



THE PRINCE GEORGE'S COUNTY GOVERNMENT

OFFICE OF THE COUNTY EXECUTIVE

BILL: House Bill 458 – Public School Construction - Programs, Approvals, and Administration - Alterations

SPONSOR: Delegate Lewis, *et al.*

HEARING DATE: March 28, 2023

COMMITTEE: Budget and Taxation

CONTACT: Intergovernmental Affairs Office, 301-780-8411

POSITION: SUPPORT

The Office of the Prince George's County Executive **SUPPORTS House Bill 458 – Public School Construction - Programs, Approvals, and Administration - Alterations**, which makes the Interagency Commission on School Construction (IAC) an independent unit of State government and makes changes to secure the public-private partnership Prince George's County is using for school construction.

HB 458 was amended in the House to strengthen the public private partnership being used by Prince George's County for the school construction funding mandating by the Built to Learn Act. **HB 458** removes the County as a required signatory with Prince George's County Public Schools ("PGCPS") to enter into the public-private partnership agreement with the selected developer. If required to be a signatory for the public-private partnership agreement with the selected developer, the County runs the risk of jeopardizing its future bond capacity and bond rating, possibly hindering future County initiatives. For example, the anticipated cost of Blueprint Schools Phase II is ~\$625M. At financial close of this transaction, if the County is a signatory to the agreement, the County would have to recognize the full \$625M as debt on its balance sheet as an outstanding obligation, even though the County is not responsible for satisfying the obligation, PGCPS is. The Blueprint Schools Phase I Project Agreement only has Prince George's County Public Schools as the signatory, as they conducted the procurement and are directly managing the implementation of the Program. Further, it was structured that way to ensure that the debt incurred from the program did not impair the County's bond limit or rating. As a party to the required four-party Memorandum of Understanding set forth under the 2022 Authority -- which will lay out the roles and responsibilities of the Parties, the County will exercise, and ensure, the requisite oversight of the Program.

HB 458 also clarifies the Legislature's intent of providing support of \$25M/year for 30 years to the Blueprint Schools Phase II Program. Having a fixed amount of State contributions is necessary to enable PGCPS to appropriately plan and scope the project, thus ensuring maximum value to the County, by eliminating any potential funding risk that a developer could build into its proposal pricing. It is unlikely that PGCPS or the County would have sufficient excess funding to cover any unexpected shortfall in State funds on an annual basis, such that it is likely that PGCPS would be unable to proceed with this project.

In addition, HB 458 directs State funds for the partnership to the school board rather than to the developer. This follows the funding flow PGCPS receives from the State for other school construction projects. In these projects, PGCPS contracts with a third party and pays that third party in accordance with its agreement with PGCPS regardless of the source of payment. As PGCPS will be the party actively monitoring and administering the project, it is most appropriate for PGCPS to be the entity that also delivers payments to the developer in accordance with the terms and conditions of the public-private partnership agreement. To the extent the State remains involved as the payer to the developer, developers may request to have privity with the State. This will raise similar concerns as described above with respect to the County's potential execution of the public-private partnership agreement (i.e. the State could have to recognize the full \$625M as debt on its balance sheet as an outstanding obligation, even though it is not responsible for satisfying the obligation, PGCPS is.)

For the reasons stated above, the Office of the Prince George's County Executive **SUPPORTS House Bill 458** and asks for a **FAVORABLE** report.