

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 21

(Senator A. Washington)

Budget and Taxation

Appropriations

Education - Public High School Athletic and Physical Education Facilities - Study

This bill requires the Interagency Commission on School Construction (IAC) to conduct a comprehensive study analyzing the current condition of public high school athletic and physical education facilities in the State and report its findings and recommendations to the Governor and General Assembly by December 1, 2024. The bill authorizes IAC to hire an independent contractor to conduct the study. In conducting the study, IAC must consult with local school systems, and local school systems must provide specified information on request by IAC. Additionally, the bill requires the Maryland-National Capital Park and Planning Commission (M-NCPPC) and the Prince George’s County Board of Education to meet no later than December 1, 2024, to discuss potential partnerships to upgrade public high school athletic and physical education facilities in Prince George’s County. **The bill takes effect June 1, 2024, and terminates May 31, 2025.**

Fiscal Summary

State Effect: General fund expenditures increase by \$348,900 in FY 2025 for contractual positions needed to conduct the mandated study. No effect on revenues.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	348,900	0	0	0	0
Net Effect	(\$348,900)	\$0	\$0	\$0	\$0

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

Local Effect: The bill likely has an operational effect on local school systems to collaborate with IAC on the comprehensive study, including Prince George’s County Public Schools to meet with M-NCPPC as specified, but has no direct effect on local finances.

Small Business Effect: None.

Analysis

Current Law:

School Facilities

Chapter 14 of 2018, the 21st Century School Facilities Act, required IAC, in consultation with local school systems, to adopt educational facilities sufficiency standards for Maryland public schools by July 1, 2018. The standards are defined as a uniform set of criteria and measures for evaluating the physical attributes and educational suitability of public elementary and secondary school facilities in the State. The standards include specified categories, and they must be reviewed and updated periodically. Chapter 14 also required IAC to develop a facility condition index, which is a calculation to determine the relative physical condition of public school facilities by dividing the total repair cost of a facility by its total replacement cost.

Chapter 14 also required IAC to complete an initial statewide facilities assessment using the sufficiency standards by July 1, 2019, and update the assessment at least every four years. In completing the initial assessment, IAC had to incorporate the index, contract with an independent third-party vendor to conduct the data collection and assessment, use existing data sources to the extent possible, and coordinate with local school systems to identify data elements to be used. Due to procurement delays, the initial assessment was not completed until July 2021; the first follow-up assessment is currently underway.

School Construction Funding

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: IAC advises that the educational facility sufficiency standards developed in response to Chapter 14 and used for the school facility assessment include standards for physical education facilities but not for athletic facilities. Moreover, IAC notes that each school system may have its own standards and criteria for athletic facilities and that there is not an industry consensus set of standards for those facilities. As a result, the current assessment includes data on the condition of school physical education facilities but not for athletic facilities.

The development of the existing sufficiency standards was a collaborative effort between IAC and local school systems, and a similar effort to develop consensus standards for high school athletic facilities would likely take several months, or possibly longer if consensus is difficult to achieve. As the bill requires the comprehensive study to be completed in six months, it is unlikely that IAC can complete the study in the time allowed by the bill, given the amount of time necessary to develop the new standards, incorporate them into an assessment framework, and train assessors to conduct assessments using the standards.

IAC's protocol for the follow-up facility assessments is to assess one-quarter of all facilities each year so that all facilities are updated at least every four years, as required by Chapter 14. Therefore, current assessors may be able to incorporate the new athletic facility standards into their planned assessments in fiscal 2025. There are approximately 200 high schools in the State, which translates to an estimated 50 being assessed in fiscal 2024 (one-quarter of the total). The study must be completed less than halfway into the fiscal year, which means that, at most, 25 schools can be assessed with existing resources (assuming existing assessors could be expeditiously retrained to examine stadiums), leaving approximately 175 schools needing to be assessed separately. Any delay in developing the standards likely means that fewer schools can be included in the planned follow-up assessment.

IAC advises that its assessors are fully subscribed, so it likely must hire and train contractual assessors to complete the study or conduct a new procurement for a third party to conduct the assessments. IAC further advises that, even with additional assessors, completing the 200 stadium assessments would require an additional 12 months to hire the contractual positions and conduct the assessments. The estimate below therefore reflects the cost to hire three new contractual assessors in fiscal 2025 and complete assessments in 12 months instead of six. In order to complete the study before the bill's December deadline, significant additional expenditures above and beyond those quantified below for the comprehensive study may be required.

General fund expenditures increase by \$348,932 in fiscal 2025, which accounts for new contractual staff only in fiscal 2025 to complete the comprehensive study with the associated report due December 1, 2024. This estimate reflects the cost of hiring three new contractual assessors for one year to complete the new assessments required for the comprehensive study. It includes salaries, fringe benefits, one-time start-up costs, travel expenses, and other operating expenses.

Contractual Positions	3.0
Salary/Salaries and Fringe Benefits	\$262,008
Operating Expenses	<u>86,924</u>
Total FY 2025 State Expenditures	\$348,932

This analysis assumes that the contractual positions terminate in fiscal 2026 following the completion of the study. It does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the federal Patient Protection and Affordable Care Act.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 818 and HB 313 of 2023.

Designated Cross File: None.

Information Source(s): Maryland-National Capital Park and Planning Commission; Interagency Commission on School Construction; Department of General Services; Baltimore City Public Schools; Montgomery County Public Schools; Department of Legislative Services

Fiscal Note History: First Reader - January 15, 2024
 km/mcr Revised - Budget Information - January 19, 2024
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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, as amended by Chapter 679 of 2023, Prince George’s County receives \$27.0 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 HSFH 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 November 2023, IAC has approved 37 projects and committed more than \$1.0 billion 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 2025, the cost per square foot is \$404 for new construction *without* site development (up from \$385 in fiscal 2024) and \$481 for new construction *with* site development (up from \$458 in fiscal 2024). 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; FY 2025; and FY 2026, 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>	<u>FY 2025</u>	<u>FY 2026</u>
Allegany	90%	89%	89%
Anne Arundel	50%	50%	50%
Baltimore City	96%	94%	91%
Baltimore	61%	59%	57%
Calvert	56%	56%	56%
Caroline	88%	94%	94%
Carroll	59%	57%	54%
Cecil	66%	64%	61%
Charles	65%	64%	64%
Dorchester	93%	98%	98%
Frederick	65%	67%	67%
Garrett	90%	89%	89%
Harford	63%	61%	58%
Howard	56%	54%	51%
Kent	50%	50%	50%
Montgomery	50%	50%	50%
Prince George’s	73%	71%	68%
Queen Anne’s	51%	50%	50%
St. Mary’s	58%	58%	58%
Somerset	100%	100%	100%

<u>County</u>	<u>FY 2023 and 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
Talbot	50%	50%	50%
Washington	79%	78%	78%
Wicomico	100%	98%	95%
Worcester	50%	50%	50%
Maryland School for the Blind	93%	89%	89%

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, 2022, and 2023; 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. Chapter 679 of 2023 repeals both SSGP and the Aging Schools Program beginning fiscal 2027 with the intent that funding for those programs be transferred to the Priority Fund, which takes effect that year. **Exhibit 3** shows annual State public school construction funding from fiscal 2020 through 2024, by county.

The fiscal 2025 operating and capital budgets, as introduced, provide more than \$900 million in funding for public school construction projects in the State, divided among general obligation (GO) bond funding, revenue bonds, and special funds. The total includes:

- \$425.4 million in MSA revenue bonds for Built to Learn;
- \$313.9 million in GO funds for PSCP;
- \$40.0 million in GO funds for EGRC;
- \$90.0 million in GO funds for HSFF;
- \$6.1 million in GO funds for the Aging Schools Program; and
- \$27.0 million in special funds for public-private partnerships for school construction in Prince George’s County under Build to Learn.

Exhibit 3
State Public School Construction Funding
Fiscal 2020-2024
(\$ in Thousands)

<u>County</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
Allegany	\$2,846	\$2,080	\$2,515	\$4,116	\$5,742
Anne Arundel	36,422	38,053	148,762	105,008	58,141
Baltimore City	51,304	69,479	81,905	304,638	154,841
Baltimore	58,936	53,015	257,425	118,800	75,823
Calvert	2,227	4,141	13,416	8,678	5,171
Caroline	11,603	13,713	4,741	2,257	4,469
Carroll	7,604	10,312	38,693	20,955	16,609
Cecil	4,046	3,856	5,412	6,865	42,912
Charles	13,938	12,455	32,131	35,237	21,031
Dorchester	4,068	5,955	6,578	4,670	6,114
Frederick	16,636	22,832	55,009	48,808	43,608
Garrett	443	1,795	12,147	11,061	15,316
Harford	12,975	12,964	47,235	12,680	33,455
Howard	6,494	32,508	63,374	71,539	26,993
Kent	1,389	3,193	119	2,331	1,672
Montgomery	59,107	55,710	190,879	43,540	110,357
Prince George's	52,276	47,065	42,153	124,264	76,967
Queen Anne's	667	1,248	2,318	4,526	6,934
St. Mary's	4,762	5,530	5,723	7,878	15,951
Somerset	3,161	3,100	776	266	9,409
Talbot	9,000	3,173	1,342	1,129	2,323
Washington	11,687	8,311	8,669	10,413	14,903
Wicomico	11,340	10,399	26,062	33,416	22,072
Worcester	4,336	1,475	4,975	308	689
Maryland School for the Blind	7,401	6,779	2,021	15,209	13,605
Statewide	0	5,794	6,500	44,283	20,063
Total	\$394,668	\$434,933	\$1,060,882	\$1,042,875	\$805,170

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