

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised
 (Delegate J. Lewis, et al.)

House Bill 458
 Appropriations

Budget and Taxation

Public School Construction - Programs, Approvals, and Administration -
 Alterations

This bill makes the Interagency Commission on School Construction (IAC) an independent unit of State government. It also repeals the School Safety Grant Program (SSGP) and the Aging Schools Program (ASP) beginning in fiscal 2027. Beginning in fiscal 2025, payment from the Education Trust Fund (ETF) increases, from \$25.0 million to \$27.0 million, to support a public-private partnership (P3) entered into by the Prince George’s County Board to construct public schools; the bill makes clarifying and conforming changes related to that funding. Local school systems must conduct life-cycle assessments of building systems for school construction projects, as specified. The bill raises cost thresholds for specified actions related to school construction that must be approved by the State Superintendent and makes other technical and procedural changes related to the approval and funding of school construction projects in the State. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: General fund expenditures increase by \$123,300 in FY 2024 for staffing. Out-year expenditures reflect inflation and termination of one-time costs. Expenditures for ASP and SSGP are assumed to be redirected to the Nancy K. Kopp Public School Facilities Priority Fund beginning in FY 2027, as discussed below and, therefore, repeal has no net effect on State finances. Beginning in FY 2025, \$2.0 million from ETF is redirected to support the Prince George’s County P3 agreement instead of other education-related expenditures authorized for the Blueprint for Maryland’s Future; general funds are assumed to be needed to backfill lost revenues from ETF for public education. **This bill increases a mandated distribution beginning in FY 2025 and repeals a mandated appropriation in FY 2027.**

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
SF Revenue	\$0	\$0	\$0	\$16,109,000	\$16,109,000
GF Expenditure	\$123,300	\$2,113,600	\$2,118,600	\$2,123,800	\$2,130,300
SF Expenditure	\$0	\$0	\$0	\$16,109,000	\$16,109,000
Net Effect	(\$123,300)	(\$2,113,600)	(\$2,118,600)	(\$2,123,800)	(\$2,130,300)

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

Local Effect: Revenues for Prince George’s County Public Schools to support a P3 agreement to construct public schools increase by \$2.0 million annually, beginning in FY 2025. Local school systems can generally conduct the required life-cycle assessments with existing resources, but expenditures may increase minimally for smaller school systems.

Small Business Effect: None.

Analysis

Bill Summary: The State Superintendent, or the Superintendent’s designee, must approve or disapprove (1) each plan or specification for the remodeling of a school building if the remodeling costs more than \$1.0 million (up from \$350,000) and (2) a change order that costs more than \$50,000 (up from \$25,000) for the remodeling, restoration, or construction of a school building. The bill authorizes the State Superintendent’s designee (in addition to the Superintendent) to approve various school construction activities in current law, including contracts for school construction projects.

The bill allows appointed members of IAC to be removed by their appointing authorities for incompetence, misconduct, or failure to perform their duties.

The bill includes a technical correction that clarifies that the Board of Public Works does not approve grants awarded by IAC.

Built to Learn Act and Prince George’s County Public-private Partnership

With respect to the Built to Learn Program, the bill increases, from \$125.0 million to \$127.0 million, the amount transferred from ETF to the Supplemental Public School Construction Financing Fund (Financing Fund) managed by the Maryland Stadium Authority (MSA), beginning in fiscal 2025. In turn, it increases, from \$25.0 million to \$27.0 million, the amount that MSA must transfer annually from the Financing Fund to the Prince George’s County P3 Fund, also beginning in fiscal 2025.

Accordingly, the bill repeals a provision limiting total payments to Prince George’s County for a P3 to the maximum total amount allocated to any other county under the Built to Learn Act (as the increased payments cause it to exceed that amount). It further specifies that P3s for the construction of public schools in Prince George’s County that are eligible for State funding are (1) between the Prince George’s County Board of Education and a private entity and (2) for a minimum of eight schools, instead of six schools, including one that must be replaced because of faulty steel. The bill also clarifies procedures for State funds that are authorized to be paid to be transferred to the Prince George’s County Board

of Education, and it specifies that State funds are for any payment under a P3 agreement (instead of just for availability payments).

Life-cycle Assessments

The bill repeals a requirement that IAC evaluate, by October 1, 2023, the life-cycle costs of public school buildings and their major mechanical systems over a 50-year period.

During the design development phase of a public school construction project or a major renovation of a public school, a local school board must complete an evaluation of:

- the cost and efficiency, based on a 50-year period, of using available alternative energy systems (including geothermal, solar, wind, and energy storage) compared to traditional energy systems;
- an energy consumption and systems replacement, based on a 50-year period, of each major piece of equipment in specified systems; and
- the impact of innovative building designs and materials on energy consumption, including white roofs and green roofs.

If a local school board determines that no alternative energy systems are appropriate for a project, it must submit a report to IAC that explains why the alternative energy systems are not appropriate. By December 31 of each year, IAC must report to the General Assembly on the number of projects in each jurisdiction that use alternative energy systems.

Current Law: IAC is an independent commission that functions within the Maryland State Department of Education (MSDE). It has nine members, including three *ex officio* members and six public members, with two each appointed by the Governor, the Speaker of the House, and the President of the Senate. There are no provisions for the removal of appointed IAC members.

The State Superintendent must approve or disapprove (1) each plan or specification for the remodeling of a school building if the remodeling costs more than \$350,000 and (2) a change order that costs more than \$25,000 for the remodeling, restoration, or construction of a school building.

Aging Schools Program and School Safety Grant Program

Eligible ASP expenditures include asbestos and lead paint abatement; upgrade of fire protection systems and equipment; painting; plumbing; roofing; upgrade of heating, ventilation, and air conditioning systems; site redevelopment; wiring schools for technology; and renovation projects related to education programs and services. Projects must cost at least \$10,000 to be funded through the program. MSDE and IAC review

ASP requests submitted by local school systems, approve eligible projects, and determine if additional review of any construction documents will be required. Chapter 20 of 2020 (the Built to Learn Act) inadvertently repealed funding allocations for the program, but program allocations remained in the fiscal 2022 and 2023 capital budget absent the authorization; the funding allocations were restored by Chapter 32 of 2022.

Chapter 14 of 2018 created SSGP to provide grants to local school systems for security improvements, including:

- secure and lockable doors for every classroom;
- an area of safe refuge in every classroom; and
- surveillance and other security technology for school monitoring purposes.

The Governor is required to include \$10.0 million in the annual operating or capital budget that may be used only to make grant awards. As with ASP, Chapter 20 inadvertently repealed authorization for the program and the mandated appropriation, but full funding was nevertheless included in the fiscal 2023 budget as enacted. Authorization for the program and the mandated appropriation were restored by Chapter 32.

Chapter 20 expressed legislative intent that funding for ASP and SSGP be consolidated into the Public School Facilities Priority Fund (since renamed in honor of former Treasurer Nancy K. Kopp) beginning in fiscal 2027. By repealing the two programs beginning in fiscal 2027, the bill facilitates the implementation of the legislative intent expressed in Chapter 20.

Education Trust Fund

ETF is funded primarily from the proceeds of video lottery terminals and gaming. Beginning in fiscal 2023, the Governor's annual budget submission must include 100% of ETF funds as *supplemental* funding for public education. Supplemental funding is defined as funding that:

- ensures access to public education that allows students to compete in the global economy of the future;
- provides high-quality early childhood education programs;
- provides opportunities for public school students to participate in career and technical education programs that lead to an identified job skill or certificate;
- allows students to obtain college credit and degrees while in high school at no cost to the students;
- supports the advancement and professionalization of public educators; and
- **maintains, renovates, or constructs public schools** (emphasis added).

Built to Learn Act and Prince George's County Public-private Partnership

The Built to Learn Act (Chapter 20 of 2020) authorizes MSA to issue up to \$2.2 billion in revenue bonds, backed by annual payments from ETF to the Supplemental Public School Construction Financing Fund (Financing Fund) that began in fiscal 2022, for public school construction projects in the State, including to support a possible P3 agreement for Prince George's County. Annual disbursements for debt service from ETF continue until the 30-year MSA bonds are no longer outstanding. Beginning in fiscal 2024, total debt service for all bond issuances may not exceed \$125.0 million annually thereafter; debt service may not exceed \$100.0 million annually if Prince George's County enters into a P3 agreement.

The Built to Learn Act defined a P3 agreement as one in which a county government and county 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.

If Prince George's County enters into a specified P3 agreement by July 1, 2024, MSA must deposit \$25.0 million annually, beginning in fiscal 2024 and not after 2053, from the Financing Fund into the Prince George's County P3 Fund. 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 MSA and approved by IAC. 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.

State Expenditures:

Interagency Commission on School Construction Staff

IAC advises that becoming an independent agency involves an increase in operational roles formerly carried out by MSDE, including human resource and financial operations. By reorganizing existing personnel and positions and also working with other agencies for information technology and procurement support, IAC can absorb most of the additional responsibilities with existing staff. The one exception is human resources.

Therefore, general fund expenditures increase by \$123,256 in fiscal 2024, which assumes that new human resources staff is needed and hired on the bill's July 1, 2023 effective date. This estimate reflects the cost of hiring one human resources administrator to absorb personnel-related tasks currently carried out by MSDE. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	\$115,582
Operating Expenses	<u>7,674</u>
Total FY 2024 State Expenditures	\$123,256

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

Repealing the requirement that IAC evaluate the life-cycle costs of public school buildings by October 1, 2023, creates administrative efficiencies for IAC; it is assumed that staffing resources that would have been devoted to that evaluation are instead directed to other ongoing IAC responsibilities.

Terminated Programs

With the termination of ASP and SSGP, State expenditures could decrease by \$10.0 million in general funds (for SSGP) and \$6.1 million in general obligation bond funds (for ASP) beginning in fiscal 2027. However, this analysis assumes that those funds are instead redirected to the Nancy K. Kopp Public School Facilities Priority Fund and used to fund high-priority school construction projects, consistent with the legislative intent expressed in Chapter 20. Therefore, there is no net effect on State finances.

Education Trust Fund and Prince George's County Public-private Partnership

Beginning in fiscal 2025, the bill increases the contribution from ETF to the Financing Fund by \$2.0 million, and in turn requires MSA to increase the payment from the Financing Fund to the Prince George's County P3 Fund by \$2.0 million annually. Currently, 100% of ETF funds must be used for supplemental funding for public education, including school construction. However, any funds not currently used for debt service or availability payments under the Built to Learn Act are dedicated to the implementation of the Blueprint for Maryland's Future. Therefore, increasing funding for school construction (and specifically to support Prince George's County's P3 agreement) reduces available funds for the Blueprint, which must be backfilled with general funds. Accordingly, general fund expenditures increase by \$2.0 million annually beginning in fiscal 2025.

Additional Information

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

Designated Cross File: SB 360 (Senator Guzzone) - Budget and Taxation.

Information Source(s): Public School Construction Program; Department of Budget and Management; Department of General Services; Board of Public Works; Department of Legislative Services

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