

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 739
Appropriations

(Charles County Delegation)

Education, Health, and Environmental Affairs

Workgroup to Study the Fiscal and Operational Viability of Public-Private
Partnerships for Charles County Public Schools

This bill establishes the Workgroup to Study the Fiscal and Operational Viability of Public-Private Partnerships (P3s) for Charles County Public Schools (CCPS). The Charles County Board of Education must provide staff for the workgroup. Members of the workgroup may not receive compensation but are entitled to reimbursement for expenses. By December 31, 2022, the workgroup must report its findings and recommendations to specified State and local entities. **The bill takes effect June 1, 2022, and terminates June 30, 2023.**

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances.

Local Effect: Although CCPS can generally staff the workgroup with existing resources, expenditures may increase minimally to the extent that it must hire consultants with expertise on P3s to support the workgroup's activities. No effect on revenues.

Small Business Effect: None.

Analysis

Bill Summary: The workgroup must study:

- the fiscal and operational viability of using a P3 for financing, constructing, maintaining, and operating schools in Charles County;

- implementation of a P3 by CCPS; and
- how a P3 may relieve the significant burden for funding new school construction and renovations for CCPS.

With respect to P3s, the workgroup must make recommendations for (1) new school construction and (2) maintenance and rehabilitation of schools to meet identified needs at a lower cost.

Current Law:

Public-Private Partnerships in State Law

Chapter 5 of 2013 established a new framework for the approval and oversight of P3s by the State. Chapter 5 defined a P3 as a method for delivering public infrastructure assets using a long-term, performance-based agreement between specified State “reporting” agencies and a private entity where appropriate risks and benefits can be allocated in a cost-effective manner between the contract partners, in which:

- a private entity performs functions normally undertaken by the government, but the reporting agency remains ultimately accountable for the public infrastructure asset and its public function; and
- the State may retain ownership of the public infrastructure asset and the private entity may be given additional decision-making rights in determining how the asset is financed, developed, constructed, operated, and maintained over its life cycle.

A “public infrastructure asset” is a capital facility or structure, including systems and equipment related to the facility or structure intended for public use.

Chapter 5 establishes the public policy of the State to utilize P3s, if appropriate, for (1) developing and strengthening the State’s public infrastructure assets; (2) apportioning between the public sector and the private sector the risks involved in the development and strengthening of public infrastructure assets; (3) fostering the creation of new jobs; and (4) promoting the State’s socioeconomic development and competitiveness. The public policy also asserts that private entities that enter into P3s must comply with the provisions of the Labor and Employment Article and the federal Fair Labor Standards Act.

Public-Private Partnerships for Prince George’s County Public Schools

Chapter 387 of 2019 established the Prince George’s County Public-Private Partnership Fund to pay a public or private entity for an availability payment due under a P3 agreement to construct or renovate public school facilities. In order to receive State funding for

availability payments, Prince George's County, the Prince George's County Public Schools, and Interagency Commission on School Construction (IAC) must enter into a memorandum of understanding (MOU) that, among other provisions, identifies a dedicated source of State funding and specifies any amounts to be contributed to the fund by the county and the school board for availability payments.

Chapter 20 of 2020 (the Built to Learn Act) defined a P3 agreement as one in which a county government and local board of education contract with a private entity for the acquisition, design, construction, improvement, renovation, expansion, equipping, or financing of a public school. It may include provisions for the operation and maintenance of a school, for cooperative use of a school or an adjacent property, and for the generation of revenue to offset the cost of construction or use of the school.

Before Prince George's County enters into a P3 agreement that is financed in part with State funds for an availability payment, it must be reviewed by the Maryland Stadium Authority (MSA) and approved by IAC. If Prince George's County enters into a specified P3 agreement by July 1, 2022, MSA must deposit \$25.0 million annually, beginning in fiscal 2024 and not after 2053, into the Prince George's County P3 Fund. However, in order for Prince George's County to receive these annual payments, the P3 agreement must include:

- a minimum of six schools that will be improved, constructed, or renovated and operated and maintained under the P3 agreement; and
- a commitment by the Prince George's County Government and the Prince George's County School Board to provide the local share of the availability payment.

Chapter 20 includes specified reporting requirements related to the Prince George's County P3 agreement and related payments. It also requires IAC to complete an evaluation of the P3 agreement by July 1, 2027, and to report on the results of the evaluation to the Governor and fiscal committees of the General Assembly by December 31, 2027.

Chapter 698 of 2021 adjusted the timeline for Prince George's County P3 funding to reflect the delayed implementation of Chapter 20. Specifically, Chapter 698 extended the deadline for Prince George's County to enter into a P3 agreement that can receive State funding for availability payments under Chapter 20 by two years, from July 1, 2022, to July 1, 2024; commensurate changes were made to related payment, reporting, and evaluation schedules. Chapter 698 also added MSA as a signatory to the MOU that must be completed to implement the P3 agreement.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 916 (Senator Jackson) - Education, Health, and Environmental Affairs.

Information Source(s): Charles County; Public School Construction Program; Department of Legislative Services

Fiscal Note History: First Reader - March 13, 2022
fnu2/ljm Third Reader - March 21, 2022

Analysis by: Michael C. Rubenstein

Direct Inquiries to:
(410) 946-5510
(301) 970-5510