

**Department of Legislative Services**  
Maryland General Assembly  
2019 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 986

(Senator Hayes, *et al.*)

Budget and Taxation

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**Baltimore City - Public School Construction - Bonds and Supplemental  
Memorandum of Understanding**

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This bill authorizes the Maryland Stadium Authority (MSA) to issue an additional \$30.0 million in revenue bonds, backed by payments of \$30.0 million from State Lottery revenues beginning in fiscal 2020, for public school construction projects in Baltimore City. MSA's sale of bonds under the bill is subject to the approval of the Board of Public Works (BPW). Before the bonds are issued, a four-party memorandum of understanding (MOU) among MSA, Baltimore City, Baltimore City Public Schools, and the Interagency Commission on School Construction (IAC) must be negotiated. **The bill takes effect July 1, 2019.**

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**Fiscal Summary**

**State Effect:** General fund revenues decrease by \$30.0 million for FY 2020 only, as discussed below. Nonbudgeted revenues and expenditures for MSA increase by corresponding amounts.

**Local Effect:** Baltimore City revenues for public school construction projects increase by \$30.0 million in FY 2020 only. Baltimore City capital expenditures increase for the local share of school construction projects.

**Small Business Effect:** Minimal.

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**Analysis**

**Bill Summary:** The MOU must specify that the State and local cost-share for Baltimore City in regulations must apply to any facility financed under the bill. Unless all four parties

to the MOU agree to waive specific provisions of a prior MOU, the provisions of the MOU entered into under Chapter 647 of 2013 apply to facilities financed by the new bond revenues. If a provision of the prior MOU conflicts with a provision of the supplemental (new) MOU, the provision of the supplemental MOU prevails.

**Current Law/Background:** For a description of State support for public school construction funding, please see the **Appendix – State Funding for Public School Construction**.

### *Baltimore City 21<sup>st</sup> Century Schools Program*

Chapter 647 of 2013 dedicated State and local funding sources to support a \$1.1 billion public school construction and revitalization initiative for Baltimore City to build or substantially renovate 23 to 28 school facilities. Specifically, it phased in requirements that the State, Baltimore City, and Baltimore City Public Schools each contribute \$20.0 million annually for approximately 30 years to pay debt service on bonds issued by MSA to finance the program. State funds for the initiative are provided from proceeds of the State Lottery. Included in Chapter 647 was a requirement that Baltimore City, IAC, the Baltimore City Board of School Commissioners, and MSA enter into a four-party MOU to establish a framework for completion of the initiative. The MOU was completed and signed in September 2013, and BPW approved the MOU in October 2013. It does not require that the State and local cost-share for Baltimore City apply to funded projects.

As of September 2018, nine projects in Baltimore City had been completed, five were under construction, six were in various stages of design, and eight were in early planning stages.

### *Lottery Ticket Sales and the State Lottery Fund*

After payments to lottery winners and agents and to the State Lottery and Gaming Control Agency for operating expenses, the Comptroller must make the following payments annually from the State Lottery Fund:

- up to \$20.0 million for the Maryland Stadium Facilities Fund, from revenues generated by sports lotteries conducted on behalf of MSA;
- 10% of the proceeds of instant lottery ticket machines by veterans' organizations to the Maryland Veterans Trust Fund; and
- \$20.0 million to the Baltimore City Public School Construction Financing Fund.

Any funds remaining in the State Lottery Fund after the above payments are made are paid to the general fund. In fiscal 2018, the payment to the general fund was \$534.6 million.

### *IAC Funding Requests*

For fiscal 2020, IAC received 36 requests from Baltimore City for \$85.3 million in State funding, including 5 projects involving major construction (the remainder were for systemic renovations). As of December 31, 2018, IAC had approved funding for 15 projects totaling \$22.7 million.

### **State Fiscal Effect:**

#### *General Fund Revenues*

As the annual State Lottery distribution for debt service equals the total increase in debt authorization for MSA, it is assumed that, instead of selling additional revenue bonds, MSA uses the \$30.0 million distribution from the State Lottery as pay-as-you-go revenue for additional funding under the 21<sup>st</sup> Century Schools Program. Therefore, general fund revenues decrease by \$30 million only in fiscal 2020. Similarly, the limited increase in available funding is not expected to require additional staffing by IAC or MSA to oversee additional projects.

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## **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 1370 (Baltimore City Delegation) - Appropriations.

**Information Source(s):** Maryland Association of Counties; Maryland State Department of Education; Interagency Commission on School Construction; Board of Public Works; Maryland Stadium Authority; Baltimore City Public Schools; Department of Legislative Services

**Fiscal Note History:** First Reader - March 12, 2019  
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## Appendix – State Funding for Public School Construction

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### *School Construction Review and Approval Process*

As enacted by Chapter 14 of 2018 (the 21<sup>st</sup> Century School Facilities Act), the Interagency Commission on School Construction (IAC) manages State review and approval of local school construction projects. Each year, local systems develop and submit to IAC a facilities master plan that includes an analysis of future school facility needs based on the current condition of school buildings and projected enrollment. The master plan must be approved by the local school board. Subsequently, each local school system submits a capital improvement plan to IAC that includes projects for which it seeks planning and/or funding approval for the upcoming fiscal year, which may include projects that the local system has forward funded. In addition to approval from the local school board, the request for the upcoming fiscal year must be approved by the county's governing body. Typically, the submission letter to IAC contains signatures of both the school board president and either the county executive and county council president or chair of the board of county commissioners.

Based on its assessment of the relative merit of all the project proposals it receives, and subject to the projected level of school construction funds available, IAC determines which projects to fund. By December 31 of each year, IAC must approve projects comprising 75% of the preliminary school construction allocation projected to be available by the Governor for the upcoming fiscal year. Local school systems may appeal these preliminary decisions by IAC. By March 1 of each year, IAC must recommend to the General Assembly projects comprising 90% of the allocation for school construction submitted in the Governor's capital budget. Following the legislative session, IAC approves projects comprising the remaining school construction funds included in the enacted capital budget, no earlier than May 1. The final allocations are not subject to appeal.

### *Eligible School Construction Costs*

IAC establishes a range of appropriate per student, square foot allocations for elementary, middle, and high schools as well as for special education students, career and technology students, and specialized programs. IAC also establishes, on an annual basis, a *cost per square foot* that is applicable to major school construction projects. For fiscal 2020, the cost per square foot is \$318 for new construction *without* site development (up from \$302 in fiscal 2019) and \$378 for new construction *with* site development (up from \$360 in fiscal 2019). In general, multiplying the cost per square foot allocation by the allowable square feet (based primarily on the State-rated capacity of a building) yields the maximum allowable cost that is subject to the State/local cost-share formula.

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

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

Among the major items that explicitly are *not eligible* for State funding (besides site acquisition) are (1) architectural, engineering, and other consulting fees; (2) master plans and feasibility studies; (3) projects or systemic renovations for buildings and systems that have been replaced, upgraded, or renovated within the last 15 years; (4) movable equipment and furnishings; and (5) items that do not have a useful life of at least 15 years.

#### *State Share of Eligible Costs*

The State pays at least 50% of eligible costs of school construction and renovation projects, based on a funding formula that takes into account numerous factors including each local school system’s wealth and ability to pay. The 21<sup>st</sup> Century School Facilities Act requires that the cost-share formula be recalculated every two years (previously, statute required recalculation every three years). The most recent recalculation was approved by IAC in January 2019. **Exhibit 1** shows the State share of eligible school construction costs for all Maryland jurisdictions for fiscal 2020, as approved by IAC.

Chapter 14 also established the State’s intent to provide at least \$345 million for school construction in fiscal 2019 and at least \$400 million annually as soon as practicable and within current debt affordability guidelines. The State far surpassed the fiscal 2019 goal with a total of \$435.4 million approved for public school construction funding. **Exhibit 2** shows annual State public school construction funding from fiscal 2015 through 2019, by county.

The Governor’s proposed fiscal 2020 capital budget includes \$280.0 million in general obligation (GO) bonds for public school construction and an additional \$40.0 million in GO bonds for a supplemental grant program for school systems that have high enrollment growth or a large number of relocatable classrooms, as established by statute. It also includes \$45 million from the Education Trust Fund (ETF) for additional public school construction projects, \$30.0 million in pay-as-you-go (PAYGO) general funds for the

Healthy School Facility Fund established by Chapter 561 of 2018, and \$20.0 million from ETF for a revolving loan fund created by Chapter 14 to assist local governments in forward funding school construction projects. The fiscal 2020 *Capital Improvement Program* includes \$280.0 million annually for public school construction in fiscal 2021 through 2024 and \$40.0 million annually for the supplemental grant program. Additional funding totaling \$1.8 billion beginning in fiscal 2021 from revenue bonds supported by \$125 million from ETF is also projected for public school construction projects, as proposed by the Governor.

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**Exhibit 1**  
**State Share of Eligible School Construction Costs**  
**Fiscal 2020**

<b>County</b>	<b>FY 2020</b>
Allegany	85%
Anne Arundel	50%
Baltimore City	91%
Baltimore	56%
Calvert	53%
Caroline	81%
Carroll	55%
Cecil	66%
Charles	61%
Dorchester	75%
Frederick	60%
Garrett	50%
Harford	60%
Howard	54%
Kent	50%
Montgomery	50%
Prince George's	70%
Queen Anne's	51%
St. Mary's	57%
Somerset	96%
Talbot	50%
Washington	71%
Wicomico	95%
Worcester	50%
MD School for the Blind	93%

Source: Interagency Commission on School Construction

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**Exhibit 2**  
**State Public School Construction Funding**  
**Fiscal 2015-2019**  
**(\$ in Thousands)**

<b>County</b>	<b>FY2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
Allegany	\$6,597	\$10,837	\$24,242	\$12,873	\$3,950
Anne Arundel	36,200	39,419	42,598	36,829	28,832
Baltimore City	35,329	36,788	37,500	37,303	68,735
Baltimore	34,561	42,177	45,775	45,186	41,865
Calvert	2,653	1,500	9,964	14,575	9,763
Caroline	0	2,902	36	1,646	423
Carroll	3,915	6,415	3,418	3,853	6,853
Cecil	8,194	4,723	6,650	6,730	5,152
Charles	8,200	12,817	8,951	10,516	14,856
Dorchester	768	179	5,009	10,975	11,026
Frederick	15,901	21,000	21,295	19,564	19,178
Garrett	0	0	0	1,567	0
Harford	12,791	9,309	8,732	13,592	12,278
Howard	20,772	27,820	31,206	21,066	10,374
Kent	817	615	0	0	0
Montgomery	39,950	45,708	50,128	59,194	59,714
Prince George's	38,539	41,729	44,675	49,625	49,031
Queen Anne's	5,112	0	249	2,455	806
St. Mary's	11,876	7,015	1,273	815	6,347
Somerset	2,752	2,222	1,771	14,720	17,500
Talbot	0	308	0	0	8,390
Washington	7,467	8,404	4,847	2,592	12,042
Wicomico	10,991	7,440	10,373	11,847	9,971
Worcester	0	72	0	0	4,336
MD School for the Blind	14,733	8,616	6,000	9,376	14,000
Statewide	660	175	300	500	20,000
<b>Total</b>	<b>\$318,778</b>	<b>\$338,190</b>	<b>\$364,992</b>	<b>\$387,399</b>	<b>\$435,422</b>

Note: Includes new general obligation bonds, pay-as-you-go funds, and reallocated funds that were previously authorized. Counties receiving \$0 did not request any eligible projects to be funded in that year. Fiscal 2016-2019 include funds allocated for the Enrollment Growth and Relocatable Classroom program totaling \$20 million in fiscal 2016, \$40 million in fiscal 2017, \$62.5 million in fiscal 2018, and \$68.2 million in fiscal 2019. Fiscal 2017 total for Baltimore County includes \$5 million withheld by the Board of Public Works and later reauthorized by the General Assembly in fiscal 2018. Does not include funding for projects supported by Maryland Stadium Authority revenue bonds.

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