

BALTIMORE COUNTY PUBLIC SCHOOLS

DATE: March 9, 2004
TO: **Board of Education**
FROM: Dr. Joe A. Hairston, Superintendent
SUBJECT: **KEY SCHOOL LEGISLATION**

ORIGINATOR: Dr. George P. Poff, Jr.,
Assistant to the Superintendent Governmental Relations

RECOMMENDATIONS

* * * * *

That the Board consider taking positions on
Key School Legislation.

- Attachment I – Key School Legislation
- Attachment II – House Bill 1409
- Attachment III – House Bill 1060 (Senate Bill 747)
- Attachment IV – House Bill 1230 (Senate Bill 787)
- Attachment V – Fiscal Note for House Bill 1230 (Senate Bill 787)

**BALTIMORE COUNTY PUBLIC SCHOOLS
KEY SCHOOL LEGISLATION
MARCH 9, 2004**

SB 1 Education – Teachers – State and Local Aid Program for Certification

Under current law, there is a program of State and local aid to teachers who pursue certification by the National Board for Professional Teaching Standards known as the State and Local Aid Program for Certification by the National Board for Professional Teaching Standards. Each school year, the State Board is required to select, consistent with the amount provided in the State budget, a maximum of 500 teachers to participate in the Program. The law provided for the act to remain effective for a period of 7 years, and to sunset May 31, 2004. As proposed, this bill would strike the sunset provision.

* This Bill has passed the Senate and is presently before the House.

Board supports SB 1.

SB 8 (HB 306) Teachers' Retirement and Pension Systems – Reemployment of Retired Teachers – Sunset

Current law is scheduled to sunset June 30, 2004. This measure would extend the termination date until June 30, 2008, for provisions of law that allow retirees of the Teachers' Retirement and Pension Systems to be reemployed without an earnings limitation imposed on their retirement benefit.

Board supports SB 8 (HB 306).

SB 115 Task Force to Study the Maryland Teachers' Pension System and the Teachers' Retirement System

This legislation would establish a 27-member task force to review and evaluate the adequacy of the two systems and, if deemed necessary, make recommendations for changes.

Changes to the benefits structure of the Maryland Teachers' Pension and Retirement Systems have left our State with one of the least attractive systems in our nation.

Board supports SB 115.

SB 174 (HB 741) Education – Maryland School for the Blind – Notice to Parents or Guardians of Availability of Programs

This legislation, sponsored by Senators Klausmeier, Harris, Hollinger, and Stone, requires that local education agencies notify the parents or guardians of each blind or visually impaired child, including children with multiple disabilities, of the availability of the educational programs offered by the Maryland School for the Blind. This legislation would require a process that is already in place relative to the Maryland School for the Deaf and in fact is already employed in serving the needs of visually impaired children by the Baltimore County Public Schools.

* This Bill has passed the Senate and is presently before the House.

Board supports SB 174 (HB 741).

SB 526 (HB 851) Education – Distressed Schools – Performance Incentive Grants

This legislation, sponsored by Senator Delores Kelley, would create an incentive grant program for schools defined by the Maryland State Department of Education as in need of improvement, corrective action, or restructuring. Should these schools demonstrate “statistically significant progress” toward achieving AYP for three years, the school would be eligible to receive a \$15,000 grant.

Board supports SB 526 (HB 851)

HB 162 Teacher Incentives

This legislation, requested by the State Department of Education, specifies that a classroom teacher who holds a professional certificate or a resident teacher's certificate and teaches in a public school identified in accordance with State Board regulations as a school in need of improvement, a school under corrective

action, or a restructured school that achieves adequate, yearly progress for two consecutive years shall receive a one-time stipend from the State in the amount of \$4,000, provided that the teacher taught in the school for the two years in which the school achieved adequate, yearly progress.

Board supports HB 162.

HB 199 Public School Construction – Modular Construction

This legislation would require that the Board of Public Works shall include modular construction as an approved public school construction or capital costs. It would also require that the Board of Public Works adopt regulations defining modular construction and minimum specifications for their approval as a public school construction cost.

Board supports HB 199

HB 208 Education – County Boards of Education – Competitive Bidding

This legislation would increase the threshold dollar amount of a contract for which a county board of education must use competitive bidding. This increase in the statutory limit from \$15,000 to \$25,000 would place local boards of education on par with the same \$25,000 limit used by the State of Maryland, counties, and other municipalities.

Board supports HB 208.

HB 345 (SB 245) Bridge to Excellence in Public Schools Act – Trigger Provision – Repeal

This legislation would repeal the provision in the Bridge to Excellence in Public Schools Act that makes a specified level of State funding contingent upon the adoption of a joint resolution by the General Assembly before the 50th day of the Session; and repeals the provision of the Act establishing an alternative funding level of State aid for education if the joint resolution is not adopted. The genesis of this resolution is the Attorney General's opinion that this provision of the law raises serious legal questions. The House version of the Bill was quickly heard and passed and is currently before the Senate.

* This legislation has passed and is presently before the Governor.

Board supports HB 345 (SB 245).

HB 1409 Baltimore County – Comprehensive Master Plan – Class Size Reduction

This legislation, if passed, would amend the Master Plan requirements for the Baltimore County Public Schools under the Bridge to Excellence in Public Schools Act (Thornton). The Master Plan for Baltimore County would also need to include a description of the county Board’s goals relating to the reduction of class size in kindergarten through third grade; and progress made towards achieving these goals.

Local school systems are presently only one-half year into their management under required Master Plans. The process of developing Baltimore County’s plan was deliberate and comprehensive as to content as well as the involvement of stakeholders. Our budget, based upon the *Blueprint for Progress/Master Plan*, is presently before the County Executive and will shortly move to the County Council.

Amendments to the statewide Master Plan requirements for an individual county, before the State Board of Education has the opportunity to review one year’s data across Maryland, should be resisted. A process currently exists in the requirements for master plans, which allow the State Superintendent of Schools to require additional information—Section 5-401,(c)(8), which can be seen on page 2, line 27 of the Bill.

Opposition is recommended to HB 1409.

***HB 1060 (SB 747) Teachers' and Local Employees' Retirement Enhancement Act of 2004**

This legislation, sponsored by Delegate Adrienne Jones and 48 members of the House, is the long-anticipated effort to improve Maryland's teachers' pension program. Once deemed the best program in the nation, reform legislation over a decade ago has rendered Maryland's system for its educators near last in states' rankings. This legislative proposal includes the recommendation of the Task Force on Pensions, which would be:

- ③ Increase cap on COLA from 3% - 5%
- ③ Mandatory for new hires, optional for current members
- ③ Across the board increase for current retirees:
 - a) \$1,200 for retirees who have been retired not more than 5 years;
 - b) \$1,500 for retirees who have been retired more than 5 but less than 10 years;
 - c) \$1,800 for retirees who have been retired more than 10 but less than 15 years; and
 - d) \$2,100 for retirees who have been retired more than 15 years.
- ③ Benefits based on entire compensation (stipends, coaches, national teacher certification)
- ③ Ability to purchase service credit similar to retirement system
- ③ Reduce penalties for early retirement by 1%
- ③ Reduce retirement age from 62 to 60 without 30 years (similar to retirement system)
- ③ Employees' contribution from 2% to 5%

The Fiscal Note on this legislation has not been completed but is expected to be about \$200 million. As such, the expectations of passage are low, but the placement of the issue on the legislative agenda is crucial to future reform.

Support for HB 1060 (SB 747) is recommended.

***HB 1230 (SB 787) Public School Facilities Act of 2004**

This legislation articulates the recommendations of the Task Force to Study Public School Facilities. This task force was prescribed by language in the *Bridge to Excellence Act* and was charged to conduct a similar analysis of "adequacy" as it pertains to facilities. Sponsored by the Chairs of the House Ways and Means and Appropriations Committees and the Chairman of the

House Minority, it represents a bipartisan effort to recognize facilities' needs and begin the process for their systematic address.

This comprehensive and complex legislation is based upon the Task Force's analysis of facilities adequacy needs exceeding \$3.8 billion across our State with a finding of a \$408 million need in Baltimore County (page 15 of the attached Fiscal Note).

Among several recommendations, this legislation calls for a new cost-sharing formula for each county beginning in 2006, a reduction in state rated capacity for elementary classes in grades one to five, a change in the aging schools allocation which would reduce our share, and the introduction of alternative funding methods.

Faced with an affordability challenge similar to that of the Thornton Commission, the Task Force on Facilities recommends, and the legislation reflects, a multi-year phase-in until 2013 to achieve the targeted dollars in State support, requiring about \$250 million in annual State Capital support. This is approximately \$150 million more than the State's commitment for each of the next four fiscal years.

Considering the present fiscal condition of the State's economy, careful monitoring of the possible piecemeal passage of these recommendations will be necessary so as to insure that administrative/legal changes are not made in absence of the necessary resources—unfunded mandates.

If the legislation were passed in its entirety, Baltimore County facility needs would be better met through increased State support.

Support is recommended for HB 1230 (SB 787).

HOUSE BILL 1409

Unofficial Copy
Session
F3

2004 Regular
4r3051

By: **Delegates Zirkin, Aumann, Boteler, Bromwell, Burns, Cardin, Cluster, DeBoy, Frank, Jones, Kach, Malone, Morhaim, Nathan-Pulliam, and Trueschler**

Introduced and read first time: February 23, 2004

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore County - Comprehensive Master Plan - Class Size Reduction**

3 FOR the purpose of requiring the Baltimore County Board of Education to include in
4 its master comprehensive plan a certain description of the county board's goals
5 and the progress made towards achieving certain goals regarding the reduction
6 of class sizes; and generally relating to the inclusion of class size reduction
7 initiatives in the Baltimore County comprehensive master plan.

8 BY repealing and reenacting, with amendments,
9 Article - Education
10 Section 5-401
11 Annotated Code of Maryland
12 (2001 Replacement Volume and 2003 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - Education**
16 5-401.

17 (a) (1) In this section the following words have the meanings indicated.

18 (2) "Local performance standards" means standards for student and
19 school performance developed by a county board.

20 (3) "Plan" means a comprehensive master plan.

21 (4) "State performance standards" means standards for student and
22 school performance approved by the State Board.

23 (b) (1) Each county board shall develop and implement a comprehensive
24 master plan that describes the goals, objectives, and strategies that will be used to

1 improve student achievement and meet State performance standards and local
2 performance standards in each segment of the student population.

3 (2) (i) Each county board shall submit a plan to the Department on or
4 before October 1, 2003.

5 (ii) At least 60 days before submitting a plan to the Department, a
6 county board shall provide a copy of the plan to the:

7 1. County council and if applicable, county executive; or

8 2. County commissioners.

9 (3) Subject to subsection (h) of this section, the plan shall:

10 (i) Extend for a 5-year period beginning with the 2003-2004 school
11 year; and

12 (ii) Be updated by the county board on or before July 1 of each
year.

13 (c) The plan shall include:

14 (1) Goals and objectives as required under subsections (d) through (f) of
15 this section that are aligned with State performance standards and local performance
16 standards;

17 (2) Implementation strategies for meeting goals and objectives;

18 (3) Methods for measuring progress toward meeting goals and objectives;

19 (4) Time lines for implementation of the strategies for meeting goals and
20 objectives;

21 (5) Time lines for meeting goals and objectives;

22 (6) A description of the alignment of the county board's budget with
23 goals, objectives, and strategies for improving student achievement;

24 (7) The impact of the proposed goals, objectives, and implementation
25 strategies on public school facilities and capital improvements that may be needed to
26 implement the plan; and

27 (8) Any other information required by the State Superintendent.

28 (d) The plan shall include goals, objectives, and strategies regarding the
29 performance of:

30 (1) Students requiring special education, as defined in § 5-209 of this
31 title;

1 (2) Students with limited-English proficiency, as defined in § 5-208 of
2 this title;

3 (3) Prekindergarten students;

4 (4) Kindergarten students;

5 (5) Gifted and talented students, as defined in § 8-201 of this article;

6 (6) Students enrolled in career and technology courses;

7 (7) Students failing to meet, or failing to make progress toward meeting,
8 State performance standards, including any segment of the student population that
9 is, on average, performing at a lower achievement level than the student population
10 as a whole; and

11 (8) Any other segment of the student population identified by the State
12 Superintendent.

13 (e) With regard to subsection (d)(7) of this section, the plan shall include
14 strategies to address any disparities in achievement identified for any segment of the
15 student population.

16 (f) (1) (i) The State Superintendent shall review each plan to determine
17 whether the plan complies with the requirements of subsections (b) through (e) of this
18 section.

19 (ii) If the State Superintendent determines that a plan does not
20 comply with the requirements of subsections (b) through (e) of this section, the State
21 Superintendent may require specific revisions to the plan.

22 (2) (i) The State Superintendent may review the content of each plan
23 to assess whether the plan will have the effect of improving student achievement and
24 increasing progress toward meeting State performance standards.

25 (ii) If the State Superintendent determines that a plan will not
26 have the effect of improving student achievement and increasing progress toward
27 meeting State performance standards, the State Superintendent may require specific
28 revisions to the plan.

29 (3) A county board may not implement a plan unless it has been
30 approved by the State Superintendent.

31 (g) (1) A county board may submit a preexisting management plan to the
32 Department as the county board's plan under subsection (b) of this section.

33 (2) If the State Superintendent determines that the preexisting
34 management plan meets the requirements set forth in this section, the State
35 Superintendent shall approve the preexisting management plan as the county board's
36 plan.

1 (h) (1) If a school system fails to demonstrate progress toward improving
2 student achievement and meeting State performance standards in each segment of
3 the student population during a school year, the State Superintendent shall review
4 the content of the plan and any updates to the plan to assess whether the plan will
5 have the effect of improving student achievement and increasing progress toward
6 meeting State performance standards.

7 (2) If the State Superintendent determines that a plan will not have the
8 effect of improving student achievement and increasing progress toward meeting
9 State performance standards, the State Superintendent shall require specific
10 revisions to the plan.

11 (i) The State Superintendent shall advise the Governor and the General
12 Assembly concerning the distribution of State funds to a county that fails to make
13 progress toward improving student achievement and meeting State performance
14 standards in each segment of the student population.

15 (j) The State Board may withhold State funds from a county board if:

16 (1) A school system fails to demonstrate annual progress toward
17 improving student achievement and meeting State performance standards in each
18 segment of the student population; and

19 (2) Fails to develop a plan that meets the requirements of subsections (b)
20 through (g) of this section or take any action required by the State Superintendent
21 under this section.

22 (k) (1) The State Superintendent shall review academic intervention
23 programs and behavior modification programs to identify best practices.

24 (2) The State Superintendent shall periodically report on the best
25 practices to the State Board, the county boards, the Governor, and, subject to §
26 2-1246 of the State Government Article, the General Assembly.

27 (l) (1) Subject to paragraph (2) of this subsection, the Department shall
28 adopt regulations as necessary to implement this section.

29 (2) The Department shall consult with county superintendents and
30 county boards before promulgating proposed regulations to implement this section.

31 (m) The Department may provide technical assistance to county boards in
32 developing and implementing a plan.

33 (n) The Governor shall include an appropriation for the Department in the
34 State budget for each fiscal year in amount sufficient to cover the costs associated
35 with implementing this section.

36 (O) (1) THIS SUBSECTION ONLY APPLIES IN BALTIMORE COUNTY.

5

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1 (2) THE PLAN SHALL INCLUDE A DESCRIPTION OF THE COUNTY
2 BOARD'S:

3 (I) GOALS RELATING TO THE REDUCTION OF CLASS
SIZES IN
4 KINDERGARTEN THROUGH THE THIRD GRADE; AND

5 (II) PROGRESS MADE TOWARDS ACHIEVING THE GOALS
DESCRIBED
6 IN ITEM (I) OF THIS PARAGRAPH.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 July 1, 2004.

HOUSE BILL 1060

Unofficial Copy
K4

2004 Regular Session
4lr2117
CF 4lr0982

By: **Delegates Jones, Barkley, Barve, Benson, Brown, Burns, Cane, Cardin, G. Clagett, V. Clagett, Costa, D. Davis, DeBoy, Feldman, Glassman, Goldwater, Goodwin, Haynes, Heller, Hennessy, Hixson, Howard, Hubbard, Hurson, King, Lee, Love, Madaleno, Malone, McHale, Minnick, Moe, Morhaim, Nathan-Pulliam, Niemann, Oaks, Owings, Paige, Parker, Proctor, Ramirez, Rudolph, Stern, Taylor, F. Turner, V. Turner, Weir, Weldon, and Zirkin**

Introduced and read first time: February 13, 2004

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning
2 **Teachers' and Local Employees' Retirement Enhancement Act of 2004**
3 FOR the purpose of altering the definition of "earnable compensation" for certain
4 members of the Teachers' Retirement System and the Teachers' Pension System;
5 providing certain annual adjustments to the normal service retirement
6 allowances of retirees of the Teachers' Retirement System and the Teachers'
7 Pension System as of a certain date; providing for the adjustment to be subject
8 to certain cost-of-living adjustments each fiscal year; providing for a certain
9 cost-of-living adjustment to retirement allowances of certain retirees and
10 former members of the Teachers' Retirement System; providing for an alternate
11 contributory pension selection for certain members of the Teachers' Pension
12 System; making the selection optional for certain members of the Teachers'
13 Pension System; authorizing the purchase of certain service credit in a certain
14 manner; providing for the member contribution rate and benefits for certain
15 members of the Teachers' Pension System under a certain alternate contributory
16 pension selection option; reducing the retirement age for certain members of the
17 Teachers' Pension System; reducing certain penalties for early retirement for
18 certain members of the Teachers' Pension System; increasing the cost-of-living
19 adjustment for certain members of the Teachers' Pension System; authorizing
20 certain employees of participating governmental units to elect to participate in a
21 certain alternate contributory pension selection by a certain date; prohibiting
22 the governing body of a county from eliminating or reducing certain retirement
23 benefits for members of the Teachers' Retirement System or Teachers' Pension
24 System; requiring the State Retirement Agency to provide certain information to
25 members of the Teachers' Pension System and to certain participating
26 governmental units; and generally relating to enhancements and modifications
27 to pension and retirement benefits for certain teachers and employees of
28 participating governmental units.
29 BY repealing and reenacting, with amendments,

HOUSE BILL 1060

1 Article - State Personnel and Pensions
2 Section 20-101(o), 22-401, 23-212, 23-217, 23-218, 23-308.2, 23-401, 23-402,
3 29-425, and 31-112
4 Annotated Code of Maryland
5 (1997 Replacement Volume and 2003 Supplement)

6 BY repealing and reenacting, without amendments,
7 Article - State Personnel and Pensions
8 Section 23-206
9 Annotated Code of Maryland
10 (1997 Replacement Volume and 2003 Supplement)

11 BY adding to
12 Article - State Personnel and Pensions
13 Section 23-219 and 23-220 to be under the new part "Part III. Alternate
14 Contributory Pension Selection"; and 29-428 through 29-430, inclusive, to
15 be under the new part "Part VII. Five Percent Compound Adjustment"; and
16 23-308.3
17 Annotated Code of Maryland
18 (1997 Replacement Volume and 2003 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article - State Personnel and Pensions**

22 20-101.

23 (o) "Earnable compensation" means one-twelfth of the member's annual
24 salary rate payable for working the normal time in the member's position, including:

25 (1) the employer pickup contribution provided for in § 21-312 of this
26 article; [or]

27 (2) a contribution made under a salary reduction or supplemental
28 retirement plan in accordance with Title 35 of this article; OR

29 (3) FOR A MEMBER OF THE TEACHERS' RETIREMENT SYSTEM OR
THE

30 TEACHERS' PENSION SYSTEM:

31 (I) COMPENSATION FOR PARTICIPATING AS A COACH OR AN
32 ADVISOR FOR ANY EXTRACURRICULAR ACTIVITY; OR

33 (II) ANY STIPEND THE MEMBER RECEIVES FOR
PARTICIPATING IN

34 THE NATIONAL TEACHER CERTIFICATION PROGRAM.

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1 22-401.
2 (a) A member may retire with a normal service retirement allowance if:
3 (1) on or before the date of retirement, the member:
4 (i) has at least 30 years of eligibility service; or
5 (ii) is at least 60 years old; and
6 (2) the member completes and submits a written application to the
7 Board of Trustees stating the date when the member desires to retire.
8 (b) On retirement under this section, a member is entitled to receive a normal
9 service retirement allowance that equals THE SUM OF:
10 (1) one fifty-fifth of the member's average final compensation
11 multiplied by the number of years of creditable service ATTAINED ON OR BEFORE
12 JUNE 30, 2004; AND
13 (2) 2.2% OF THE MEMBER'S AVERAGE FINAL COMPENSATION
14 MULTIPLIED BY THE NUMBER OF YEARS OF CREDITABLE SERVICE ATTAINED ON
OR
15 AFTER JULY 1, 2004.
16 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A RETIREE OR
A
17 BENEFICIARY OF A RETIREE WHO RETIRES FROM THE TEACHERS' RETIREMENT
18 SYSTEM ON OR BEFORE JULY 1, 2004, WITH A NORMAL SERVICE RETIREMENT
19 ALLOWANCE SHALL RECEIVE AN ANNUAL RETIREMENT ALLOWANCE
ADJUSTMENT
20 AS OF JULY 1, 2004, AS FOLLOWS:
21 (I) FOR A RETIREE WHO HAS BEEN RETIRED NOT MORE THAN
5
22 YEARS, \$1,200;
23 (II) FOR A RETIREE WHO HAS BEEN RETIRED MORE THAN 5
YEARS
24 BUT NOT MORE THAN 10 YEARS, \$1,500;
25 (III) FOR A RETIREE WHO HAS BEEN RETIRED MORE THAN 10
YEARS
26 BUT NOT MORE THAN 15 YEARS, \$1,800; AND
27 (IV) FOR A RETIREE WHO HAS BEEN RETIRED MORE THAN 15
YEARS,
28 \$2,100.
29 (2) EACH FISCAL YEAR, THE BOARD OF TRUSTEES SHALL INCREASE
THE
30 ADJUSTMENT RECEIVED BY THE RETIREE OR BENEFICIARY AS OF JULY 1, 2004,
BY
31 MULTIPLYING THE ADJUSTMENT BY A FRACTION THAT HAS:
32 (I) AS ITS NUMERATOR, THE CONSUMER PRICE INDEX FOR
THE
33 CALENDAR YEAR ENDING DECEMBER 31 OF THE PRECEDING FISCAL YEAR; AND
34 (II) AS ITS DENOMINATOR, THE CONSUMER PRICE INDEX FOR
THE
35 CALENDAR YEAR ENDING DECEMBER 31, 2003.

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1 23-206.

2 (a) Except as provided in subsection (b) of this section, §§ 23-207 through
3 23-210 of this subtitle apply only to:

4 (1) an employee of a day school in the State under the authority and
5 supervision of a county board of education or the Baltimore City Board of School
6 Commissioners, employed as:

7 (i) a clerk;

8 (ii) a helping teacher;

9 (iii) a principal;

10 (iv) a superintendent;

11 (v) a supervisor; or

12 (vi) a teacher;

13 (2) a faculty employee of an educational institution supported by and
14 under the control of the State;

15 (3) a librarian or clerical employee of a library that is established or
16 operates under the Education Article;

17 (4) a professional or clerical employee of a community college that is
18 established or operates under the Education Article;

19 (5) a staff employee of the University System of Maryland, Morgan State
20 University, or St. Mary's College who is a member of the Teachers' Pension System as
21 of January 1, 1998, or who transfers from the Teachers' Retirement System on or
22 after January 1, 1998; or

23 (6) a nonfaculty employee of the Baltimore City Community College who:

24 (i) is a member of the Teachers' Pension System as of October 1,
25 2002 and does not transfer to the Employees' Pension System in accordance with §
26 23-202.1 of this subtitle; or

27 (ii) transfers from the Teachers' Retirement System on or after
28 October 1, 2002.

29 (b) Sections 23-207 through 23-209 of this subtitle do not apply to:

30 (1) an individual who has elected to participate in an optional retirement
31 program under Title 30 of this article;

32 (2) an individual who is employed under a federal public service
33 employment program;

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1 (3) a professional or clerical employee of the Department of Public
2 Libraries of Montgomery County who is participating in the Employees' Retirement
3 System of Montgomery County;

4 (4) a staff employee of the University System of Maryland, Morgan State
5 University, or St. Mary's College who becomes employed on or after January 1, 1998
6 in a position as a staff employee of the educational institution that was eligible for
7 membership in the Teachers' Retirement System or Teachers' Pension System under
8 Chapter 6, § 8, paragraphs 1(a) and 2(a) of the Acts of 1994;

9 (5) an employee who is not a member of a State system and who accepts
10 a position for which the budgeted hours per fiscal year are less than 500 hours in the
11 first fiscal year of employment; or

12 (6) a nonfaculty employee of the Baltimore City Community College who
13 becomes employed on or after October 1, 2002, or who transfers to the Employees'
14 Pension System in accordance with § 23-202.1 of this subtitle.

15 23-212.

16 (a) Except as [provided in subsection (b) of] OTHERWISE PROVIDED IN this
17 section, a member's contribution rate is 5% of the part of the member's earnable
18 compensation that exceeds the taxable wage base for each year.

19 (b) The contribution rate of a member who is subject to the contributory
20 pension benefit under Part II of this subtitle is 2% of the member's earnable
21 compensation.

22 (C) **THE CONTRIBUTION RATE OF A MEMBER OF THE EMPLOYEES' PENSION
23 SYSTEM OR THE TEACHERS' PENSION SYSTEM WHO IS SUBJECT TO THE
ALTERNATE**

24 **CONTRIBUTORY PENSION SELECTION UNDER PART III OF THIS SUBTITLE IS 5% OF
25 THE MEMBER'S EARNABLE COMPENSATION.**

26 23-217.

27 (a) Except as provided in subsection (b) of this section, this Part II of this
28 subtitle applies to an individual who is:

29 (1) a member of the Employees' Pension System or the Teachers' Pension
30 System; or

31 (2) a member of the Employees' Retirement System or the Teachers'
32 Retirement System subject to Selection C (Combination Formula) as provided in §
33 22-221 of this article.

34 (b) This Part II of this subtitle does not apply to an individual who is:

35 (1) an employee of:

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1 (i) a participating governmental unit that has not elected the
2 contributory pension benefit for its employees under § 31-116 of this article; or

3 (ii) a former participating governmental unit, other than Frederick
4 County, that has withdrawn; [or]

5 (2) a member of the Employees' Pension System or Teachers' Pension
6 System who transferred from the Employees' Retirement System or Teachers'
7 Retirement System after April 1, 1998; OR

8 (3) A MEMBER OF THE EMPLOYEES' PENSION SYSTEM, TEACHERS'
9 PENSION SYSTEM, EMPLOYEES' RETIREMENT SYSTEM (SELECTION C -
COMBINATION
10 FORMULA), OR TEACHERS' RETIREMENT SYSTEM (SELECTION C - COMBINATION
11 FORMULA) WHO IS SUBJECT TO THE ALTERNATE CONTRIBUTORY PENSION
12 SELECTION UNDER PART III OF THIS SUBTITLE.

13 23-218.

14 A member who is subject to this Part II of this subtitle shall:

15 (1) receive an allowance for all creditable service as follows:

16 (i) for normal service retirement as provided in § 23-401(c) of this
17 title;

18 (ii) for early service retirement as provided in [§ 23-402] §
19 23-402(B) of this title;

20 (iii) for ordinary disability retirement as provided in § 29-108 of this
21 article; and

22 (iv) for accidental disability retirement as provided in § 29-110 of
23 this article;

24 (2) have the allowance adjusted as provided in Title 29, Subtitle 4, Part
25 VI of this article; and

26 (3) make the member contributions at the rate specified in § 23-212(b) of
27 this subtitle.

28 **PART III. ALTERNATE CONTRIBUTORY PENSION**
SELECTION.

29 23-219.

30 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS PART
III

31 OF THIS SUBTITLE APPLIES TO AN INDIVIDUAL WHO IS:

32 (1) A MEMBER OF THE TEACHERS' PENSION SYSTEM WHO BECOMES
33 EMPLOYED BY A PARTICIPATING EMPLOYER ON OR AFTER JULY 1, 2004;

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1 (2) A MEMBER OF THE EMPLOYEES' PENSION SYSTEM WHO, ON OR
2 AFTER JULY 1, 2004, BECOMES AN EMPLOYEE OF A PARTICIPATING
GOVERNMENTAL

3 UNIT THAT HAS ELECTED THE CONTRIBUTORY PENSION SELECTION FOR ITS
4 EMPLOYEES UNDER § 31-116 OF THIS ARTICLE;

5 (3) A MEMBER OF THE TEACHERS' PENSION SYSTEM ON JUNE 30,
2004,

6 WHO ELECTS TO BE SUBJECT TO THIS PART;

7 (4) A MEMBER OF THE TEACHERS' RETIREMENT SYSTEM SUBJECT
TO

8 SELECTION C (COMBINATION FORMULA) AS PROVIDED IN § 22-221 OF THIS
ARTICLE

9 ON JUNE 30, 2004, WHO ELECTS TO BE SUBJECT TO THIS PART; OR

10 (5) A MEMBER OF THE EMPLOYEES' PENSION SYSTEM WHO ON JUNE
30,

11 2004, IS AN EMPLOYEE OF A PARTICIPATING GOVERNMENTAL UNIT THAT HAS
12 ELECTED THE CONTRIBUTORY PENSION SELECTION FOR ITS EMPLOYEES UNDER
§

13 31-116 OF THIS ARTICLE AND WHO ELECTS TO BE SUBJECT TO THIS PART.

14 (B) THIS PART III OF THIS SUBTITLE DOES NOT APPLY TO AN INDIVIDUAL
15 WHO IS A MEMBER OF THE EMPLOYEES' PENSION SYSTEM OR TEACHERS'
PENSION

16 SYSTEM WHO TRANSFERRED FROM THE EMPLOYEES' RETIREMENT SYSTEM OR
17 TEACHERS' RETIREMENT SYSTEM AFTER APRIL 1, 1998.

18 23-220.

19 A MEMBER WHO IS SUBJECT TO THIS PART III OF THIS SUBTITLE SHALL:

20 (1) RECEIVE AN ALLOWANCE FOR ALL CREDITABLE SERVICE AS
21 FOLLOWS:

22 (I) FOR NORMAL SERVICE RETIREMENT AS PROVIDED IN §
23 23-401(D) OF THIS TITLE WITH AT LEAST 30 YEARS OF ELIGIBILITY SERVICE OR

THE

24 YEARS OF ELIGIBILITY SERVICE AT THE AGES SPECIFIED IN § 23-401(A)(2)(IV) OF
THIS

25 TITLE;

26 (II) FOR EARLY SERVICE RETIREMENT AS PROVIDED IN § 23-
402(C)

27 OF THIS TITLE;

28 (III) FOR ORDINARY DISABILITY RETIREMENT AS PROVIDED IN
§

29 29-108 OF THIS ARTICLE; AND

30 (IV) FOR ACCIDENTAL DISABILITY RETIREMENT AS PROVIDED
IN §

31 29-110 OF THIS ARTICLE;

32 (2) HAVE THE ALLOWANCE ADJUSTED AS PROVIDED IN TITLE 29,
33 SUBTITLE 4, PART VII OF THIS ARTICLE; AND

34 (3) MAKE THE MEMBER CONTRIBUTIONS AT THE RATE SPECIFIED IN
§23-212(C) OF THIS SUBTITLE.

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1 23-308.2.

2 (a) For periods of employment as a member of the Teachers' Retirement
3 System or the Teachers' Pension System for which the member is not otherwise
4 entitled to service credit, a member of the Teachers' Pension System may purchase
5 credit for eligibility service as provided in this section.

6 (b) The total amount of service credit in the Teachers' Retirement System or
7 Teachers' Pension System that a member may purchase under this section and §
8 23-308 of this subtitle may not exceed 10 years.

9 (c) A member who purchases service credit under this section may not
10 purchase service credit for any period of employment during which the member
11 participated in the optional retirement program.

12 (d) To purchase service credit under this section, a member must:

13 (1) complete a claim for the service credit and file it with the Board of
14 Trustees on the form that the Board of Trustees provides; and

15 (2) pay to the Board of Trustees an amount equal to one-half of the
16 annuity reserve and one-half of the pension reserve required to fund the additional
17 allowance.

18 (E) (1) A MEMBER MAY REDUCE THE FINAL COST OF SERVICE CREDIT
19 PURCHASED UNDER THIS SECTION THROUGH A PAYROLL DEDUCTION OF NOT
20 LESS
21 THAN 2% OF ANNUAL SALARY PER YEAR WITH THE APPROPRIATE FINAL
22 ADJUSTMENT AT RETIREMENT.

22 (2) THE SURVIVING SPOUSE OF A MEMBER MAY PAY FOR THE
23 APPROPRIATE FINAL ADJUSTMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION
24 IF:

24 (I) THE MEMBER DIES WHILE EMPLOYED AS A MEMBER;

25 (II) THE MEMBER WAS PURCHASING SERVICE CREDIT
26 THROUGH A
27 PAYROLL DEDUCTION; AND

28 (III) THE SERVICE CREDIT QUALIFIES FOR BENEFITS UNDER §
29 29-205 OF THIS ARTICLE.
30 23-308.3.

31 (A) FOR PERIODS OF EMPLOYMENT AS A MEMBER OF THE TEACHERS'
32 RETIREMENT SYSTEM FOR WHICH THE MEMBER IS NOT OTHERWISE ENTITLED
33 TO
34 SERVICE CREDIT, A MEMBER OF THE TEACHERS' PENSION SYSTEM MAY
35 PURCHASE
36 ELIGIBILITY SERVICE AS PROVIDED IN THIS SECTION.

34 (B) THE TOTAL AMOUNT OF SERVICE CREDIT IN THE TEACHERS' PENSION
35 SYSTEM THAT A MEMBER MAY PURCHASE UNDER THIS SECTION AND §§ 23-308
36 AND
37 23-308.2 OF THIS SUBTITLE MAY NOT EXCEED 10 YEARS.

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1 (C) A MEMBER WHO PURCHASES SERVICE CREDIT UNDER THIS SECTION
MAY
2 NOT PURCHASE SERVICE CREDIT FOR ANY PERIOD OF EMPLOYMENT DURING
WHICH
3 THE MEMBER PARTICIPATED IN THE OPTIONAL RETIREMENT PROGRAM.

4 (D) (1) TO PURCHASE SERVICE CREDIT UNDER THIS SECTION, A
MEMBER
5 SHALL:

6 (I) COMPLETE A CLAIM FOR THE SERVICE CREDIT AND FILE
IT
7 WITH THE BOARD OF TRUSTEES ON A FORM THAT THE BOARD OF TRUSTEES
8 PROVIDES; AND

9 (II) PAY TO THE BOARD OF TRUSTEES IN A SINGLE PAYMENT
THE
10 MEMBER CONTRIBUTIONS THE MEMBER WOULD HAVE MADE FOR THE PERIOD
OF
11 EMPLOYMENT FOR WHICH SERVICE CREDIT IS BEING PURCHASED PLUS
REGULAR
12 INTEREST TO THE DATE OF PAYMENT.

13 (2) EXCEPT AS PROVIDED IN PARAGRAPHS (3) AND (4) OF THIS
14 SUBSECTION, THE MEMBER SHALL PAY FOR SERVICE CREDIT PURCHASED
UNDER
15 THIS SECTION AT RETIREMENT.

16 (3) A MEMBER MAY REDUCE THE FINAL COST OF SERVICE CREDIT
17 PURCHASE UNDER THIS SECTION THROUGH A PAYROLL DEDUCTION OF NOT
LESS
18 THAN 2% OF ANNUAL SALARY PER YEAR, WITH THE APPROPRIATE FINAL
19 ADJUSTMENT MADE AT RETIREMENT.

20 (4) THE SURVIVING SPOUSE OF A MEMBER OF THE TEACHERS'
21 RETIREMENT SYSTEM MAY PAY FOR THE APPROPRIATE FINAL ADJUSTMENT
UNDER

22 PARAGRAPH (3) OF THIS SUBSECTION IF:

23 (I) THE MEMBER DIES WHILE EMPLOYED AS A MEMBER;

24 (II) THE MEMBER WAS PURCHASING SERVICE CREDIT
THROUGH A

25 PAYROLL DEDUCTION; AND

26 (III) THE SERVICE CREDIT QUALIFIES FOR BENEFITS UNDER §
27 29-205 OF THIS ARTICLE.
28 23-401.

29 (a) A member may retire with a normal service retirement allowance if:

30 (1) the member completes and submits a written application to the
31 Board of Trustees stating the date when the member desires to retire; and

32 (2) on or before the date of retirement, the member:

33 (i) has at least 30 years of eligibility service;

34 (ii) has a combined total of at least 30 years of eligibility service
35 from the Employees' Pension System, the Teachers' Pension System, the Employees'

36 Retirement System, or the Teachers' Retirement System; [or]

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1 (iii) EXCEPT AS PROVIDED IN ITEM (IV) OF THIS ITEM, has
attained
2 the age and the years of eligibility service as follows:

3	Age		Years of Eligibility Service
4	62	with	5
5	63	with	4
6	64	with	3
7	65	or more with	2

8 (IV) FOR MEMBERS WHO ARE SUBJECT TO THE ALTERNATE
9 CONTRIBUTORY PENSION SELECTION UNDER SUBTITLE 2, PART III OF THIS TITLE,
10 HAS ATTAINED THE AGE AND THE YEARS OF ELIGIBILITY SERVICE AS FOLLOWS:

11	AGE		YEARS OF ELIGIBILITY SERVICE
12	60	WITH	5
13	61	WITH	4
14	62	WITH	3
15	63	OR MORE WITH	2

16 (b) Except as provided in subsections (c), [and] (d), AND (E) of this section, on
17 retirement under this section, a member is entitled to receive a normal service
18 retirement allowance that equals the number of years of the member's creditable
19 service multiplied by:

20 (1) 0.8% of the member's average final compensation that is not in excess
21 of the Social Security integration level; and

22 (2) 1.5% of the member's average final compensation that exceeds the
23 Social Security integration level.

24 (c) Except as provided in subsection [(d)] (E) of this section, on retirement
25 under this section, a member who is subject to the contributory pension benefit under
26 Subtitle 2, Part II of this title is entitled to receive a normal service retirement
27 allowance that equals the sum of:

28 (1) the number of years of the member's creditable service on or after
29 July 1, 1998 multiplied by 1.4% of the member's average final compensation; and

30 (2) the greater of:

31 (i) the number of years of the member's creditable service on or
32 before June 30, 1998 multiplied by 1.2% of the member's average final compensation;
33 or

34 (ii) the number of years of the member's creditable service on or
35 before June 30, 1998 multiplied by:

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1 1. 0.8% of the member's average final compensation that is
2 not in excess of the Social Security integration level; and

3 2. 1.5% of the member's average final compensation that
4 exceeds the Social Security integration level.

5 (D) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, ON
6 RETIREMENT UNDER THIS SECTION, A MEMBER WHO IS SUBJECT TO THE
7 ALTERNATE CONTRIBUTORY PENSION SELECTION UNDER SUBTITLE 2, PART III OF
8 THIS TITLE IS ENTITLED TO RECEIVE A NORMAL SERVICE RETIREMENT
ALLOWANCE

9 THAT EQUALS THE SUM OF:

10 (1) (I) THE NUMBER OF YEARS OF THE MEMBER'S CREDITABLE
11 SERVICE THAT IS BETWEEN 1 AND 15 YEARS BEGINNING ON OR AFTER JULY 1,
12 2004,

13 MULTIPLIED BY 2.0% OF THE MEMBER'S AVERAGE FINAL COMPENSATION; AND

14 (II) THE NUMBER OF YEARS OF THE MEMBER'S CREDITABLE
15 SERVICE THAT IS OVER 15 YEARS BEGINNING ON OR AFTER JULY 1, 2004,
MULTIPLIED

16 BY 2.2% OF THE MEMBER'S AVERAGE FINAL COMPENSATION;

17 (2) THE NUMBER OF YEARS OF THE MEMBER'S CREDITABLE
18 SERVICE ON

19 OR AFTER JULY 1, 1998, BUT BEFORE JULY 1, 2004, MULTIPLIED BY 1.4% OF THE
20 MEMBER'S AVERAGE FINAL COMPENSATION; AND

21 (3) THE GREATER OF:

22 (I) THE NUMBER OF YEARS OF THE MEMBER'S CREDITABLE
23 SERVICE ON OR BEFORE JUNE 30, 1998, MULTIPLIED BY 1.2% OF THE MEMBER'S
24 AVERAGE FINAL COMPENSATION; OR

25 (II) THE NUMBER OF YEARS OF THE MEMBER'S CREDITABLE
26 SERVICE ON OR BEFORE JUNE 30, 1998, MULTIPLIED BY:

27 1. 0.8% OF THE MEMBER'S AVERAGE FINAL
28 COMPENSATION

29 THAT IS NOT IN EXCESS OF THE SOCIAL SECURITY INTEGRATION LEVEL; AND

30 2. 1.5% OF THE MEMBER'S AVERAGE FINAL
31 COMPENSATION

32 THAT EXCEEDS THE SOCIAL SECURITY INTEGRATION LEVEL.

33 [(d)] (E) (1) This subsection applies only to a member who has a combined
34 total of 30 years of eligibility service as provided in subsection (a)(2)(ii) of this section.

35 (2) A member is entitled to receive a normal service retirement
36 allowance that equals:

37 (i) an allowance based on the creditable service the member
38 earned in the Employees' Pension System;

39 (ii) an allowance based on the creditable service the member
40 earned in the Employees' Retirement System;

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1 (iii) an allowance based on the creditable service the member
2 earned in the Teachers' Pension System; plus
3 (iv) an allowance based on the creditable service the member
4 earned in the Teachers' Retirement System.
5 (F) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A RETIREE OR
A
6 BENEFICIARY OF A RETIREE WHO RETIRES FROM THE TEACHERS' PENSION
SYSTEM
7 ON OR BEFORE JULY 1, 2004, WITH A NORMAL SERVICE RETIREMENT ALLOWANCE
8 SHALL RECEIVE AN ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT AS OF
JULY 1,
9 2004, AS FOLLOWS:
10 (I) FOR A RETIREE WHO HAS BEEN RETIRED NOT MORE THAN
5
11 YEARS, \$1,200;
12 (II) FOR A RETIREE WHO HAS BEEN RETIRED MORE THAN 5
YEARS
13 BUT NOT MORE THAN 10 YEARS, \$1,500;
14 (III) FOR A RETIREE WHO HAS BEEN RETIRED MORE THAN 10
YEARS
15 BUT NOT MORE THAN 15 YEARS, \$1,800; AND
16 (IV) FOR A RETIREE WHO HAS BEEN RETIRED MORE THAN 15
YEARS,
17 \$2,100.
18 (2) EACH FISCAL YEAR, THE BOARD OF TRUSTEES SHALL INCREASE
THE
19 ADJUSTMENT RECEIVED BY THE RETIREE OR BENEFICIARY AS OF JULY 1, 2004,
BY
20 MULTIPLYING THE ADJUSTMENT BY A FRACTION THAT HAS:
21 (I) AS ITS NUMERATOR, THE CONSUMER PRICE INDEX FOR
THE
22 CALENDAR YEAR ENDING DECEMBER 31 OF THE PRECEDING FISCAL YEAR; AND
23 (II) AS ITS DENOMINATOR, THE CONSUMER PRICE INDEX FOR
THE
24 CALENDAR YEAR ENDING DECEMBER 31, 2003.
25 23-402.
26 (a) A member may retire with an early service retirement allowance if:
27 (1) the member completes and submits a written application to the
28 Board of Trustees stating the date when the member desires to retire; and
29 (2) on or before the date of retirement, the member:

30 (i) has at least 15 years but less than 30 years of eligibility service;
31 and
32 (ii) is at least 55 but less than 62 years old.
33 (b) [On] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, ON
34 retirement under this section, a member is entitled to receive an early service
35 retirement allowance that equals the normal service retirement allowance under §

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1 23-401 of this subtitle, reduced by 0.5% for each month that the member's early
2 retirement date precedes the date the member will be 62 years old.
3 (C) ON RETIREMENT UNDER THIS SECTION, A MEMBER WHO IS SUBJECT TO
4 THE ALTERNATE CONTRIBUTORY PENSION SELECTION UNDER SUBTITLE 2, PART
III
5 OF THIS TITLE IS ENTITLED TO RECEIVE AN EARLY SERVICE RETIREMENT
6 ALLOWANCE THAT EQUALS THE NORMAL SERVICE RETIREMENT ALLOWANCE
7 UNDER § 23-401(D) OF THIS SUBTITLE, REDUCED BY 0.4% FOR EACH MONTH THAT
8 THE MEMBER'S EARLY RETIREMENT DATE PRECEDES THE DATE THE MEMBER
WILL
9 BE 60 YEARS OLD.
10 29-425.
11 (a) [This] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS
12 Part VI of this subtitle applies:
13 (1) on or after July 1, 1998 only to an allowance received by a former
14 member, retiree, or surviving beneficiary of a deceased member, former member, or
15 retiree of the Employees' Pension System or the Teachers' Pension System; and
16 (2) on or after December 31, 2000, to an allowance received by a former
17 member, retiree, or surviving beneficiary of a deceased member, former member, or
18 retiree of the Law Enforcement Officers' Pension System.
19 (b) This Part VI of this subtitle does not apply if:
20 (1) the member, former member, or retiree was an employee of:
21 (i) a participating governmental unit that has not elected the
22 contributory pension benefit of its employees under § 31-116 of this article; or
23 (ii) a former participating governmental unit, other than Frederick
24 County, that has withdrawn before July 1, 1998, while a member; [or]
25 (2) the member, former member, or retiree:
26 (i) transferred to the Law Enforcement Officers' Pension System
27 from the Employees' Retirement System; and
28 (ii) did not elect to participate in the Law Enforcement Officers'
29 Modified Pension Benefit on or before December 31, 2000 as provided in § 26-211 of
30 this article; OR
31 (3) THE MEMBER, FORMER MEMBER, OR RETIREE IS SUBJECT TO THE
32 ALTERNATE CONTRIBUTORY PENSION SELECTION UNDER TITLE 23, SUBTITLE 2,
33 PART III OF THIS ARTICLE.

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1 PART VII. FIVE PERCENT COMPOUND ADJUSTMENT.
2 29-428.
3 THIS PART VII OF THIS SUBTITLE APPLIES ON OR AFTER JULY 1, 2004, ONLY TO
4 AN ALLOWANCE RECEIVED BY A FORMER MEMBER, RETIREE, OR SURVIVING
5 BENEFICIARY OF A DECEASED MEMBER, FORMER MEMBER, OR RETIREE WHO IS
6 SUBJECT TO THE ALTERNATE CONTRIBUTORY PENSION SELECTION UNDER TITLE
23,
7 SUBTITLE 2, PART III OF THIS ARTICLE.
8 29-429.
9 EACH FISCAL YEAR, THE BOARD OF TRUSTEES SHALL ADJUST EACH
10 ALLOWANCE AS PROVIDED IN THIS PART VII OF THIS SUBTITLE.

11 29-430.
12 (A) EACH FISCAL YEAR, THE BOARD OF TRUSTEES SHALL ADJUST AN
13 ALLOWANCE BY MULTIPLYING THE ALLOWANCE FOR THE PRECEDING FISCAL
YEAR,
14 EXCLUSIVE OF ANY ADDITIONAL VOLUNTARY ANNUITY, BY A RATE NOT
EXCEEDING
15 5%, THAT IS OBTAINED BY DIVIDING THE CONSUMER PRICE INDEX FOR THE
16 CALENDAR YEAR ENDING DECEMBER 31 IN THE PRECEDING FISCAL YEAR BY
THE
17 CONSUMER PRICE INDEX FOR THE CALENDAR YEAR ENDING DECEMBER 31 IN
THE
18 SECOND PRECEDING FISCAL YEAR.
19 (B) THE ADJUSTMENT UNDER SUBSECTION (A) OF THIS SECTION SHALL
20 BEGIN THE SECOND JULY 1 AFTER THE DAY PRECEDING THE RETIREE'S DATE OF
21 RETIREMENT OR THE FORMER MEMBER'S EFFECTIVE DATE FOR RECEIPT OF A
22 VESTED ALLOWANCE.
23 (C) THE TOTAL ALLOWANCE PAYABLE IN EACH FISCAL YEAR SHALL BE
THE
24 SUM OF:
25 (1) THE ANNUAL RATE OF ALLOWANCE PAID DURING THE
PRECEDING
26 FISCAL YEAR;
27 (2) THE ADJUSTMENT IN ALLOWANCE PAID DURING THE PRECEDING
28 FISCAL YEAR; AND
29 (3) ANY ADDITIONAL ANNUITY.
30 31-112.
31 (a) Subject to subsection (b) of this section, an employee of a participating
32 governmental unit who is a member of one of the employees' systems is entitled to the
33 benefits to which State employees are entitled under that system.
34 (b) (1) [An] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,
AN
35 employee of a participating governmental unit that has elected to participate in the

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1 contributory pension benefit option under § 31-116 of this subtitle shall be subject to
2 Title 23, Subtitle 2, Part II of this article.

3 (2) An employee of a participating governmental unit that has not
4 elected to participate in the contributory pension benefit option under § 31-116 of this
5 subtitle is not subject to Title 23, Subtitle 2, Part II of this article.

6 (C) (1) AN EMPLOYEE OF A PARTICIPATING GOVERNMENTAL UNIT
THAT
7 HAS ELECTED TO PARTICIPATE IN THE CONTRIBUTORY PENSION SELECTION
UNDER
8 § 31-116 OF THIS SUBTITLE SHALL BE SUBJECT TO TITLE 23, SUBTITLE 2, PART III
OF
9 THIS ARTICLE, IF:

10 (I) THE EMPLOYEE IS AN EMPLOYEE OF THE PARTICIPATING
11 GOVERNMENTAL UNIT ON DECEMBER 31, 2004, AND THE EMPLOYEE ELECTS TO
BE
12 SUBJECT TO TITLE 23, SUBTITLE 2, PART III OF THIS ARTICLE; OR

13 (II) THE EMPLOYEE BECOMES AN EMPLOYEE OF THE
14 PARTICIPATING GOVERNMENTAL UNIT ON OR AFTER JANUARY 1, 2004.

15 (2) AN EMPLOYEE OF A PARTICIPATING GOVERNMENTAL UNIT
THAT
16 HAS NOT ELECTED TO PARTICIPATE IN THE ALTERNATE CONTRIBUTORY
PENSION
17 SELECTION UNDER § 31-116 OF THIS SUBTITLE IS NOT SUBJECT TO TITLE 23,
18 SUBTITLE 2, PART III OF THIS ARTICLE.

19 SECTION 2. AND BE IT FURTHER ENACTED, That the governing body of a
20 county or Baltimore City that offers a supplemental retirement allowance or
21 supplemental retirement plan to members of the Teachers' Retirement System or
22 Teachers' Pension System may not eliminate or reduce any retirement benefits
23 provided as of January 1, 2004.

24 SECTION 3. AND BE IT FURTHER ENACTED, That the State Retirement
25 Agency shall inform members of the Teachers' Pension System and the governing
26 bodies of participating governmental units about the elections that the members are
27 entitled to make under this Act.

28 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take
29 effect June 1, 2004.

HOUSE BILL 1230

Unofficial Copy
F1

2004 Regular Session
4r2330
CF 4r2331

By: Delegates Hixson and Edwards (Task Force to Study Public School Facilities) and Delegates Leopold and Conway

Introduced and read first time: February 13, 2004

Assigned to: Appropriations and Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2

Public School Facilities Act of 2004

3 FOR the purpose of authorizing counties to finance the construction or renovation of
4 public school facilities, under certain circumstances, using alternative financing
5 methods, engaging in competitive negotiation, accepting unsolicited proposals,
6 and using quality based selection; authorizing a private entity to hold title to
7 property used for a certain public school or school system under certain
8 circumstances; expressing the intent of the General Assembly that the State
9 Department of Education and the Public School Construction Program
10 encourage local education agencies to use recently used school designs under
11 certain circumstances; requiring the Interagency Committee on School
12 Construction to survey the condition of certain school buildings; requiring the
13 Department of General Services to conduct certain inspections; requiring the
14 Interagency Committee to make a certain annual report to the Governor and the
15 General Assembly; requiring the Department of General Services to submit a
16 certain annual report to the State Department of Education and local education
17 agencies; authorizing certain counties to issue certain bonds under certain
18 circumstances; providing for the issuance and administration of the bonds;
19 providing for the repayment of the bonds; authorizing certain counties to impose
20 a sales tax on certain retail sales, subject to certain limits; authorizing certain
21 counties to impose a certain transfer tax on certain instruments, subject to
22 certain limits; repealing a certain exemption from the Administrative Procedure
23 Act; altering the amount of grants provided to counties under the Aging Schools
24 Program; providing an exception to a certain mandatory level of State funds to
25 be granted to Prince George's County and Baltimore City; expressing the intent
26 of the General Assembly that the Board of Public Works establish an emergency
27 repair fund to be used to finance certain renovations and improvements to
28 public schools; specifying that the purchase of relocatable classrooms are eligible
29 for State funding; requiring the Public School Construction Program to provide
30 assistance to Baltimore City, counties, and local education agencies in using
31 alternative financing mechanisms; requiring the State Department of Education
32 to adopt certain regulations; requiring the Board of Public Works to adopt
33 certain regulations; defining certain terms; providing for the effective dates of
34 this Act; and generally relating to the funding and administration of public

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1 school construction.

2 BY repealing and reenacting, with amendments,

3 Article - Education

4 Section 4-114, 5-206(f), 5-301, and 5-302

5 Annotated Code of Maryland

6 (2001 Replacement Volume and 2003 Supplement)

7 BY adding to

8 Article - Education

9 Section 4-126 and 5-309 through 5-311; and 5-601 through 5-604, inclusive, to

10 be under the new subtitle "Subtitle 6. Authorization to Issue Bonds to

11 Fund Public School Construction"

12 Annotated Code of Maryland

13 (2001 Replacement Volume and 2003 Supplement)

14 BY repealing and reenacting, with amendments,

15 Article - Tax - General

16 Section 11-102(b)

17 Annotated Code of Maryland

18 (1997 Replacement Volume and 2003 Supplement)

19 BY repealing and reenacting, with amendments,

20 Chapter 704 of the Acts of the General Assembly of 1998, as amended by

21 Chapter 420 of the Acts of the General Assembly of 2001 and Chapter 289

22 of the Acts of the General Assembly of 2002

23 Section 3

24 BY repealing and reenacting, with amendments,

25 Chapter 280 of the Acts of the General Assembly of 2001, as amended by

26 Chapter 288 of the Acts of the General Assembly of 2002 and Chapter 388

27 of the Acts of the General Assembly of 2003

28 Section 1

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

30 MARYLAND, That the Laws of Maryland read as follows:

31

Article - Education

32 4-114.

33 (a) All property granted, conveyed, devised, or bequeathed for the use of a

34 particular public school or school system:

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1 (1) [Shall] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS
SECTION,

2 SHALL be held in trust for the benefit of the school or school system by the
3 appropriate county board; and

4 (2) Is exempt from all State and local taxes.

5 (b) Money invested in trust for the benefit of the public schools for any county
6 or city is exempt from all State and local taxes.

7 (C) A PRIVATE ENTITY MAY HOLD TITLE TO PROPERTY USED FOR
8 A PARTICULAR PUBLIC SCHOOL OR LOCAL SCHOOL SYSTEM IF THE PRIVATE
ENTITY IS

9 CONTRACTUALLY OBLIGATED TO TRANSFER TITLE TO THE APPROPRIATE
COUNTY

10 BOARD ON A SPECIFIED DATE.

11 4-126.

12 (A) IN THIS SECTION, "ALTERNATIVE FINANCING METHODS" INCLUDES:

13 (1) SALE-LEASEBACK ARRANGEMENTS, IN WHICH A COUNTY
BOARD

14 AGREES TO TRANSFER TITLE TO A PROPERTY, INCLUDING IMPROVEMENTS,
TO A

15 PRIVATE ENTITY THAT SIMULTANEOUSLY AGREES TO LEASE THE PROPERTY
BACK

16 TO THE COUNTY BOARD AND, ON A SPECIFIED DATE, TRANSFER TITLE BACK
TO THE

17 COUNTY BOARD;

18 (2) LEASE-LEASEBACK ARRANGEMENTS, IN WHICH A COUNTY
BOARD

19 LEASES A PROPERTY TO A PRIVATE ENTITY THAT IMPROVES THE PROPERTY
AND

20 LEASES THE PROPERTY, WITH THE IMPROVEMENTS, BACK TO THE COUNTY
BOARD;

21 (3) PUBLIC-PRIVATE PARTNERSHIP AGREEMENTS, IN WHICH A
COUNTY

22 BOARD CONTRACTS WITH A PRIVATE ENTITY FOR THE ACQUISITION,
DESIGN,

23 CONSTRUCTION, IMPROVEMENT, RENOVATION, EXPANSION, EQUIPPING, OR
24 FINANCING OF A PUBLIC SCHOOL, AND MAY INCLUDE PROVISIONS FOR

25 COOPERATIVE USE OF THE SCHOOL OR AN ADJACENT PROPERTY AND
GENERATION

26 OF REVENUE TO OFFSET THE COST OF CONSTRUCTION OR USE OF THE
SCHOOL; AND

27 (4) PERFORMANCE-BASED CONTRACTING, IN WHICH A COUNTY
BOARD

28 ENTERS INTO AN ENERGY PERFORMANCE CONTRACT TO OBTAIN FUNDING
FOR A

29 PROJECT WITH GUARANTEED ENERGY SAVINGS OVER A SPECIFIED TIME
PERIOD.

30 (B) EXCEPT WHEN PROHIBITED BY LOCAL LAW, IN ORDER TO FINANCE
31 PUBLIC SCHOOL CONSTRUCTION, A COUNTY MAY:

32 (1) USE ALTERNATIVE FINANCING METHODS;

33 (2) ENGAGE IN COMPETITIVE NEGOTIATION, RATHER THAN
34 COMPETITIVE BIDDING, IN LIMITED CIRCUMSTANCES, AS PROVIDED IN

35 REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS;

HOUSE BILL 1230

1 (3) ACCEPT UNSOLICITED PROPOSALS FOR THE DEVELOPMENT
OF
2 PUBLIC SCHOOLS IN LIMITED CIRCUMSTANCES, AS PROVIDED IN
REGULATIONS

3 ADOPTED BY THE BOARD OF PUBLIC WORKS; AND
4 (4) USE QUALITY-BASED SELECTION, IN WHICH SELECTION IS
BASED
5 ON A COMBINATION OF QUALIFICATIONS AND COST FACTORS, TO SELECT
6 DEVELOPERS AND BUILDERS, AS PROVIDED IN REGULATIONS ADOPTED BY
THE

7 BOARD OF PUBLIC WORKS.
8 (C) AT THE REQUEST OF THE INTERAGENCY COMMITTEE ON SCHOOL
9 CONSTRUCTION, THE BOARD OF PUBLIC WORKS MAY ADOPT REGULATIONS
TO

10 IMPLEMENT THE PROVISIONS OF THIS SECTION, INCLUDING:
11 (1) GUIDELINES FOR THE ACCEPTANCE AND EVALUATION OF
12 UNSOLICITED PROPOSALS;
13 (2) REQUIREMENTS FOR THE EXECUTION OF A COMPREHENSIVE
14 AGREEMENT GOVERNING AN ARRANGEMENT AUTHORIZED UNDER THIS
SECTION;

15 AND
16 (3) THE APPLICABILITY OF STATE PROCUREMENT LAWS TO
17 PROCUREMENT OR FINANCING OF PUBLIC SCHOOL CONSTRUCTION
AUTHORIZED
18 UNDER THIS SECTION.

19 5-302.
20 (a) (1) The BOARD OF PUBLIC WORKS SHALL ESTABLISH THE
Interagency
21 Committee on School Construction [established by the Board of Public Works is] AS
22 a unit within the Department for administrative and budgetary purposes.

23 (2) THE INTERAGENCY COMMITTEE CONSISTS OF THE
FOLLOWING
24 MEMBERS:
25 (I) THE STATE SUPERINTENDENT OF SCHOOLS, OR 26 THE
SUPERINTENDENT'S DESIGNEE;

27 (II) THE SECRETARY OF THE DEPARTMENT OF PLANNING,
OR THE
28 SECRETARY'S DESIGNEE; AND
29 (III) THE SECRETARY OF GENERAL SERVICES, OR THE 30
SECRETARY'S DESIGNEE.

31 (3) THE STATE SUPERINTENDENT OF SCHOOLS, OR THE
32 SUPERINTENDENT'S DESIGNEE, SHALL BE THE CHAIRMAN OF THE
33 INTERAGENCY COMMITTEE.
34 (b) (1) The Department or any other State agency may lend its employees
35 to serve as the staff for the Interagency Committee.
36 (2) These employees shall be paid by the agency that employs them.

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1 (c) The Executive Director of the Interagency Committee shall be appointed
2 by the Interagency Committee with the approval of the Board of Public Works.

3 (d) (1) (I) The Interagency Committee [on School Construction] shall
4 prepare projections of school construction and capital improvement needs for
5 submission to the Capital Debt Affordability Committee under § 8-112(c)(3) of the
6 State Finance and Procurement Article.

7 (II) The projections shall be prepared in accordance with the [rules,
8 regulations, and procedures] REGULATIONS adopted by the Board under § 5-301 of
9 this subtitle.

10 (2) (I) The Board of Public Works or the Interagency Committee [on
11 School Construction] shall notify each county board and each local governing body of
12 the annual allocation of school construction funds recommended to the Board of
13 Public Works by the Governor under the consolidated capital debt program of the
14 State Finance and Procurement Article.

15 (II) The notification shall be made immediately after the Governor
16 has recommended the allocations so that each county may structure its respective
17 school construction and capital improvement priorities in accordance with the annual
18 allocation and any amendments.

19 (E) (1) ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE
INTERAGENCY
20 COMMITTEE SHALL PROVIDE RECOMMENDATIONS TO THE BOARD OF
PUBLIC WORKS
21 FOR PUBLIC SCHOOL CONSTRUCTION PROJECTS THAT COMPRISE AT LEAST
75% OF
22 THE ANTICIPATED SCHOOL CONSTRUCTION ALLOCATION FOR THE
FOLLOWING
23 FISCAL YEAR.

24 (2) THE REMAINING PUBLIC SCHOOL CONSTRUCTION
ALLOCATION FOR
25 THE FOLLOWING FISCAL YEAR MAY BE ALLOCATED BY THE BOARD OF
PUBLIC
26 WORKS AS PROVIDED IN REGULATION.

27 5-309.

28 IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE DEPARTMENT
AND
29 THE PUBLIC SCHOOL CONSTRUCTION PROGRAM ENCOURAGE LOCAL
EDUCATION
30 AGENCIES TO REUSE RECENTLY USED SCHOOL DESIGNS, WHEN
EDUCATIONALLY
31 APPROPRIATE AND COST EFFECTIVE OVER THE USEFUL LIFE OF THE
PROJECT,
32 WITHIN EACH COUNTY AND ACROSS LOCAL SCHOOL SYSTEM BOUNDARIES.

33 5-310.

34 (A) EACH FISCAL YEAR, THE INTERAGENCY COMMITTEE SHALL
SURVEY THE
35 CONDITION OF SCHOOL BUILDINGS IDENTIFIED BY THE DEPARTMENT.

36 (B) THE DEPARTMENT OF GENERAL SERVICES SHALL CONDUCT THE
37 INSPECTIONS OF INDIVIDUAL SCHOOL BUILDINGS THAT THE INTERAGENCY
38 COMMITTEE REQUIRES TO COMPLETE THE SURVEY REQUIRED IN
SUBSECTION (A) OF
39 THIS SECTION.

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1 (C) THE INTERAGENCY COMMITTEE SHALL REPORT TO THE GOVERNOR
AND
2 THE GENERAL ASSEMBLY, ON OR BEFORE OCTOBER 1 OF EACH YEAR, IN
3 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE
4 RESULTS OF THE SURVEY FOR THE PRIOR FISCAL YEAR.

5 5-311.

6 ON OR BEFORE JULY 1 OF EACH YEAR, THE DEPARTMENT OF GENERAL
7 SERVICES SHALL PROVIDE A REPORT TO THE DEPARTMENT AND EACH
LOCAL
8 EDUCATION AGENCY THAT DESCRIBES EXISTING STATE PURCHASING
CONTRACTS
9 THAT LOCAL EDUCATION AGENCIES MAY USE TO PURCHASE SCHOOL
FURNITURE,
10 EQUIPMENT, COMMODITIES, AND SERVICES.

11 SUBTITLE 6. AUTHORIZATION TO ISSUE BONDS TO FUND
PUBLIC SCHOOL
12 CONSTRUCTION.

13 5-601.

14 EXCEPT AS PROVIDED IN § 5-603(B) AND (C) OF THIS SUBTITLE, THE
PROVISIONS
15 OF THIS SUBTITLE DO NOT APPLY TO A COUNTY OTHERWISE AUTHORIZED
TO ISSUE
16 BONDS TO FUND PUBLIC SCHOOL CONSTRUCTION UNDER OTHER
PROVISIONS OF
17 THE CODE.

18 5-602.

19 (A) IN THIS SUBTITLE, "CONSTRUCTION OR IMPROVEMENT" MEANS THE
20 PLANNING, DESIGN, ENGINEERING, ALTERATION, CONSTRUCTION,
21 RECONSTRUCTION, ENLARGEMENT, EXPANSION, EXTENSION,
IMPROVEMENT,
22 REPLACEMENT, REHABILITATION, RENOVATION, UPGRADING, REPAIR, OR
CAPITAL
23 EQUIPPING.

24 (B) A COUNTY MAY ISSUE BONDS TO FINANCE ANY OR ALL OF THE
COSTS OF
25 CONSTRUCTION OR IMPROVEMENT OF PUBLIC SCHOOLS IN THE COUNTY.

26 (C) (1) BONDS SHALL BE AUTHORIZED BY A RESOLUTION OF THE
27 GOVERNING BODY OF THE COUNTY.

- 28 (2) THE RESOLUTION SHALL:
- 29 (I) GENERALLY DESCRIBE THE PUBLIC SCHOOL
CONSTRUCTION
30 OR IMPROVEMENTS TO BE FINANCED THROUGH THE SALE OF THE BONDS;
- 31 (II) STATE THE MAXIMUM PRINCIPAL AMOUNT OF THE
BONDS;
- 32 (III) DESCRIBE THE SOURCES OF REPAYMENT OF THE
BONDS;
- 33 (IV) STATE THE MAXIMUM TERM OF THE BONDS, WHICH
MAY NOT
34 EXCEED 30 YEARS; AND

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1 (V) DESCRIBE ANY TERMS OR CONDITIONS UNDER WHICH
THE
2 BONDS MAY BE REDEEMED BEFORE MATURITY.

3 (D) THE BONDS SHALL:

4 (1) BE DATED AND BEAR INTEREST AT A RATE SPECIFIED IN THE
5 RESOLUTION;

6 (2) MATURE WITHIN 30 YEARS OF THE DATE OF ISSUANCE OF THE
7 BONDS;

8 (3) BE ISSUED AT, ABOVE, OR BELOW PAR VALUE, FOR CASH OR
OTHER
9 CONSIDERATION;

10 (4) BE PAYABLE AT A TIME, IN THE DENOMINATION, IN
REGISTERED
11 FORM, WITHIN THE MEANING OF ARTICLE 31, § 30 OF THE CODE, AS
SPECIFIED IN
12 THE RESOLUTION;

13 (5) CARRY THE REGISTRATION AND PRIVILEGES AS TO
CONVERSION
14 AND FOR THE REPLACEMENT OF MUTILATED, LOST, OR DESTROYED BONDS,
AS
15 SPECIFIED IN THE RESOLUTION;

16 (6) BE PAYABLE IN LAWFUL MONEY OF THE UNITED STATES OF
17 AMERICA AT A DESIGNATED PLACE;

18 (7) BE SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED IN
THE
19 RESOLUTION; AND

20 (8) BE SOLD IN THE MANNER, INCLUDING PRIVATE OR
NEGOTIATED
21 SALE, AND UPON THE TERMS, SPECIFIED IN THE RESOLUTION.

22 (E) THE COUNTY MAY ENTER INTO AGREEMENTS WITH AGENTS,
BANKS,
23 FIDUCIARIES, INSURERS, OR OTHERS TO:

24 (1) ENHANCE THE MARKETABILITY OF AND SECURITY FOR THE
BONDS;
25 OR

26 (2) SECURE ANY TENDER OPTION GRANTED TO THE HOLDERS OF
THE
27 BONDS.

28 (F) IF ANY OFFICER WHOSE SIGNATURE APPEARS ON A BOND CEASES
TO BE

29 AN OFFICER BEFORE DELIVERY OF THE BONDS, THE SIGNATURE IS VALID
AND

30 SUFFICIENT FOR ALL PURPOSES.

31 (G) THE BONDS, THEIR ISSUE, AND THEIR SALE MAY BE EXEMPT FROM
THE

32 PROVISIONS OF SECTIONS 9, 10, AND 11 OF ARTICLE 31 OF THE CODE.

33 (H) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
SUBSECTION, THE

34 NET PROCEEDS OF THE SALE OF THE BONDS MAY ONLY BE APPLIED TO THE
35 CONSTRUCTION OR IMPROVEMENT OF PUBLIC SCHOOL FACILITIES, AS
DESCRIBED

36 IN THE RESOLUTION AUTHORIZING THE ISSUANCE OF THE BONDS.

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1 (2) IF THE NET PROCEEDS OF THE SALE OF ANY BONDS EXCEEDS
THE
2 AMOUNT NEEDED FOR THE CONSTRUCTION OR IMPROVEMENT OF THE
PUBLIC
3 SCHOOL FACILITIES, AS DESCRIBED IN THE RESOLUTION, THE EXCESS FUNDS
SHALL

4 BE APPLIED TO:

5 (I) THE PAYMENT OF INTEREST ON THE BONDS;

6 (II) THE PAYMENT OF THE NEXT PRINCIPAL MATURITY OF
THE
7 BONDS;

8 (III) THE REDEMPTION OF ANY PART OF THE BONDS THAT
ARE
9 REDEEMABLE BEFORE MATURITY; OR

10 (IV) IF AUTHORIZED BY A RESOLUTION ISSUED BY THE
GOVERNING
11 BODY OF THE COUNTY, THE CONSTRUCTION OR IMPROVEMENT OF OTHER
PUBLIC
12 SCHOOL FACILITIES.

13 (I) BONDS ISSUED UNDER THIS SUBTITLE ARE NEGOTIABLE
INSTRUMENTS
14 UNDER THE LAWS OF THIS STATE.

15 (J) BEFORE THE PREPARATION OF BONDS, THE COUNTY MAY ISSUE
BOND
16 ANTICIPATION NOTES IN ACCORDANCE WITH ARTICLE 31, § 12 OF THE CODE.
17 5-603.

18 (A) BONDS ISSUED UNDER THIS SUBTITLE CONSTITUTE AN
IRREVOCABLE
19 PLEDGE OF THE FULL FAITH AND CREDIT AND UNLIMITED TAXING POWER
OF THE
20 COUNTY TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE
BONDS
21 WHEN THE BONDS BECOME PAYABLE.

22 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS
SUBSECTION, THE
23 GOVERNING BODY OF A COUNTY MAY IMPOSE A TRANSFER TAX ON AN
INSTRUMENT
24 OF WRITING, AS DEFINED IN § 13-101(C) OF THE TAX - PROPERTY ARTICLE:

25 (I) RECORDED WITH THE CLERK OF THE CIRCUIT COURT
FOR THE
26 COUNTY; OR

27 (II) FILED WITH THE STATE DEPARTMENT OF ASSESSMENTS
AND
28 TAXATION.

29 (2) A TRANSFER TAX IMPOSED UNDER THIS SUBSECTION:

30 (I) MAY NOT EXCEED THE AMOUNT REQUIRED TO MAKE
31 PAYMENTS, WHEN DUE, ON THE PRINCIPAL OF AND INTEREST ON BONDS
ISSUED TO
32 FUND PUBLIC SCHOOL CONSTRUCTION; AND

33 (II) DOES NOT APPLY TO AN INSTRUMENT OF WRITING
EXEMPT
34 FROM THE STATE TRANSFER TAX UNDER § 13-207 OF THE TAX - PROPERTY
ARTICLE.

35 (3) THIS SUBSECTION DOES NOT APPLY TO A COUNTY
OTHERWISE
36 AUTHORIZED TO IMPOSE A TRANSFER TAX ON JUNE 30, 2004.

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1 (C) (1) IN THIS SUBSECTION, "RETAIL SALE", "SALE", AND "TAXABLE
PRICE"
2 HAVE THE MEANINGS STATED IN § 11-101 OF THE TAX - GENERAL ARTICLE.

3 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE
4 GOVERNING BODY OF A COUNTY MAY IMPOSE, BY ORDINANCE, AND
COLLECT A
5 SALES TAX ON A RETAIL SALE WITHIN THE COUNTY.

6 (3) A TAX IMPOSED UNDER THIS SECTION DOES NOT APPLY TO A
SALE
7 THAT IS EXEMPT FROM THE STATE SALES AND USE TAX UNDER TITLE 11 OF
THE TAX
8 - GENERAL ARTICLE.

9 (4) A TAX IMPOSED UNDER THIS SECTION MAY NOT EXCEED THE
10 AMOUNT REQUIRED TO MAKE PAYMENTS, WHEN DUE, ON THE PRINCIPAL OF
AND
11 INTEREST ON BONDS ISSUED TO FUND PUBLIC SCHOOL CONSTRUCTION.

12 (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
SUBSECTION, IN
13 EVERY FISCAL YEAR IN WHICH ANY OF THE BONDS ARE OUTSTANDING, THE
COUNTY
14 SHALL LEVY AD VALOREM TAXES ON ALL ASSESSABLE PROPERTY WITHIN
THE
15 CORPORATE LIMITS OF THE COUNTY IN AN AMOUNT SUFFICIENT TO MAKE
16 PAYMENTS, WHEN DUE, ON THE PRINCIPAL OF AND INTEREST ON THE
BONDS.

17 (2) IF OTHER FUNDS ARE AVAILABLE TO PAY THE PRINCIPAL OF
AND
18 INTEREST ON THE BONDS, THE COUNTY MAY REDUCE THE TAXES THAT
WOULD
19 OTHERWISE NEED TO BE LEVIED UNDER THIS SECTION.

20 (E) THE COUNTY MAY APPLY FUNDS RECEIVED FROM ANY SOURCE TO
THE
21 PAYMENT OF PRINCIPAL OF AND INTEREST ON THE BONDS.
22 5-604.
23 BONDS ISSUED UNDER THIS SUBTITLE ARE EXEMPT FROM STATE,
COUNTY,
24 AND MUNICIPAL TAXATION.

25

Article - Tax - General

26 11-102.

27 (b) (1) A county, municipal corporation, special taxing district, or other
28 political subdivision of the State may not impose any retail sales or use tax except:

29 (i) a sales tax or use tax that was in effect on January 1, 1971;

30 (ii) a tax on the sale or use of:

31 1. fuels;

32 2. utilities;

33 3. space rentals; or

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1 4. any controlled dangerous substance, as defined in § 5-101
2 of the Criminal Law Article, unless the sale is made by a person who registers under
3 and complies with Title 5, Subtitle 3 of the Criminal Law Article; [or]

4 (iii) a tax imposed by a code county on the sale or use of food and
5 beverages authorized under Article 25B, § 13H of the Code; OR

6 (IV) A SALES TAX IMPOSED BY A COUNTY AUTHORIZED TO
IMPOSE A
7 SALES TAX UNDER § 5-603(C) OF THE EDUCATION ARTICLE.

8 (2) Paragraph (1) of this subsection may not be construed as conferring
9 authority to impose a sales and use tax.

10 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
11 read as follows:

12 **Article - Education**

13 5-301.

14 (a) IN THIS SUBTITLE, "INTERAGENCY COMMITTEE" MEANS THE
15 INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION ESTABLISHED
UNDER §
16 5-302 OF THIS SUBTITLE.

17 (B) (1) For the purposes of this section other than subsection (c), the Board
18 of Public Works shall define by regulation what constitutes an [approved] ELIGIBLE
19 AND INELIGIBLE public school construction or capital improvement cost.

20 (2) (I) THE PURCHASE OF RELOCATABLE CLASSROOMS SHALL
BE AN
21 ELIGIBLE PUBLIC SCHOOL CONSTRUCTION OR CAPITAL COST.

22 (II) THE BOARD OF PUBLIC WORKS SHALL ADOPT
REGULATIONS
23 THAT DEFINE RELOCATABLE CLASSROOMS AND ESTABLISH THE MINIMUM
24 SPECIFICATIONS FOR RELOCATABLE CLASSROOMS WHICH MAY BE
PURCHASED
25 USING STATE FUNDS.

26 (III) IN THE BUDGETS FOR FISCAL YEARS 2006 THROUGH
2008, THE

27 GOVERNOR SHALL INCLUDE \$1,000,000 FOR PUBLIC SCHOOL CONSTRUCTION,
IN

28 EXCESS OF THE ESTIMATES OF FUNDING FOR PUBLIC SCHOOL
CONSTRUCTION
29 CONTAINED IN THE FISCAL YEAR 2005 THROUGH FISCAL YEAR 2009 CAPITAL
30 IMPROVEMENT PLAN, TO BE USED TO FUND THE STATE SHARE OF THE COST
OF
31 PURCHASING RELOCATABLE CLASSROOMS.

32 (3) The cost of acquiring land may not be considered a construction or
33 capital improvement cost and may not be paid by the State.

34 [(b)] (C) The State shall pay the costs in excess of available federal funds of
35 [all] THE STATE SHARE OF public school construction projects and public school
36 capital improvements in each county if:

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1 (1) The projects or improvements have been approved by the Board of
2 Public Works; and

3 (2) Contracts have been executed on or after July 1, 1971 for the projects
4 or improvements.

5 [(c) (1) In this subsection, "local debt for school construction" includes any
6 debt incurred as the result of money made available to a county under a bond issue
7 that obligates the credit of the State.

8 (2) Except for general public school construction loan debt outstanding
9 or obligated as of June 30, 1967 for which repayment by a county is no longer
10 required, the State shall reimburse each county for the full costs of principal and
11 interest payments on any local debt for school construction outstanding or obligated
12 as of June 30, 1967.

13 (d) The State shall pay all of the annual cost of debt service on school
14 construction debt incurred by each county that was outstanding or obligated on or
15 after June 30, 1967 for contracts let before June 30, 1967.]

16 [(e)] (D) (1) The Board of Public Works may adopt [rules, regulations, and
17 procedures] REGULATIONS for the administration of the programs provided for [by
18 subsections (b) and (d) of] IN this section.

19 (2) The [rules, regulations, and procedures] REGULATIONS adopted by
20 the Board of Public Works may contain requirements for:

21 (i) The development and submission of long range plans;

22 (ii) The submission of annual plans and plans for specific projects;

23 (iii) The submission of other data or information that is relevant to
24 school construction or capital improvement;

25 (iv) The approval of sites, plans, and specifications for the
26 construction of new school buildings or the improvement of existing buildings;

27 (v) Site improvements;

28 (vi) Competitive bidding;

29 (vii) The hiring of personnel in connection with school construction
30 or capital improvements;

31 (viii) The actual construction of school buildings or their
32 improvements;

33 (ix) The relative roles of different State and local governmental
34 agencies in the planning and construction of school buildings or school capital
35 improvements; [and]

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1 (x) School construction and capital improvements necessary or
2 appropriate for the proper implementation of this section;

3 (XI) AT THE RECOMMENDATION OF THE INTERAGENCY
4 COMMITTEE, THE ESTABLISHMENT OF PRIORITY PUBLIC SCHOOL
CONSTRUCTION
5 PROGRAMS;

6 (XII) DEVELOPMENT OF COOPERATIVE ARRANGEMENTS
THAT
7 PERMIT THE SHARING OF FACILITIES AMONG TWO OR MORE SCHOOL
SYSTEMS;

8 (XIII) THE SELECTION OF ARCHITECTS AND ENGINEERS BY
SCHOOL
9 SYSTEMS;

10 (XIV) THE AWARD OF CONTRACTS BY SCHOOL SYSTEMS;
AND

11 (XV) METHOD OF PAYMENTS MADE BY THE STATE UNDER
THE
12 PUBLIC SCHOOL CONSTRUCTION PROGRAM.

13 (3) THE REGULATIONS ADOPTED BY THE BOARD OF PUBLIC
WORKS
14 SHALL CONTAIN PROVISIONS:

15 (I) ESTABLISHING A STATE AND LOCAL COST-SHARE
FORMULA
16 FOR EACH COUNTY THAT IDENTIFIES THE FACTORS USED IN ESTABLISHING
THE
17 FORMULAS;

18 (II) REQUIRING LOCAL EDUCATION AGENCIES TO ADOPT
19 EDUCATIONAL FACILITIES MASTER PLANS AND ANNUAL CAPITAL
IMPROVEMENT
20 PROGRAMS;

21 (III) PROVIDING A METHOD FOR ESTABLISHING A
MAXIMUM STATE
22 CONSTRUCTION ALLOCATION FOR EACH PROJECT APPROVED FOR STATE
FUNDING;

23 (IV) REFERENCING THE POLICIES STATED IN § 5-7B-07 OF
THE
24 STATE FINANCE AND PROCUREMENT ARTICLE;

25 (V) REQUIRING LOCAL SCHOOL SYSTEMS TO ADOPT
PROCEDURES
26 CONSISTENT WITH THE MINORITY BUSINESS ENTERPRISE POLICIES OF THE
STATE
27 AS REQUIRED UNDER THE CODE OF MARYLAND REGULATIONS;

28 (VI) ESTABLISHING A PROCESS FOR THE APPEAL OF
DECISIONS BY
29 THE INTERAGENCY COMMITTEE TO THE BOARD OF PUBLIC WORKS;

30 (VII) REQUIRING LOCAL EDUCATION AGENCIES TO ADOPT,
31 IMPLEMENT, AND PERIODICALLY UPDATE COMPREHENSIVE MAINTENANCE
PLANS;
32 AND

33 (VIII) AUTHORIZING THE BOARD OF PUBLIC WORKS TO
WITHHOLD
34 STATE PUBLIC SCHOOL CONSTRUCTION FUNDS FROM A LOCAL EDUCATION
AGENCY
35 THAT FAILS TO COMPLY WITH THE REQUIREMENTS OF ITEM (VII) OF THIS
36 PARAGRAPH.

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1 (4) In adopting any of these requirements, the State Board and the
2 Board of Public Works shall provide for the maximum exercise of initiative by school
3 personnel in each county to insure that the school buildings and improvements meet
4 both the needs of the local communities and the rules and regulations necessary to
5 insure the proper operation of this section and the prudent expenditure of State
6 funds.

7 [(f)] (E) [(1)] The Board of Public Works shall develop the rules, regulations,
8 and procedures authorized by this section in consultation with representatives of the
9 county boards and the county governing bodies.

10 [(2) Before the adoption, amendment, or repeal of any rule, regulation, or
11 procedure under this section, the Board of Public Works shall give notice of its
12 intended action to the county boards and to the county governing bodies.

13 (3) The Board of Public Works shall permit each county board and
14 county governing body to submit its views with respect to the intended action.]

15 [(g)] (F) The [rules, regulations, and procedures] REGULATIONS AND
16 PROCEDURES of the Board of Public Works adopted under this section and their
17 promulgation are exempt from [§§ 10-101 through 10-305 of the State Government
18 Article and] § 8-127(b) of the State Finance and Procurement Article of the Code.

19 [(h)] (G) (1) With respect to public school construction or public school
20 capital improvements, including sites for school buildings, the authority,
21 responsibilities, powers, and duties of the following are subject to the [rules,
22 regulations, and procedures] REGULATIONS adopted by the Board of Public Works
23 under this section:

24 (i) The State Board;
25 (ii) The State Superintendent;
26 (iii) The county governments;
27 (iv) The county boards; and
28 (v) All other State or local governmental agencies under this
29 article.

30 (2) If, as to public school construction or public school capital
31 improvements, there is any conflict between the [rules, regulations, and procedures]
32 REGULATIONS AND PROCEDURES of the Board of Public Works and the authority,
33 responsibilities, powers, and duties of the individuals and agencies specified in
34 paragraph (1) of this subsection, the[rules, regulations, and procedures]
35 REGULATIONS AND PROCEDURES of the Board of Public Works shall prevail.

36 [(i)] (H) The obligation of the State to pay the costs of public school
37 construction and public school capital improvements extends only to those projects or

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1 parts of projects that comply with the [rules, regulations, and procedures]
2 REGULATIONS AND PROCEDURES of the Board of Public Works.

3 [(j)] (I) (1) This subsection does not apply to the proceeds from the sale,
4 lease, or disposition of public school buildings constructed under contracts executed
5 before February 1, 1971.

6 (2) [By rule or regulation] CONSISTENT WITH § 4-115 OF THIS
ARTICLE
7 AND REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS TO
IMPLEMENT §
8 4-126 OF THIS ARTICLE, the Board of Public Works may require BY REGULATION that
9 the proceeds received by a county from the sale, lease, or disposal of any public school
10 building shall be used solely as part of the State funding of the construction of future
11 public school buildings in the county in which the sale, lease, or disposal occurred, if
12 the public school building was:

13 (i) Constructed under a contract executed on or after February 1,
14 1971; and

15 (ii) Paid for primarily with State funds under this section.

16 (3) The part of the proceeds from the sale, lease, or disposal of a public
17 school building that fairly represents the appraised value of land and that part of the
18 cost of the public school building that was funded by the county shall remain as the
19 funds of the county.

20 [(k)] (J) (1) Whether by budget bill or supplementary appropriation bill, all
21 money appropriated to carry out the purposes of this section is a separate fund that
22 shall be administered by the State Comptroller in accordance with the [rules and]
23 regulations adopted by the Board of Public Works.

24 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
25 PARAGRAPH, NOTWITHSTANDING ANY OTHER CONTRARY PROVISION OF
THE
26 ANNOTATED CODE, ANY FUNDS APPROVED FOR A PROJECT THAT HAS NOT
BEEN
27 CONTRACTED FOR WITHIN 2 YEARS OF THE APPROVAL OF THE PROJECT
SHALL
28 REVERT TO THE FUND ESTABLISHED UNDER PARAGRAPH (1) OF THIS
SUBSECTION.

29 (II) THE INTERAGENCY COMMITTEE, WITH THE APPROVAL
OF THE
30 BOARD OF PUBLIC WORKS, MAY EXTEND THE TIME PERIOD UNDER
SUBPARAGRAPH
31 (I) OF THIS PARAGRAPH IF THE INTERAGENCY COMMITTEE DETERMINES
THAT
32 UNUSUAL CIRCUMSTANCES EXIST.

33 (3) ANY UNEXPENDED ALLOCATIONS OF FUNDS FOR
PREVIOUSLY
34 APPROVED PROJECTS SHALL BE TRANSFERRED TO THE FUND ESTABLISHED
UNDER
35 PARAGRAPH (1) OF THIS SUBSECTION.

36 (4) ON OR BEFORE JUNE 1 AND DECEMBER 1 OF EACH YEAR, THE
37 INTERAGENCY COMMITTEE SHALL REPORT TO THE GENERAL ASSEMBLY, IN
38 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE
39 BALANCE IN THE FUND AS THE RESULT OF TRANSFERS OR REVERSIONS
REQUIRED
40 UNDER THIS SUBSECTION.

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1 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
2 read as follows:

3 Article - Education

4 5-301.

5 (a) IN THIS SUBTITLE, "INTERAGENCY COMMITTEE" MEANS THE
6 INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION ESTABLISHED
UNDER §

7 5-302 OF THIS SUBTITLE.

8 (B) (1) For the purposes of this section other than subsection (c), the Board
9 of Public Works shall define by regulation what constitutes an [approved] ELIGIBLE
10 AND INELIGIBLE public school construction or capital improvement cost.

11 (2) The cost of acquiring land may not be considered a construction or
12 capital improvement cost and may not be paid by the State.

13 [(b)] (C) The State shall pay the costs in excess of available federal funds of
14 [all] THE STATE SHARE OF public school construction projects and public school
15 capital improvements in each county if:

16 (1) The projects or improvements have been approved by the Board of
17 Public Works; and

18 (2) Contracts have been executed on or after July 1, 1971 for the projects
19 or improvements.

20 [(c)] (1) In this subsection, "local debt for school construction" includes any
21 debt incurred as the result of money made available to a county under a bond issue
22 that obligates the credit of the State.

23 (2) Except for general public school construction loan debt outstanding
24 or obligated as of June 30, 1967 for which repayment by a county is no longer
25 required, the State shall reimburse each county for the full costs of principal and
26 interest payments on any local debt for school construction outstanding or obligated
27 as of June 30, 1967.

28 (d) The State shall pay all of the annual cost of debt service on school
29 construction debt incurred by each county that was outstanding or obligated on or
30 after June 30, 1967 for contracts let before June 30, 1967.]

31 [(e)] (D) (1) The Board of Public Works may adopt [rules, regulations, and
32 procedures] REGULATIONS for the administration of the programs provided for [by
33 subsections (b) and (d) of] IN this section.

34 (2) The [rules, regulations, and procedures] REGULATIONS adopted by
35 the Board of Public Works may contain requirements for:

36 (i) The development and submission of long range plans;

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1 (ii) The submission of annual plans and plans for specific projects;
2 (iii) The submission of other data or information that is relevant to
3 school construction or capital improvement;
4 (iv) The approval of sites, plans, and specifications for the
5 construction of new school buildings or the improvement of existing buildings;
6 (v) Site improvements;
7 (vi) Competitive bidding;
8 (vii) The hiring of personnel in connection with school construction
9 or capital improvements;
10 (viii) The actual construction of school buildings or their
11 improvements;
12 (ix) The relative roles of different State and local governmental
13 agencies in the planning and construction of school buildings or school capital
14 improvements; [and]
15 (x) School construction and capital improvements necessary or
16 appropriate for the proper implementation of this section;
17 (XI) AT THE RECOMMENDATION OF THE INTERAGENCY
18 COMMITTEE, THE ESTABLISHMENT OF PRIORITY PUBLIC SCHOOL
CONSTRUCTION
19 PROGRAMS;
20 (XII) DEVELOPMENT OF COOPERATIVE ARRANGEMENTS
THAT
21 PERMIT THE SHARING OF FACILITIES AMONG TWO OR MORE SCHOOL
SYSTEMS;
22 (XIII) THE SELECTION OF ARCHITECTS AND ENGINEERS BY
SCHOOL
23 SYSTEMS;
24 (XIV) THE AWARD OF CONTRACTS BY SCHOOL SYSTEMS;
AND
25 (XV) METHOD OF PAYMENTS MADE BY THE STATE UNDER
THE
26 PUBLIC SCHOOL CONSTRUCTION PROGRAM.
27 (3) THE REGULATIONS ADOPTED BY THE BOARD OF PUBLIC
WORKS
28 SHALL CONTAIN PROVISIONS:
29 (I) ESTABLISHING A STATE AND LOCAL COST-SHARE
FORMULA
30 FOR EACH COUNTY THAT IDENTIFIES THE FACTORS USED IN ESTABLISHING
THE
31 FORMULAS;
32 (II) REQUIRING LOCAL EDUCATION AGENCIES TO ADOPT
33 EDUCATIONAL FACILITIES MASTER PLANS AND ANNUAL CAPITAL
IMPROVEMENT
34 PROGRAMS;

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1 (III) PROVIDING A METHOD FOR ESTABLISHING A
MAXIMUM STATE
2 CONSTRUCTION ALLOCATION FOR EACH PROJECT APPROVED FOR STATE
FUNDING;

3 (IV) REFERENCING THE POLICIES STATED IN § 5-7B-07 OF
THE
4 STATE FINANCE AND PROCUREMENT ARTICLE;

5 (V) REQUIRING LOCAL SCHOOL SYSTEMS TO ADOPT
PROCEDURES
6 CONSISTENT WITH THE MINORITY BUSINESS ENTERPRISE POLICIES OF THE
STATE
7 AS REQUIRED UNDER THE CODE OF MARYLAND REGULATIONS;

8 (VI) ESTABLISHING A PROCESS FOR THE APPEAL OF
DECISIONS BY
9 THE INTERAGENCY COMMITTEE TO THE BOARD OF PUBLIC WORKS;

10 (VII) REQUIRING LOCAL EDUCATION AGENCIES TO ADOPT,
11 IMPLEMENT, AND PERIODICALLY UPDATE COMPREHENSIVE MAINTENANCE
PLANS;
12 AND

13 (VIII) AUTHORIZING THE BOARD OF PUBLIC WORKS TO
WITHHOLD
14 STATE PUBLIC SCHOOL CONSTRUCTION FUNDS FROM A LOCAL EDUCATION
AGENCY
15 THAT FAILS TO COMPLY WITH THE REQUIREMENTS OF ITEM (VII) OF THIS
16 PARAGRAPH.

17 (4) In adopting any of these requirements, the State Board and the
18 Board of Public Works shall provide for the maximum exercise of initiative by school
19 personnel in each county to insure that the school buildings and improvements meet
20 both the needs of the local communities and the rules and regulations necessary to
21 insure the proper operation of this section and the prudent expenditure of State
22 funds.

23 [(f)] (E) [(1)] The Board of Public Works shall develop the rules, regulations,
24 and procedures authorized by this section in consultation with representatives of the
25 county boards and the county governing bodies.

26 [(2) Before the adoption, amendment, or repeal of any rule, regulation, or
27 procedure under this section, the Board of Public Works shall give notice of its
28 intended action to the county boards and to the county governing bodies.

29 (3) The Board of Public Works shall permit each county board and
30 county governing body to submit its views with respect to the intended action.]
31 [(g)] (F) The [rules, regulations, and procedures] REGULATIONS AND
32 PROCEDURES of the Board of Public Works adopted under this section and their
33 promulgation are exempt from [§§ 10-101 through 10-305 of the State Government
34 Article and] § 8-127(b) of the State Finance and Procurement Article of the Code.
35 [(h)] (G) (1) With respect to public school construction or public school
36 capital improvements, including sites for school buildings, the authority,
37 responsibilities, powers, and duties of the following are subject to the [rules,
38 regulations, and procedures] REGULATIONS adopted by the Board of Public Works
39 under this section:

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- 1 (i) The State Board;
- 2 (ii) The State Superintendent;
- 3 (iii) The county governments;
- 4 (iv) The county boards; and
- 5 (v) All other State or local governmental agencies under this
- 6 article.

7 (2) If, as to public school construction or public school capital
8 improvements, there is any conflict between the [rules, regulations, and procedures]
9 REGULATIONS AND PROCEDURES of the Board of Public Works and the authority,
10 responsibilities, powers, and duties of the individuals and agencies specified in
11 paragraph (1) of this subsection, the[rules, regulations, and procedures]
12 REGULATIONS AND PROCEDURES of the Board of Public Works shall prevail.

13 [(i)] (H) The obligation of the State to pay the costs of public school
14 construction and public school capital improvements extends only to those projects or
15 parts of projects that comply with the [rules, regulations, and procedures]
16 REGULATIONS AND PROCEDURES of the Board of Public Works.

17 [(j)] (I) (1) This subsection does not apply to the proceeds from the sale,
18 lease, or disposition of public school buildings constructed under contracts executed
19 before February 1, 1971.

20 (2) [By rule or regulation] CONSISTENT WITH § 4-115 OF THIS
ARTICLE
21 AND REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS TO
IMPLEMENT §

22 4-126 OF THIS ARTICLE, the Board of Public Works may require BY REGULATION
that
23 the proceeds received by a county from the sale, lease, or disposal of any public school
24 building shall be used solely as part of the State funding of the construction of future
25 public school buildings in the county in which the sale, lease, or disposal occurred, if
26 the public school building was:

27 (i) Constructed under a contract executed on or after February 1,
28 1971; and

29 (ii) Paid for primarily with State funds under this section.

30 (3) The part of the proceeds from the sale, lease, or disposal of a public
31 school building that fairly represents the appraised value of land and that part of the
32 cost of the public school building that was funded by the county shall remain as the
33 funds of the county.

34 [(k)] (J) (1) Whether by budget bill or supplementary appropriation bill, all
35 money appropriated to carry out the purposes of this section is a separate fund that
36 shall be administered by the State Comptroller in accordance with the [rules and]
37 regulations adopted by the Board of Public Works.

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1 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
2 PARAGRAPH, ANY FUNDS APPROVED FOR A PROJECT THAT HAS NOT BEEN
3 CONTRACTED FOR WITHIN 2 YEARS OF THE APPROVAL OF THE PROJECT
SHALL

4 REVERT TO THE FUND ESTABLISHED UNDER PARAGRAPH (1) OF THIS
SUBSECTION.

5 (II) THE INTERAGENCY COMMITTEE, WITH THE APPROVAL
OF THE

6 BOARD OF PUBLIC WORKS, MAY EXTEND THE TIME PERIOD UNDER
SUBPARAGRAPH

7 (I) OF THIS PARAGRAPH IF THE INTERAGENCY COMMITTEE DETERMINES
THAT

8 UNUSUAL CIRCUMSTANCES EXIST.

9 (3) ANY UNEXPENDED ALLOCATIONS OF FUNDS FOR
PREVIOUSLY

10 APPROVED PROJECTS SHALL BE TRANSFERRED TO THE FUND ESTABLISHED
UNDER

11 PARAGRAPH (1) OF THIS SUBSECTION.

12 (4) ON OR BEFORE JUNE 1 AND DECEMBER 1 OF EACH YEAR, THE
13 INTERAGENCY COMMITTEE SHALL REPORT TO THE GENERAL ASSEMBLY, IN
14 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE
15 BALANCE IN THE FUND AS THE RESULT OF TRANSFERS OR REVERSIONS
REQUIRED

16 UNDER THIS SUBSECTION.

17 SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland
18 read as follows:

Article - Education

19
20 5-206.

21 (f) In fiscal year [2004] 2006 and in each fiscal year thereafter, the State shall
22 distribute grants to county boards under the Aging Schools Program administered by
23 the Interagency Committee on School Construction in the following amounts:

24	(1)	Allegany County	.....	[\$355,000]	\$166,000
25	(2)	Anne Arundel County	.....	[\$570,000]	\$859,000
26	(3)	Baltimore City	.....	[\$1,635,000]	\$2,356,000
27	(4)	Baltimore County	.....	[\$2,940,000]	\$1,484,000
28	(5)	Calvert County	.....	\$65,000	
29	(6)	Caroline County	.....	\$85,000	
30	(7)	Carroll County	.....	[\$385,000]	\$233,000
31	(8)	Cecil County	[\$355,000]	\$163,000
32	(9)	Charles County	[\$65,000]	\$85,000
33	(10)	Dorchester County	\$65,000	

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1	(11)	Frederick County	[\$85,000]	\$310,000
2	(12)	Garrett County	[\$85,000]	\$65,000
3	(13)	Harford County	[\$400,000]	\$369,000
4	(14)	Howard County	.....	[\$65,000]	\$149,000
5	(15)	Kent County	.....	\$65,000	
6	(16)	Montgomery County	.....	[\$1,170,000]	\$1,023,000
7	(17)	Prince George's County	.....	[\$970,000]	\$2,053,000
8	(18)	Queen Anne's County	.....	\$85,000	
9	(19)	St. Mary's County	.....	\$85,000	
10	(20)	Somerset County	.....	\$65,000	
11	(21)	Talbot County	.....	[\$155,000]	\$65,000
12	(22)	Washington County	.....	[\$200,000]	\$229,000
13	(23)	Wicomico County	.....	[\$355,000]	\$181,000
14	(24)	Worcester County	.....	\$65,000	

15 SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland
16 read as follows:

17 **Chapter 704 of the Acts of 1998, as amended by Chapter 420 of the
Acts of**

18 **2001 and Chapter 289 of the Acts of 2002**

19 SECTION 3. AND BE IT FURTHER ENACTED, That, UNLESS REGULATIONS
20 ADOPTED BY THE BOARD OF PUBLIC WORKS REQUIRE THE STATE TO
PROVIDE A

21 LARGER PERCENTAGE, for fiscal years 1999 through 2007, in each year, the State
22 shall provide 75 percent of the eligible costs for up to \$35 million in public school
23 construction costs in Prince George's County. At least \$20 million of the State funds
24 must be spent each year on neighborhood school projects. For fiscal years 1999
25 through 2003, UNLESS REGULATIONS ADOPTED BY THE BOARD OF PUBLIC

WORKS
26 REQUIRE THE STATE TO PROVIDE A LARGER PERCENTAGE, for funding above
\$35

27 million, the State shall provide 60 percent of the eligible costs. For fiscal years 2004
28 through 2007, UNLESS REGULATIONS ADOPTED BY THE BOARD OF PUBLIC
WORKS

29 REQUIRE THE STATE TO PROVIDE A LARGER PERCENTAGE, for funding above
\$35

30 million, the State shall provide 65 percent of the eligible costs. Neighborhood school
31 projects shall be identified by the Interagency Committee on Public School
32 Construction and shall include new public schools and additions or improvements to
33 existing public schools which serve students reassigned to their local communities

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1 based upon the Community Schools Education Plan developed by the Prince George's
2 County Board of Education.

3 SECTION 6. AND BE IT FURTHER ENACTED, That the Laws of Maryland
4 read as follows:

5 **Chapter 280 of the Acts of 2001, as amended by Chapter 288 of the**
Acts of
6 **2002 and Chapter 388 of the Acts of 2003**

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
8 MARYLAND, That, notwithstanding any other provision of law, UNLESS
9 REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS REQUIRE THE
STATE TO
10 PROVIDE A LARGER PERCENTAGE, for fiscal years 2002 through 2005, in each year,
11 the State shall provide 90 percent of the eligible costs for up to and including \$20
12 million in public school construction projects in Baltimore City, and for funding above
13 \$20 million, the State shall provide 75 percent of the eligible costs.

14 SECTION 7. AND BE IT FURTHER ENACTED, That, on or before July 1,
15 2005, at the request of the Interagency Committee on School Construction, the Board
16 of Public Works shall adopt regulations, in accordance with Title 10, Subtitle 1 of the
17 State Government Article, to implement the provisions of this Act and that:

18 (1) reduce the State rated classroom capacity for elementary grades 1 to 5 to
19 23 students per classroom;

20 (2) establish a planning priority process to evaluate requests for State
21 planning approval in the annual Capital Improvement Programs of local education
22 agencies;

23 (3) develop design guidelines and provide financial incentives, such as
24 supplemental design funds or additional construction funding, for school construction
25 projects that use innovative building techniques or include energy conservation,
26 sustainable building, or green architecture design features; and

27 (4) establish a new State and local cost-share formula for each county for use
28 beginning in fiscal year 2006, consistent with the recommendations contained in the
29 Report of the Task Force to Study Public School Facilities, issued in February 2004.

30 SECTION 8. AND BE IT FURTHER ENACTED, That the State Department
31 of Education shall adopt regulations that provide for periodic surveys of the condition

32 of public school facilities in Maryland at least every 4 years. The surveys should be
33 similar to the Facility Assessment Survey that the State Department conducted, at
34 the direction of the Task Force to Study Public School Facilities, in 2003. The State
35 shall provide funds necessary to conduct the survey.

36 SECTION 9. AND BE IT FURTHER ENACTED, That it is the intent of the
37 General Assembly that the Board of Public Works and the Interagency Committee on
38 School Construction establish an emergency repair fund to finance renovations and
39 improvements to public schools that resolve deficiencies that present an immediate
40 hazard to the health or safety of the students or staff of the schools, as certified by

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1 local education agencies and approved by the Interagency Committee on School
2 Construction. By July 1, 2004, the Board of Public Works and the Interagency
3 Committee on School Construction shall develop procedures for use of the emergency
4 repair fund to resolve deficiencies that present an immediate health or safety hazard
5 and to resolve deficiencies that, if not corrected, may present an immediate health or
6 safety hazard. It is the intent of the General Assembly that at least \$2 million be
7 provided for the emergency repair fund in fiscal year 2005.

8 SECTION 10. AND BE IT FURTHER ENACTED, That it is the intent of the
9 Governor and the General Assembly that the State should pursue a goal of fully
10 funding by fiscal 2013 a minimum of \$3.85 billion in school facility needs, as
11 identified by the 2003 School Facility Assessment Survey of minimum standards
12 conducted at the request of the Task Force to Study Public School Facilities.
13 Achieving this goal in light of the fiscal outlook will be challenging and will require a
14 significant commitment by the State to provide approximately \$2 billion and by local
15 governments to provide approximately \$1.85 billion over the next 8 years for school
16 construction projects. It is recognized that this amount does not include many projects
17 that local education agencies believe are necessary, but it does include basic,
18 minimum facility standards for all public schools in Maryland.

19 SECTION 11. AND BE IT FURTHER ENACTED, That the Public School
20 Construction Program shall provide assistance to Baltimore City, counties, and local
21 education agencies in using alternative financing mechanisms to fund school
22 construction, when appropriate. The Public School Construction Program shall
23 prepare a guide for Baltimore City, counties, and local education agencies to use when
24 evaluating alternative financing proposals. The guide should include model contracts,
25 model solicitations, and references to other documents which provide information on
26 alternative financing. The Public School Construction Program should help Baltimore
27 City, counties, and local education agencies identify when an alternative financing
28 mechanism may be appropriate for a particular project and to develop the
29 procurement, contractual, and technical instruments that will meet State and local
30 procurement requirements and bring the project to a successful conclusion. The
31 Public School Construction Program shall report to the Board of Public Works,
32 Baltimore City, the county governments, local education agencies, and the General
33 Assembly on or before September 1 of each year, in accordance with § 2-1246 of the
34 State Government Article, on the use of alternative financing mechanisms to finance
35 public school construction in Maryland in the prior fiscal year.

36 SECTION 12. AND BE IT FURTHER ENACTED, That Section 3 of this Act
37 shall take effect July 1, 2008.

38 SECTION 13. AND BE IT FURTHER ENACTED, That Sections 2 and 4 of
39 this Act shall take effect July 1, 2005. Section 2 of this Act shall remain effective for
40 a period of 3 years and, at the end of June 30, 2008, with no further action required by
41 the General Assembly, Section 2 of this Act shall be abrogated and of no further force
42 and effect.

43 SECTION 14. AND BE IT FURTHER ENACTED, That, except as provided in
44 Sections 12 and 13 of this Act, this Act shall take effect July 1, 2004.

Department of Legislative Services
 Maryland General Assembly
 2004 Session

FISCAL AND POLICY NOTE

House Bill 1230 (Delegate Hixson, *et al.*)
 (Task Force to Study Public School Facilities)

Appropriations and Ways and Means

Public School Facilities Act of 2004

This bill implements many of the recommendations of the Task Force to Study Public School Facilities to include additional State and local funding for public school construction and alternative methods to finance school construction projects.

Except for certain provisions, the bill takes effect July 1, 2004. The provision relating to relocatable classrooms takes effect July 1, 2005 and terminates on June 30, 2008. The provision relating to the Aging Schools Program takes effect July 1, 2005.

Fiscal Summary

State Effect: General fund expenditures would increase by \$2.3 million in FY 2005. Annuity bond fund expenditures for debt service costs would increase by \$2.4 million in FY 2007 and by \$131.5 million in FY 2020.

(\$ in millions)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	2.3	3.3	3.5	3.5	2.3
Bond Exp.	0	0	2.4	7.1	15.9
Net Effect	(\$2.3)	(\$3.3)	(\$5.9)	(\$10.6)	(\$18.2)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local funding for school construction would be significantly affected by the bill's provisions. Twelve local school systems would realize an increase in the State share of eligible school construction costs, while five systems would realize a decrease. Funding under the Aging Schools Program is modified with seven systems realizing an increase in funding and nine systems realizing a decrease.

Small Business Effect: Meaningful.

Analysis

Bill Summary: This bill implements many of the recommendations of the Task Force to Study Public School Facilities. Major provisions are discussed below.

State and Local Funding for Public School Construction

The bill states that it is the intent of the Governor and the General Assembly that a minimum of \$3.85 billion be provided to fund school facility needs by fiscal 2013. Of this amount, the State will provide \$2 billion and local governments will provide \$1.85 billion over the next eight years.

Allocation of State School Construction Funds

The Interagency Committee on School Construction (IAC) must provide recommendations to the Board of Public Works (BPW) by December 31 of each year for public school construction projects that comprise at least 75% of the anticipated school construction allocation for the following fiscal year. The remaining allocation may be allocated by BPW as provided in regulation.

State and Local Cost Share Formula

BPW must establish a new State and local cost-share formula for each county for use beginning in fiscal 2006, consistent with the recommendations contained in the task force report. Special school construction funding provisions relating to Baltimore City and Prince George's County may be altered depending upon the new cost-share formula adopted by the board.

Class Size/State Rated Capacity

The State rated capacity (SRC) for elementary classes in grades one to five is lowered from 25 students per class to 23 students.

Emergency Repair Fund

It is the bill's intent that BPW and IAC establish an emergency repair fund to finance renovations and improvements to public schools, thereby resolving deficiencies that present an immediate hazard to the health or safety of the students or staff of the schools. BPW and IAC must develop procedures for the use of the funds by July 1, 2004. The fund must receive at least \$2 million in fiscal 2005.

Aging Schools Program

The bill alters the allocation of the Aging Schools Program beginning in fiscal 2006 by basing funding on the current percentage of pre-1970 square footage and by retaining the \$65,000 and \$85,000 minimum allocations.

Authorization to Issue Bonds to Fund Public School Construction

A county is authorized to issue bonds to finance the costs of construction or improvement of public school facilities. The bonds must be authorized by a resolution of the local governing body. The resolution must: (1) describe the public school construction or improvements to be financed through the sale of the bonds; (2) state the maximum principal amount of the bonds; (3) describe the sources of repayment of the bonds; (4) state the maximum term of the bonds, which may not exceed 30 years; and (5) describe any terms or conditions under which the bonds may be redeemed before maturity.

Bonds issued constitute an irrevocable pledge of the full faith and credit and unlimited taxing power of the county to the payment of the principal and interest on the bonds when the bonds become payable and are exempt from State, county, and municipal taxation. A county may enter into agreements with agents, banks, fiduciaries, insurers, or others to enhance the marketability of and security for the bonds; or secure any tender option granted to the holders of the bonds.

Additional Local Taxing Authority (Transfer, Sales, and Property Taxes)

The local governing body may impose a transfer tax to cover the debt service on the local bonds issued for public school construction. The transfer tax does not apply to the property exempt from the State transfer tax or in counties that have already imposed a transfer tax on June 30, 2004. In addition, a county may impose a retail sales tax to cover the debt service on the local bonds. The tax cannot be imposed on tax exempt items. Finally, the county must impose an ad valorem tax on all assessable property within the county for the purpose of covering the debt service on the outstanding bonds.

Alternative Financing Methods

Except when prohibited by local law, a county may engage in the following to finance public school construction: alternative financing methods; competitive negotiation instead of competitive bidding; accepting unsolicited proposals for the development of public schools; and using quality-based selection in which selection is based on a combination of qualifications and cost factors. Alternative financing methods include sale-leaseback arrangements, lease-leaseback arrangements, public-private partnership agreements, and performance-based contracting. At the request of IAC, BPW may adopt regulations to implement these provisions, including: guidelines for the acceptance and evaluation of unsolicited proposals; requirements for the execution of a comprehensive agreement; and the applicability of State procurement laws to procurement or financing of public school construction. The Public School Construction Program (PSCP) must provide assistance to Baltimore City, counties, and local boards of education in using alternative financing mechanisms, when appropriate. PSCP must report to BPW, Baltimore City, county governments, local school systems, and the General Assembly by September 1 of each year on the use of alternative financing mechanisms to finance public school construction in Maryland in the prior fiscal year.

Eligible Costs for Relocatable Classrooms

The bill makes the purchase of relocatable classrooms an eligible cost under PSCP for the three-year period fiscal 2006 through 2008. BPW must adopt regulations that define relocatable

classrooms and establish the minimum specifications for relocatable classrooms which may be purchased using State funds. The Governor must provide \$1 million in fiscal 2006 through 2008 for public school construction in excess of the estimates of funding for public school construction contained in the fiscal 2005 through 2009 capital improvement plan for the purpose of funding the State share of the cost of purchasing relocatable classrooms.

Survey of Public School Facilities

IAC must survey the condition of school buildings identified by the Maryland State Department of Education (MSDE) each year. The Department of General Services (DGS) must conduct the inspections of individual school buildings. IAC must report to the Governor and the General Assembly by October 1 of each year on the results of the survey for the prior year. In addition, MSDE must adopt regulations that provide for periodic surveys of the condition of public school facilities in Maryland at least every four years. The surveys must be similar to the Facility Assessment Survey that MSDE conducted at the direction of the task force. The State must provide the funds necessary to conduct the survey.

Termination of Authorization

Any funds approved for a project that has not been contracted for within two years shall revert to the statewide contingency fund. IAC, with the approval of BPW may extend the time period if IAC determines that unusual circumstances exist. Any unexpended allocation of funds for previously approved projects must be transferred to the fund. IAC must report to the General Assembly by June 1 and December 1 of each year on the balance in the fund as the result of transfers or reversions.

Ownership of Public School Facilities

The bill enables a private entity to hold the title to property used for a particular public school or local school system if the private entity is contractually obligated to transfer the title to the appropriate local board of education on a specified date.

Reuse of Plans and Specifications for School Construction Projects

Local boards of education are encouraged to reuse recently used school designs, when educationally appropriate and cost effective over the useful life of the project, within each county and across local school systems.

Purchasing Contracts

DGS must provide a report to MSDE and each local school system by July 1 of each year that describes existing State purchasing contracts that the local school systems may use to purchase school furniture, equipment, commodities, and services.

IAC and BPW

The bill expands the types of regulations that BPW can implement and codifies IAC membership to include the State Superintendent of Schools, the Secretary of Planning, and the Secretary of General Services. BPW is authorized to adopt regulations that establish priority public school construction programs and provide for the development of cooperative arrangements that permit the sharing of facilities among two or more local school systems.

Current Law: PSCP, through oversight by IAC, provides State funding to local school systems for school construction and improvement projects. Each September, the Governor provides IAC with the proposed amount of funding for public school construction for the upcoming fiscal year. IAC then transmits this information to the local jurisdictions and requests their annual and five-year capital improvement programs (CIPs) by October 15.

In October and November, IAC staff reviews the CIPs and recommends to IAC which projects should be funded based on certain criteria. In December, IAC develops a list of eligible projects and decides which of those projects should be recommended to BPW for its approval. IAC typically recommends an initial allocation of 75% of the proposed school construction budget. In January, BPW listens to appeals from the local jurisdictions and votes on IAC recommendations. The list of projects approved by BPW and any supplemental requests made by the Governor become part of the State's proposed capital budget. The proposed budget is

then submitted to the General Assembly for approval. In May, BPW allocates any remaining school construction funds to school construction projects recommended by IAC and the Governor.

BPW defines by regulation what constitutes an approved public school construction or capital improvement cost. Although it is not written into regulations or any other published policy manuals or guidelines, the purchase of relocatable classrooms has never been eligible for State funding. Under current law, all public school property must be held in trust by the appropriate local board of education.

Background: In 2002, the Bridge to Excellence in Public Schools Act (Chapter 288) established a Task Force to Study Public School Facilities. Chapter 288 directed the task force to look at whether the State's public school facilities are adequate to sustain programs provided for under the Act and supported by proposed funding levels. The Act further directed the task force to examine the equity of the State's school construction program, particularly the equity of the State and local cost shares for school construction projects; whether to continue the Aging Schools Program as a permanent program; and any other issues the task force determines are relevant to evaluate the adequacy and equity of the State's school construction program.

In completing its charge, the task force undertook an assessment of the current conditions of the State's existing public schools. A survey was conducted by MSDE based on 31 minimum facility standards developed by a workgroup chaired by the State Superintendent of Schools and approved by the task force in March 2003. The standards were based on local, State, and federal standards for facilities and included the ability of the facility to support educational programs. The National Clearinghouse for Educational Standards reported that Maryland's survey is the first of its kind in the nation. The survey results were released on November 6, 2003.

The survey indicated that \$3.9 billion is needed to bring existing public schools up to standards of which \$1.5 billion is needed for additional student capacity for the 2007-2008 school year. **Appendix 1** shows the amount of needed funds in each county. Furthermore, more than one-third of public schools across the State did not meet the standard in at least one of eight facility areas. Among the facility areas in need of attention are student capacity, accessibility for students with disabilities, existing pre-kindergarten and kindergarten classrooms, and spaces for secondary science, fine arts, and health services. It should be noted that many of the standards are based on relatively new standards developed in the last 10 to 15 years. Only 26% of Maryland's school space has been constructed or undergone major renovation since 1990. All schools are required to meet the current standards when they are constructed or renovated.

State Fiscal Effect: General fund expenditures could increase by \$2.3 million in fiscal 2005. **Exhibit 1** shows the potential cost by agency in fiscal 2005 through 2009. It is assumed that State PAYGO funds would be used for the emergency repair fund and relocatable classrooms. MSDE is responsible for conducting the facilities assessment survey.

Exhibit 1
General Fund Expenditures at MSDE and PSCP

<u>Agency/Expenditure</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>
MSDE – Administrative	\$56,500	\$70,100	\$73,900	\$78,000	\$82,300
PSCP – Administrative	225,100	221,500	172,300	171,300	180,500
Emergency Repair Fund	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000
Relocatable Classrooms	0	1,000,000	1,000,000	1,000,000	0
Facilities Survey	<u>0</u>	<u>0</u>	<u>250,000</u>	<u>250,000</u>	<u>0</u>
Total	\$2,281,600	\$3,291,600	\$3,496,200	\$3,499,300	\$2,262,800

Administrative Costs – MSDE

The proposed fiscal 2005 budget for MSDE’s School Facilities Branch includes four registered architect positions and one administrative assistant. Existing staffing is adequate to manage an annual school construction program of up to \$187 million. Beyond this level, additional staff support would be required. Due to the bill’s funding intent, the level of State funding for public school construction will average \$250 million per year over the next eight years. This will require one additional registered architect position to review local funding requests. Accordingly, general fund expenditures within MSDE would increase by \$56,500 in fiscal 2005. Future year expenditures increase to \$70,100 in fiscal 2006 and \$82,300 in fiscal 2009, which reflects annualization and inflation.

Administrative Costs – PSCP

This bill increases the responsibilities and activities of PSCP, resulting in the need for two additional staff positions, consultants, and various support services. PSCP would need one program manager and one administrative assistant to manage the development of regulations, develop PSCP procedures, provide technical assistance to local school systems, engage and monitor the work of consultants, and periodically propose revisions to regulations and procedures.

These two positions would increase general fund expenditures by \$117,300 in fiscal 2005 and by \$173,700 in fiscal 2009. In addition, the provisions relating to alternative financing and innovative building techniques will require the hiring of contractual consultants. Combined costs for these provisions total \$107,800 in fiscal 2005, \$73,600 in fiscal 2006, \$16,400 in fiscal 2007, and \$6,800 in fiscal 2008 and 2009. **Exhibit 2** shows the estimated costs for PSCP.

Exhibit 2
PSCP Administrative Costs

	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>
Administrative	\$117,300	\$147,900	\$155,900	\$164,500	\$173,700
Alternative Financing	80,200	35,000	6,800	6,800	6,800
Innovative Buildings	<u>27,600</u>	<u>38,600</u>	<u>9,600</u>	<u>0</u>	<u>0</u>
Total	\$225,100	\$221,500	\$172,300	\$171,300	\$180,500

Emergency Repair Fund

The Emergency Repair Fund must receive at least \$2 million in fiscal 2005. It is assumed that this minimum level of funding would be continued each year.

Eligible Costs for Relocatable Classrooms

The Governor must include \$1 million in fiscal 2006 through 2008 for public school construction in excess of the estimates of funding for public school construction contained in the fiscal 2005 through 2009 capital improvement plan for the purpose of funding the State share of the cost of purchasing relocatable classrooms.

Facilities Assessment Survey

MSDE is required to conduct periodic surveys of the condition of public school facilities in Maryland at least every four years. The surveys must be similar to the Facility Assessment Survey that MSDE conducted at the direction of the task force. The State must provide the funds necessary to conduct the survey. MSDE advises that approximately \$8 million would be needed to conduct the survey. The Department of Legislative Services advises that MSDE conducted the original survey for the task force in 2003 within existing resources. Accordingly, the cost to periodically update the survey should not reach the amount requested by MSDE and may be in the range of \$500,000 over two years.

State Funding for Public School Construction

The bill specifies that \$2 billion in State funding be provided for public school construction projects by fiscal 2013. This amount is significantly higher than the current State commitment

for public school construction. The fiscal 2005-2009 capital improvement program includes \$501.6 million for the public school construction program. To meet the bill's funding level by fiscal 2013, approximately \$250.0 million in State funds would be needed annually. This is approximately \$150.0 million more than the State's commitment for each of the next four fiscal years.

To meet the funding commitment specified in the legislation, the State will have to issue \$1.2 billion in additional bonds in fiscal 2006 through fiscal 2017. Annual debt service will total \$2.4 million in fiscal 2007, increasing to \$131.5 million in fiscal 2020, and declining to \$1.5 million in fiscal 2032. Interest payments on the \$1.2 billion bond issuance would total \$641.9 million. This estimate assumes a 5.25% to 5.5% annual interest rate over a 13-year period and a phased-in issuance stream. Without a corresponding reduction in the overall State capital budget, the increased issuance of general obligation bonds for public school construction would require either a State property tax increase or a general fund appropriation to the Annuity Bond Fund. Based on the current Annuity Bond Fund forecast which assumes a stable property tax rate, the State will be required to make a \$15 million general fund appropriation in fiscal 2007 to pay existing general obligation bond debt service. The required general fund appropriation increases to \$42 million in fiscal 2008 and \$58 million in fiscal 2009. Pursuant to this legislation, the required general fund appropriation to the Annuity Bond Fund would total \$17.4 million in fiscal 2007, \$49.1 million in fiscal 2008, and \$73.9 million in fiscal 2009. **Exhibit 3** shows the projected State debt service costs for the additional bond issuance in fiscal 2006 through 2010. **Appendix 2** shows the amortization table for the additional bond issuance.

Exhibit 3
Potential Increase in State Debt Service Costs
(\$ in millions)

	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>
Issuance Stream	31%	25%	20%	15%	9%
Interest Rate	5.25%	5.5%	5.5%	5.5%	5.5%
Years to Maturity	13	13	13	13	13
Additional Bond Issuance	\$46.5	\$84.0	\$114.0	\$136.5	\$150.0
Debt Service Costs	\$0	\$2.4	\$7.1	\$15.9	\$28.0

Local Fiscal Effect: The bill states that it is the intent of the Governor and the General Assembly that localities provide \$1.85 billion to fund school facility needs by fiscal 2013. Local funding needs would be affected by several provisions of the bill.

State and Local Shared Cost Formula

The State and local shared cost formula is used to distribute the costs for school construction projects between the State and locality. Since the formula is wealth-equalized, the State pays a greater share of the costs for less wealthy counties. This bill requires BPW to establish a new State and local cost-share formula for each county for use beginning in fiscal 2006, consistent with the recommendations contained in the task force report. The task force recommended that the formula be based on the actual State share of the foundation program and include adjustments for the Guaranteed Tax Base program, the percentage of students in the district qualifying for free and reduced-price meals, distressed county factors, five-year enrollment growth above the State average, and a measure of prior local effort toward school construction.

The current and proposed State and local shared cost formula is shown in **Appendix 3**. Twelve local school systems would realize an increase in the State share of eligible school construction costs, while five systems would realize a decrease. Altering the shared cost formula would not affect total State funding for public school construction but would affect the amount of local funds required to match State funding.

Class Size/State Rated Capacity

PSCP uses an assumed school building capacity in evaluating requests for additional space and new schools. At the elementary school level the current SRC is 25 students per classroom for grades one to five. However, the average class size is 23 students for grades one to five. This bill lowers SRC to reflect the average class sizes in Maryland public schools. By lowering SRC from 25 to 23 students per classroom for grades one to five, local school systems would need additional classrooms at the elementary school level. For example a 20-classroom school would have an SRC of 500 students under current regulations and an SRC of 460 students under the new rating. This results in the need for two additional classrooms. The average construction cost for a new classroom is approximately \$200,000. Altering SRC would not affect total State funding for public school construction in any given year.

Aging Schools Program

The Aging Schools Program was established by Chapter 105 of 1997 to provide additional funds to jurisdictions to address the needs at their aging school facilities. The funds may be used for capital improvements, repairs, and deferred maintenance. Projects selected will protect the school building from deterioration, improve the safety of students and staff, or enhance the delivery of educational programs.

The initial funding, \$4.35 million, was established in the same legislation as the Baltimore City-State Partnership. The annual funding was increased in 1998 to \$10.37 million as part of the School Accountability and Funding for Excellence (SAFE) legislation. Funds for each jurisdiction are specified in statute. Allocations are based on each jurisdiction's proportion of square footage in the State built before 1960 (as of 1995). Each jurisdiction receives a minimum allocation. Originally set to expire in 2002, the Aging Schools Program has been extended several times by legislation.

This bill alters the allocation of the Aging Schools Program beginning in fiscal 2006 by basing funding on the current percentage of pre-1970 square footage and by retaining the \$65,000 and \$85,000 minimum allocations. Local school systems with 0.49% or less of the statewide pre-1970 square footage receive \$65,000 and local school systems with 0.50% but less than 1.0% of the statewide pre-1970 square footage receive \$85,000. **Appendix 4** compares the allocation under current law with the proposed allocation under the bill. Seven local school systems would receive more funding while nine local school systems would receive less funding.

Authorization to Issue Bonds to Fund Public School Construction

A county is authorized to issue bonds to finance the costs of construction or improvement to public school facilities and to implement transfer taxes, excise taxes, and property taxes in order to fund the local share of school construction, without obtaining General Assembly approval.

Transfer Tax Provision

Currently, 16 counties and Baltimore City impose a local transfer tax. Local transfer tax rates range from 0.2% in Allegany County to 1.5% in Baltimore City and Baltimore County. This bill extends the authority to impose a local transfer tax in the other seven counties for the purpose of paying debt service on school construction bonds. These counties are Calvert, Carroll, Cecil, Charles, Frederick, Somerset, and Wicomico.

Sales Tax Provision

Increasing the sales tax by one percentage point statewide would generate \$547.7 million in additional revenues in fiscal 2005 and \$568.1 million in fiscal 2006. This estimate reflects currently projected sales tax growth and a 1% decline in taxable sales due to the higher sales tax. Since the bill does not require each locality to impose a local sales tax, consumers could divert their sales to retailers in jurisdictions without a local sales tax.

Property Tax Provision

Local property tax rates could increase to the extent that localities issue additional bonds to finance school construction or improvement projects. Any increased property taxes would be in an amount equal to cover the required debt service amount.

Reuse of Plans and Specifications for School Construction Projects

The ownership of plans and specifications for school construction projects are governed by the terms of the contract between the local board of education and the contractor that developed the work product. Current law does not address this issue. The development of construction documents, such as architectural and engineering plans, accounts for approximately 6% of the total construction cost for a public school project. Since architectural and engineering plans are ineligible costs under the State PSCP, local school systems are required to pay the full cost to develop the plans. Local school systems frequently reuse an architectural and engineering plan for multiple school construction projects within their county.

The reuse of plans will not eliminate the planning costs for a school construction project because local school systems may need to modify the original plans to reflect site-specific characteristics, building code changes, school capacity and educational program differences, and changes to mechanical and structural systems. Due to these factors, local school systems will still need to hire an architectural and engineering firm. According to IAC, reusing a plan could reduce the total construction cost for a typical capital project by 1.5%. This represents approximately 25% of the architectural and engineering fees incurred by local school systems for a capital project.

Relocatable Classrooms

There are currently 212 classrooms in State-owned relocatable buildings, 1,833 classrooms in locally-owned relocatable buildings, and 647 classrooms in relocatable buildings that are leased by local school systems. According to PSCP, the policy that the State has followed since the inception of the program has been to fund projects that provide student capacity solutions that are more permanent than relocatable classrooms.

Relocatable classrooms range in price from approximately \$36,000 for a single classroom unit to \$63,000 for a double classroom with rest rooms. These amounts do not include the costs of installing fire alarm and protection services, electrical systems, water lines, sewer supply and connections, steps, decks, platforms, and walkways. Three-year leasing costs range from approximately \$20,000 for a single classroom unit to approximately \$30,000 for a double classroom unit. Leasing costs include some of the installation costs mentioned above. Pursuant to this bill, local school systems that use relocatable classrooms in order to provide a quicker and less expensive solution to school capacity problems could receive additional funds from the State.

Alternative Financing Methods

In alternative financing, a government entity does not issue its own debt; instead, a private party serves as an intermediary and secures financing. Typically, the government entity repays the cost of financing through its operating budget. The principal types of alternative financing are lease-leaseback, sale-leaseback, performance-based contracting, and public-private partnerships.

The task force found that traditional municipal bond financing is the least expensive and most efficient financing method available for public school construction. Alternative methods may be desirable when the financial benefits of completing a project quickly outweigh the additional cost over time or when a limited project scope warrants a performance-based contracting approach.

Small Business Effect: Assuming the State complies with the intent of this legislation, State funding for public school construction would increase by \$150 million annually. This will have a positive impact on architectural, engineering, construction, and service firms throughout Maryland. As of calendar 2002, there were 17,000 construction firms in Maryland employing 165,725 individuals. Construction workers earned a total of \$6.8 billion in wages which average to approximately \$800 per week. The construction industry accounts for approximately 7% of total employment in Maryland. In addition, there are 5,750 licensed architects and 13,500 professional engineers in Maryland. However, the potential benefit for architectural and engineering firms could be mitigated from the loss in revenue due to the reuse of plans and specifications for multiple projects.

Additional Information

Prior Introductions: None.

Cross File: SB 787 (Senators Hogan and McFadden) (Task Force to Study Public School Facilities) – Budget and Taxation.

Information Source(s): Department of General Services, Board of Public Works, Maryland State Department of Education, Public School Construction Program, Department of Legislative Services

Fiscal Note History: First Reader - February 25, 2004
ncs/jr

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Appendix 1
Cost Estimates to Bring Facilities Up to Current
Standards for New Construction

<u>Local School System</u>	<u>Estimated Cost</u>
Allegany	\$71,426,000
Anne Arundel	336,458,000
Baltimore City	570,599,000
Baltimore	408,845,000
Calvert	102,911,000
Caroline	5,435,000
Carroll	135,297,000
Cecil	46,873,000
Charles	178,419,000
Dorchester	33,816,000
Frederick	203,625,000
Garrett	20,142,000
Harford	204,666,000
Howard	168,727,000
Kent	1,180,000
Montgomery	279,307,000
Prince George's	778,225,000
Queen Anne's	9,666,000
St. Mary's	52,530,000
Somerset	9,030,000
Talbot	18,989,000
Washington	93,827,000
Wicomico	69,993,000
Worcester	54,122,000
Total Cost	\$3,854,108,000

Note: Costs reported by local school systems in July 2004 dollars and includes both State and local costs.

Source: Public School Construction Program

Appendix 2
Public School Construction Program
Cost of Authorizing an Additional \$1.2 Billion in GO Bonds
(\$ in millions)

<u>Fiscal Year</u>	<u>Debt Authorized</u>	<u>Debt Issued</u>	<u>Debt Service</u>	<u>Debt Outstanding</u>
2005	\$0.0	\$0.0	\$0.0	\$0.0
2006	150.0	46.5	0.0	46.5
2007	150.0	84.0	2.4	130.5
2008	150.0	114.0	7.1	244.5
2009	150.0	136.5	15.9	378.4
2010	150.0	150.0	28.0	521.1
2011	150.0	150.0	42.5	657.2
2012	150.0	150.0	58.2	785.0
2013	150.0	150.0	74.7	903.4
2014	0.0	103.5	91.1	965.4
2015	0.0	66.0	105.0	979.4
2016	0.0	36.0	116.8	952.4
2017	0.0	13.5	124.5	893.7
2018	0.0	0.0	128.8	814.0
2019	0.0	0.0	130.8	727.9
2020	0.0	0.0	131.5	636.4
2021	0.0	0.0	131.5	539.8
2022	0.0	0.0	126.5	443.0
2023	0.0	0.0	117.3	350.0
2024	0.0	0.0	104.8	264.5
2025	0.0	0.0	89.8	189.2
2026	0.0	0.0	73.4	126.2
2027	0.0	0.0	56.9	76.2
2028	0.0	0.0	40.5	40.0
2029	0.0	0.0	24.0	18.1
2030	0.0	0.0	12.7	6.5
2031	0.0	0.0	5.4	1.4
2032	0.0	0.0	1.5	0.0
2033	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	0.0
Total	\$1,200.0	\$1,200.0	\$1,841.9	

Source: Department of Legislative Services, February 2003

Appendix 3
Revised Cost Share Formula Approved by Task Force to Study Public School Facilities

<u>County</u>	<u>Percent State Share Current</u>	<u>Percent Local Share Current</u>	<u>Percent State Share With Add-ons</u>	<u>Percent Local Share with Add-ons</u>
Allegany	75%	25%	90%	10%
Anne Arundel	50%	50%	50%	50%
Baltimore City	90%	10%	96%	4%
Baltimore	50%	50%	50%	50%
Calvert	55%	45%	69%	31%
Caroline	75%	25%	89%	11%
Carroll	65%	35%	62%	38%
Cecil	70%	30%	68%	32%
Charles	65%	35%	70%	30%
Dorchester	70%	30%	77%	23%
Frederick	65%	35%	71%	29%
Garrett	70%	30%	70%	30%
Harford	65%	35%	58%	42%
Howard	50%	50%	58%	42%
Kent	50%	50%	50%	50%
Montgomery	50%	50%	50%	50%
Prince George's	75%	25%	69%	31%
Queen Anne's	55%	45%	69%	31%
St. Mary's	70%	30%	71%	29%
Somerset	80%	20%	97%	3%
Talbot	50%	50%	50%	50%
Washington	65%	35%	59%	41%
Wicomico	70%	30%	81%	19%
Worcester	50%	50%	50%	50%

*This analysis assumes the add-ons would be based on the additional aid that counties would receive if the Guaranteed Tax Base program were fully implemented in fiscal 2004. The program is scheduled to start in fiscal 2005 and be fully implemented by fiscal 2008.

Appendix 4
State Funding for the Aging Schools Program

<u>County</u>	<u>Current Law</u>	<u>Under SB 787</u>	<u>Difference</u>
Allegany	\$355,000	\$166,000	-\$189,000
Anne Arundel	570,000	859,000	289,000
Baltimore City	1,635,000	2,356,000	721,000
Baltimore	2,940,000	1,484,000	-1,456,000
Calvert	65,000	65,000	0
Caroline	85,000	85,000	0
Carroll	385,000	233,000	-152,000
Cecil	355,000	163,000	-192,000
Charles	65,000	85,000	20,000
Dorchester	65,000	65,000	0
Frederick	85,000	310,000	225,000
Garrett	85,000	65,000	-20,000
Harford	400,000	369,000	-31,000
Howard	65,000	149,000	84,000
Kent	65,000	65,000	0
Montgomery	1,170,000	1,023,000	-147,000
Prince George's	970,000	2,053,000	1,083,000
Queen Anne's	85,000	85,000	0
St. Mary's	85,000	85,000	0
Somerset	65,000	65,000	0
Talbot	155,000	65,000	-90,000
Washington	200,000	229,000	29,000
Wicomico	355,000	181,000	-174,000
Worcester	<u>65,000</u>	<u>65,000</u>	<u>0</u>
Total	\$10,370,000	\$10,370,000	\$0