



**Board of Education of Howard County  
Testimony Submitted to the Maryland Senate,  
Budget and Taxation Committee  
March 29, 2022**

**Board of Education  
of Howard County**

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**HB1290: FAVORABLE W/AMENDMENTS  
Education - Public School Construction - Funding and Administration**

The Board of Education of Howard County (the Board) supports **HB1290 Education - Public School Construction - Funding and Administration** with amendments to ensure local school systems retain flexibility to set funding priorities for capital and maintenance projects.

HB1290 focuses on furthering recommendations of the Workgroup on the Assessment and Funding of School Facilities which issued a [final report](#) in January 2022. Changes include State funding levels for school construction, State/local cost-share formulas, school construction project approval requirements, and the implementation of and use of data from the ongoing statewide school facility assessment.

Of its many provisions, HB1290 has the possibility of increasing the State cost share percentage. These include:

- a 10% increase in the State share for schools with a concentration of poverty level of 80%;
- a 5% increase in the State share for schools with a concentration of poverty level of between 55% and 80%;
- a 5% increase in the State share for schools that achieve specified ratings on their most recent maintenance assessment;
- a 5% increase in the State share for schools built as net-zero buildings; and
- a 5% increase in the State share for projects with an estimated total cost of ownership that is at least 15% less than baseline levels, subject to repayment if the completed project does not meet that threshold.

Howard County Public School System (HCPSS) Capital Construction staff notes while the increases would be beneficial in many circumstances, there are some uncertainties in their application. It is important to note, where the State share may increase for an individual project, the total State funding for school construction in the capital budget is not impacted, thus less State funding is available for other projects. An amendment before passage in the House included an increase in intended annual funding for public school construction by \$50,000,000 in order to maintain a relatively stable number of funded projects in the Capital Improvement Program.

One initial uncertainty regarding application of the State share increases was the identification of projects with a concentration of poverty. An amendment in the House clarified this will be for school construction projects at a school with a concentration of poverty at the time the school system submits the project to the Interagency Commission on School Construction (IAC). For new school construction, however, it is still unclear how a yet to be determined school boundary/population would be used for funding purposes. Secondly, the possible increase for projects at schools that receive a high maintenance effectiveness rating is supported, but contrary to discussions of focusing funding on lower rated schools, as well as later provisions of the bill (outlined below) that allow the IAC to use the facility assessment results to inform the construction funding decisions starting in FY27.

An additional section allows the IAC, when calculating the maximum State allocation for an approved school construction project, to make an enrollment deduction for the project only if the available seat count in an adjacent school is 15% or more of the adjacent school's enrollment. An amendment in the House indicates the sum of available seat counts in all adjacent schools is 15% or more of the project school's enrollment, which staff indicates could negatively impact Howard County by increasing the cases in which the IAC reduces our State allocation. The bill is also not clear if this is State or local capacity, nor what year/projection they will look at for enrollment percent. As such, the Board recommends an amendment to strike this entire provision of the bill, leaving the current demonstrated need process in place.

To address any remaining uncertainties in the existing calculations of demonstrated need, the provision within the bill giving school systems the opportunity to appeal IAC staff enrollment determinations to the IAC Board will be beneficial. The bill also requires that prior to October 2023, the IAC must update the baseline gross square footage per student for the Gross Area Baselines calculation to account for needed space under mandates of the Blueprint.

The 21st Century School Facilities Act of 2018 brought forth educational facilities sufficiency standards for Maryland public schools, which include a set of criteria and measures for evaluating the physical attributes and educational suitability of facilities. Moreover, the Act also required IAC to develop a facility condition index, giving schools a score based on these criteria.

Under existing requirements for school inspections and the creation and use of the facility condition index, HB1290 requires the use of an Integrated Master Facility Asset Library which must allow local school systems to report deficiencies in school buildings including maintenance data, even when not inspected. Future inspections to update the statewide facility assessment must include an inspection of a new list of items for each school building, including temperature, humidity, carbon dioxide levels, and the functionality of building systems.

The Integrated Master Facility Asset Library must also include preventive maintenance schedules accessible to local school systems. It is unclear in the bill if these schedules are determined by the State rather than the local school system or dependent on funding availability.

Once the IAC has established the Integrated Master Facility Asset Library, the IAC must adopt regulations establishing the use of facility assessment results in annual school construction funding decisions beginning not sooner than FY27. While the further enacted language of HB1290 indicates it is the intent of the General Assembly that a new workgroup be formed by July 2024 to determine how the relative condition of public school facilities should be prioritized, taking into account local priorities and in consultation with local jurisdictions, as a legislative platform the Board cautions against statutes that require “ranking” of statewide projects, which would inhibit local decision-making authority when setting funding priorities. Going beyond this intent language, the Board recommends an amendment to indicate the regulations themselves must incorporate local input.

Lastly, HB1290 renames the Local Share of School Construction Costs Revolving Loan Fund - which although created in 2018 was funded for the first time in the Governor’s proposed FY23 capital budget at \$40 million - to be the School Construction Revolving Loan Fund, and requires the Governor to include in the annual budget bill at least \$50 million in FY23, \$20 million in FY24, and \$10 million in each FY25 and FY26. Currently this fund is used to forward fund local share of projects, and under the bill could also be used for the State share. This may provide additional funding but is limited based on applying and be awarded, with priority given to counties that have not advanced construction funding for projects and have limited debt capacity. If aspirational budgets are put forth and the State or local authorities cannot fund a project fully, Howard County may be able to go this route to pay for the portion that cannot be funded to get the project started. The loan also needs to be paid back within 5 years of award, which would affect funding in the subsequent fiscal years.

For these reasons, we urge a FAVORABLE report of HB1290 from this Committee with the following specific amendments:

- *strike on page 6 SUBJECT in line 9 through and including PROVIDING in line 10 of the amended bill;*
- *strike on page 8 lines 14-19 of the amended bill; and*
- *include on page 11 after line 24 of the amended bill (III) THE REGULATIONS MUST TAKE INTO ACCOUNT LOCAL PRIORITIES AND BE ESTABLISHED IN CONSULTATION WITH LOCAL JURISDICTIONS.*