

Department of Legislative Services  
Maryland General Assembly  
2013 Session

FISCAL AND POLICY NOTE

House Bill 146

(Delegate Kipke, *et al.*) (By Request - Anne Arundel  
County Administration)

Appropriations

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Education - Public Charter Schools - Capital Improvement Requests

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This bill expands the eligibility of public charter schools for State school construction funding to include charter schools located in privately owned buildings, including those whose title is not scheduled to be transferred to a local school board. It establishes conditions and procedures for inclusion of public charter school funding requests in local capital improvement programs, and it authorizes public charter schools and local school boards to enter into agreements for alternative financing of charter school capital improvement needs.

The bill takes effect June 1, 2013.

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Fiscal Summary

**State Effect:** No effect on total State funding for the Public School Construction Program (PSCP), which is established annually by the Governor and General Assembly through the capital budget process. To the extent that public charter schools that are not currently eligible for funding receive PSCP funding beginning in FY 2015, less funding is available for capital projects affecting regular public schools. PSCP can implement the bill with existing budgeted resources. No effect on revenues.

**Local Effect:** With the approval of local school boards, requests for funding for public charter schools that are not currently eligible for PSCP funding may be included in local capital improvement plans and be eligible for funding. To the extent charter schools receive PSCP funding, less funding will be available for projects in buildings owned by local school boards.

**Small Business Effect:** None.

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## Analysis

**Current Law:** For a complete description of PSCP, please see the **Appendix – State Funding for Public School Construction Projects**.

A public school building must be held in trust for the benefit of a local school system by the local board of education except in Baltimore City, where it is the mayor and city council. In most cases, buildings that are not held in trust by a county board are not eligible for State school construction funding. However, school buildings owned by a private entity may receive State school construction funds only if the private entity is contractually obligated to transfer title to the building to the appropriate county board on a specified date. This bill overrides that requirement. Also, school construction projects that employ alternative financing arrangements, such as public-private partnerships, are eligible for State school construction funding.

Under PSCP policy, public charter schools located in buildings owned by a local school board or whose title is scheduled to be transferred to a local school board by a date certain are eligible for PSCP funding. Requests for funding for public charter schools must be included in the school board's *Capital Improvement Program* submitted to the Interagency Committee on School Construction (IAC) under the process outlined in the appendix. They are subject to the same review and approval process as requests for funding for regular public schools.

The Public School Facilities Act authorizes the use of alternative financing methods to build or renovate public school buildings. The purpose of these arrangements, according to the Act, are to (1) finance; (2) speed delivery of; (3) transfer the risks of; or (4) otherwise enhance the delivery of public school construction. The alternative methods authorized in statute include sale-leaseback arrangements, lease-leaseback arrangements, public-private partnership agreements, performance-based contracting, and design-build arrangements. Projects funded by alternative methods, which are eligible for State funding from PSCP, must meet the same educational, design, and procedural requirements as projects using traditional financing methods. Alternative financing for public schools requires the approval of the county governing body, the State Superintendent of Schools, IAC, and the Board of Public Works.

**Background:** The Governor's proposed fiscal 2014 capital budget includes \$325.0 million for PSCP, including \$25.0 million in general funds for school security improvements. Total program funding has not dropped below \$250.0 million annually since fiscal 2005.

Public charter schools are public schools that provide alternative approaches to learning to improve student academic performance. They operate under the supervision of a local

board of education or the State Board of Education and, with certain exceptions, in accordance with the laws and regulations that govern other public schools. Local school boards must give public charter schools a per-student amount of county, State, and federal money that is commensurate to the amount given to other public schools in the same jurisdiction for operating expenses. The State Board of Education or a local board may give surplus educational materials, supplies, furniture, and other equipment to a public charter school.

There are currently 52 public charter schools in the State: 38 in Baltimore City; 7 in Prince George's County; 2 each in Anne Arundel and Frederick counties; and 1 each in Baltimore, Montgomery, and St. Mary's counties. Many public charter schools are located in former public school buildings, especially in Baltimore City. Some public charter schools lease space in private buildings. The charter school program office in the Maryland State Department of Education advises that, as of fiscal 2010, the most recent data it has available, 17 charter schools were located in board-owned buildings, all in Baltimore City.

IAC advises that State funds have been used to renovate public school buildings in Baltimore City in which a charter school shares space with a regular public school, but that it has never received a request for State funds to be used to renovate or build a public charter school.

**State Fiscal Effect:** Based on the best available information, approximately 35 charter schools become eligible for PSCP funding under the bill. The number may be somewhat smaller to the extent that some charter schools currently in privately owned buildings may already have arrangements to transfer the title to a local school board, which makes them eligible for State funding under current law.

The bill has no effect on total State funding for PSCP, which is established annually through the capital budget process. However, to the extent that funding is awarded to public charter schools that are not currently eligible for funding, less funding becomes available for projects affecting regular public schools. As noted above, to date IAC has not received funding requests for projects to build or renovate existing charter schools, except in cases where renovations are made to buildings in which regular and charter schools share space.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 174 (Chair, Anne Arundel County Senators) - Budget and Taxation.

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

**Fiscal Note History:** First Reader - February 4, 2013  
mc/rhh

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## Appendix – State Funding for Public School Construction Projects

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Subject to the final approval of the Board of Public Works (BPW), the Interagency Committee on School Construction (IAC) manages State review and approval of local school construction projects. Each year, local systems develop and submit to IAC a facilities master plan that includes an analysis of future school facility needs based on the current condition of school buildings and projected enrollment. The master plan must be approved by the local school board. Subsequently, each local school system submits a capital improvement plan to IAC that includes projects for which it seeks planning and/or funding approval for the upcoming fiscal year, which may include projects that the local system has forward funded. In addition to approval from the local school board, the request for the upcoming fiscal year must be approved by the county's governing body. Typically, the submission letter to IAC contains signatures of both the school board president and either the county executive and county council president or chair of the board of county commissioners.

Based on its assessment of the relative merit of all the project proposals it receives, and subject to the projected level of school construction funds available, IAC makes recommendations for which projects to fund to BPW. By December 31 of each year, IAC must recommend to BPW projects comprising 75% of the preliminary school construction allocation projected to be available by the Governor for the upcoming fiscal year. Local school boards may then appeal the IAC recommendations directly to BPW. By March 1 of each year, IAC must recommend to BPW and the General Assembly projects comprising 90% of the allocation for school construction submitted in the Governor's capital budget. Following the legislative session, IAC recommends projects comprising the remaining school construction funds included in the enacted capital budget for BPW approval, no earlier than May 1.

The State pays at least 50% of eligible costs of school construction and renovation projects, based on a funding formula that takes into account numerous factors including each local school system's wealth and ability to pay. The Public School Facilities Act (Chapters 306 and 307 of 2004, SB 787/HB 1230) requires that the cost-share formula be recalculated every three years. The first recalculation occurred in 2007, and the second recalculation occurred in 2010. **Exhibit 1** shows the State share of eligible school construction costs for all Maryland jurisdictions for fiscal 2012, which was determined by the 2007 recalculation, and for fiscal 2013 through 2015, as determined by the 2010 recalculation. The 2013 recalculation will be conducted prior to fall 2013 for implementation beginning in fiscal 2016.

Chapters 306 and 307 also established the State's intent to provide \$2.0 billion of funding for school construction by fiscal 2013, an average of \$250.0 million each year for

eight years. As a result, the Public School Construction Program funding increased from \$125.9 million in fiscal 2005 to \$253.8 million in fiscal 2006, and it has remained above the \$250.0 million target each year since, which resulted in significant increases in school construction assistance to local school boards. As a result, the State achieved the \$2.0 billion goal ahead of schedule. **Exhibit 2** shows annual State public school construction funding since fiscal 2006, by county.

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**Exhibit 1**  
**State Share of Eligible School Construction Costs**  
**Fiscal 2012-2015**

<u>County</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>
Allegany	91%	93%	93%	93%
Anne Arundel	50%	50%	50%	50%
Baltimore City	94%	93%	93%	93%
Baltimore	50%	50%	50%	50%
Calvert	61%	56%	56%	56%
Caroline	86%	81%	78%	78%
Carroll	61%	58%	58%	58%
Cecil	75%	70%	69%	69%
Charles	77%	72%	67%	63%
Dorchester	71%	69%	69%	69%
Frederick	72%	67%	62%	60%
Garrett	59%	54%	50%	50%
Harford	59%	63%	63%	63%
Howard	61%	60%	60%	60%
Kent	50%	50%	50%	50%
Montgomery	50%	50%	50%	50%
Prince George's	73%	68%	63%	62%
Queen Anne's	55%	50%	50%	50%
St. Mary's	75%	70%	65%	64%
Somerset	88%	83%	82%	82%
Talbot	50%	50%	50%	50%
Washington	73%	71%	71%	71%
Wicomico	87%	96%	96%	96%
Worcester	50%	50%	50%	50%

Source: Public School Construction Program

**Exhibit 2**  
**State Funding for Public School Construction**  
(\$ in Thousands)

<b>County</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>Total FY 06-13</b>
Allegany	\$12,000	\$18,650	\$412	\$0	\$0	842	603	741	\$33,248
Anne Arundel	19,457	22,675	27,827	27,420	25,020	26,200	27,400	33,300	209,299
Baltimore City	21,523	39,436	52,665	41,000	27,733	28,559	32,000	42,600	285,516
Baltimore	25,218	35,053	52,250	40,985	28,000	29,000	32,000	43,300	285,806
Calvert	3,437	2,723	12,644	7,824	8,181	8,450	6,907	7,018	57,184
Caroline	4,699	2,935	2,426	8,100	6,000	3,767	86	350	28,363
Carroll	7,434	8,282	8,219	11,741	10,520	8,444	8,905	12,748	76,293
Cecil	8,656	8,271	9,533	2,674	1,538	1,744	2,414	1,514	36,344
Charles	8,267	10,200	13,170	11,704	8,898	8,335	8,630	8,000	77,204
Dorchester	656	872	6,137	10,400	6,469	5,436	3,502	0	33,472
Frederick	11,910	17,942	18,728	14,759	16,226	14,000	16,300	19,092	128,957
Garrett	1,507	1,235	6,243	3,020	666	0	333	0	13,004
Harford	8,287	11,096	16,238	14,751	16,253	13,835	16,206	14,512	111,177
Howard	15,273	17,808	23,206	18,265	18,262	18,290	22,936	32,490	166,530
Kent	2,000	3,479	1,335	0	388	0	0	0	7,202
Montgomery	30,431	40,040	52,297	53,312	28,350	30,183	33,000	43,106	310,720
Prince George's	29,833	37,425	52,250	41,000	28,200	29,500	31,348	40,375	289,931
Queen Anne's	6,897	3,000	3,925	4,951	3,947	5,750	5,195	0	33,665
St. Mary's	3,271	5,495	9,806	7,266	4,028	6,600	3,064	2,314	41,844
Somerset	14,300	12,022	5,153	0	6,000	6,000	3,257	0	46,732
Talbot	2,422	2,405	2,038	0	436	344	0	0	7,645
Washington	6,431	4,478	8,970	9,368	7,965	7,970	8,400	9,000	62,582
Wicomico	7,616	4,178	8,143	12,960	13,170	9,975	1,597	10,808	68,447
Worcester	2,241	6,872	8,213	5,483	403	0	0	0	23,212
MD School for the Blind								2,800	2,800
Bond Premium		6,100							6,100
Statewide						500	47,500	25,100	73,100
<b>Total</b>	<b>\$253,766</b>	<b>\$322,672</b>	<b>\$401,828</b>	<b>\$346,983</b>	<b>\$266,653</b>	<b>\$263,724</b>	<b>\$311,583</b>	<b>\$349,167</b>	<b>\$2,516,376</b>
<b>Over \$250 million</b>	<b>\$3,766</b>	<b>\$72,672</b>	<b>\$151,828</b>	<b>\$96,983</b>	<b>\$16,653</b>	<b>\$13,724</b>	<b>\$61,583</b>	<b>\$99,167</b>	<b>\$516,376</b>

Note: \$25.0 million of the statewide allocation in fiscal 2013 is for the Energy Efficiency Initiative and is to be distributed based on local requests and need for funding to replace inefficient systems.