

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 313 (Delegate Washington)
 Appropriations

Education - Public School Stadium Grant Program - Established

This bill establishes the Public School Grant Program to provide grants to local school boards for the major renovation or replacement of stadiums for public high schools. The Interagency Commission on School Construction (IAC) administers the program, and the Governor must include \$50.0 million in the operating or capital budget each year beginning in fiscal 2025. Funding for the grant program is intended to be supplemental and not replace funding that would otherwise be appropriated for public school construction. **The bill takes effect June 1, 2023.**

Fiscal Summary

State Effect: Pay as you go (PAYGO) general fund expenditures increase by \$50.0 million annually beginning in FY 2025 due to the mandated appropriation. General fund expenditures increase by \$164,900 in FY 2024 to implement the grant program. Out-year expenditures reflect annualization, inflation, and termination of one-time costs. No effect on revenues. **This bill establishes a mandated appropriation beginning in FY 2025.**

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	164,900	283,300	295,900	309,000	325,300
PAYGO GF exp	0	50,000,000	50,000,000	50,000,000	50,000,000
Net Effect	(\$164,900)	(\$50,283,300)	(\$50,295,900)	(\$50,309,000)	(\$50,325,300)

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

Local Effect: Local revenues and expenditures increase by \$50.0 million annually for public high school stadium renovation projects beginning in FY 2025. The bill exempts funded projects from a local cost share, so local funds are not affected.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: IAC must:

- provide grants to local school boards for stadium improvements;
- develop a procedure for a local school board to apply for a grant; and
- develop eligibility requirements for a local school board to receive a grant.

IAC may not award grants for routine maintenance on public high school stadiums or require a project to comply with the State and local cost share established in regulations. IAC may adopt regulations to implement the bill.

Current Law: For an overview of State support for public school construction (including the State-local cost shares, please see the **Appendix – State Funding for Public School Construction**. IAC advises that, under current regulations and procedures, appropriately sized stadiums are eligible for funding from the Public School Construction Program (PSCP) if they are included in renovation, replacement, or new high school construction projects. However, stand-alone stadium projects are not currently eligible for PSCP funding.

State Expenditures:

Mandated Appropriation

The bill requires that the Governor include \$50.0 million in the annual operating or capital budget beginning in fiscal 2025. As the General Assembly cannot mandate appropriations in the capital budget, this analysis assumes that PAYGO general funds are used to comply with the bill's mandate beginning in fiscal 2025.

Grant Program Management

The proposed program's funding level is roughly one-fifth the size of PSCP and, therefore, represents a significant increase in the portfolio of programs and construction projects that IAC must oversee each year. IAC cannot absorb this additional workload with existing resources.

Therefore, general fund expenditures increase by \$164,945 in fiscal 2024, which accounts for new staff beginning January 1, 2024, to prepare for the first round of funding in fiscal 2025. This estimate reflects the cost of hiring one program manager, an architect/engineer, and an administrative assistant to establish program requirements, review grant proposals, manage program funding, and oversee completion of funded

projects. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	3.0
Salaries and Fringe Benefits	\$143,513
Operating Expenses	<u>21,432</u>
Total FY 2024 State Expenditures	\$164,945

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

Small Business Effect: Small construction companies that participate in school construction projects may experience a significant increase in business opportunities.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 818 (Senator A. Washington) - Budget and Taxation.

Information Source(s): Public School Construction Program; Department of Budget and Management; Montgomery County Public Schools; Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2023
km/ljm

Analysis by: Michael C. Rubenstein

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

Appendix – State Funding for Public School Construction

School Construction Review and Approval Process

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 through the Public School Construction Program (PSCP). 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.

Built to Learn Act

The Built to Learn Act was enacted as Chapter 20 of 2020, but it was contingent on the enactment of House Bill 1300 of 2020 (Blueprint for Maryland's Future – Implementation). As House Bill 1300 was vetoed by the Governor, the Built to Learn Act took effect in January 2021 when the General Assembly voted to override the Governor's veto of House Bill 1300.

The Built to Learn Act authorizes the Maryland Stadium Authority (MSA) to issue up to \$2.2 billion in revenue bonds, backed by annual payments from the Education Trust Fund beginning in fiscal 2022, for public school construction projects in the State, including to

support a public-private partnership agreement to build six new schools in Prince George’s County. Proceeds from the revenue bonds are in addition to funding available from PSCP and are allocated among local school systems as shown in **Exhibit 1** (based on MSA’s most recent projection of anticipated revenues of \$1.7 billion given increases in interest rates since the program’s enactment). Funds must be used to build or renovate schools within 10 years.

Exhibit 1
Allocation of Built to Learn Bond Sale Proceeds
(\$ in Millions)

	<u>Percent of Total</u>	<u>Proceeds</u>
Anne Arundel	12.5%	\$212.5
Baltimore City	21.0%	357.0
Baltimore	21.0%	357.0
Frederick	5.1%	86.7
Howard	6.6%	112.2
Montgomery	21.0%	357.0
Prince George’s	*	*
All Other Counties	11.5%	195.5
Unallocated/Maryland Stadium Authority	1.3%	22.1
Total	100.0%	\$1,700.0

* Under Chapter 20 of 2020, Prince George’s County receives \$25.0 million annually for up to 30 years to supplement local funds for an availability payment if it enters into a public-private partnership agreement, subject to other provisions in the Act.

Source: Department of Legislative Services

The Built to Learn Act also (1) extends mandated funding for the Healthy School Facility Fund (HSFF) by three years, through fiscal 2024, with at least \$30.0 million in fiscal 2022 and at least \$40.0 million in each of fiscal 2023 and 2024; (2) raises the mandated annual funding level for the Enrollment Growth or Relocatable Classrooms (EGRC) program from \$40.0 million to \$80.0 million beginning in fiscal 2027; and (3) creates the Public School Facilities Priority Fund to provide State funds to address the facility needs of the highest priority schools identified by the statewide facilities assessment completed by IAC. In fiscal 2025 and 2026, the Governor must appropriate at least \$40.0 million to the fund. Beginning in fiscal 2027, the mandated annual appropriation increases to at least \$80.0 million. Although mandated funding levels for fiscal 2022 were not required due to the delay in Chapter 20 taking effect, the fiscal 2022 capital budget, as enacted, included the

funding (with EGRC receiving a total of \$60.0 million and HSFF receiving a total of \$70.0 million, including \$40.0 million in federal funds from the American Rescue Plan).

Prior to distributing funds under the program, MSA must enter into a program memorandum of understanding (MOU) with IAC (which is in place), and each county, local school board, and MSA must enter into a project MOU for each project seeking funding from the program. All projects receiving Built to Learn funds must be approved by IAC using the same process it uses for PSCP. As of February 2023, IAC has approved 32 projects and committed more than \$955.0 million in funding to those projects.

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 updated the space allocations in 2019 and renamed them gross area baselines. IAC also establishes, on an annual basis, a *cost per square foot* that is applicable to major school construction projects. For fiscal 2024, the cost per square foot is \$385 for new construction *without* site development (up from \$358 in fiscal 2023) and \$458 for new construction *with* site development (up from \$426 in fiscal 2023). In general, multiplying the cost per square foot by the applicable gross area baseline for each proposed project (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. Thus, any portion of a project that exceeds the gross area baseline is not eligible for State funding and must be paid for by the local school system.

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. Chapter 20 expands the costs eligible for State funding. In general, the following costs are now included among *eligible* expenses:

- planning and design costs (including architectural and engineering fees);
- 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;
- replacement of building systems, including roofs, windows, and heating, ventilation and air conditioning (*i.e.*, “systemic renovations”);
- modular construction that meets specified standards;
- State-owned relocatable facilities and temporary facilities that are required to be on site during construction; and
- furniture, fixtures, and equipment with a median useful life of at least 15 years.

Among the major items explicitly *not eligible* for State funding under current law (besides site acquisition) are (1) master plans and feasibility studies; (2) projects or systemic renovations for buildings and systems that have been replaced, upgraded, or renovated within the last 15 years; and (3) 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 21st Century School Facilities Act requires that the cost-share formula be recalculated every two years (previously, statute required recalculation every three years). **Exhibit 2** shows the State share of eligible school construction costs for all Maryland jurisdictions for fiscal 2023 and 2024, as approved by IAC. Counties whose calculated State share would have been lower in fiscal 2023 than in fiscal 2022 were held harmless by Chapter 698 of 2021; Garrett County’s State share was adjusted in accordance with provisions of Chapter 698.

Exhibit 2
State Share of Eligible School Construction Costs
Fiscal 2023 and 2024

<u>County</u>	<u>FY 2023 and 2024</u>
Allegany	90%
Anne Arundel	50%
Baltimore City	96%
Baltimore	61%
Calvert	56%
Caroline	88%
Carroll	59%
Cecil	66%
Charles	65%
Dorchester	93%
Frederick	65%
Garrett	90%
Harford	63%
Howard	56%
Kent	50%
Montgomery	50%
Prince George’s	73%
Queen Anne’s	51%
St. Mary’s	58%
Somerset	100%
Talbot	50%
Washington	79%
Wicomico	100%

Worcester	50%
Maryland School for the Blind	93%

Source: Interagency Commission on School Construction

State Funding Levels

Chapter 14 of 2018, the 21st Century School Facilities Act, established the State’s intent to provide at least \$400.0 million annually, within current debt affordability guidelines. The State surpassed the \$400.0 million threshold in fiscal 2019, 2021, and 2022; the State would have surpassed \$400.0 million in fiscal 2020, but the \$10.0 million allocation for the School Safety Grant Program (SSGP) was canceled by the Board of Public Works for cost containment reasons. **Exhibit 3** shows annual State public school construction funding from fiscal 2019 through 2023, by county.

The fiscal 2024 operating and capital budgets, as introduced, total almost \$1.1 billion in funding for public school construction projects in the State, divided among general obligation (GO) bond funding, revenue bonds, special funds, and pay-as-you-go (PAYGO) general funds. The total includes:

- \$447.2 million in MSA revenue bonds for Built to Learn;
- \$485.0 million for PSCP, consisting of \$268.5 million from the Fiscal Responsibility Fund, \$125.5 million in PAYGO, and \$91.0 million in GO funds;
- \$40.0 million in PAYGO for EGRC;
- \$90.0 million in GO funds for HSFF;
- \$20.0 million in general funds for the School Construction Revolving Loan Fund; and
- \$6.1 million in GO funds for the Aging Schools Program.

Exhibit 3
State Public School Construction Funding
Fiscal 2019-2023
(\$ in Thousands)

<u>County</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>
Allegany	\$4,378	\$2,846	\$2,080	\$2,515	\$4,116
Anne Arundel	30,484	36,422	38,053	148,762	105,008
Baltimore City	71,522	51,304	69,479	81,905	304,638
Baltimore	44,709	58,936	53,015	257,425	118,800
Calvert	10,138	2,227	4,141	13,416	8,678
Caroline	685	11,603	13,713	4,741	2,257
Carroll	7,389	7,604	10,312	38,693	20,955
Cecil	5,528	4,046	3,856	5,412	6,865
Charles	15,389	13,938	12,455	32,131	35,237
Dorchester	11,286	4,068	5,955	6,578	4,670
Frederick	20,032	16,636	22,832	55,009	48,808
Garrett	247	443	1,795	12,147	11,061
Harford	13,072	12,975	12,964	47,235	12,680
Howard	11,490	6,494	32,508	63,374	71,539
Kent	227	1,389	3,193	119	2,331
Montgomery	62,947	59,107	55,710	190,879	43,540
Prince George's	51,282	52,276	47,065	42,153	124,264
Queen Anne's	1,096	667	1,248	2,318	4,526
St. Mary's	6,757	4,762	5,530	5,723	7,878
Somerset	17,766	3,161	3,100	776	266
Talbot	8,641	9,000	3,173	1,342	1,129
Washington	12,493	11,687	8,311	8,669	10,413
Wicomico	10,333	11,340	10,399	26,062	33,416
Worcester	4,620	4,336	1,475	4,975	308
Maryland School for the Blind	14,216	7,401	6,779	2,021	15,209
Statewide	0	0	5,794	6,500	44,283
Total	\$436,727	\$394,668	\$434,933	\$1,060,882	\$1,042,875

Notes: Includes general obligation bonds, Built to Learn revenue 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. Allocated funds include the Enrollment Growth or Relocatable Classroom program, School Safety grants, and Healthy School Facility grants. Statewide funds include unallocated discretionary funds, contractual costs for external reviews, and funds reserved for unforeseen contingencies. Columns may not sum to total due to rounding.

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