

**BALTIMORE COUNTY PUBLIC SCHOOLS**

**DATE:** March 23, 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**

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That the Board consider taking positions on  
Key School Legislation.

Attachment I – Key School Legislation  
Attachment II – House Bill 1  
Attachment III – House Bill 1 Fiscal Note

**BALTIMORE COUNTY PUBLIC SCHOOLS  
KEY SCHOOL LEGISLATION  
MARCH 23, 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.

The 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.

The 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.

The 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.

The 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.

The Board supports SB 526 (HB 851)

**\* HB 1 Public School Construction Assistance Act of 2004**

This legislation, introduced by the Speaker and the Chairs of Ways & Means and Appropriations, was pre-filed as a “place holder” to potentially address the recommendations of the Task Force on School Facilities. This Bill closes a “loophole” in current law by imposing recordation and transfer taxes on the transfer of real property when transfers are achieved through the sale of “controlling interest” in a specified corporation, partnership, or a limited liability company. Currently, real property can be effectively transferred without payment of transfer and recordation taxes by transferring controlling interest or ownership by a corporation, limited liability company, or partnership.

Because this type of transaction is not currently subject to taxes, it is difficult to estimate the amount of revenue that could be generated by this Bill. It is, however, estimated that this Bill would generate an additional \$6.5 million in State transfer tax revenue in FY 2005 and approximately \$72.19 million annual thereafter. Also,

the local governments would be expected to receive approximately \$21.6 million in FY 05 and an additional \$43.2 million in future years.

This Bill would require that specified amounts of State and local revenue from recordation and transfer taxes be dedicated to school construction for FY 2005 through 2008. The Baltimore County share to be dedicated to school construction is estimated to be about \$5 million.

Support is recommended for HB 1.

### **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.

The 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.

The 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.

The 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 50<sup>th</sup> 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 emergency legislation has passed and is in effect.

The Board supports HB 345 (SB 245).

## **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.

The Board supports HB 1060 (SB 747).

### **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.

The Board supports HB 1230 (SB 787).

## **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 requirement for Baltimore County would need to include a separate 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. The Baltimore County *Master Plan* on page 46 under Goal 1, Performance Indicator 1.1 for 2003-2004 school year states, “Reduce the student-teacher ratios for Kindergarten to Grade 2 from 23:1 to 21:1 for allocating positions to schools.” Our budget, which is 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.

The Board opposes HB 1409.

## HOUSE BILL 1

Unofficial Copy  
Q6  
(PRE-FILED)

2004 Regular Session  
4lr1412

By: The Speaker and Delegates Hixson, Conway, Healey, Barkley, Benson,  
Bobo, Bromwell, Bronrott, Busch, Cadden, Cane, G. Clagett, V. Clagett,  
Conroy, Cryor, D. Davis, DeBoy, Doory, Dumais, Franchot, Goldwater,  
Griffith, Harrison, Howard, Hurson, James, Jones, Kaiser, Kelley, King,  
Kirk, Krysiak, Lee, Love, Madaleno, Malone, Mandel, Marriott, McHale,  
McIntosh, Menes, Minnick, Moe, Montgomery, Pendergrass, Proctor,  
Quinter, Ramirez, Rosenberg, Sophocleus, Taylor, V. Turner, Vallario,  
and Vaughn

Requested: November 17, 2003

Introduced and read first time: January 14, 2004

Assigned to: Ways and Means

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A BILL ENTITLED

- 1 AN ACT concerning  
2                                 Public School Construction Assistance Act of 2004  
3 FOR the purpose of imposing recordation and transfer taxes on the transfer of  
4 controlling interest in certain entities owning certain interests in real property  
5 in Maryland; requiring the counties and Baltimore City for certain fiscal years  
6 to dedicate certain recordation tax revenues to public school construction and  
7 renovation; providing for the distribution of certain State transfer tax revenues  
8 to a special fund to be used only for public school construction and renovation in  
9 certain counties; requiring the filing of a certain report; providing for a filing  
10 fee; establishing the rate of taxation and the method of calculation of tax  
11 liability; exempting certain transfers; providing for interest and a penalty for  
12 certain filings; requiring the Department of Assessments and Taxation to adopt  
13 certain regulations; requiring the Department of Assessments and Taxation to  
14 deduct and credit certain revenues to a certain fund; defining certain terms;  
15 requiring the State to provide a certain percentage of eligible cost of public  
16 school construction with respect to certain State funding for school construction;  
17 providing for a delayed effective date; and generally relating to the taxation of  
18 transfers of controlling interests in certain entities.  
19 BY repealing and reenacting, with amendments,  
20 Article - Tax - Property  
21 Section 12-110(d) and 13-209(a)  
22 Annotated Code of Maryland  
23 (2001 Replacement Volume and 2003 Supplement)  
24 BY adding to  
25 Article - Tax - Property



HOUSE BILL 1

1 Section 12-110(e), 12-116, and 13-103  
2 Annotated Code of Maryland  
3 (2001 Replacement Volume and 2003 Supplement)  
4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
5 MARYLAND, That the Laws of Maryland read as follows:

6 Article - Tax - Property

7 12-110.

8 (d) (1) THE DEPARTMENT SHALL DEDUCT THE COST OF ADMINISTERING  
9 THE RECORDATION TAX FROM THE TAXES COLLECTED UNDER THIS TITLE AND  
10 CREDIT THOSE REVENUES TO THE FUND ESTABLISHED UNDER § 1-203.3 OF THE  
11 CORPORATIONS AND ASSOCIATIONS ARTICLE.

12 (2) [The] AFTER DEDUCTING THE REVENUES REQUIRED UNDER  
13 PARAGRAPH (1) OF THIS SUBSECTION, THE recordation tax collected under [§  
14 12-103(d)] §§ 12-103(D) AND 12-116 of this title shall be paid to the Comptroller.  
15 [After deduction of the cost to the Department of collecting the tax, the] THE  
16 Comptroller shall distribute the revenue to the counties in the ratio that the  
17 recordation tax collected in the prior fiscal year in each county bears to the total  
18 recordation tax collected in all counties in that year.

19 (E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, FOR  
20 EACH FISCAL YEAR BEGINNING ON OR AFTER JULY 1, 2004, BUT BEFORE JULY 1,  
2008,

21 FROM THE RECORDATION TAX REVENUE RECEIVED FOR THE FISCAL YEAR EACH  
22 COUNTY AND BALTIMORE CITY SHALL DISTRIBUTE THE FOLLOWING AMOUNT TO

A

23 SPECIAL FUND, TO BE USED ONLY TO PAY FOR THE COSTS OF PUBLIC SCHOOL  
24 CONSTRUCTION AND RENOVATION, INCLUDING PAYMENT OF DEBT SERVICE ON  
25 BONDS ISSUED TO PAY FOR PUBLIC SCHOOL CONSTRUCTION AND RENOVATION:

26 ALLEGANY	103,412
27 ANNE ARUNDEL	2,883,652
28 BALTIMORE CITY	2,926,538
29 BALTIMORE	5,322,865
30 CALVERT	109,668
31 CAROLINE	54,897
32 CARROLL	304,482
33 CECIL	146,747
34 CHARLES	337,673
35 DORCHESTER	126,520
36 FREDERICK	669,812
37 GARRETT	98,669
38 HARFORD	839,569

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1	HOWARD	1,818,471
2	KENT	65,054
3	MONTGOMERY	7,837,548
4	PRINCE GEORGE'S	4,759,390
5	QUEEN ANNE'S	108,248
6	ST. MARY'S	351,464
7	SOMERSET	17,712
8	TALBOT	213,038
9	WASHINGTON	333,278
10	WICOMICO	168,140
11	WORCESTER	403,155

12 (2) FOR THE FISCAL YEAR BEGINNING JULY 1, 2004, THE AMOUNT  
13 REQUIRED TO BE DISTRIBUTED TO THE SPECIAL FUND BY EACH COUNTY AND  
14 BALTIMORE CITY IS ONE HALF OF THE AMOUNT SPECIFIED IN PARAGRAPH (1) OF  
15 THIS SUBSECTION.

16 (3) RECORDATION TAX REVENUES DEDICATED TO PUBLIC SCHOOL  
17 CONSTRUCTION AND RENOVATION UNDER THIS SUBSECTION ARE INTENDED TO  
18 SUPPLEMENT FUNDING FOR PUBLIC SCHOOL CONSTRUCTION AND RENOVATION  
19 AND MAY NOT SUPPLANT OTHER COUNTY OR STATE FUNDING FOR PUBLIC  
SCHOOL  
20 CONSTRUCTION AND RENOVATION.

21 12-116.

22 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
23 INDICATED.

24 (2) "CONTROLLING INTEREST" MEANS:

25 (I) MORE THAN 80% OF THE TOTAL VALUE OF ALL CLASSES OF  
26 STOCK OF A CORPORATION;

27 (II) MORE THAN 80% OF THE TOTAL INTEREST IN CAPITAL AND  
28 PROFITS OF A PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPANY, OR  
OTHER

29 UNINCORPORATED FORM OF DOING BUSINESS; OR

30 (III) MORE THAN 80% OF THE BENEFICIAL INTEREST IN A TRUST.

31 (3) "FINAL TRANSFER" MEANS THAT TRANSFER OF ANY PORTION OF A  
32 CONTROLLING INTEREST WHICH COMPLETES THE TRANSFER OF A CONTROLLING  
33 INTEREST IN A REAL PROPERTY ENTITY.

34 (4) (I) "PLAN OF TRANSFER" MEANS AN INTENTIONAL PLAN OR  
35 PROGRAM TO TRANSFER THE CONTROLLING INTEREST IN A REAL PROPERTY  
ENTITY.

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1 (II) "PLAN OF TRANSFER" DOES NOT INCLUDE A SERIES OF SALES  
2 OF SHARES OF A PUBLICLY TRADED ENTITY.  
3 (5) (I) "REAL PROPERTY" MEANS REAL PROPERTY LOCATED IN THE  
4 STATE.  
5 (II) "REAL PROPERTY" DOES NOT INCLUDE:  
6 1. A LEASEHOLD, UNLESS CREATED BY A LEASE THAT IS  
7 REQUIRED TO BE RECORDED UNDER § 3-101(A) OF THE REAL PROPERTY ARTICLE;  
OR  
8 2. ANY MORTGAGE, DEED OF TRUST, OR OTHER LIEN  
UPON  
9 OR SECURITY INTEREST IN REAL PROPERTY THAT SECURES AN INDEBTEDNESS.  
10 (6) (I) "REAL PROPERTY ENTITY" MEANS A CORPORATION,  
11 PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPANY, LIMITED LIABILITY  
12 PARTNERSHIP, OTHER UNINCORPORATED FORM OF DOING BUSINESS, OR TRUST  
13 THAT DIRECTLY OR BENEFICIALLY OWNS REAL PROPERTY THAT:  
14 1. CONSTITUTES AT LEAST 80% OF THE VALUE OF ITS  
15 ASSETS; AND  
16 2. HAS AN AGGREGATE VALUE OF AT LEAST \$500,000.  
17 (II) FOR THE PURPOSES OF THIS PARAGRAPH, THE VALUE OF  
REAL  
18 PROPERTY SHALL BE DETERMINED WITHOUT REDUCTION FOR ANY MORTGAGE,  
19 DEED OF TRUST, OR OTHER LIEN UPON OR SECURITY INTEREST IN THE REAL  
20 PROPERTY.  
21 (III) "REAL PROPERTY ENTITY" DOES NOT INCLUDE AN ENTITY  
22 WITH LAND HOLDINGS THAT, OTHER THAN HOMESITES OR AREAS OF  
COMMERCIAL  
23 ACTIVITY RELATED TO AGRICULTURAL PRODUCTION, ARE ENTIRELY SUBJECT TO  
AN  
24 AGRICULTURAL USE ASSESSMENT UNDER § 8-209 OF THIS ARTICLE.  
25 (B) (1) THE RECORDATION TAX IS IMPOSED ON THE TRANSFER OF A  
26 CONTROLLING INTEREST IN A REAL PROPERTY ENTITY AS IF THE REAL PROPERTY  
27 DIRECTLY OR BENEFICIALLY OWNED BY THE REAL PROPERTY ENTITY WERE  
28 CONVEYED BY AN INSTRUMENT OF WRITING THAT IS RECORDED WITH THE CLERK  
29 OF THE CIRCUIT COURT FOR A COUNTY OR FILED WITH THE DEPARTMENT UNDER  
§  
30 12-102 OF THIS SUBTITLE.  
31 (2) (I) THE RECORDATION TAX IS IMPOSED ON THE CONSIDERATION  
32 PAYABLE FOR THE TRANSFER OF THE CONTROLLING INTEREST IN THE REAL  
33 PROPERTY ENTITY.  
34 (II) THE CONSIDERATION TO WHICH THE RECORDATION TAX  
35 APPLIES INCLUDES THE AMOUNT OF:

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1    1.        ANY MORTGAGE, DEED OF TRUST, OR OTHER LIEN  
UPON  
2 OR SECURITY INTEREST IN THE REAL PROPERTY DIRECTLY OR BENEFICIALLY  
3 OWNED BY THE REAL PROPERTY ENTITY; AND

4    2.        ANY OTHER DEBT OR ENCUMBRANCE OF THE REAL  
5 PROPERTY ENTITY.

6    (III)    THE CONSIDERATION TO WHICH THE RECORDATION TAX  
7 APPLIES IS REDUCED BY THE AMOUNT ALLOCABLE TO THE ASSETS OF THE REAL  
8 PROPERTY ENTITY OTHER THAN REAL PROPERTY.

9    (IV)    THE REAL PROPERTY ENTITY HAS THE BURDEN OF  
10 ESTABLISHING TO THE SATISFACTION OF THE DEPARTMENT THE CONSIDERATION  
11 REFERRED TO IN SUBPARAGRAPH (I) OF THIS PARAGRAPH AND THE AMOUNT OF  
ANY  
12 CONSIDERATION ALLOCABLE TO ASSETS OTHER THAN REAL PROPERTY REFERRED  
13 TO IN SUBPARAGRAPH (III) OF THIS PARAGRAPH.

14    (V)    IF THE REAL PROPERTY ENTITY FAILS TO ESTABLISH THE  
15 AMOUNT OF CONSIDERATION REFERRED TO IN SUBPARAGRAPH (I) OF THIS  
16 PARAGRAPH, THE RECORDATION TAX IS IMPOSED ON THE VALUE OF THE REAL  
17 PROPERTY DIRECTLY OR BENEFICIALLY OWNED BY THE REAL PROPERTY ENTITY  
18 DETERMINED BY THE DEPARTMENT AT THE DATE OF FINALITY IMMEDIATELY  
19 BEFORE THE DATE OF THE FINAL TRANSFER.

20    (3)    EXCEPT AS OTHERWISE PROVIDED IN § 12-103(D) OF THIS SUBTITLE,  
21 THE RECORDATION TAX IS APPLIED AT THE RATE SET UNDER § 12-103(B) OF THIS  
22 SUBTITLE BY THE COUNTY WHERE THE REAL PROPERTY IS LOCATED.

23        (C)    (1)    THE TRANSFER OF A CONTROLLING INTEREST IN A REAL PROPERTY  
24 ENTITY IS NOT SUBJECT TO RECORDATION TAX IF THE TRANSFER OF THE REAL  
25 PROPERTY BY AN INSTRUMENT OF WRITING BETWEEN THE SAME PARTIES AND  
26 UNDER THE SAME CIRCUMSTANCES WOULD HAVE BEEN EXEMPT UNDER § 12-108  
OF  
27 THIS SUBTITLE.

28    (2)    THE RECORDATION TAX IS NOT IMPOSED ON THE TRANSFER OF A  
29 CONTROLLING INTEREST IN A REAL PROPERTY ENTITY EFFECTED IN MORE THAN  
30 ONE TRANSACTION IF:

31    (I)    THE TRANSFER IS COMPLETED OVER A PERIOD OF MORE  
THAN  
32 12 MONTHS; OR

33    (II)    THE TRANSFER IS NOT MADE IN ACCORDANCE WITH A PLAN  
OF  
34 TRANSFER.

35    (3)    THE RECORDATION TAX IS NOT IMPOSED ON THE TRANSFER OF A  
36 CONTROLLING INTEREST IN A REAL PROPERTY ENTITY TO ANOTHER BUSINESS IF  
37 THE OWNERSHIP INTERESTS IN THE TRANSFEREE BUSINESS ENTITY ARE HELD BY  
38 THE SAME PERSONS AND IN THE SAME PROPORTION AS IN THE REAL PROPERTY  
39 ENTITY THE CONTROLLING INTEREST OF WHICH WAS TRANSFERRED.

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1           (4)    THE RECORDATION TAX IS NOT IMPOSED ON THE TRANSFER OF A  
2 CONTROLLING INTEREST IN A REAL PROPERTY ENTITY IF EACH TRANSFEROR,  
EACH

3 TRANSFEREE, AND EACH REAL PROPERTY ENTITY IS:

4           (I)    A SUBSIDIARY CORPORATION, ALL OF THE STOCK OF WHICH  
IS  
5 OWNED, DIRECTLY OR INDIRECTLY, BY A COMMON PARENT CORPORATION;

6           (II)   A PARTNERSHIP, ALL OF THE INTERESTS IN WHICH ARE  
7 OWNED, DIRECTLY OR INDIRECTLY, BY ONE OR MORE SUBSIDIARIES OR THE  
8 COMMON PARENT CORPORATION; OR

9           (III)   THE COMMON PARENT CORPORATION.

10          (5)    THE RECORDATION TAX IS NOT IMPOSED ON THE TRANSFER OF A  
11 CONTROLLING INTEREST IN A REAL PROPERTY ENTITY IF THE TRANSFEREE OF  
THE

12 CONTROLLING INTEREST IN THE REAL PROPERTY ENTITY IS:

13          (I)    A NONSTOCK CORPORATION ORGANIZED UNDER TITLE 5,  
14 SUBTITLE 2 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE; AND

15          (II)   REGISTERED WITH THE DEPARTMENT OF AGING AS A  
16 CONTINUING CARE RETIREMENT COMMUNITY UNDER ARTICLE 70B, § 9 OF THE  
CODE.

17          (6)    THE REAL PROPERTY ENTITY HAS THE BURDEN OF ESTABLISHING  
18 TO THE SATISFACTION OF THE DEPARTMENT THE APPLICABILITY OF ANY  
19 EXEMPTION REFERRED TO IN PARAGRAPHS (1) THROUGH (5) OF THIS SUBSECTION.

20   (D)   (1)    THE REAL PROPERTY ENTITY SHALL FILE WITH THE DEPARTMENT A  
21 REPORT OF ANY TRANSFER OF A CONTROLLING INTEREST IN THE REAL PROPERTY  
22 ENTITY THAT IS COMPLETED WITHIN A PERIOD OF 12 MONTHS OR LESS WITHIN 30  
23 DAYS FOLLOWING THE DATE OF THE FINAL TRANSFER.

24          (2)    THE REPORT SHALL INCLUDE ALL INFORMATION TO ESTABLISH TO  
25 THE SATISFACTION OF THE DEPARTMENT:

26          (I)    THE CONSIDERATION REFERRED TO IN SUBSECTION (B)(2)(I)  
OF  
27 THIS SECTION;

28          (II)   THE AMOUNT OF ASSETS OTHER THAN REAL ESTATE  
29 REFERRED TO IN SUBSECTION (B)(2)(II) OF THIS SECTION; AND

30          (III)   ANY EXEMPTION PROVIDED FOR IN SUBSECTION (C) OF THIS  
31 SECTION.

32          (3)    THE REPORT SHALL BE ACCOMPANIED BY PAYMENT OF:

33          (I)    A \$20 FILING FEE; AND

34          (II)   ANY TAX, INTEREST, AND PENALTY THAT IS DUE.

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1 (E) (1) IF ANY TAX DUE UNDER THIS SECTION REMAINS UNPAID FOR 30  
2 DAYS AFTER THE DATE OF THE FINAL TRANSFER, THEN:

3 (I) INTEREST ON THE UNPAID AMOUNT SHALL ACCRUE  
4 THEREAFTER AT THE RATE OF 1% PER MONTH; AND

5 (II) A PENALTY OF 10% OF THE UNPAID AMOUNT SHALL BE DUE.

6 (2) ANY TAX, INTEREST, AND PENALTY DUE UNDER THIS SECTION IS AN  
7 OBLIGATION OF THE REAL PROPERTY ENTITY.

8 (3) FOR REASONABLE CAUSE, THE DEPARTMENT MAY WAIVE THE  
9 IMPOSITION OF INTEREST OR PENALTY.

10 (F) THIS SECTION DOES NOT APPLY TO:

11 (1) A PLEDGE OF STOCK OR OTHER INTEREST IN A REAL PROPERTY  
12 ENTITY AS SECURITY FOR A LOAN; OR

13 (2) THE ADMISSION TO THE REAL PROPERTY ENTITY OF ADDITIONAL  
14 SHAREHOLDERS, PARTNERS, BENEFICIAL OWNERS, OR OTHER MEMBERS INCIDENT  
15 TO THE RAISING OF ADDITIONAL CAPITAL THROUGH A PUBLIC OR PRIVATE  
16 OFFERING OF STOCK OR OTHER INTERESTS IN THE REAL PROPERTY ENTITY IF:

17 (I) THE EFFECTIVE MANAGEMENT OF THE REAL PROPERTY  
18 ENTITY IS NOT SUBSTANTIALLY CHANGED; AND

19 (II) UNDER THE TERMS OF THE OFFERING, NONE OF THE NEW  
20 MEMBERS IS EXPECTED TO PARTICIPATE IN THE DAY-TO-DAY MANAGEMENT OF  
THE  
21 REAL PROPERTY ENTITY.

22 (G) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO ADMINISTER  
23 THIS SECTION.

24 (2) THE REGULATIONS SHALL INCLUDE ANY ADDITIONAL STANDARDS  
25 AND EXEMPTIONS TO ASSURE THAT:

26 (I) A TAX IS IMPOSED WHEN A TRANSACTION IS STRUCTURED  
27 INVOLVING A CONTROLLING INTEREST IN A REAL PROPERTY ENTITY TO AVOID  
28 PAYMENT OF THE RECORDATION TAX;

29 (II) EXEMPTIONS PROVIDED BY LAW WHEN REAL PROPERTY IS  
30 TRANSFERRED BY AN INSTRUMENT OF WRITING ARE APPLICABLE; AND

31 (III) THERE IS NO DOUBLE TAXATION OF A SINGLE TRANSACTION.  
32 13-103.

33 (A) IN THIS SECTION, "CONTROLLING INTEREST", "REAL PROPERTY", AND  
34 "REAL PROPERTY ENTITY" HAVE THE MEANINGS STATED IN § 12-116 OF THIS  
35 ARTICLE.

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1 (B) (1) THE TAXES UNDER THIS TITLE ARE IMPOSED ON THE TRANSFER OF  
2 A CONTROLLING INTEREST IN A REAL PROPERTY ENTITY AS IF THE REAL  
PROPERTY  
3 DIRECTLY OR BENEFICIALLY OWNED BY THE REAL PROPERTY ENTITY WERE  
4 CONVEYED BY AN INSTRUMENT OF WRITING THAT IS RECORDED WITH THE CLERK  
5 OF THE CIRCUIT COURT FOR A COUNTY OR FILED WITH THE DEPARTMENT UNDER §  
6 13-202 OF THIS TITLE.

7 (2) THE TAXES UNDER THIS SECTION ARE IMPOSED ON THE  
8 CONSIDERATION PAYABLE FOR THE TRANSFER OF THE CONTROLLING INTEREST IN  
9 THE REAL PROPERTY ENTITY OR ON THE VALUE OF THE REAL PROPERTY  
DIRECTLY  
10 OR BENEFICIALLY OWNED BY THE REAL PROPERTY ENTITY, AS PROVIDED IN §  
11 12-116(B)(2) OF THIS ARTICLE.

12 (3) (I) EXCEPT FOR THE COUNTY TRANSFER TAX, THE TAXES UNDER  
13 THIS SECTION SHALL BE APPLIED AT THE RATES ESTABLISHED IN THIS TITLE.

14 (II) THE COUNTY TRANSFER TAX SHALL BE APPLIED AT THE  
RATE  
15 IMPOSED BY THE COUNTY WHERE THE REAL PROPERTY IS LOCATED.

16 (C) THE TAXES UNDER THIS TITLE ARE NOT IMPOSED ON THE TRANSFER OF A  
17 CONTROLLING INTEREST IN A REAL PROPERTY ENTITY IN ANY OF THE  
18 CIRCUMSTANCES DESCRIBED:

19 (1) IN § 13-207 OF THIS TITLE THAT EXEMPTS AN INSTRUMENT OF  
20 WRITING FROM THE TRANSFER TAX; OR

21 (2) IN § 12-116(C) OF THIS ARTICLE THAT EXEMPTS THE TRANSFER OF A  
22 CONTROLLING INTEREST IN A REAL PROPERTY ENTITY FROM THE RECORDATION  
23 TAX.

24 (D) IN EACH INSTANCE IN WHICH A CONTROLLING INTEREST IN A REAL  
25 PROPERTY ENTITY IS TRANSFERRED, THE PROVISIONS OF § 12-116(D) AND (E) OF  
THIS  
26 ARTICLE ARE APPLICABLE.

27 (E) THIS SECTION DOES NOT APPLY IN THE CIRCUMSTANCES DESCRIBED IN §  
28 12-116(F) OF THIS ARTICLE.

29 (F) THE DEPARTMENT SHALL ADOPT REGULATIONS TO ADMINISTER THIS  
30 SECTION IN THE SAME MANNER AS IN § 12-116(G) OF THIS ARTICLE.  
31 13-209.

32 (a) (1) THE DEPARTMENT SHALL DEDUCT THE COST OF ADMINISTERING  
33 THE TRANSFER TAX FROM THE TAXES COLLECTED UNDER THIS TITLE AND CREDIT  
34 THOSE REVENUES TO THE FUND ESTABLISHED UNDER § 1-203.3 OF THE  
35 CORPORATIONS AND ASSOCIATIONS ARTICLE.

36 (2) (I) AFTER DEDUCTING THE REVENUES REQUIRED UNDER  
37 PARAGRAPH (1) OF THIS SUBSECTION:

HOUSE BILL 1

1                                   1.       FOR THE FISCAL YEAR BEGINNING ON JULY 1, 2004,  
2 \$4,800,000 OF THE REVENUE FROM THE TRANSFER TAX SHALL BE DISTRIBUTED TO  
A  
3 SPECIAL FUND, TO BE USED ONLY TO PROVIDE ADDITIONAL FUNDING FOR PUBLIC  
4 SCHOOL CONSTRUCTION AND RENOVATION IN QUALIFIED DISTRESSED COUNTIES  
5 AS DEFINED IN ARTICLE 83A, § 5-701 OF THE CODE; AND

6                                   2.       FOR EACH FISCAL YEAR BEGINNING ON OR AFTER JULY  
1,  
7 2005, BUT BEFORE JULY 1, 2008, \$9,600,000 OF THE REVENUE FROM THE TRANSFER  
8 TAX SHALL BE DISTRIBUTED TO A SPECIAL FUND, TO BE USED ONLY TO PROVIDE  
9 ADDITIONAL FUNDING FOR PUBLIC SCHOOL CONSTRUCTION AND RENOVATION IN  
10 QUALIFIED DISTRESSED COUNTIES AS DEFINED IN ARTICLE 83A, § 5-701 OF THE  
11 CODE.

12                                   (II)     TRANSFER TAX REVENUES DEDICATED TO PUBLIC SCHOOL  
13 CONSTRUCTION AND RENOVATION UNDER THIS PARAGRAPH ARE INTENDED TO  
14 SUPPLEMENT FUNDING FOR PUBLIC SCHOOL CONSTRUCTION AND RENOVATION  
15 AND MAY NOT SUPPLANT OTHER COUNTY OR STATE FUNDING FOR PUBLIC  
SCHOOL  
16 CONSTRUCTION AND RENOVATION.

17                                   (3)     [The] AFTER DEDUCTING THE REVENUES REQUIRED UNDER  
18 PARAGRAPHS (1) AND (2) OF THIS SUBSECTION, THE revenue from transfer tax is  
19 payable to the Comptroller for deposit in a special fund.

20     SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any  
21 other provision of law, for each fiscal year beginning after June 30, 2004, but before  
22 July 1, 2008, with respect to State funding provided for public school construction  
23 projects in qualified distressed counties from the special fund for school construction  
24 established under § 13-209(a)(2) of the Tax - Property Article, the State shall provide:

25     (a)     90% of the eligible costs if the State share for the county for the fiscal year  
26 that began July 1, 2003, was equal to or more than 65%; and

27     (b)     65% of the eligible costs if the State share for the county for the fiscal year  
28 that began July 1, 2003, was less than 65%.

29     SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 January 1, 2005.