCTION TO ASSIST LOCAL EDUCATION AGENCIES INTERESTED IN PURSUING ALTERNATIVE FINANCING TO COVER THE COST OF ASSOCIATED RISKS; AND

(II) REQUIRES LOCAL EDUCATION AGENCIES THAT USE ALTERNATIVE FINANCING TO FULLY DOCUMENT THE PROCESS, EXPECTATIONS, AND RESULTS;

(3) PROVIDE TECHNICAL SUPPORT FOR AGREEMENTS BETWEEN AND AMONG LOCAL EDUCATION AGENCIES AND COUNTY GOVERNING BODIES, INCLUDING REGIONAL PARTNERSHIPS, TO PROMOTE EFFICIENCY;

(4) UTILIZE AND PROMOTE TECHNOLOGICAL ADVANCES TO MAKE SCHOOL BUILDING DESIGN MORE EFFICIENT AND INNOVATIVE; AND

(5) UTILIZE AND PROMOTE TECHNOLOGY TO STREAMLINE COMPLIANCE REVIEW AND PROJECT DELIVERIES.

~~(J)~~ (G) THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL WORK WITH A LOCAL EDUCATION AGENCY WITH DECLINING ENROLLMENT TO IDENTIFY BUILDINGS FOR CONSOLIDATION OR FIND ALTERNATIVE USES FOR UNDERUTILIZED SCHOOL BUILDINGS, SUBJECT TO THE APPROVAL OF THE COUNTY BOARD.

5-307.

(a) The Interagency [Committee on Public School Construction] COMMISSION shall assist the Prince George’s County Board of Education in developing an education facility master plan that encourages and supports the neighborhood school concept to improve the quality of education for all students in Prince George’s County.

5-309.

(A) It is the intent of the General Assembly that the Department and the Public School Construction Program encourage local education agencies to reuse recently used school designs, when educationally appropriate and cost effective over the useful life of the project, within each county and across local school system boundaries.

(B) (1) THE INTERAGENCY ~~COMMITTEE~~ COMMISSION ON SCHOOL CONSTRUCTION SHALL DEVELOP AND PROVIDE INCENTIVES FOR LOCAL EDUCATION AGENCIES TO USE PROTOTYPE SCHOOL DESIGNS.

(2) THE INCENTIVES TO USE PROTOTYPE SCHOOL DESIGNS MAY INCLUDE EXPEDITED STATE REVIEW OF PROJECTS.

(C) (1) IN THIS SUBSECTION, “NET-ZERO” MEANS THAT THE TOTAL AMOUNT OF ENERGY USED BY A BUILDING ON AN ANNUAL BASIS IS EQUAL TO OR LESS THAN THE AMOUNT OF RENEWABLE ENERGY CREATED ON THE SITE.

(2) THE INTERAGENCY COMMISSION SHALL ESTABLISH INCENTIVES FOR:

(I) THE CONSTRUCTION OF NET-ZERO SCHOOL BUILDINGS;

AND

(II) THE USE OF ENERGY EFFICIENT OR OTHER PREFERRED MATERIALS IN PUBLIC SCHOOL CONSTRUCTION.

(D) THE INCENTIVES ESTABLISHED UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION SHALL BE SUPPLEMENTAL TO AND ARE NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE APPROPRIATED TO LOCAL EDUCATION AGENCIES FOR SCHOOL CONSTRUCTION.

~~(C)~~ (E) BEFORE THE INTERAGENCY ~~COMMITTEE~~ COMMISSION MAY PROVIDE ANY INCENTIVES ESTABLISHED IN ACCORDANCE WITH ~~SUBSECTION (B)~~ SUBSECTION (B) OR (C) OF THIS SECTION, THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL:

(1) NOTIFY THE BUDGET COMMITTEES OF THE GENERAL ASSEMBLY IN WRITING OF THE PROPOSED INCENTIVES; AND

(2) ALLOW THE BUDGET COMMITTEES 30 DAYS TO REVIEW AND COMMENT ON THE PROPOSED INCENTIVES.

5-310.

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

(2) “EDUCATIONAL FACILITIES SUFFICIENCY STANDARDS” MEANS A UNIFORM SET OF CRITERIA AND MEASURES FOR EVALUATING THE PHYSICAL ~~CONDITION~~ ATTRIBUTES AND EDUCATIONAL SUITABILITY OF PUBLIC ELEMENTARY AND SECONDARY SCHOOL FACILITIES IN THE STATE.

(3) “FACILITY CONDITION INDEX” MEANS A CALCULATION TO DETERMINE THE RELATIVE PHYSICAL CONDITION OF PUBLIC SCHOOL FACILITIES BY DIVIDING THE TOTAL REPAIR COST OF A FACILITY BY THE TOTAL REPLACEMENT COST OF A FACILITY.

[(a)] (B) (1) Each fiscal year, the Interagency ~~Committee~~ COMMISSION shall survey the condition of school buildings identified by the Department.

[(b)] (2) The [Department of General Services] ~~INTERAGENCY COMMITTEE~~ COMMISSION shall conduct the inspections of individual school buildings that [the Interagency Committee requires] ARE NECESSARY to complete the survey required in PARAGRAPH (1) OF THIS subsection [(a) of this section].

[(c)] (3) The Interagency ~~Committee~~ COMMISSION shall report to the Governor and the General Assembly, on or before October 1 of each year, in accordance with § 2-1246 of the State Government Article, on the results of the survey for the prior fiscal year.

(C) ON OR BEFORE JULY 1, 2018, IN CONSULTATION WITH LOCAL EDUCATION AGENCIES, THE INTERAGENCY ~~COMMITTEE~~ COMMISSION ON SCHOOL CONSTRUCTION SHALL ADOPT EDUCATIONAL FACILITIES SUFFICIENCY STANDARDS AND, IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION, A MARYLAND SCHOOL FACILITY INDEX A FACILITY CONDITION INDEX FOR MARYLAND PUBLIC SCHOOLS.

~~(D) THE EDUCATIONAL FACILITIES SUFFICIENCY STANDARDS AND THE FACILITY CONDITION INDEX SHALL BE WEIGHTED TO ADDRESS THE FUNCTIONAL RELEVANCY OF SPECIFIC FACILITY DEFICIENCIES, AS DETERMINED BY THE~~

~~INTERAGENCY COMMITTEE COMMISSION, TO CREATE THE MARYLAND SCHOOL FACILITY INDEX.~~

(D) (1) THE PURPOSE OF THE EDUCATIONAL FACILITIES SUFFICIENCY STANDARDS IS TO ESTABLISH UNIFORM STANDARDS FOR THE ASSESSMENT OF THE PHYSICAL ATTRIBUTES, CAPACITY, AND EDUCATIONAL SUITABILITY OF PUBLIC SCHOOL FACILITIES IN MARYLAND.

(2) THE STANDARDS SHALL INCLUDE AT LEAST THE FOLLOWING CATEGORIES:

(I) BUILDING CONDITION RELATED TO LIFE SAFETY AND HEALTH;

(II) BUILDING SYSTEMS;

(III) BUILDING CAPACITY AND UTILIZATION, INCLUDING THE ABILITY TO HOUSE STUDENTS IN PERMANENT SPACE;

(IV) ACADEMIC SPACE, INCLUDING SPECIALTY CLASSROOM SPACE; AND

(V) PHYSICAL EDUCATION AND OUTDOOR RECREATIONAL SPACE.

(3) THE INTERAGENCY COMMISSION SHALL PERIODICALLY REVIEW AND UPDATE THE EDUCATIONAL FACILITIES SUFFICIENCY STANDARDS.

(E) (1) ON OR BEFORE JULY 1, 2019, THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL COMPLETE AN INITIAL STATEWIDE FACILITIES ASSESSMENT USING THE EDUCATIONAL FACILITIES SUFFICIENCY STANDARDS ADOPTED UNDER ~~SUBSECTION (C)~~ SUBSECTIONS (C) AND (D) OF THIS SECTION.

(2) IN COMPLETING THE ASSESSMENT THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL:

(I) INCORPORATE THE ~~MARYLAND SCHOOL FACILITY INDEX~~ ESTABLISHED IN FACILITY CONDITION INDEX ADOPTED UNDER SUBSECTION ~~(D)~~ (C) OF THIS SECTION;

(II) CONTRACT WITH AN INDEPENDENT THIRD-PARTY VENDOR TO CONDUCT DATA COLLECTION AND ASSESSMENT;

(III) UTILIZE, TO THE EXTENT POSSIBLE, EXISTING DATA SOURCES, INCLUDING THE EDUCATIONAL FACILITIES MASTER PLAN AND THE MARYLAND ASSOCIATION OF BOARDS OF EDUCATION; AND

(IV) COORDINATE WITH LOCAL EDUCATION AGENCIES TO IDENTIFY DATA ELEMENTS TO BE USED IN THE FACILITY ASSESSMENT.

(F) (1) FOLLOWING THE COMPLETION OF THE INITIAL STATEWIDE FACILITIES ASSESSMENT, THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL DEVELOP STANDARDS AND PROCEDURES TO COMPREHENSIVELY UPDATE THE FACILITIES ASSESSMENT SUCH THAT FACILITY ASSESSMENT DATA IS NOT OLDER THAN 4 YEARS.

(2) LOCAL EDUCATION AGENCIES SHALL:

(I) ~~FOLLOW THE STANDARDS DEVELOPED IN PARAGRAPH (1) OF THIS SUBSECTION~~ COOPERATE WITH THE INTERAGENCY COMMISSION TO UPDATE THE FACILITY ASSESSMENT; AND

(II) CONTRIBUTE DATA ~~ANNUALLY AS REQUESTED TO REGULARLY AND COMPREHENSIVELY~~ UPDATE THE ASSESSMENT.

~~(3) THE INTERAGENCY COMMITTEE SHALL COMPARE THE DATA FROM THE INITIAL STATEWIDE FACILITIES ASSESSMENT TO THE DATA SUBMITTED BY LOCAL EDUCATION AGENCIES UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION.~~

~~(4)~~ (3) (I) THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL ENTER THE FACILITY ASSESSMENT DATA INTO AN INTEGRATED DATA SYSTEM, WHICH SHALL BE KNOWN AS THE INTEGRATED MASTER FACILITY ASSET LIBRARY.

(II) THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL MANAGE THE INTEGRATED MASTER FACILITY ASSET LIBRARY AND SHALL PROVIDE ACCESS TO THE LIBRARY FOR ALL LOCAL EDUCATION AGENCIES USING A CLOUD-BASED SYSTEM.

(G) (1) AFTER COMPLETION OF THE INITIAL FACILITY ASSESSMENT, ~~AND ANNUALLY THEREAFTER~~, THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL ~~DETERMINE A RANKING OF EACH PUBLIC ELEMENTARY AND SECONDARY SCHOOL FACILITY USING THE MARYLAND SCHOOL FACILITY INDEX ESTABLISHED IN SUBSECTION (D) OF THIS SECTION~~ SHARE THE DATA RESULTS WITH THE WORKGROUP ON THE ASSESSMENT AND FUNDING OF SCHOOL FACILITIES AND, WITH THE WORKGROUP, SHALL CONSIDER:

(I) HOW THE RELATIVE CONDITION OF PUBLIC SCHOOL FACILITIES WITHIN THE EDUCATIONAL FACILITIES SUFFICIENCY STANDARDS AND THE FACILITY CONDITION INDEX SHOULD BE PRIORITIZED, TAKING INTO ACCOUNT LOCAL PRIORITIES AND IN CONSULTATION WITH LOCAL JURISDICTIONS; AND

(II) IF DETERMINED TO BE APPROPRIATE, USE OF THE ASSESSMENT RESULTS IN FUNDING DECISIONS.

(2) BASED ON THE RECOMMENDATIONS OF THE WORKGROUP ON THE ASSESSMENT AND FUNDING OF SCHOOL FACILITIES, AND NOT BEFORE MAY 1, 2020, FOR USE IN FUNDING DECISIONS BEGINNING NO SOONER THAN FISCAL YEAR 2021, THE INTERAGENCY COMMISSION SHALL ADOPT REGULATIONS ESTABLISHING THE USE OF THE FACILITY ASSESSMENT RESULTS IN ANNUAL SCHOOL CONSTRUCTION FUNDING DECISIONS.

(H) (1) ~~EACH~~ EXCEPT AS PROVIDED IN § 5-314(E) OF THIS SUBTITLE, EACH COUNTY BOARD SHALL DEVELOP AND ADOPT PREVENTATIVE MAINTENANCE SCHEDULES BASED ON INDUSTRY STANDARDS FOR THE PUBLIC SCHOOL FACILITIES WITHIN THE JURISDICTION OF THE COUNTY BOARD.

~~(2) A COUNTY BOARD'S PREVENTATIVE MAINTENANCE SCHEDULE SHALL BE:~~

~~(I) BASED ON INDUSTRY STANDARDS; AND~~

~~(II) SUBJECT TO REVIEW AND APPROVAL BY THE INTERAGENCY COMMITTEE.~~

~~(3)~~ (2) ON OR BEFORE JULY 1 EACH YEAR, EACH COUNTY BOARD SHALL REPORT TO THE INTERAGENCY ~~COMMITTEE~~ COMMISSION ON THE BOARD'S COMPLIANCE WITH THE PREVENTATIVE MAINTENANCE SCHEDULES ADOPTED UNDER THIS SUBSECTION.

~~(4)~~ (3) THE INFORMATION REPORTED IN ACCORDANCE WITH PARAGRAPH ~~(3)~~ (2) OF THIS SUBSECTION SHALL BE ENTERED INTO THE INTEGRATED MASTER FACILITY ASSET LIBRARY.

5-312.

(a) In this section, "high performance building" has the meaning stated in § 3-602.1 of the State Finance and Procurement Article.

(b) This section applies to the construction of new schools that have not initiated a Request For Proposal for the selection of an architectural and engineering consultant on or before July 1, 2009.

(c) Except as provided in subsection (d) of this section, a new school that receives State public school construction funds shall be constructed to be a high performance building.

(d) (1) The [Board of Public Works] INTERAGENCY COMMISSION shall establish a process to allow a school system to obtain a waiver from complying with subsection (c) of this section.

(2) The waiver process shall:

(i) Include a review by the Interagency [Committee] COMMISSION to determine if the construction of a high performance building is not practicable; and

(ii) Require the approval of a waiver by the Interagency [Committee] COMMISSION.

(e) For fiscal years 2010 through 2014 only, the State shall pay 50% of the local share of the extra costs, identified and approved by the Interagency [Committee] COMMISSION, that are incurred in constructing a new school to meet the high performance building requirements of this section.

(f) The [Board of Public Works] INTERAGENCY COMMISSION shall adopt regulations to implement the requirements of this section.

5-314.

(A) ~~THE~~ NOTWITHSTANDING § 2-303(F) OF THIS ARTICLE, THE PROCESS FOR THE REVIEW AND APPROVAL OF PUBLIC SCHOOL CONSTRUCTION PROJECTS SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

(B) (1) ~~EDUCATIONAL~~ EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, EDUCATIONAL SPECIFICATIONS AND SCHEMATIC DESIGNS FOR MAJOR CONSTRUCTION PROJECTS ARE REQUIRED TO ~~BE~~:

(I) ~~REVIEWED~~ BE REVIEWED BY THE ~~DEPARTMENT~~ INTERAGENCY COMMISSION; AND

(H) ~~APPROVED BY THE INTERAGENCY COMMITTEE~~ COMMISSION.

(II) PRIOR TO FINALIZATION BY A LOCAL EDUCATION AGENCY, HAVE ANY CONCERNS OR RECOMMENDATIONS OF THE INTERAGENCY COMMISSION SATISFACTORILY RESOLVED.

(2) TO PROVIDE EFFICIENCY WITHIN THE PROCESS, THE DEPARTMENT AND THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL CONSIDER ALTERING THE REVIEW AND APPROVAL PROCESS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, INCLUDING A ROLLING DEADLINE FOR SUBMISSION OF DOCUMENTS, WITH SCHEMATIC DESIGNS SUBMITTED FOLLOWING THE COMPLETION OF THE EDUCATIONAL SPECIFICATIONS REVIEW.

(C) (1) CHANGE ORDERS FOR MAJOR CONSTRUCTION PROJECTS AND SYSTEMIC RENOVATION PROJECTS MAY NOT BE:

(I) REVIEWED BY THE DEPARTMENT OF GENERAL SERVICES;
AND

(II) APPROVED BY THE INTERAGENCY ~~COMMITTEE~~ COMMISSION.

(2) A PERCENTAGE OF THE STATE ALLOCATION RELATED TO CHANGE ORDERS MAY NOT BE WITHHELD.

(3) LOCAL EDUCATION AGENCIES SHALL MAINTAIN CONTINGENCY FUNDS FOR EACH APPROVED PROJECT TO ADDRESS UNANTICIPATED CONSTRUCTION COSTS ABOVE THE STATE ALLOCATION.

(D) (1) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, DESIGN AND CONSTRUCTION DOCUMENTS FOR MAJOR CONSTRUCTION PROJECTS AND SYSTEMIC RENOVATION PROJECTS ARE REQUIRED TO BE:

(I) REVIEWED BY THE DEPARTMENT OF GENERAL SERVICES;
AND

(II) APPROVED BY THE INTERAGENCY ~~COMMITTEE~~ COMMISSION.

(2) THE DEPARTMENT OF GENERAL SERVICES AND THE INTERAGENCY ~~COMMITTEE~~ COMMISSION, IN CONSULTATION WITH LOCAL EDUCATION AGENCIES, SHALL DEVELOP A TIMELINE FOR SUBMISSION, REVIEW, AND APPROVAL OF DESIGN AND CONSTRUCTION DOCUMENTS.

(E) (1) THE PROVISIONS OF ~~SUBSECTION (D)~~ SUBSECTIONS (B) AND (D) OF THIS SECTION AND § 5-310(H) OF THIS SUBTITLE DO NOT APPLY TO A LOCAL

EDUCATION AGENCY THAT SUCCESSFULLY COMPLETES A CERTIFICATION PROCESS THAT MEETS THE REQUIREMENTS OF THIS SUBSECTION.

(2) SUBJECT TO THE REVIEW AND APPROVAL OF THE INTERAGENCY ~~COMMITTEE~~ COMMISSION, THE DEPARTMENT OF GENERAL SERVICES SHALL DEVELOP A CERTIFICATION PROCESS THROUGH WHICH A LOCAL EDUCATION AGENCY IS ABLE TO DEMONSTRATE THE EXPERTISE AND CAPACITY TO COMPLETE THE REVIEW OF EDUCATIONAL SPECIFICATIONS, SCHEMATIC DESIGNS, DESIGN AND CONSTRUCTION DOCUMENTS, OR PREVENTATIVE MAINTENANCE SCHEDULE COMPLIANCE WITHIN THE COUNTY.

(3) THE CERTIFICATION PROCESS DEVELOPED BY THE DEPARTMENT OF GENERAL SERVICES SHALL PROVIDE FOR A RENEWABLE, ~~MULTIYEAR~~ 5-YEAR CERTIFICATION FOR A LOCAL EDUCATION AGENCY THAT SUCCESSFULLY COMPLETES THE CERTIFICATION PROCESS.

(F) SCHOOL CONSTRUCTION PROJECTS THAT ARE FUNDED ENTIRELY WITH LOCAL FUNDS ARE NOT REQUIRED TO BE REVIEWED BY THE DEPARTMENT UNLESS THE PROJECT SUBSTANTIALLY ALTERS OR EXPANDS AN EXISTING SCHOOL BUILDING THAT WAS BUILT IN PART WITH STATE FUNDS.

(G) IF THERE IS ANY CONFLICT BETWEEN THE PROVISIONS OF THIS SECTION AND THE REGULATIONS AND PROCEDURES OF ~~THE BOARD OF PUBLIC WORKS~~, THE INTERAGENCY ~~COMMITTEE~~ COMMISSION, THE DEPARTMENT, OR THE DEPARTMENT OF GENERAL SERVICES, THE PROVISIONS OF THIS SECTION SHALL PREVAIL.

5-315.

(A) IN THIS SECTION, "FUND" MEANS THE LOCAL SHARE OF SCHOOL CONSTRUCTION COSTS REVOLVING LOAN FUND.

(B) THERE IS A LOCAL SHARE OF SCHOOL CONSTRUCTION COSTS REVOLVING LOAN FUND.

(C) THE PURPOSE OF THE FUND IS TO PROVIDE LOANS TO LOCAL GOVERNMENTS TO FORWARD FUND THE LOCAL SHARE OF SCHOOL CONSTRUCTION COSTS FOR LOCAL EDUCATION AGENCIES THAT RELY ON THE LOCAL SHARE TO BE FULLY FUNDED IN ORDER TO COMPLETE A PROJECT.

(D) THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL ADMINISTER THE FUND.

(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE THAT SHALL BE AVAILABLE IN PERPETUITY FOR THE PURPOSE OF PROVIDING LOANS IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(F) THE FUND CONSISTS OF:

(1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

(2) ANY INTEREST EARNINGS OF THE FUND;

(3) REPAYMENTS OF PRINCIPAL AND INTEREST FROM LOANS MADE FROM THE FUND; AND

(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(G) THE FUND MAY BE USED ONLY TO PROVIDE LOW- OR NO-INTEREST LOANS TO LOCAL GOVERNMENTS.

(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO THE FUND.

(I) MONEY EXPENDED FROM THE FUND IS SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE APPROPRIATED TO LOCAL GOVERNMENTS FOR SCHOOL CONSTRUCTION.

(J) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL ESTABLISH APPLICATION PROCEDURES AND ELIGIBILITY CRITERIA FOR LOANS FROM THE FUND.

(2) THE ELIGIBILITY CRITERIA SHALL INCLUDE THAT A LOCAL GOVERNMENT IS:

(I) IN NEED OF A LOAN TO FORWARD FUND THE LOCAL SHARE OF SCHOOL CONSTRUCTION COSTS IN ORDER TO COMPLETE A PROJECT; AND

(II) ABLE TO DEMONSTRATE THE ABILITY TO REPAY THE LOAN IF REQUIRED AT A LATER DATE.

5-316.

AS DIRECTED BY THE INTERAGENCY COMMISSION, THE STATE TREASURER SHALL SUPERVISE THE DISTRIBUTION OF ANY MONEY THAT THE GENERAL ASSEMBLY APPROPRIATES FOR PUBLIC SCHOOL CONSTRUCTION FOR:

- (1) BUILDINGS;
- (2) EQUIPMENT;
- (3) NEW CONSTRUCTION; OR
- (4) ANY OTHER CAPITAL EXPENDITURE.

5-317.

(A) IN THIS SECTION, "PROGRAM" MEANS THE SCHOOL SAFETY GRANT PROGRAM.

(B) (1) THERE IS A SCHOOL SAFETY GRANT PROGRAM.

(2) THE PURPOSE OF THE PROGRAM IS TO PROVIDE GRANTS TO COUNTY BOARDS FOR SCHOOL SECURITY IMPROVEMENTS, INCLUDING:

(I) SECURE AND LOCKABLE CLASSROOM DOORS FOR EACH CLASSROOM IN THE SCHOOL;

(II) AN AREA OF SAFE REFUGE IN EACH CLASSROOM IN THE SCHOOL; AND

(III) SURVEILLANCE AND OTHER SECURITY TECHNOLOGY FOR SCHOOL MONITORING PURPOSES.

(C) THE PROGRAM SHALL BE IMPLEMENTED AND ADMINISTERED BY THE INTERAGENCY COMMISSION, IN CONSULTATION WITH THE MARYLAND CENTER FOR SCHOOL SAFETY.

(D) THE INTERAGENCY COMMISSION SHALL:

(1) PROVIDE GRANTS TO COUNTY BOARDS FOR PUBLIC SCHOOL SECURITY IMPROVEMENTS;

(2) DEVELOP A PROCEDURE FOR A COUNTY BOARD TO APPLY FOR A GRANT UNDER THE PROGRAM; AND

(3) DEVELOP ELIGIBILITY REQUIREMENTS FOR A COUNTY BOARD TO RECEIVE A GRANT UNDER THE PROGRAM.

(E) IN ADDITION TO THE ANNUAL AMOUNT OTHERWISE PROVIDED IN THE CAPITAL IMPROVEMENT PROGRAM OF THE PUBLIC SCHOOL CONSTRUCTION PROGRAM, THE GOVERNOR SHALL PROVIDE AN ADDITIONAL \$10,000,000 IN THE ANNUAL OPERATING OR CAPITAL BUDGET BILL THAT MAY BE USED ONLY TO AWARD GRANTS UNDER THE PROGRAM.

(F) THE STATE FUNDING PROVIDED UNDER THE PROGRAM IS SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT WOULD OTHERWISE BE APPROPRIATED FOR PUBLIC SCHOOL CONSTRUCTION PURPOSES TO A COUNTY BOARD FROM ANY OTHER SOURCE.

(G) THE INTERAGENCY COMMISSION SHALL ADOPT REGULATIONS NECESSARY TO IMPLEMENT THIS SECTION.

[5-301.1.] 5-318.

(a) (1) There is a solar energy pilot program to promote the use of solar energy systems to generate electricity in public school buildings in the State.

(2) The pilot program shall be implemented and administered by the Interagency [Committee on School Construction] COMMISSION and shall operate as provided in this section.

(b) The Interagency [Committee] COMMISSION shall:

(1) Encourage all local boards in the State to study, design, and construct or renovate school buildings that are energy efficient and use solar energy systems to generate electricity to meet some of the school building's electrical energy needs, electrical energy demand, or a combination of the electrical energy needs and electrical energy demand;

(2) Provide grants out of State funds dedicated for this program to local boards to assist in implementing the use of solar energy systems at existing public schools or in new or renovated school building projects; and

(3) Develop a procedure for a local board to apply for a grant in accordance with subsection (c) of this section.

(c) (1) A local board may apply to the Interagency [Committee] COMMISSION for a grant to cover 90% of the cost to purchase and install a solar energy system to generate a portion of the school building's electrical energy needs or electrical energy demand.

(2) A local board that receives a grant under this subsection shall pay:

(i) 10% of the cost to purchase and install the solar energy system;
and

(ii) All architectural or engineering fees for the design and supervision of the installation of the solar energy system.

(3) The Interagency [Committee] COMMISSION may award a grant under this section for a solar energy system project [with the approval of the Board of Public Works].

(d) Local school systems are encouraged to seek private funding to implement the pilot program.

(e) The total savings of electrical energy needs and electrical energy demand costs that result from the installation and use of solar energy systems under this section shall remain with the local school system.

(f) (1) The Interagency [Committee] COMMISSION and the Maryland Energy Administration shall cooperate with, assist, provide technical assistance to, and advise school systems to identify appropriate existing public school buildings and public school construction projects that would benefit from the installation of solar energy systems.

(2) The Interagency [Committee] COMMISSION shall adopt procedures necessary to implement this section.

[5-301.2.] 5-319.

(a) The [Board of Public Works] INTERAGENCY COMMISSION shall adopt regulations that require the design development documents for the construction or major renovation of school buildings submitted by a county board to the Interagency [Committee] COMMISSION to include:

(1) An evaluation of the use of solar technologies, including photovoltaic or solar water heating, based on life cycle costs; and

(2) If an evaluation determines that solar technologies are not appropriate for a construction or major renovation project, a report that explains why the use of the technology is not appropriate.

(b) On or before December 31 of each year, the Interagency [Committee] COMMISSION shall submit a report on the number of public school construction and major renovation projects in each jurisdiction that use solar technologies to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

[5-303.] 5-320.

(a) (1) For the purposes of this section, replacement cost shall be determined by the product of the area of a building that is over 40 years old times the current cost per square foot of building construction which may not include:

- (i) Specialized costs of demolition;
- (ii) Site development;
- (iii) The fees of architects and engineers; or
- (iv) Air conditioning.

(2) All existing area that is not at least 40 years old shall be excluded from this calculation.

(b) If a county board finds, after preparing feasibility and life cycle cost studies, that it is appropriate and economically beneficial to renovate an existing school building that, in whole or part, has been in continuous educational use for 40 years or more and the cost of the proposed renovation work is not more than the replacement cost of the building or part of a building of the same area and purpose, the Interagency [Committee on School Construction and the Board of Public Works] COMMISSION shall consider a request for State funding on the basis of these findings.

(c) Before it is considered for funding, the project shall be:

- (1) Justified as to need and continued purpose; and
- (2) Included in an annual capital improvement program that has been approved by the Interagency [Committee on School Construction and the Board of Public Works] COMMISSION.

[5-304.] 5-321.

(a) The indebtedness of a county may not be considered to be increased by the receipt of money by a county from participation in the General Public School Construction Loan of 1956 or any similar act.

(b) A county may not be required to levy ad valorem taxes on its taxable basis for the purpose of repaying to the State any money received by the county as a result of these

acts during the calendar year 1958 or after or the interest or carrying charges with respect to this money.

(c) All money received by a county during the calendar year 1958 or after because of the participation of the county in the General Public School Construction Loan of 1956 or any similar act shall be deducted from the funds due the county under the applicable provisions of State law that relate to the:

- (1) Income tax;
- (2) Tax on racing;
- (3) Recordation tax;
- (4) Tax on amusements;
- (5) License tax; and

(6) School building construction aid program under ~~§ 5-301(c)~~ **§ 5-303(C)** of this subtitle, provided that money may not be deducted for any general public school construction loans that no longer require repayment by the county under ~~§ 5-301(c)~~ **§ 5-303(C)** of this subtitle.

(d) All obligations in connection with funds received by a county from the General Public School Construction Loan of 1956 or any similar act are self-liquidating obligations, incurred for self-liquidating projects within the meaning of those terms as used in any charter or public general or public local law of this State.

(e) Any law that is inconsistent with the provisions of this section is repealed to the extent of the inconsistency.

8-315.

(a) Notwithstanding § 4-114 of this article and subject to regulations adopted by the ~~[Board of Public Works]~~ **INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION**, for fiscal years 2013 through 2028, the Maryland School for the Blind shall be eligible for funding under the Public School Construction Program in accordance with Title 5, Subtitle 3 of this article.

(b) The ~~[Board of Public Works]~~ **INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION** shall adopt regulations for funding school construction and school capital improvements at the Maryland School for the Blind in accordance with the requirements set forth in Title 5, Subtitle 3 of this article that apply to school construction and school capital improvement projects funded for county boards of education.

Article – State Finance and Procurement

4–809.

(a) There is a Maryland Green Building Council.

(f) The Maryland Green Building Council shall:

(1) evaluate current high performance building technologies;

(2) provide recommendations concerning the most cost-effective green building technologies that the State might consider requiring in the construction of State facilities, including consideration of the additional cost associated with the various technologies;

(3) provide recommendations concerning how to expand green building in the State;

(4) develop a list of building types for which green building technologies should not be applied, taking into consideration the operational aspects of facilities evaluated, and the utility of a waiver process where appropriate; [and]

(5) establish a process for receiving public input; AND

(6) DEVELOP GUIDELINES FOR NEW PUBLIC SCHOOL BUILDINGS TO ACHIEVE THE EQUIVALENT OF THE CURRENT VERSION OF THE U.S. GREEN BUILDING COUNCIL’S LEED (LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN) GREEN BUILDING RATING SYSTEM SILVER RATING OR A COMPARABLE RATING SYSTEM OR BUILDING CODE AS AUTHORIZED IN § 3-601.1 OF THIS ARTICLE WITHOUT REQUIRING ~~LEED CERTIFICATION OF THE SCHOOL BUILDINGS, INCLUDING~~ AN INDEPENDENT CERTIFICATION THAT THE BUILDINGS HAVE ACHIEVED THE REQUIRED STANDARDS.

5–7B–07.(a) It shall be the policy of the State that the emphasis of funding for public school construction projects shall be to target the rehabilitation of existing schools to ensure that facilities in established neighborhoods are of equal quality to new schools.(b) This section may not be construed to prohibit the provision of school construction funding outside a priority funding area.(c) The [Public School Interagency Committee] **INTERAGENCY COMMISSION** on School Construction shall [continue to] review and [make recommendations on] **APPROVE** school funding projects [to the Board of Public Works].

6–226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

101. the Advance Directive Program Fund; [and]

102. the Make Office Vacancies Extinct Matching Fund; AND

103. THE LOCAL SHARE OF SCHOOL CONSTRUCTION COSTS REVOLVING LOAN FUND.

7–326.

(a) In this section, “Fund” means the Public School Construction Fund.

(e) Subject to the approval of the [Board of Public Works] INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION, money credited to the Fund shall be used only for public school construction projects and public school capital improvements consistent with the provisions of Title 5, Subtitle 3 of the Education Article.

8–301.

(a) Except as provided in subsection (b) of this section or in other law, a contract to spend the proceeds of a general obligation loan that has been authorized by any act of the General Assembly may not be executed until the Board of Public Works approves the contract.

(b) **(1)** Approval by the Board of Public Works is not required if the act merely authorizes a county or municipal corporation to borrow money and no State funds are involved.

(2) APPROVAL BY THE BOARD OF PUBLIC WORKS IS NOT REQUIRED FOR A CONTRACT OR OTHER AUTHORIZATION TO SPEND THE PROCEEDS OF A GENERAL OBLIGATION LOAN FOR PUBLIC SCHOOL CONSTRUCTION PROJECTS.

12–202.

(a) This section does not apply to capital expenditures:

(1) FOR PUBLIC SCHOOL CONSTRUCTION UNDER TITLE 5, SUBTITLE 3 OF THE EDUCATION ARTICLE; OR

(2) by the Department of Transportation or the Maryland Transportation Authority, in connection with State roads, bridges, or highways.

(g) The Board shall supervise the expenditure of any money that the General Assembly appropriates for:

- (1) buildings;
- (2) equipment;
- (3) new construction; or
- (4) any other capital expenditure.

Article – Economic Development

10–645.

(l) On October 1, 2013, and each January 15 thereafter, the Authority, Baltimore City, the Baltimore City Board of School Commissioners, and the Interagency [Committee] COMMISSION on School Construction jointly shall report to the Governor, the Board of Public Works and, in accordance with § 2–1246 of the State Government Article, the fiscal committees of the General Assembly, on the progress of replacements, renovations, and maintenance of Baltimore City public school facilities, including actions:

- (1) taken during the previous fiscal year; and
- (2) planned for the current fiscal year.

10–646.

(a) Before any bonds are issued to finance improvements to a Baltimore City public school facility:

(1) a four–party memorandum of understanding that meets the requirements of this section shall be entered into and signed by the Authority, Baltimore City, the Baltimore City Board of School Commissioners, and the Interagency [Committee] COMMISSION on School Construction; and

(2) the Baltimore City Board of School Commissioners shall submit a long-term educational facilities master plan to the Joint Audit Committee and the budget committees, in accordance with § 2-1246 of the State Government Article.

(d) (1) The memorandum of understanding shall authorize the Authority to design and improve, or contract for the design and improvement of, a Baltimore City public school facility.

(2) The authority granted to the Authority under paragraph (1) of this subsection is subject to the rights and responsibilities of the Interagency [Committee] COMMISSION on School Construction for the design and construction of a Baltimore City public school facility.

(e) The memorandum of understanding shall require:

(1) specific parameters regarding the roles, rights, and responsibilities of each party with respect to the process for and management of program development, scheduling, budgeting, procurement, design, construction administration, capital equipping, and maintenance of improvements to a Baltimore City public school facility;

(2) specific parameters regarding the authority of the Baltimore City Board of School Commissioners over educational programs and issues relating to the Baltimore City Public Schools' 10-Year Plan, including educational specifications, feasibility studies, and design elements of educational buildings, which shall provide that at the completion of schematic design, all parties shall agree to project scope, schedule, and budget;

(3) specific parameters for a review and comment period for any proposed amendments to the Baltimore City Public Schools' 10-Year Plan, as referenced in § 10-645(a) of this subtitle;

(4) specific procedures related to the role of the Interagency [Committee] COMMISSION on School Construction related to improvements to a Baltimore City public school facility financed under this subtitle, which shall provide for efficiencies in cost, schedules, and processes;

(5) a process for determining which planned projects for improvements to Baltimore City public school facilities will proceed as planned or will be postponed or canceled;

(6) a pledge by Baltimore City, subject to annual appropriation, to deposit the following into the Baltimore City Public School Construction Financing Fund:

(i) all revenues and receipts from the beverage container tax imposed by Baltimore City Ordinance No. 12-45, enacted June 26, 2012; and

(ii) 10% of the participation rent paid to Baltimore City by the operator of the video lottery facility located in Baltimore City;

(7) a partnership between the Baltimore City Board of School Commissioners, the Baltimore City Department of Planning, Housing, Recreation, and Parks, and the Mayor of Baltimore City to coordinate new investment in Baltimore City public school facilities with the community development goals of Baltimore City;

(8) a plan for any new or substantially renovated Baltimore City public school facilities to be available for recreational opportunities for the community;

(9) a plan to present all architectural plans for all major renovation and new public school construction buildings and sites to the Baltimore City Planning Department's Urban Design and Architectural Review Panel for schematic and final design review;

(10) a process developed and agreed to by Baltimore City and the Baltimore City Board of School Commissioners to expedite the closure of public school buildings as provided in the Baltimore City Public Schools' 10-Year Plan approved on January 8, 2013, and to arrange for the productive use of the closed buildings through the surplus process;

(11) a plan developed by the Baltimore City Board of School Commissioners and approved by the Interagency [Committee] COMMISSION on School Construction for preventative and ongoing maintenance for existing, new, and renovated Baltimore City public school facilities, including funding sufficient to implement the plan;

(12) a plan developed by the Baltimore City Board of School Commissioners and approved by the Interagency [Committee] COMMISSION on School Construction providing for minimum school utilization standards;

(13) the creation of a "Stat" program for the Baltimore City Public Schools' 10-Year Plan;

(14) specific parameters for Baltimore City public school facilities financed under this subtitle regarding:

(i) property management, maintenance plans and standards, annual inspections, and property insurance; and

(ii) any claims, losses, or damages arising from the Authority's improvement of any Baltimore City public school facility;

(15) a process to resolve disputes and revise the memorandum of understanding, if necessary; and

(16) an allocation of the public school improvements to be undertaken by the Authority and the Baltimore City Board of School Commissioners, respectively.

~~10-610.1.~~

~~(A) THERE IS A SCHOOL CONSTRUCTION TECHNICAL AND INNOVATIVE ASSISTANCE OFFICE IN THE AUTHORITY.~~

~~(B) THE PURPOSE OF THE OFFICE IS TO:~~

~~(1) PROVIDE TECHNICAL ASSISTANCE ON PUBLIC SCHOOL CONSTRUCTION PROJECTS, INCLUDING PROJECT SCOPE, PROJECT DELIVERY METHOD, AND RESEARCH BASED BEST PRACTICES IN ALL AREAS OF SCHOOL DESIGN AND CONSTRUCTION; AND~~

~~(2) EXPLORE AND PROMOTE EFFICIENT, EFFECTIVE, ECONOMICAL, AND INNOVATIVE WAYS TO CONSTRUCT PUBLIC SCHOOL FACILITIES IN THE STATE.~~

~~(C) TO CARRY OUT THE PURPOSES OF THIS SECTION, IN CONSULTATION WITH THE INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION, THE OFFICE MAY:~~

~~(1) FACILITATE THE USE OF ALTERNATIVE FINANCING METHODS FOR SCHOOL CONSTRUCTION BY:~~

~~(I) PROVIDING TECHNICAL ASSISTANCE TO LOCAL EDUCATION AGENCIES THAT ARE INTERESTED IN PURSUING ALTERNATIVE FINANCING METHODS FOR SCHOOL CONSTRUCTION;~~

~~(II) DEVELOPING TEMPLATE LEASE AGREEMENTS BETWEEN DEVELOPERS AND LOCAL EDUCATION AGENCIES; AND~~

~~(III) EXPLORING THE FINANCIAL INCENTIVES THAT MAY ENCOURAGE LOCAL EDUCATION AGENCIES TO PURSUE ALTERNATIVE FINANCING METHODS FOR SCHOOL CONSTRUCTION; AND~~

~~(2) PERFORM ANY OTHER ACT NECESSARY.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) It is the intent of the General Assembly that the State should provide at least \$345 million for public school construction in fiscal year 2019.

(b) (1) It is the intent of the General Assembly that, as soon as practicable and within the current debt affordability guidelines, the State should provide at least \$400 million each year for public school construction.

(2) The \$400 million annual goal may be phased in over several years if fiscal constraints prevent the State from fully funding the goal in one fiscal year.

(c) The annual goal established under subsection (b) of this section should be recalculated after the initial school facility assessment required by § 5–310(e) of the Education Article is completed and the Workgroup on the Assessment and Funding of School Facilities established under Section 3 of this Act reports its findings and recommendations.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) There is a Workgroup on the Assessment and Funding of School Facilities.

(b) The Workgroup consists of the following members:

(1) two members of the Senate of Maryland, appointed by the President of the Senate;

(2) two members of the House of Delegates, appointed by the Speaker of the House;

(3) the State Superintendent of Schools;

(4) the State Treasurer, or the State Treasurer's designee;

(5) one representative of the Maryland Association of Counties, appointed by the Maryland Association of Counties;

(6) one representative of the Maryland Association of Boards of Education, appointed by the Executive Director of the Association; and

(7) one representative of the Public School Superintendents Association of Maryland, appointed by the Executive Director of the Association.

(c) The State Superintendent of Schools shall chair the Workgroup.

(d) The Interagency ~~Committee~~ Commission on School Construction and the Department of Legislative Services shall provide staff for the Workgroup.

(e) A member of the Workgroup:

(1) may not receive compensation as a member of the Workgroup; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) (1) After the initial school facility assessment required by § 5–310(e) of the Education Article is completed, the Workgroup shall:

(i) consider how the relative condition of public school facilities within the educational facilities sufficiency standards and the facility condition index should be prioritized, taking into account local priorities and in consultation with local jurisdictions, including whether the prioritization should be by category and by local jurisdiction or statewide;

(ii) determine whether the results should be incorporated into school construction funding decisions; and

~~(2)~~ (iii) ~~If~~ if the Workgroup determines that the assessment results should be incorporated into school construction funding decisions, ~~the Workgroup shall~~ determine how the assessment results should be incorporated into school construction funding.

(2) The Workgroup shall also consider whether the State should provide funding incentives for local jurisdictions that reduce the total cost of ownership of public school facilities.

(g) On or before December 1, 2019, the Workgroup shall report its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 4. AND BE IT FURTHER ENACTED, That the Interagency ~~Committee~~ Commission on School Construction shall:

(1) update the State and local cost–share formula every 2 years; and

(2) adopt a common definition of local pay–as–you–go funding so that all local jurisdictions are reporting comparable data to be included in the local debt calculation used to determine the State share.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) (1) The Interagency ~~Committee~~ Commission on School Construction shall explore the feasibility of regional school construction projects, including regional public–private partnership zones and regional career and technical education high schools.

(2) Additionally, the Interagency ~~Committee~~ Commission on School Construction shall develop mechanisms and incentives to provide State funding for regional school construction projects.

(b) On or before July 1, 2018, the Interagency ~~Committee~~ Commission on School Construction shall report on the feasibility and financing of regional school construction projects to the Commission on Innovation and Excellence in Education.

~~SECTION 6. AND BE IT FURTHER ENACTED, That:~~

~~(a) The Interagency Committee Commission on School Construction shall review the public school construction and capital improvement costs that are eligible and ineligible for State funding, including:~~

~~(1) whether to make project design costs eligible for State funding;~~

~~(2) whether to reduce or eliminate State support for systemic renovations to focus available resources on major construction projects; and~~

~~(3) whether a system or an item that has not exceeded its median useful life may be eligible for State funding under certain circumstances, such as the system or item has failed despite a documented record of preventative maintenance or the system or item is no longer supported by the manufacturer.~~

~~(b) On or before July 1, 2019, the Interagency Committee Commission on School Construction shall report on its review of eligible and ineligible costs to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.~~

SECTION ~~7.~~ 6. AND BE IT FURTHER ENACTED, That:

(a) There is a Workgroup on Educational Development Specifications.

(b) The Workgroup consists of relevant stakeholders selected by the Interagency ~~Committee~~ Commission on School Construction, which shall include:

(1) two members of the Senate of Maryland, appointed by the President of the Senate;

(2) two members of the House of Delegates, appointed by the Speaker of the House;

(3) local education agency facility designers and planners; and

(4) other members with expertise in school design and construction.

(c) The Executive Director of the Interagency ~~Committee~~ Commission on School Construction shall chair the Workgroup.

(d) The Interagency ~~Committee~~ Commission on School Construction shall provide staff for the Workgroup.

(e) A member of the Workgroup:

(1) may not receive compensation as a member of the Workgroup; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Workgroup shall:

(1) review the square footage allocations that are currently used to calculate the State maximum allowable square footage for a project to identify any overly restrictive requirements and to determine if alternative methodologies or allocation could result in more efficient use of space in school buildings;

(2) review the Maryland State Department of Education school design standards and guidelines to ensure that the standards and guidelines:

(i) are aligned with the space allowance for each type of space, such as health suites, classrooms, and community use areas; and

(ii) are not overly specific;

(3) examine the use of regional cost-per-square-foot figures in the State allowable cost-per-square-foot figures that are established annually, which would reflect the different construction and labor markets in regions of the State; ~~and~~

(4) review the State Rated Capacity process; and

(5) review the cost per student of school construction projects for new or replacement schools and major renovations of existing school facilities and examine the differences in cost per student by type of school across local jurisdictions.

(g) The Workgroup shall make recommendations regarding:

(1) the square footage allocations that should be used to calculate the State maximum allowable square footage allocations, including recommendations on community use space in schools, especially in community schools and in schools with a high proportion of students eligible for free and reduced-price meals;

(2) the Maryland State Department of Education school design standards and guidelines;

(3) the use of regional cost-per-square-foot figures in the State allowable cost-per-square-foot figures; ~~and~~

(4) updates to the State Rated Capacity process, including any updates necessary to address special programs and adjacent schools; and

(5) options for increasing the State share of eligible school construction costs for projects with lower than average cost per student for each type of school.

(h) On or before July 1, 2019, the Workgroup shall report its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

SECTION 7. AND BE IT FURTHER ENACTED, That:

(a) The Interagency ~~Committee~~ Commission on School Construction shall examine the effect of prevailing wage requirements on school construction costs, including in:

(1) different regions of the State; and

(2) counties with different State and local cost-share percentages.

(b) On or before July 1, 2020, the Interagency ~~Committee~~ Commission on School Construction shall report on its examination of the effect of prevailing wage requirements on school construction costs to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

SECTION 8. AND BE IT FURTHER ENACTED, That the regulations regarding the Public School Construction Program that were adopted before June 1, 2018, by the Board of Public Works that do not conflict with the provisions of this Act continue to be in force and effect unless otherwise altered by the Interagency Commission on School Construction.

SECTION 9. AND BE IT FURTHER ENACTED, That, as provided in this Act:

(a) The Interagency Commission on School Construction is the successor of the Interagency Committee on School Construction.

(b) In every law, executive order, rule, regulation, policy, or document created by an official, an employee, or a unit of this State, the names and titles of those agencies and officials mean the names and titles of the successor agency or official.

SECTION 10. AND BE IT FURTHER ENACTED, That any transaction or employment status affected by or flowing from any change of nomenclature or any statute amended by this Act and validly entered into or existing before the effective date of this Act and every right, duty, or interest flowing from a statute amended by this Act remains valid after the effective date of this Act and may be terminated, completed, consummated, or enforced as required or allowed by any statute amended by this Act as though the amendment had not occurred. If a change in nomenclature involves a change in name or designation of any State unit, the successor unit shall be considered in all respects as having the powers and obligations granted the former unit.

SECTION 11. AND BE IT FURTHER ENACTED, That:

(1) the continuity of every commission, office, department, agency, or other unit is retained; and

(2) the personnel, records, files, furniture, fixtures, and other properties and all appropriations, credits, assets, liabilities, and obligations of each retained unit are continued as the personnel, records, files, furniture, fixtures, properties, appropriations, credits, assets, liabilities, and obligations of the unit under the laws enacted by this Act.

SECTION 12. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross-references and terminology rendered incorrect by this Act. The publisher shall adequately describe any such correction in an editor's note following the section affected.

SECTION ~~9~~ 13. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2018.

Gubernatorial Veto Override, April 5, 2018.