



## **IAC Testimony on HB 233 – Education – Public School Construction – Alterations**

Mr. Chair, Madam Vice Chair, and Members of the Committee, the Commission thanks you for this opportunity to present the IAC’s departmental bill for 2026. Mr. Chair, the Commission is grateful for your sponsorship of this bill.

### **Context**

For five decades, the IAC was first and foremost a grant-management agency, responsible for allocating and awarding the State’s school-construction funding to school districts’ projects. In 2018, the General Assembly passed the 21st Century School Facilities Act, which expanded the IAC’s roles to include regular assessment of the condition of each public-school facility in Maryland and expanded technical assistance to school districts around all aspects of facilities-portfolio management. The IAC has risen to meet the new requirements and obtained a hugely improved understanding of the needs, challenges, and opportunities facing the State when it comes to ensuring that every public school student in Maryland has a safe, healthy, and educationally sufficient school in which to learn.

Just a few weeks ago, the IAC presented to this Committee an update on school facilities conditions and needs across the state and on the increasing costs of facilities improvements and school construction. The data shows that the cost of facilities improvements and school construction has more than doubled in real terms over the last two decades. Maryland faces an uphill battle in coming years in its quest to ensure educational sufficiency for every public school student in Maryland. But some of the provisions currently in law have been in place since well before the General Assembly directed that the IAC modernize to meet the expanded challenges facing the State. To help the IAC carry out its expanded mission, the Commission submits today and requests your support for the adjustments included in this bill.

### **Purpose of the Bill**

The purpose of these adjustments is to better equip the IAC and two partner agencies – the State Department of Education and the Department of General Services – to carry out our respective oversight responsibilities regarding school districts’ facilities-improvement and school-construction projects. The bill does this by updating, streamlining, and clarifying statutory language regarding eight key topics, some of which are carried out by IAC, some by MSDE, and some by DGS. Because of the interconnected responsibilities of the three agencies around school-facilities projects and out of respect for your time, we have worked with our partner agencies to bring the related changes for all three agencies as one unified bill.

**Nature of Bill Content**

The changes proposed here include a number of technical changes to agency operating requirements, some clarifications to previously vague language, and improvements to key processes that the IAC, MSDE, and DGS conduct in concert. Each of these changes either addresses an issue that has posed significant problems for one or more of the three agencies, corrects something that no longer works due to changing circumstances or other changes implemented in the past few years, or will increase the effectiveness of the three agencies by making their operations more efficient.

The Commission is very sensitive to the fiscal challenges facing our State. While these changes will improve efficiency, they are less about saving money in agency operations. The IAC is already operating on an extremely thin 1% overhead rate compared with the capital budget that it manages. That’s far lower than the 5-12% overhead rate more typical of public and philanthropic grant-management organizations. The adjustments proposed in this bill are about being able to obtain more of the needed results against growing demands and static resources and streamlining the efforts of the three agencies involved to provide better customer service to our school systems. These changes further give the State a better chance at not losing the battle against the increasing costs of maintaining the schools that are anchors for our communities.

**1. Technical Changes**

- 1.1. Adjust due dates for IAC quarterly fiscal reports (Ed. Art. §§ 5-303(j)(4); 5-319(b); 5-325(c)).

Problem	Solution
<p>5-310(j)(4) requires that the IAC report "[o]n or before March 30, June 30, September 30, and December 31 of each year" regarding the balance[s] in the [IAC's capital Reserve] fund[s] as of the reporting date as the result of transfers or reversions required under this subsection and any expenditures." 5-319 and 5-325 required submission by Dec. 31 of each year for the activities in that calendar year, up through Dec. 31.</p> <p>It is administratively impossible for IAC staff to complete the reconciliation of the covered information by the last day of the period reported upon and to complete and submit the reports on that same day. To ensure timely submission in light of the many steps required to complete, proof, and obtain signoff on such reports, IAC staff require at least 60 days for reporting after the close of the quarter that the report covers.</p>	<p>Adjust the due dates for reporting on each quarter or year to be 60 days after the end of the quarter being reported on.</p>

- 1.2. Consolidate duplicative reports for solar energy and for alternative-energy systems (Ed. Art. §§ 5-319(b); 5-325(c)).

Problem	Solution
<p>Generating electricity from solar energy that is captured by photovoltaic panels is one of a number of alternative energy sources. The data analyzed by IAC staff in creating the reports required by these two statutory sections are the same or at least substantially overlapping data. Much of what's stated in the report on solar energy must be restated in the report on alternative-energy used in school facilities. The two are effectively redundant and it is wasting scarce staff resources to generate two separate reports where one report would satisfy the informational needs of the General Assembly.</p>	<p>Consolidate the requirements of § 5-319 and § 5-325 into one statute; eliminate redundant provisions; and roll the submission of required information into one annual report rather than two reports.</p>

1.3. Clarify the annual reporting requirements on the IAC relating to its two distinct facilities-assessment programs (Ed. Art. § 5-310(b)).

Problem	Solution
<p>IAC is happy to comply with the intended reports as interpreted by DLS and DBM. The IAC has worked with DLS to ensure we are providing the information requested and is looking to align statute with the data and reporting that the agency is already providing.</p> <p>Statute is unclear on what IAC should report regarding SFA versus MEA programs. From about 2005 through 2018, 5-310(b)(1) mandated that the IAC "survey the condition of school buildings identified by the Department [of Education]" and 5-310(b)(3) mandated that the IAC annually report "on the results of the survey for the prior fiscal year." This IAC complied via its Maintenance-Effectiveness Assessment (MEA) program and provided reports on the MEA results annually using MSAR 14070.</p> <p>In 2018, MGA added a mandate to execute components of the new Statewide Facilities Assessment (SFA) in 5-310(b)(2)(ii) and 5-310(e), but did not distinguish between MEA and SFA for reporting purposes. In 2024, DLS created MSAR 15603 for the SFA reporting but 5-310 does not clearly require reporting for both MEA and SFA programs.</p> <p>Requirements for data relating to the SFA were listed in 5-310(b)(1), which pertains to the MEA instead of in 5-310(b)(2), which contains the balance of the requirements for the SFA.</p>	<p>Amend § 5-310 to clarify the mandate for conducting each of the IAC's two distinct facilities assessments; specify a separate annual reporting requirement for each of the two assessment programs; move the requirements for the SFA to the SFA-related subsection; and clarify the content and timing of required reporting for each.</p>

2. **Policy/Terminology Clarification.**

- 2.1. Update the term "maximum state construction allocation" previously used in statute to "maximum State award" to align with changed grant scope and IAC use of terminology in practice (Ed. Art. §§ 4-126; 5-303).

Problem	Solution
<p>The term "maximum state construction allocation" is no longer used by the IAC or LEAs, and "allocation" is not used to refer to project awards; however this term is used in statute.</p> <p>Once 5-303(a)(4) was added to authorize the IAC to participate in funding project-development and -design activities by LEAs as well as furniture, fixtures, and equipment for LEAs' school-construction projects, the term "construction" needed to be removed from the term referring to the maximum award of State funds to a project. In addition, the IAC began distinguishing between "appropriations" (funds made available by the General Assembly to the IAC for awarding to LEA projects), "allocations" (amounts of funding that the IAC determines are available to an LEA for potential award to eligible costs of projects), and "awards" (actual amounts granted by the IAC to an LEA's project). Because the term "maximum state construction allocation" refers to the latter of the three terms, the statutes mentioning such awards need to be updated to use the term "award," and without the limiting term "construction."</p>	<p>Amend § 5-303(d)(3)(iii) and (l) and § 4-126(e)(3)(i)(2) to replace "maximum state construction allocation" with "maximum state award."</p>

- 2.2. Clarify the conditions that require LEA repayment of outstanding State bond debt on a school facility (Ed. Art. § 5-308).

Problem	Solution
<p>Ed. § 5-308 currently specifies that repayment can only take place when a school meets certain criteria, including the school no longer being used for educational purposes, and the school having been transferred to the County Government. It does not currently address whether bond debt should be collected from an LEA if a facility is no longer being used for school purposes, has not been sold or transferred, but is being retained by the School District but left vacant, used for storage, or used for administrative purposes. Because such cases in fact arise, it is important that the statute clearly address these situations so that the debt payment requirements on LEAs are clear.</p>	<p>Clarify when bond debt may and shall be required to be repaid by the LEA to the State, by clarifying that bond debt shall be repaid when a school facility is no longer used for a purpose that is eligible for State funding for public school construction, which is the on-site provision of programs and services to public school students.</p>

**3. Improvements to Interagency Processes**

3.1. Streamline the requirements for State Superintendent/MSDE and DGS review and approval/disapproval of plans and specifications for school-construction projects (**Joint Submission with MSDE**) Ed. Art. §§ 2-303(f); 4-115(b).

Problem	Solution
<p>Ed. § 2-303(f)(1) requires that the State Superintendent or her designee "approve or disapprove each . . . Plan or specification for the remodeling of a school building if the remodeling costs more than \$1,000,000; [and each] Plan or specification for the construction of a new school building . . ." whether the State is contributing funding or not. The terms "plan" and "specification" are inclusive of schematic designs (SDs), design-development documents (DDs), and construction documents (CDs) for all types of projects, including systemic-renovation (SR) projects that do not affect educational programs or result in changes to educational programs or spaces, and for which MSDE lacks technical capacity to review. Reviews of SR projects not affecting educational programs or spaces by MSDE are not valuable to LEAs and DGS lacks capacity to review the large number of locally funded projects not affecting educational programs or space configurations in addition to those projects that do.</p> <p>Ed. § 4-115(b) includes parallel language requiring State Superintendent approval for LEA contracts to "rent, repair, improve, and build school buildings" that also needs to be limited to just those projects resulting in changes to educational programs or space configurations and lacks the \$1M cost minimum included in § 2-303.</p> <p>These overlapping responsibilities create confusion, operational delays, and additional and unneeded paperwork for LEAs as well as workloads on MSDE staff that do not provide benefit to either the LEAs or the State considering IAC functions.</p>	<p>Limit reviews by the State of LEA projects by amending as follows:</p> <p>1) Amend § 2-303(f)(1)(i) and § 4-115(b) to limit the approval responsibilities of the State Superintendent to projects with an estimated cost minimum threshold of \$1M and that involve the reconfiguration of space to change the type of program use, program delivery, or program capacity and to acquisitions of land, sites, or buildings used for the education of students.</p> <p>2) Amend § 2-303(f)(1)(ii) to eliminate MSDE review of systemic-renovation projects that do not involve changes to educational programs or space configurations. Leave unchanged the requirement that MSDE review all major projects (new, replacement, and renewal-level renovations).</p>

3.2. Clarify the conditions for mandatory DGS review and IAC approval of LEA projects to align with long-standing State Superintendent and IAC practices as well as with logic and feasibility (**Joint Submission with MDGS**) (Ed. Art. § 5-314(d)(1)).

Problem	Solution
<p>Ed. § 5-314(b)(1) requires that the IAC review educational specifications and schematic designs for "major construction projects," which is appropriate. However, Ed. § 5-314(d)(1) applies the same requirement to design-development (DDs) and construction documents (CDs) for not just major construction projects but also systemic-renovation (SR) projects, the latter of which may be quite small (e.g., on the order of a few thousand dollars' worth of changes to a single building system). SR projects costing less than \$1M generally do not result in a significant modification to a facility. As a result, the significant investment of State staff time required to review DDs and CDs on the very large number annually of projects conducted by LEAs at a cost below \$1M provides insufficient return and value to justify the expenditure of that significant amount of State staff time.</p> <p>These overlapping responsibilities create confusion, operational delays, and additional and unneeded paperwork for LEAs as well as workloads on MSDE staff that do not provide benefit to either the LEAs or the State considering IAC functions.</p>	<p>Limit reviews by the State of LEA projects by amending as follows:</p> <p>1) Amend § 5-314 to authorize and require the IAC to disapprove/approve and DGS to review <b>only</b> those projects that 1) are estimated to cost more than \$1M and 2) to which the State has awarded a capital grant or that the LEA intends to submit for a State capital grant, as well as locally funded projects costing &gt;\$1M that involve replacement of or changes to an HVAC system. This will align with MSDE's Ed. Art. § 2-303(f), which provides parallel authority to the State Superintendent for those projects not receiving or intended to receive State capital grants.</p> <p>2) Grant the IAC authority to promulgate regulations to restrict eligibility for State capital funding to only those projects with an estimated cost of more than \$1M that receive DGS review and IAC approval of both DDs and CDs. This will ensure that LEAs cannot evade State review of plans for significant projects that receive State capital funds.</p>

3.3. Streamline the annual CIP process to eliminate the problematic and low-value December 75% Round (Ed. Art. § 5-304(b)).

Problem	Solution
<p>The IAC is committed to providing incremental information on project reviews, statuses, and proposed allocations and projected awards throughout the CIP process. However, the adoption of preliminary 75% awards in December when the awards unavoidably change significantly by February based upon information the IAC receives from the LEAs in December and January makes IAC action in December misleading and a significant waste of LEA and State resources.</p> <p>Ed. § 5-304(b)(2) requires that, [o]n or before December 31 of each year, the IAC approve public school construction (CIP) projects that comprise 75% of the expected school construction appropriations. The approval of preliminary awards to projects at a 75% level just days after the LEAs complete submission of amended CIP requests in late November is premature because the timing requires faster information-response turnarounds from LEAs than the LEAs can generally support; and it leaves IAC staff a very small fraction of the time needed for reviewing the submissions and performing the required analyses and calculations required to generate usable award recommendations.</p> <p>In addition, due to the timing of county budget cycles, LEAs generally have little to no understanding in December of what local funding may become available, so the LEAs' project prioritization often changes and/or the fundability of specific projects in light of the presence or absence of County commitment to those projects cannot be sufficiently known in December.</p> <p>Finally, the IAC's preliminary awards must be calibrated to an estimated amount of appropriations that is very uncertain until the Governor releases his targets in late January (as acknowledged in § 5-304(a)(2)), making preliminary awards in December subject to significant changes after late January. Making preliminary awards in December that carry no weight and often change significantly – and therefore on which LEAs and counties cannot rely – is challenging not only in terms of agency resource management, but also as it creates misleading and confusing expectations among State stakeholders.</p> <p>Considering that, under 5-304(b)(4), the IAC must approve awards at a 90% level in February, the 75% Round in December provides little value if any at a significant cost to LEAs and the IAC, and is redundant considering the 90% Round in February.</p>	<p>Expand reporting to the LEAs by distributing reports to LEAs and County governments in November, December, and January showing the status of each project-funding request and the projected 100% CIP award amounts as of those dates.</p> <p>Amend § 5-304 to eliminate the 75% Round by deleting subsection (b)(2). Leave the 90% and 100% Rounds unchanged. Move the LEAs' appeal opportunity to the 90% Round.</p>