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BILL: SB 48
TITLE: Education - Public School Construction - Alterations
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POSITION: Support with Amendments
COMMITTEE: Senate Budget and Taxation Committee
CONTACT: Mary Pat Fannon, Executive Director, PSSAM

The Public School Superintendents' Association of Maryland (PSSAM), on behalf of all twenty-four public school superintendents, **supports** Senate Bill 48 **with amendments**.

This bill proposes several changes to the public school construction program including, clarifying the type of proposals and plans that require the approval of the State Superintendent of Schools; requiring a county board of education to request and receive approval from the State Superintendent before the county board may proceed with certain actions; authorizing the Interagency Commission on School Construction (IAC) to adopt requirements for eligibility for certain State funding; modifying due dates of Commission reports; repealing the requirement for the Commission to approve a certain percentage of the preliminary school construction allocation by a certain date; requiring the Commission to establish an appeal process; clarifying the circumstances when the State may not require or shall require counties to reimburse the State for debt service; altering the requirement for certain assessments and inspections the Commission is required to conduct; and generally relating to public school construction.

PSSAM appreciates several provisions in the bill that clarify or streamline existing statute, but we have identified a number of concerns for LEAs and county partners.

We are very supportive of the changes in §2-303 (Change Order Review Threshold) and §4-115 (State Superintendent Approval)

The increase (2-303) in the threshold for State review of change orders is a positive step, particularly given that the State does not participate in funding for change orders. This new amount appropriately narrows State review only to major change orders.

The proposed language in **4-115** appears to narrow the types of land acquisition and projects requiring approval from the State Superintendent. In addition, it appears that minor projects (e.g., paint or patch work) would be exempt unless they exceed a dollar threshold and involve substantive structural changes.

Below are areas of concern that we have shared with the IAC, and where appropriate, hope to clarify or resolve these concerns through amendments.

- **§5-303(d)(2)(xv) – Project Eligibility Authority:**

The proposed language appears to grant the IAC substantially greater authority to define eligibility criteria for State funding through regulation rather than statute. Shifting eligibility standards to regulations may provide less opportunity for LEAs and counties to respond to changes.

- After speaking with the IAC, it is our understanding that this language is meant to provide more transparency by explaining the eligibility requirements, rather than creating new requirements. We are aware that the IAC underwent a complete update of their Administrative Procedures where a substantial amount of these requirements were codified. We would like to continue to work with the IAC to understand the intersection of this language and the revised Administrative Procedures.

- **§5-304 – Timing:**

Eliminating the requirement for 75% approval by December 31 delays meaningful State CIP guidance until March (90% approval). This timing is very late for many LEAs and county governments to plan effectively for the upcoming fiscal year. The December 75% approval has been a critical planning tool for aligning capital programs and local budget development.

- In our discussions with the IAC they have explained that in their opinion, the current process does not provide for the most reliable decision making process. In its place, they are considering a more robust monthly project request status update that will provide more productive dialogue between the LEAs and the IAC. They believe the existing deadline of December 31st does not provide enough time for important information to be developed about proposed projects. Further, they believe making these allocations before the state's capital budget is introduced provides less reliability.

We appreciate the IAC's commitment to a more reliable and accurate process for policymakers and the public. However, since the "75% allocation date" is a longstanding historical practice, we are hopeful that the IAC will share their newly proposed timeline, as well as propose legislative language that would that would ensure meaningful input from the LEAs and the counties before upending a decades-long established process.

- **§5-310 – Expanded Reporting Requirements:**

The proposed reporting requirements appear to significantly increase the burden on LEAs by requiring annual reporting of all changes to every building in an LEAs' portfolio. Typically this level of reporting is done the year in which the quadriennial assessment is undertaken by the IAC. Switching to annual reporting on all schools would be a substantial increase in workload for local school systems.

- We have discussed these concerns with the IAC and they will consider this feedback.

- **§5-314 – Educational Specifications and Schematic Design:**

This section appears to expand requirements for educational specifications and schematic design for HVAC replacement or modification projects exceeding \$1 million. This review and approval is typically reserved for projects that change educational programs and exceed \$1 million. Applying this same level of review to systemic HVAC projects would increase consultant design fees and overall project costs without clear educational benefit.

- According to the IAC, this section was meant to strengthen the State's oversight of heating, ventilation, or air conditioning systems earlier in the project's lifecycle. In addition, the \$1 million threshold was to codify existing rules by the Department of General Services (DGS). We have provided some recommended language to more explicitly capture this intent.

As currently written, SB 48 makes significant changes to Maryland's school construction approval and funding framework. The bill centralizes authority within the IAC by shifting eligibility and oversight functions from statute to regulation, delays CIP certainty by repealing existing approval timelines, and increases reporting, planning, and design requirements for LEAs. These changes could reduce project planning and funding predictability, while increasing costs and administrative burden at the local level.

However, we are encouraged by our preliminary discussions with the IAC and look forward to continuing these conversations. We support the many improvements in the legislation, but need to protect LEAs and counties from unintended increased costs and human capital in fulfilling our obligation to provide the safest facilities possible for our students, staff and communities.

For these reasons, PSSAM **supports** SB 28 **with the amendments** described above.