

HOUSE BILL 458

F1

3lr1673
CF SB 360

By: **Delegates J. Lewis, B. Barnes, and Smith**

Introduced and read first time: January 30, 2023

Assigned to: Appropriations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 2023

CHAPTER _____

1 AN ACT concerning

2 **Public School Construction – ~~Grant~~ Programs, Approvals, and Administration –**
3 **Alterations**

4 FOR the purpose of repealing the School Safety Grant Program and the Aging Schools
5 Program as of a certain date; altering provisions relating to school construction
6 approvals by the State Superintendent of Schools; altering provisions related to a
7 public-private partnership agreement in Prince George's County; establishing the
8 Interagency Commission on School Construction as an independent unit of State
9 government; providing a removal process for members of the Interagency
10 Commission on School Construction; repealing the requirement for the Board of
11 Public Works to approve grants awarded under the Capital Grant Program for Local
12 School Systems With Significant Enrollment Growth or Relocatable Classrooms;
13 removing a requirement for a life cycles cost analysis for the Interagency
14 Commission; requiring a county board of education to submit a certain evaluation
15 under certain circumstances; requiring the Department of General Services to
16 develop life cycle cost analysis standards in coordination with the Interagency
17 Commission on School Construction and the State Department of Education; altering
18 payments in the Prince George's County Public-Private Partnership Fund; altering
19 payments into the Supplemental Public School Construction Financing Fund;
20 authorizing the Governor to process a certain budget amendment; and generally
21 relating to public school construction ~~grant~~ programs, approvals, and
22 administration.

23 BY repealing
24 Article – Education

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 5–317 and 5–324
 2 Annotated Code of Maryland
 3 (2022 Replacement Volume)

4 BY repealing and reenacting, with amendments,
 5 Article – Education
 6 Section 2–303(f), 4–115(b), (c)(1)(i), (2), and (3), 4–126.1, 4–126.2, 5–302(b) and (f),
 7 5–313(c), 5–325, and 5–327(d)
 8 Annotated Code of Maryland
 9 (2022 Replacement Volume)

10 BY repealing and reenacting, without amendments,
 11 Article – Education
 12 Section 4–115(a) and 5–302(a) and (c) through (e)
 13 Annotated Code of Maryland
 14 (2022 Replacement Volume)

15 BY repealing and reenacting, with amendments,
 16 Article – Economic Development
 17 Section 10–649(f) and (g) and 10–658
 18 Annotated Code of Maryland
 19 (2018 Replacement Volume and 2022 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 21 That Section(s) 5–317 and 5–324 of Article – Education of the Annotated Code of Maryland
 22 be repealed.

23 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
 24 as follows:

25 Article – Education

26 2–303.

27 (f) (1) Subject to the bylaws, rules, and regulations of the State Board, and
 28 except as provided in paragraph (5) of this subsection, the State Superintendent, **OR THE**
 29 **STATE SUPERINTENDENT’S DESIGNEE**, shall approve or disapprove each:

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

32 (ii) Plan or specification for the remodeling of a school building if the
 33 remodeling costs more than ~~[\$350,000]~~ ~~\$500,000~~ **\$1,000,000**;

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

1 (iv) Change order that costs more than ~~[\$25,000]~~ **\$50,000** for the
2 remodeling, restoration, or construction of a school building.

3 (2) If the State Superintendent, **OR THE STATE SUPERINTENDENT'S**
4 **DESIGNEE**, disapproves any plan, specification, proposal, or change order, ~~[he]~~ **THE**
5 **STATE SUPERINTENDENT, OR THE STATE SUPERINTENDENT'S DESIGNEE**, shall state
6 in writing the reasons for ~~[his]~~ **THE** disapproval.

7 (3) If the construction is to be done by a county board, the board may not
8 begin until the plans and specifications are approved in writing by the State
9 Superintendent, **OR THE STATE SUPERINTENDENT'S DESIGNEE**.

10 (4) If the construction is to be done by contract, the contract is invalid
11 without the written approval of the State Superintendent, **OR THE STATE**
12 **SUPERINTENDENT'S DESIGNEE**.

13 (5) For the purchase of any ground or school site under paragraph (1) of
14 this subsection, the county board shall submit the purchase to the State Superintendent,
15 **OR THE STATE SUPERINTENDENT'S DESIGNEE**, for approval or disapproval not more
16 than 3 years before the project is submitted to the Interagency Commission on School
17 Construction for local planning approval.

18 4-115.

19 (a) In this subtitle, "county council" means, in Baltimore City, the Mayor and City
20 Council of Baltimore.

21 (b) With the approval of the State Superintendent, **OR THE STATE**
22 **SUPERINTENDENT'S DESIGNEE**, each county board may:

23 (1) Buy or otherwise acquire land, school sites, or buildings; and

24 (2) Rent, repair, improve, and build school buildings or approve contracts
25 for doing so, if the plans conform to the bylaws, rules, and regulations of the State Board.

26 (c) (1) (i) Except as provided in this subsection, if, with the approval of the
27 State Superintendent, **OR THE STATE SUPERINTENDENT'S DESIGNEE**, a county board
28 finds that any land, school site, or building no longer is needed for school purposes, it shall
29 inform the county commissioners or county council of the county board's determination
30 under this subparagraph.

31 (2) In Harford County, if, with the approval of the State Superintendent,
32 **OR THE STATE SUPERINTENDENT'S DESIGNEE**, the county board finds that any land,
33 school site, or building is no longer needed for school purposes, it shall be transferred by
34 the county board to Harford County, Maryland, and disposed of in accordance with this
35 section.

1 (3) With the approval of the State Superintendent, **OR THE STATE**
2 **SUPERINTENDENT'S DESIGNEE**, the Cecil County Board may transfer, with or without
3 charge, any of its property to the board of trustees of a public community college.

4 4-126.1.

5 (a) In this section, "public-private partnership agreement" means an agreement
6 in which [a county government and] a county board of education [contract] CONTRACTS
7 with a private entity for the acquisition, design, construction, improvement, renovation,
8 expansion, equipping, or financing of a public school, and may include provisions for
9 operation and maintenance of a school, cooperative use of the school or an adjacent
10 property, and generation of revenue to offset the cost of construction or use of the school.

11 (b) Except as otherwise provided in this section, § 4-126 of this subtitle applies
12 to a public-private partnership agreement entered into in accordance with this section.

13 (c) (1) This section applies only if, on or before July 1, 2024, [the Prince
14 George's County government and] the Prince George's County Board [enter] ENTERS into
15 a public-private partnership agreement with a private entity to enhance the delivery of
16 public school construction in Prince George's County.

17 (2) (i) Subject to subparagraph (ii) of this paragraph, before entering
18 into a public-private partnership agreement under paragraph (1) of this subsection, the
19 public-private partnership agreement shall be reviewed by the Maryland Stadium
20 Authority and approved by the Interagency Commission on School Construction.

21 (ii) The approval of the Interagency Commission on School
22 Construction may not be unreasonably withheld or delayed as specified in the
23 memorandum of understanding required under § 4-126 of this subtitle.

24 (d) (1) **IN FISCAL YEARS 2024 AND 2025, THE MARYLAND STADIUM**
25 **AUTHORITY SHALL DEPOSIT THE AMOUNT UNDER § 10-658 OF THE ECONOMIC**
26 **DEVELOPMENT ARTICLE FROM THE SUPPLEMENTAL PUBLIC SCHOOL**
27 **CONSTRUCTION FINANCING FUND INTO THE PRINCE GEORGE'S COUNTY**
28 **PUBLIC-PRIVATE PARTNERSHIP FUND ESTABLISHED UNDER § 4-126.2 OF THIS**
29 **SUBTITLE.**

30 (2) Subject to paragraph [(2)] (3) of this subsection, in fiscal year 2026 and
31 each fiscal year thereafter through not later than fiscal year 2055, if [the Prince George's
32 County government,] the Prince George's County Board[,], and the private entity remain
33 in the public-private partnership agreement described under subsection (c) of this section,
34 the Maryland Stadium Authority shall deposit the amount under § 10-658 of the Economic
35 Development Article from the Supplemental Public School Construction Financing Fund
36 established under § 10-658 of the Economic Development Article into the Prince George's
37 County Public-Private Partnership Fund established under § 4-126.2 of this subtitle.

1 [(2)] (3) Paragraph [(1)] (2) of this subsection applies only if the
2 public-private partnership agreement described under subsection (c) of this section
3 includes:

4 (i) A minimum of [6] 8 schools that will be improved, constructed,
5 or renovated and operated and maintained under the public-private partnership
6 agreement, INCLUDING ONE SCHOOL FOR WHICH A STRUCTURAL ENGINEER HAS
7 IDENTIFIED TO THE COMMISSION THAT THE SCHOOL NEEDS A FULL REPLACEMENT
8 BECAUSE OF FAULTY STEEL; and

9 (ii) A commitment by the Prince George's County government and
10 the Prince George's County Board to provide the local share of the total [availability]
11 payment.

12 [(3)] (4) In fiscal year 2026 and each fiscal year thereafter through not
13 later than fiscal year 2055, if [the Prince George's County government,] the Prince George's
14 County Board[,] and the private entity remain in the public-private partnership
15 agreement described under subsection (c) of this section, the Prince George's County
16 government and the Prince George's County Board each shall deposit the [availability]
17 payment amount required under the public-private partnership agreement into the Prince
18 George's County Public-Private Partnership Fund established under § 4-126.2 of this
19 subtitle.

20 (e) In fiscal year 2026 and each fiscal year thereafter through not later than fiscal
21 year 2055, if [the Prince George's County government,] the Prince George's County
22 Board[,] and the private entity remain in the public-private partnership agreement
23 described under subsection (c) of this section and the Prince George's County government
24 and the Prince George's County Board deposit the [availability] payment in the manner
25 described under subsection (d)(3) of this section, the Interagency Commission on School
26 Construction shall pay the [private entity] PRINCE GEORGE'S COUNTY BOARD from the
27 Prince George's County Public-Private Partnership Fund established under § 4-126.2 of
28 this subtitle for the [availability] payment required under the public-private partnership
29 agreement.

30 (f) On January 15, 2025, and each January 15 thereafter, the Prince George's
31 County government, the Prince George's County Board, the Maryland Stadium Authority,
32 and the Interagency Commission on School Construction jointly shall report to the
33 Governor and, in accordance with § 2-1257 of the State Government Article, the fiscal
34 committees of the General Assembly on the progress of construction and renovations of
35 public school facilities under the public-private partnership agreement described under
36 subsection (c) of this section, including actions:

37 (1) Taken during the previous fiscal year; and

38 (2) Planned for the current fiscal year.

1 (g) (1) On or before July 1, 2029, the Interagency Commission on School
2 Construction shall complete a 5-year evaluation of the effectiveness of the public-private
3 partnership agreement described under subsection (c) of this section.

4 (2) On or before December 31, 2029, the Interagency Commission on School
5 Construction shall submit a report on the results of the evaluation required under
6 paragraph (1) of this subsection to the Governor and, in accordance with § 2-1257 of the
7 State Government Article, the fiscal committees of the General Assembly.

8 4-126.2.

9 (a) In this section, “Fund” means the Prince George’s County Public-Private
10 Partnership Fund.

11 (b) There is a Prince George’s County Public-Private Partnership Fund.

12 (c) The purpose of the Fund is to provide funds to **THE** Prince George’s County
13 **BOARD** for [Prince George’s County] **THE BOARD** to pay a public or private entity for the
14 [availability] payment due under the Prince George’s County public-private partnership
15 agreement entered into in accordance with § 4-126.1 of this subtitle.

16 (d) The Interagency Commission on School Construction shall administer the
17 Fund as described in the four-party memorandum of understanding entered into under §
18 4-126(e)(3)(ii) of this subtitle.

19 (e) (1) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of
20 the State Finance and Procurement Article.

21 (2) The State Treasurer shall hold the Fund separately, and the
22 Comptroller shall account for the Fund.

23 (f) The Fund consists of:

24 (1) Money deposited into the Fund by Prince George’s County, the Prince
25 George’s County Board, and the Maryland Stadium Authority;

26 (2) Money deposited into the Fund by the State;

27 (3) Any investment earnings of the Fund; and

28 (4) Any other money from any other source accepted for the benefit of the
29 Fund.

30 (g) (1) Except as provided in paragraph (2) of this subsection, the Fund may
31 be used only to provide funding to Prince George’s County for alternative financing methods
32 under § 4-126 of this subtitle in Prince George’s County.

1 (2) If THE Prince George's County BOARD receives State funding for an
2 availability payment under § 4-126.1 of this subtitle, the funding received under § 4-126.1
3 of this subtitle may be used only to pay [an availability] A payment to a private entity
4 under the public-private partnership agreement entered into and approved in accordance
5 with § 4-126.1 of this subtitle.

6 (h) Any appropriation to the Fund shall be used to supplement, but not supplant,
7 money appropriated to Prince George's County for public school construction under the
8 Public School Construction Program established in Title 5, Subtitle 3 of this article.

9 (i) (1) The State Treasurer shall invest the money of the Fund in the same
10 manner as other State money may be invested.

11 (2) Any interest earnings of the Fund shall be credited to the Fund.

12 (j) If a memorandum of understanding is entered into under § 4-126 of this
13 subtitle and State funding is provided for [an availability] A payment, the Prince George's
14 County Board and Prince George's County shall deposit into the Fund the amounts
15 required under the memorandum of understanding.

16 5-302.

17 (a) There is an Interagency Commission on School Construction.

18 (b) The Interagency Commission is an independent [commission that functions
19 within the Department] **UNIT OF STATE GOVERNMENT.**

20 (c) The purpose of the Interagency Commission is to develop and approve policies,
21 procedures, guidelines, and regulations on State school construction allocations to local
22 jurisdictions in an independent and merit-based manner.

23 (d) The Interagency Commission consists of the following members:

24 (1) The State Superintendent of Schools, or the Superintendent's designee;

25 (2) The Secretary of Planning, or the Secretary's designee;

26 (3) The Secretary of General Services, or the Secretary's designee;

27 (4) Two members of the public appointed by the Governor;

28 (5) Two members of the public appointed by the President of the Senate;

29 and

30 (6) Two members of the public appointed by the Speaker of the House.

(e) The Governor, President of the Senate, and Speaker of the House jointly shall select the Chair of the Interagency Commission.

(f) **(1)** An appointed member of the Interagency Commission may not be:

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

[(2)] (II) A federal, State, or local elected official;

[(3)] (III) An employee of State or county government or a county board of education; or

[(4)] (IV) An individual who has a business interest in, or contracts related to, school construction in any jurisdiction in the State.

(2) AN APPOINTED MEMBER OF THE INTERAGENCY COMMISSION MAY BE REMOVED FOR INCOMPETENCE, MISCONDUCT, OR FAILURE TO PERFORM THE DUTIES OF THE POSITION BY:

(I) THE GOVERNOR, IF APPOINTED BY THE GOVERNOR;

(II) THE PRESIDENT OF THE SENATE, IF APPOINTED BY THE PRESIDENT OF THE SENATE; OR

(III) THE SPEAKER OF THE HOUSE, IF APPOINTED BY THE SPEAKER OF THE HOUSE.

5–313.

(c) (1) The Program shall be implemented and administered by the Interagency Commission on School Construction in accordance with this section.

(2) Grants awarded by the Interagency Commission under the Program[:

(i) Shall] **SHALL** be matched by local funds equal to the required local cost–share established in accordance with § 5–303(d)(3) of this subtitle[: and

(ii) Shall be approved by the Board of Public Works].

5–325.

(a) [The Interagency Commission or, if required under subsection (b) of this section, the Maryland Stadium Authority shall evaluate the life cycle costs of public school buildings over a 50–year period, including] A COUNTY BOARD, DURING THE DESIGN

1 DEVELOPMENT PHASE FOR THE CONSTRUCTION OR MAJOR RENOVATION OF A
2 PUBLIC SCHOOL BUILDING, SHALL COMPLETE AN EVALUATION OF:

3 (1) [An evaluation, based on a 50-year period, of the] THE cost and
4 efficiency, BASED ON A 50-YEAR PERIOD, of using AVAILABLE alternative energy
5 systems, including geothermal, solar, wind, and energy storage compared to a traditional
6 energy system;

7 (2) An energy consumption and systems replacement [analysis], based on
8 a 50-year period, of each major piece of equipment in any of the following systems serving
9 the public school building:

10 (i) The cooling system;

11 (ii) The heating system;

12 (iii) The hot water system;

13 (iv) The lighting system;

14 (v) The ventilation system; or

15 (vi) Any other major system that uses energy; and

16 (3) The impact of innovative building design and materials on energy
17 consumption, including white roofs and green roofs.

18 [(b) The Interagency Commission or the Maryland Stadium Authority, as
19 applicable, may contract with a third party to conduct the evaluation under subsection (a)
20 of this section.

21 (c) (1) The evaluation required under subsection (a) of this section shall be
22 conducted and submitted to the General Assembly in accordance with § 2-1257 of the State
23 Government Article on or before October 1, 2023.

24 (2) On or before October 1, 2020, and each October 1 through 2022, the
25 Interagency Commission or the Maryland Stadium Authority shall provide annual updates
26 on the progress of the evaluation to the General Assembly, in accordance with § 2-1257 of
27 the State Government Article.]

28 **(B) IF THE COUNTY BOARD DETERMINES THAT NO ALTERNATIVE ENERGY**
29 **SYSTEMS ARE APPROPRIATE FOR A CONSTRUCTION OR MAJOR RENOVATION**
30 **PROJECT, THE COUNTY BOARD SHALL SUBMIT A REPORT TO THE INTERAGENCY**
31 **COMMISSION THAT EXPLAINS WHY THE ALTERNATIVE ENERGY SYSTEMS WERE NOT**
32 **APPROPRIATE.**

1 (C) ON OR BEFORE DECEMBER 31 EACH YEAR, THE INTERAGENCY
 2 COMMISSION SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY, IN
 3 ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, ON THE
 4 NUMBER OF PUBLIC SCHOOL CONSTRUCTION AND MAJOR RENOVATION PROJECTS
 5 IN EACH JURISDICTION THAT USE ALTERNATIVE ENERGY SYSTEMS.

6 5-327.

7 (d) The Interagency Commission, in coordination with the Department **AND THE**
 8 **DEPARTMENT OF GENERAL SERVICES**, shall develop life cycle cost analysis standards.

9 Article – Economic Development

10 10-649.

11 (f) (1) Except as provided in paragraph (2) of this subsection, the total debt
 12 service for any bond issue, when added to all prior outstanding bond issues related to
 13 improvements to public school facilities, may not exceed the total amount of the funds
 14 provided under subsection (g) of this section.

15 (2) If THE Prince George's County BOARD enters into a public-private
 16 partnership agreement under § 4-126.1 of the Education Article, the total debt service for
 17 all bond issues may not exceed \$100,000,000.

18 (g) (1) In accordance with § 9-1A-30 of the State Government Article, the
 19 Comptroller shall deposit a portion of the money in the Education Trust Fund into the
 20 Supplemental Public School Construction Financing Fund for the program to be known as
 21 the Built to Learn Program.

22 (2) The funds under paragraph (1) of this subsection shall be deposited in
 23 the following amounts:

24 (i) in fiscal year 2022 – \$30,000,000;

25 (ii) in fiscal year 2023 – \$60,000,000; [and]

26 (iii) in fiscal year 2024 [and each fiscal year thereafter] –
 27 \$125,000,000; AND

28 **(IV) IN FISCAL YEAR 2025 AND EACH FISCAL YEAR THEREAFTER**
 29 **– \$127,000,000.**

30 (3) The Comptroller shall deposit 50% of the funds under paragraph (2) of
 31 this subsection on or before November 1 each year and the other 50% on or before May 1
 32 each year.

1 10-658.

2 (a) There is a Supplemental Public School Construction Financing Fund.

3 (b) (1) The Supplemental Public School Construction Financing Fund is a
4 continuing, nonlapsing fund that shall be available to implement this subtitle concerning
5 public school facilities.

6 (2) The Authority shall:

7 (i) use the Supplemental Public School Construction Financing
8 Fund as a revolving fund for carrying out this subtitle concerning public school facilities;

9 (ii) pay any and all expenses from the Supplemental Public School
10 Construction Financing Fund that are incurred by the Authority related to any public
11 school facilities; and

12 (iii) after all bonds have been issued, calculate the total amount
13 allocated from the Supplemental Public School Construction Financing Fund to each county
14 that received a percentage of bond proceeds under § 10-650(b)(1) of this subtitle.

15 (3) [(i) Subject to subparagraph (ii) of this paragraph, in] IN each fiscal
16 year for which the provisions of § 4-126.1(d) of the Education Article remain applicable,
17 the Authority shall deposit an amount equal to [\$25,000,000] **\$27,000,000 EACH YEAR**
18 from the Supplemental Public School Construction Financing Fund into the Prince George's
19 County Public-Private Partnership Fund established under § 4-126.2 of the Education
20 Article.

21 [(ii) The total amount distributed from the Supplemental Public School
22 Construction Financing Fund to the Prince George's County Public Private Partnership
23 Fund in accordance with subparagraph (i) of this paragraph may not exceed the maximum
24 total amount allocated to a county calculated in accordance with paragraph (2)(iii) of this
25 subsection.]

26 (c) To the extent considered appropriate by the Authority, the money on deposit
27 in the Supplemental Public School Construction Financing Fund shall be pledged to and
28 used to pay the following related to public school facilities:

29 (1) debt service on Authority bonds;

30 (2) debt service reserves under a trust agreement;

31 (3) all reasonable charges and expenses related to Authority borrowing;

32 and

1 (4) all reasonable charges and expenses related to the Authority's
2 administration of the Supplemental Public School Construction Financing Fund and
3 management of the Authority's obligations.

4 (d) The Supplemental Public School Construction Financing Fund consists of:

5 (1) money deposited into the Supplemental Public School Construction
6 Financing Fund;

7 (2) to the extent that the proceeds are not under a trust agreement,
8 proceeds from the sale of bonds concerning public school facilities;

9 (3) revenues collected or received from any source under this subtitle
10 related to public school facility projects;

11 (4) any interest earnings of the Supplemental Public School Construction
12 Financing Fund; and

13 (5) any additional money made available from any public source for the
14 purposes established for the Supplemental Public School Construction Financing Fund.

15 (e) (1) The State Treasurer shall invest the money of the Supplemental Public
16 School Construction Financing Fund in the same manner as other State funds.

17 (2) Any investment earnings shall be credited to the Supplemental Public
18 School Construction Financing Fund.

19 (3) No part of the Supplemental Public School Construction Financing
20 Fund may revert or be credited to the General Fund or any special fund of the State.

21 (f) The money in the Supplemental Public School Construction Financing Fund
22 shall be used to supplement, and may not supplant, money appropriated to the Public
23 School Construction Program established under Title 5, Subtitle 3 of the Education Article.

24 SECTION 3. AND BE IT FURTHER ENACTED, That notwithstanding any other
25 provision of law, on or before June 30, 2024, the Governor may process a budget amendment
26 to transfer from the Supplemental Public School Construction Financing Fund under §
27 10-658 of the Economic Development Article to the Prince George's County Public-Private
28 Partnership Fund under § 4-126.2 of the Education Article for \$25,000,000.

29 SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
30 take effect June 30, 2026.

31 SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That, except as provided in
32 Section ~~3~~ 4 of this Act, this Act shall take effect July 1, 2023.