

21st Century School Facilities Commission

Martin G. Knott, Jr., Chair



Agenda

December 14, 2017

1:00 p.m.

House Office Building, Room 120

Annapolis, Maryland

Final Decision Meeting

- I. Call to Order and Chair's Opening Remarks**
- II. Review and Finalize Funding Subcommittee Recommendations**
- III. Review and Finalize Process, Procedure and Educational Specifications Subcommittee Recommendations**
- IV. Chair's Closing Remarks and Adjournment**

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Funding

1. Conduct a statewide facility assessment using an integrated data system that will enable local education agencies (LEA) to regularly assess school facilities in a uniform manner statewide. The assessment and integrated data system should be done by an outside vendor initially, and, to the extent feasible, draw from existing data sources that document the condition of school facilities in the State. The State and LEAs should continually update the assessment. (Initial estimates for the cost of one-time assessment *only* is \$3.5 million.) The LEAs should work with the State to identify the data elements that should be maintained at the State level, utilizing existing reporting sources such as the Educational Facilities Master Plan and the Maryland Association of Boards of Education (for LEAs that participate in their insurance program) for data reporting to the extent possible. Once the initial facility assessment is completed, the results should be shared with State and local officials, including LEAs, county governments, the Interagency Committee on School Construction (IAC) members, and legislators, a group of whom should determine collaboratively how the results should be incorporated into funding decisions.
2. The State should set a new funding goal and counties must continue to provide their local match. The State's short-term funding goal should be at least the current capital funding level for school construction (\$342.5 million in fiscal 2018, not including funds for the Aging Schools or Qualified Zone Academy Bond programs). Although this is not sufficient to address school construction needs, it is critical to have up-to-date information upon which to base the goal. Once the initial school facility assessment is completed, the results should be used to develop a long-term school construction funding goal.
3. The State-local cost share formula should continue to favor jurisdictions with limited resources to support school construction. After reviewing the cost share formula as revised by IAC in fall 2017, the formula appears to include all of the appropriate components. However, a common definition of local pay-as-you-go included in the local school construction effort calculation should be developed so that all 24 counties are reporting comparable data. In addition, the cost share formula should be updated every two years (instead of three years) to reflect changes in local conditions.
4. Review and update eligible and ineligible costs in light of changing circumstances (*e.g.*, projectors are ineligible but many classrooms now have projectors permanently mounted to ceilings) within existing State policy that requires eligible costs to have a median useful life of at least 15 years. Systems or items that have not exceeded their median useful life, based on industry standards, or that do not have a median useful life of

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at least 15 years, should not be eligible for State funding. However, there should be some exception to this policy for systems that, while still within their median useful life, have failed despite having a documented record of preventive maintenance or are no longer supported by the manufacturer.

5. Eliminate the 2.5% withholding for contingencies from the State allocation (related to Process Subcommittee recommendation to eliminate DGS review of change orders) but require LEAs to maintain a contingency to address unanticipated construction costs above the State allocation.
6. Eliminate the requirement that LEAs submit future planning and construction project requests in the *Capital Improvement Program* beyond the upcoming fiscal year; LEAs should still be required to submit their 10-year Educational Facilities Master Plan each year.
7. The State should provide technical assistance and help facilitate public-private partnerships, such as developing template lease agreements between developers and school systems. The State should encourage innovation through alternative financing by providing a financial incentive to assist one or more LEA(s) interested in pursuing alternative financing to cover the associated risks (*e.g.*, the contingency allowance could be increased and used for a broader set of changes than are currently allowed). If an LEA undertakes a project with alternative financing, IAC and the LEA should fully document the process, expectations, and results so that other LEAs can determine whether they want to pursue alternative financing.
8. Preventative maintenance is critical – there is a need to require LEAs to perform required regular maintenance and for the State to develop required maintenance schedules based on industry standards and collect and monitor performance data through a comprehensive maintenance management system that is integrated with the facility assessment information system.
9. The State should encourage and provide technical support for agreements between and among LEAs and county governments, including regional partnerships, to improve efficiencies.
10. The State should explore the possibility of creating a school construction authority that issues appropriation-backed or revenue bonds with terms longer than 15 years to accelerate State school construction funding and provide more flexibility for financing school construction projects than traditional general obligation (GO) bonds. Although GO debt is

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typically the least expensive option for the State and moving to appropriation or revenue-backed bonds increases the cost of debt, these higher costs may be offset by completing projects sooner and avoiding the inflationary costs. Alternative funding such as a dedicated revenue source or perhaps combining State and local revenue should be considered. The State may also wish to consider creating a revolving loan fund (similar to the Water Quality Revolving Loan Fund for local wastewater and sewer costs) to help counties fund the local share of school construction costs.

11. The State should convene a stakeholder group that includes LEA facility planners and others to review the square footage allocations that are currently used to calculate the State maximum allowable square foot for a project to determine if alternative methodologies or allocations could result in more efficient use of space in school buildings. The review should include recommendations regarding allocations for community use space including community schools, especially for schools with high proportions of students eligible for free and reduced-price meals, *i.e.* living in poverty.
12. The current space allocations have not been updated to reflect new space guidelines. If the current methodology is retained, consider regional figures rather than one statewide amount. (The Process, Procedures, and Educational Subcommittee also considered this item and item 11 in relation to space design guidelines.)
13. Explore the feasibility of regional (multi-district) school construction projects, *e.g.* regional career and technical education high schools and develop mechanisms and incentives to provide State funding.
14. The State should encourage the maximum use of energy savings performance contracts to improve energy efficiency in new and renovated schools, perhaps by pooling LEA projects and even local projects to maximize the savings. Over time, the operating savings from lower energy costs provides a new revenue source that may be monetized (perhaps to address item 10).

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Development and State Approval of Projects

1. Provide local school systems with flexibility to design schools that meet local needs and programmatic priorities.
2. Review State-issued design standards and guidelines to ensure that they are aligned with funding allowances for each type of space (*e.g.*, health suites, classrooms, community use areas, etc.). (See Funding Subcommittee Final Recommendations for related recommendation).
3. Maintain a role for the State to review and approve State-funded projects, but streamline the process to minimize unnecessary delays:
 - a. Maintain mandatory Maryland State Department of Education (MSDE) review and Interagency Committee on School Construction (IAC) approval of educational specifications and schematic designs for major construction projects, but explore the possibility of altering the two review processes to save time. A rolling deadline for submission of each document, with schematic designs submitted following completion of educational specifications' review, should be considered;
 - b. Eliminate required Department of General Services (DGS) review and IAC approval of change orders for both major construction and systemic renovation projects;
 - c. Eliminate required DGS review and IAC approval of design and construction documents for both major construction and systemic renovation projects for local school systems that successfully complete a voluntary certification process that demonstrates that they have the expertise and capacity in their counties to complete those reviews in-house. A State certification process should be established by IAC that results in a renewable, multi-year certification for successful school systems. The State, in consultation with local school systems, should develop a timeline for submission and review/approval of design and construction documents for those local school systems that continue to rely on DGS/IAC review and approval;
 - d. Eliminate MSDE review of any projects that are funded wholly with local funds unless they substantially alter or expand an existing school built in part with State funds; and

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- e. Maintain IAC review and approval of procurement contracts and payments/closeout.
- 4. Provide incentives for the use of prototype school designs, including expedited State review of projects that use them, but do not mandate use of prototypes.
- 5. Repeal the requirement that all schools undergoing renovation qualify as emergency management shelters; designation of schools as emergency shelters should be consistent with local emergency management plans and criteria as well as funding availability.
- 6. Allow local school systems to bundle (for approval and procurement purposes) similar systemic renovation projects at different schools (*e.g.*, roofs at three schools) and interrelated systemic projects at a single school (*e.g.*, windows and HVAC at one school).
- 7. Enable and allow secure electronic document submission of all required documents/data to IAC.
- 8. Encourage the State and local school systems to use technological advances to the greatest extent possible to both make building design more efficient and innovative, and utilize technology to streamline compliance reviews and project deliveries.

Procurement

- 1. Reorient school construction procurement toward obtaining best value rather than lowest price, consistent with State procurement law for State projects.
- 2. Examine further the effect of prevailing wage requirements on school construction costs.
- 3. Provide technical assistance and support to local educational agencies on the use of alternative project delivery methods.
- 4. Request that the Maryland Green Building Council develop guidelines for achieving the equivalent of LEED Silver standards without requiring LEED certification of new school buildings, including some independent certification that school systems have achieved the required standards.
- 5. Establish incentives for the construction of “net zero” school buildings.

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6. Encourage bulk purchasing, bundling, and intergovernmental purchasing for common items (*e.g.* HVAC, windows).
7. Require site approval only within three years of local planning submittal instead of at the time of new land purchase. This will eliminate duplicative site approval by the Maryland Department of Planning (MDP) and IAC both at the time a school system purchases land and, sometimes many years later, when the school system moves forward with the planning process to build a new school.
8. Continue to allow local education agencies choice in construction materials but provide incentives for energy efficient or other preferred materials.

Areas that Overlap with Funding Subcommittee

Areas of Potential Consensus:

1. Examine/update the State Rated Capacity process to address special programs/adjacent schools/etc. utilizing enrollment projections provided by MDP.
2. Local school systems with declining enrollment should be encouraged to consolidate buildings and/or find alternative uses for undersubscribed school buildings. However, final authority for redistricting should remain with local school boards and local governments.
3. The State should continue to provide increased support to local school systems with increasing enrollment.
4. Use IAC as a central repository for information on the use of pre-fab and building system options, procurement methods, school facility design and construction and, generally, best practices in school construction.
5. Require local school systems to report annually on their preventive maintenance schedules and the preventive maintenance measures they have carried out on all major functional systems in each of their school buildings.

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Deferred to Full Commission

Structure and Process

Areas of potential consensus:

1. Final project proposals should be subject to review and approval by IAC.

DRAFT



THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401

Andrew A. Serafini
Maryland State Senate
Legislative District 2

Jefferson L. Ghrist
Maryland House of Delegates
Legislative District 36

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21st Century Schools Facilities Commission
Attention: Martin Knott Chair
Annapolis Maryland

Dear Chairman Knott,

First, we would like to thank you for your efforts in chairing this commission. We are not necessarily offering a dissenting opinion but a different opinion that we would like to have submitted to the legislature. While we would agree with most of the recommendations, and only dispute a few, the greater cause of this letter is simply that we feel it does not go far enough. We also believe that as we reflect on the original mission of the commission, several items have been omitted and emphasis has been placed on a retrospective basis instead of a prospective basis.

We fear that the Knott Commission will be remembered more for what is “Not” included or considered rather than what it did contemplate. Let us expand on what we mean by that:

- Not Paradise Lost but Opportunity Lost
 - “Our lives are defined by opportunities, even the ones we miss.” F. Scott Fitzgerald
 - The presiding officers assembled a great cross section of individuals for this commission and we cannot help but wonder why they were not consulted more. We also have tremendous individuals with vast experience that we may not have heard from during this process. With the demand for new schools at more than five times the annual amount we must act boldly.
- Not Brainstorming but Blamestorming
 - Recently, a novel word was added to the dictionary: “Blamestorming.” This means “group discussion regarding the assigning of responsibility for a failure or mistake.”
 - Bullet point 6 in the charge to the Commission, “*Evaluating the appropriate role for State agencies including the Maryland Department of Planning,*

Department of General Services, State Department of Education, Board of Public Works, as well as the appropriate statutory structure for the Interagency Committee for Public School Construction.”

- There have been solutions looking for problems that do not exist. We must first accept and concur that certain State agencies need to improve. While we applaud recent developments, we must push for even more streamlining and efficiencies for those who have oversight and approval powers for school construction. We would challenge the legislature not to dwell on the problems but focus on solutions.
- With that said, there is also a clear need for accountability and oversight. This has always been the responsibility of the BPW. It should be remembered that the IAC was created by the BPW to assist with school construction as it is the largest piece of the Capital Budget.
- “Whenever you remove any fence, always pause long enough to ask why it was put there in the first place.” Malcolm Muggeridge.
- We are stewards of the citizen’s money. The Governor, Treasurer, and Comptroller are tasked with asking the tough questions to create that accountability and one should be careful before removing that oversight. With so much at stake and recent accounts of unfortunate examples of mismanagement, this accountability is needed more than ever.
- Not Pioneers of the Future but Prison Guards of the Past
 - “No one who puts his hand to the plow and looks back is fit for service.” This is a quote that is 2,000 years old and yet is viable even today.
 - Bullet point 1 of charge to the Commission, ***“Reviewing existing educational specifications for school construction projects and determining whether the existing specifications are appropriate for the needs of 21st century schools.”***
 - We are educating children for today's workforce - a workforce that will not exist tomorrow. All of this exists within a system based upon 100-year-old thinking. The first question is how innovative do we want to become? For example, the whole decisions document is about bricks and mortar in some form. There is no mention of the LEA’s projected learning program. Another example, is if you want a new high school, the plan should result in 25% of your high school population (and that is a low estimate) being outsourced now or, in 5 years, scaling up to 85%. High School space is expensive and the kids do not need to be there all the time.
 - Herein lies the issue: structure always has and always will, in this case, drive form or program. When, indeed, function should drive form.
 - Questions to consider:
 - A. Come to the State with a futuristic plan, and you might just get more help.
 - B. What about A/B scheduling or layers that have the child in secondary with the teacher 50% of the time and in another learning format (as in odd day research, group effort etc.) during the remaining time? How does that impact space?

- C. What about a child that really can learn remotely and only needs to attend certain subjects? How much is our babysitting ethos of value anymore in secondary schools?
- D. What about required one-to-one technology, birth to graduation? How does that impact space?
- E. How can assets like Kahn academy and other virtual learning sites (as in foreign language/history) be implemented to free space?
- F. With local qualification standards, why not require that all children do an internship/apprenticeship based upon interest?
- Not ESPN but ESP
 - Attempting to read the minds of the elected officials is a dangerous and near impossible endeavor.
 - Prevailing Wage has been identified as the single most expensive component of school construction adding at least 10% or as much as \$30 million annually.
 - We have been told that this is “too political” to be a part of the recommendations. We did not see anywhere in the charge to the Commission where we were to determine what the legislature would or would not act on.
 - From Dr. Lever’s report, several years ago to recent projects, the reality of this added expense has been verified. In the 5th bullet point The Commission is charged with “**Determining areas for efficiencies and cost-saving measures for construction and maintenance.**”
- Not thinking outside of the Box but Boxed In
 - THERE IS NO SUCH THING AS BEST PRACTICE - if it is being practiced, it is antiquated 'now thinking' ---- and if there were best practice, everyone would be doing it.
 - How about considering, “what does the learning research suggest?” For example, we know how to solve most of the issues facing learning/education, but many times we simply do not have the will to implement them. By the way, newer, bigger, and fancier buildings is not one of the solutions.
 - Why are portable classrooms pictured as a tool of the devil? Truthfully, when done right, they are learning efficient and effective - providing huge flexibility in an area with fluid populations. One problem we always face after we build is a fixed school where there are no longer kids. We might suggest some R&D relative to portable learning environments on learning performance. What is a mobile project? What does it look like, and how can it be done? Flexible thinking is the future.
 - Have we considered why T. Rowe Price in Baltimore, IBM in Gaithersburg, and for that matter most McDonalds franchisees do not own their buildings? That is because they are not property management companies and therefore do not tie up capital trying to act like Real Estate Investment firms. (If you do not want to read about this watch the movie “Founder “about McDonalds founder Ray Kroc).
 - Why do we want to own all our buildings? Why if we lease must we lease to own?

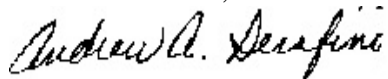
Recommendations

Some specifics related to improving the current processes:

1. Prevailing Wage –
 - i. Return to the 50% state funding level before PW is required.
 - ii. Jurisdictions that do not receive the GCEI will not be subject to PW.
2. Expedited Review process
 - a. Work toward one single application for all. LEA's will submit to one State Agency and then that information would be shared between IAC/DGS.
 - b. Consider a stated timeframe for all agencies to reach out to IAC/DGS for comment and feedback.
 - c. Locals would then have to respond in a certain timeframe.
 - d. IAC/DGS would coordinate with all state agencies such as MHT, MSDE and others for a single-source approval process.
3. Standardized funding amount for all schools
 - a. Consider Florida Frugal Schools program that could do the following:
 - i. Set a per student amount (This is preferable to the per square foot method)
 - ii. Provide incentives based on
 1. Innovative Instruction Concepts.
 2. Proven superior maintenance record.
 3. Sharing of costs savings below the Per Pupil amount.
4. Consider an option where an LEA could lease without the requirement to own.
5. Use two outside groups to assist LEA's with both innovative education concepts and construction techniques. The first could be utilizing EDCO for the innovative educational concepts clearing house. The second could include individuals with real life construction experience as the innovative resource for construction efficiencies. This could be coordinated through the IAC.
6. Develop an Elementary, Middle, and High School model that is deemed appropriate across the State and fund to that model with local authorities to go above the model at their own expense.

Respectfully,

Andrew Serafini, State Senator



Jeff Ghrist, State Delegate

