

HOUSE BILL 1323

F1, F3

4r1827
CF SB 927

By: Delegates Kaiser, Olszewski, Ivey, Arora, Aumann, Barkley, Barnes, Barve, Boteler, Braveboy, Bromwell, Burns, Cardin, Carr, Cluster, Cullison, Davis, DeBoy, Frank, Fraser-Hidalgo, Frick, Frush, Gilchrist, Gutierrez, Healey, Hixson, Holmes, Howard, Hubbard, Hucker, Impallaria, Kach, A. Kelly, Kramer, Lee, Luedtke, McDonough, A. Miller, Minnick, Mizeur, Morhaim, Nathan-Pulliam, Niemann, Pena-Melnyk, Proctor, Reznik, S. Robinson, Simmons, Stein, Summers, Swain, Szeliga, V. Turner, Valderrama, Valentino-Smith, Vallario, Vaughn, Waldstreicher, Walker, A. Washington, Weir, and Zucker

Introduced and read first time: February 7, 2014

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Supplemental Public School Construction Matching Fund Program**

3 FOR the purpose of establishing the Supplemental Public School Construction
4 Matching Fund Program; providing for the purpose of the Program and
5 requiring the Department of Budget and Management to implement and
6 administer the Program; establishing certain requirements a county must meet
7 to be eligible for the Program; requiring the Department to provide to each
8 county that is eligible for the Program up to a certain amount of State funding
9 each fiscal year to be used for certain purposes related to the cost of public
10 school construction projects and public school capital improvements in the
11 county; requiring that certain funding provided under the Program shall be
12 pledged or used for certain purposes; requiring that certain funding provided
13 under the Program shall end at certain times; specifying that certain bonds
14 issued in accordance with this Act are not a debt, liability, moral obligation, or
15 pledge of the faith and credit or taxing power of the State; requiring certain
16 projects to be approved by the Department and the Interagency Committee on
17 School Construction before certain funding may be released; requiring a
18 qualifying county, the Department, and the Interagency Committee on School
19 Construction to enter into a certain memorandum of understanding regarding
20 certain projects before certain funding may be released; specifying the
21 requirements of the memorandum of understanding; specifying that funding
22 provided under the Program is supplemental to public school construction
23 funding from other sources; establishing the Supplemental Public School

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Construction Fund as a continuing, nonlapsing fund; specifying the contents of
2 the Fund and the uses of the Fund; exempting the Fund from a certain
3 provision of law requiring interest on State money in special funds to accrue to
4 the General Fund of the State; altering the distribution of certain State lottery
5 revenues and requiring the Comptroller to distribute certain State lottery
6 revenues into the Fund; defining certain terms; and generally relating to the
7 Supplemental Public School Construction Matching Fund Program.

8 BY adding to

9 Article – Education

10 Section 5–3A–01 through 5–3A–04 to be under the new subtitle “Subtitle 3A.
11 Supplemental Public School Construction Matching Fund Program”

12 Annotated Code of Maryland

13 (2008 Replacement Volume and 2013 Supplement)

14 BY repealing and reenacting, without amendments,

15 Article – State Finance and Procurement

16 Section 6–226(a)(2)(i)

17 Annotated Code of Maryland

18 (2009 Replacement Volume and 2013 Supplement)

19 BY repealing and reenacting, with amendments,

20 Article – State Finance and Procurement

21 Section 6–226(a)(2)(ii)76. and 77.

22 Annotated Code of Maryland

23 (2009 Replacement Volume and 2013 Supplement)

24 BY adding to

25 Article – State Finance and Procurement

26 Section 6–226(a)(2)(ii)78.

27 Annotated Code of Maryland

28 (2009 Replacement Volume and 2013 Supplement)

29 BY repealing and reenacting, with amendments,

30 Article – State Government

31 Section 9–120

32 Annotated Code of Maryland

33 (2009 Replacement Volume and 2013 Supplement)

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

36 **Article – Education**

37 **SUBTITLE 3A. SUPPLEMENTAL PUBLIC SCHOOL CONSTRUCTION MATCHING**
38 **FUND PROGRAM.**

1 **5-3A-01.**

2 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (B) "FUND" MEANS THE SUPPLEMENTAL PUBLIC SCHOOL
5 CONSTRUCTION FUND ESTABLISHED UNDER § 5-3A-04 OF THIS SUBTITLE.

6 (C) "PROGRAM" MEANS THE SUPPLEMENTAL PUBLIC SCHOOL
7 CONSTRUCTION MATCHING FUND PROGRAM ESTABLISHED UNDER § 5-3A-02
8 OF THIS SUBTITLE.

9 (D) "QUALIFYING COUNTY" MEANS A COUNTY THAT:

10 (1) HAS AT LEAST 100,000 FULL-TIME EQUIVALENT STUDENTS
11 ENROLLED IN THE PUBLIC SCHOOL SYSTEM IN FISCAL YEAR 2014; AND

12 (2) CONSISTENTLY MAINTAINS A BOND RATING OF AAA FROM AT
13 LEAST TWO OF THE FOLLOWING RATING AGENCIES:

14 (I) FITCH;

15 (II) MOODY'S; AND

16 (III) STANDARD & POOR'S.

17 (E) "QUALIFYING COUNTY BOND" MEANS A NOTE, AN INTERIM
18 CERTIFICATE, A REFUNDING BOND, AND ANY EVIDENCE OF OBLIGATION ISSUED
19 UNDER THIS SUBTITLE BY OR ON BEHALF OF A QUALIFYING COUNTY TO
20 FINANCE THE COST OF PUBLIC SCHOOL CONSTRUCTION PROJECTS AND PUBLIC
21 SCHOOL CAPITAL IMPROVEMENTS IN THE QUALIFYING COUNTY.

22 **5-3A-02.**

23 (A) (1) THERE IS A SUPPLEMENTAL PUBLIC SCHOOL
24 CONSTRUCTION MATCHING FUND PROGRAM.

25 (2) THE PURPOSE OF THE PROGRAM IS TO PROVIDE
26 SUPPLEMENTAL STATE FUNDING TO EACH QUALIFYING COUNTY TO ASSIST
27 WITH FUNDING THE COST OF PUBLIC SCHOOL CONSTRUCTION PROJECTS AND
28 PUBLIC SCHOOL CAPITAL IMPROVEMENTS IN THE QUALIFYING COUNTY.

1 **(3) THE PROGRAM SHALL BE IMPLEMENTED AND ADMINISTERED**
2 **BY THE DEPARTMENT OF BUDGET AND MANAGEMENT IN ACCORDANCE WITH**
3 **THIS SUBTITLE.**

4 **(B) THE DEPARTMENT OF BUDGET AND MANAGEMENT SHALL PROVIDE**
5 **TO EACH QUALIFYING COUNTY THAT MEETS THE REQUIREMENTS OF**
6 **SUBSECTION (C) OF THIS SECTION UP TO \$20,000,000 OF STATE FUNDING EACH**
7 **FISCAL YEAR TO BE USED:**

8 **(1) TO PAY UP TO ONE-THIRD OF THE COST OF DEBT SERVICE ON**
9 **BONDS ISSUED BY OR ON BEHALF OF EACH QUALIFYING COUNTY TO FUND THE**
10 **COST OF PUBLIC SCHOOL CONSTRUCTION PROJECTS AND PUBLIC SCHOOL**
11 **CAPITAL IMPROVEMENTS IN EACH QUALIFYING COUNTY; OR**

12 **(2) TO PROVIDE STATE FUNDING TO PAY THE COST OF PUBLIC**
13 **SCHOOL CONSTRUCTION PROJECTS AND PUBLIC SCHOOL CAPITAL**
14 **IMPROVEMENTS IN EACH QUALIFYING COUNTY AT A RATIO OF \$1 OF STATE**
15 **FUNDING FOR EVERY \$2 OF QUALIFYING COUNTY FUNDING.**

16 **(C) TO BE ELIGIBLE FOR THE PROGRAM, A QUALIFYING COUNTY SHALL**
17 **FILE AN APPLICATION FOR THE PROGRAM WITH THE DEPARTMENT OF BUDGET**
18 **AND MANAGEMENT ON OR BEFORE JUNE 30, 2019, THAT INCLUDES:**

19 **(1) APPROPRIATE DOCUMENTATION EVIDENCING THAT THE**
20 **COUNTY MEETS THE REQUIREMENTS OF A QUALIFYING COUNTY UNDER §**
21 **5-3A-01(D) OF THIS SUBTITLE;**

22 **(2) A PLAN FOR THE PUBLIC SCHOOL CONSTRUCTION PROJECTS**
23 **AND PUBLIC SCHOOL CAPITAL IMPROVEMENTS FOR WHICH THE COUNTY IS**
24 **REQUESTING ASSISTANCE FROM THE PROGRAM;**

25 **(3) IF THE QUALIFYING COUNTY IS REQUESTING ASSISTANCE**
26 **WITH DEBT SERVICE COSTS, A PLEDGE TO ISSUE QUALIFYING COUNTY BONDS**
27 **ON OR BEFORE JUNE 30, 2020, THAT MATURE WITHIN A PERIOD NOT TO EXCEED**
28 **20 YEARS AFTER THEIR DATE OF ISSUANCE; AND**

29 **(4) IF THE QUALIFYING COUNTY IS REQUESTING ASSISTANCE**
30 **WITH STATE FUNDING TO FUND PUBLIC SCHOOL CONSTRUCTION COSTS, A**
31 **PLEDGE TO MATCH EVERY \$1 OF STATE FUNDING WITH \$2 OF QUALIFYING**
32 **COUNTY FUNDING.**

33 **(D) (1) THE STATE FUNDING PROVIDED UNDER SUBSECTION (B)(1)**
34 **OF THIS SECTION:**

1 **(I) SHALL BE PLEDGED TO THE PAYMENT OF DEBT**
2 **SERVICE ON BONDS ISSUED BY OR ON BEHALF OF EACH QUALIFYING COUNTY TO**
3 **FUND THE COST OF PUBLIC SCHOOL CONSTRUCTION PROJECTS AND PUBLIC**
4 **SCHOOL CAPITAL IMPROVEMENTS IN EACH QUALIFYING COUNTY; AND**

5 **(II) SHALL END WHEN THE BONDS THAT HAVE BEEN ISSUED**
6 **TO FUND THE COST OF PUBLIC SCHOOL CONSTRUCTION PROJECTS AND PUBLIC**
7 **SCHOOL CAPITAL IMPROVEMENTS IN THE QUALIFYING COUNTY UNDER THIS**
8 **SECTION ARE NO LONGER OUTSTANDING AND UNPAID.**

9 **(2) THE STATE FUNDING PROVIDED UNDER SUBSECTION (B)(2)**
10 **OF THIS SECTION:**

11 **(I) SHALL BE USED TO FUND THE COST OF PUBLIC SCHOOL**
12 **CONSTRUCTION PROJECTS AND PUBLIC SCHOOL CAPITAL IMPROVEMENTS IN**
13 **EACH QUALIFYING COUNTY; AND**

14 **(II) SHALL END NO LATER THAN 20 YEARS AFTER THE**
15 **FUNDING WAS FIRST RECEIVED UNDER THIS SECTION.**

16 **(E) A QUALIFYING COUNTY BOND ISSUED IN ACCORDANCE WITH THIS**
17 **SUBTITLE:**

18 **(1) IS NOT A DEBT, LIABILITY, OR PLEDGE OF THE FAITH AND**
19 **CREDIT OR THE TAXING POWER OF THE STATE;**

20 **(2) MAY NOT GIVE RISE TO ANY PECUNIARY LIABILITY OF THE**
21 **STATE; AND**

22 **(3) IS NOT DIRECTLY, INDIRECTLY, OR CONTINGENTLY A MORAL**
23 **OR OTHER OBLIGATION OF THE STATE TO LEVY OR PLEDGE ANY TAX OR TO**
24 **MAKE AN APPROPRIATION TO PAY THE BOND.**

25 **5-3A-03.**

26 **(A) (1) PROJECTS FUNDED UNDER THIS SUBTITLE MUST BE**
27 **APPROVED BY THE DEPARTMENT OF BUDGET AND MANAGEMENT AND THE**
28 **INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION BEFORE ANY RELEASE**
29 **OF FUNDING UNDER THIS SUBTITLE.**

30 **(2) A QUALIFYING COUNTY, THE DEPARTMENT OF BUDGET AND**
31 **MANAGEMENT, AND THE INTERAGENCY COMMITTEE ON SCHOOL**

1 CONSTRUCTION SHALL ENTER INTO A MEMORANDUM OF UNDERSTANDING
2 WITH RESPECT TO PROCEDURES REQUIRED UNDER PARAGRAPH (1) OF THIS
3 SUBSECTION BEFORE ANY RELEASE OF FUNDING UNDER THIS SUBTITLE.

4 (3) THE ELIGIBLE COSTS AND STATE AND LOCAL COST-SHARE
5 PERCENTAGES SET FORTH IN REGULATION DO NOT APPLY TO PROJECTS
6 FUNDED UNDER THIS SUBTITLE IN A QUALIFYING COUNTY.

7 (B) THE MEMORANDUM OF UNDERSTANDING SHALL:

8 (1) IDENTIFY THE ELIGIBLE COSTS AND STATE AND LOCAL
9 COST-SHARE PERCENTAGES THAT WILL BE APPLICABLE TO PROJECTS
10 FINANCED UNDER THIS SUBTITLE IN A QUALIFYING COUNTY;

11 (2) REQUIRE A QUALIFYING COUNTY THAT RECEIVES STATE
12 FUNDING IN ACCORDANCE WITH § 5-3A-02(B)(1) OF THIS SUBTITLE TO
13 DEPOSIT FUNDS IN THE SUPPLEMENTAL PUBLIC SCHOOL CONSTRUCTION
14 FUND ESTABLISHED UNDER § 5-3A-04 OF THIS SUBTITLE TO PAY AT LEAST
15 TWO-THIRDS OF THE COST OF DEBT SERVICE ON QUALIFYING COUNTY BONDS;

16 (3) REQUIRE A QUALIFYING COUNTY THAT RECEIVES STATE
17 FUNDING IN ACCORDANCE WITH § 5-3A-02(B)(2) OF THIS SUBTITLE TO PLEDGE
18 TO MATCH EVERY \$1 OF STATE FUNDING WITH \$2 OF QUALIFYING COUNTY
19 FUNDING AND TO IDENTIFY THE SOURCE OF FUNDING FOR THE MATCH; AND

20 (4) PROVIDE ANY OTHER PROVISIONS NECESSARY TO
21 IMPLEMENT THE FUNDING OF PROJECTS UNDER THIS SUBTITLE.

22 (C) THE STATE FUNDING PROVIDED UNDER THIS SUBTITLE IS
23 SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING
24 THAT WOULD OTHERWISE BE APPROPRIATED FOR PUBLIC SCHOOL
25 CONSTRUCTION PURPOSES IN A QUALIFYING COUNTY FROM ANY OTHER
26 SOURCE.

27 5-3A-04.

28 (A) (1) THERE IS A SUPPLEMENTAL PUBLIC SCHOOL
29 CONSTRUCTION FUND.

30 (2) THE FUND IS A CONTINUING, NONLAPSING FUND THAT SHALL
31 BE AVAILABLE IN PERPETUITY TO IMPLEMENT THIS SUBTITLE CONCERNING
32 QUALIFYING COUNTY PUBLIC SCHOOL CONSTRUCTION PROJECTS AND PUBLIC
33 SCHOOL CAPITAL IMPROVEMENTS.

1 **(3) THE DEPARTMENT OF BUDGET AND MANAGEMENT SHALL**
2 **USE THE FUND AS A REVOLVING FUND FOR CARRYING OUT THIS SUBTITLE**
3 **CONCERNING QUALIFYING COUNTY PUBLIC SCHOOL CONSTRUCTION PROJECTS**
4 **AND PUBLIC SCHOOL CAPITAL IMPROVEMENTS.**

5 **(B) THE MONEY ON DEPOSIT IN THE FUND SHALL BE PLEDGED TO AND**
6 **USED TO PAY THE FOLLOWING RELATING TO QUALIFYING COUNTY PUBLIC**
7 **SCHOOL CONSTRUCTION PROJECTS AND PUBLIC SCHOOL CAPITAL**
8 **IMPROVEMENTS:**

9 **(1) DEBT SERVICE ON QUALIFYING COUNTY BONDS;**

10 **(2) DEBT SERVICE RESERVES UNDER A TRUST AGREEMENT;**

11 **(3) ALL REASONABLE CHARGES AND EXPENSES RELATED TO**
12 **QUALIFYING COUNTY BORROWING; AND**

13 **(4) COSTS INCURRED FOR PUBLIC SCHOOL CONSTRUCTION**
14 **PROJECTS AND PUBLIC SCHOOL CAPITAL IMPROVEMENTS BY A QUALIFYING**
15 **COUNTY THAT RECEIVES STATE FUNDING IN ACCORDANCE WITH §**
16 **5-3A-02(B)(2) OF THIS SUBTITLE.**

17 **(C) THE FUND CONSISTS OF:**

18 **(1) MONEY DEPOSITED IN THE FUND;**

19 **(2) REVENUES COLLECTED OR RECEIVED IN ACCORDANCE WITH**
20 **§ 9-120 OF THE STATE GOVERNMENT ARTICLE;**

21 **(3) MONEY DEPOSITED BY A QUALIFYING COUNTY IN**
22 **ACCORDANCE WITH THE REQUIREMENTS OF THE MEMORANDUM OF**
23 **UNDERSTANDING UNDER § 5-3A-03 OF THIS SUBTITLE; AND**

24 **(4) ANY ADDITIONAL MONEY MADE AVAILABLE FROM ANY PUBLIC**
25 **SOURCE FOR THE PURPOSES ESTABLISHED FOR THE FUND.**

26 **(D) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE**
27 **FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

28 **(2) ANY INVESTMENT EARNINGS SHALL BE CREDITED TO THE**
29 **FUND.**

1 **(3) NO PART OF THE FUND MAY REVERT OR BE CREDITED TO THE**
2 **GENERAL FUND OR ANY SPECIAL FUND OF THE STATE.**

3 **Article – State Finance and Procurement**

4 6–226.

5 (a) (2) (i) Notwithstanding any other provision of law, and unless
6 inconsistent with a federal law, grant agreement, or other federal requirement or with
7 the terms of a gift or settlement agreement, net interest on all State money allocated
8 by the State Treasurer under this section to special funds or accounts, and otherwise
9 entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue
10 to the General Fund of the State.

11 (ii) The provisions of subparagraph (i) of this paragraph do not
12 apply to the following funds:

13 76. the Baltimore City Public School Construction
14 Financing Fund; [and]

15 77. the Spay/Neuter Fund; AND

16 78. **THE SUPPLEMENTAL PUBLIC SCHOOL**
17 **CONSTRUCTION FUND.**

18 **Article – State Government**

19 9–120.

20 (a) The Comptroller shall distribute, or cause to be distributed, the State
21 Lottery Fund to pay:

22 (1) on a pro rata basis for the daily and nondaily State lottery games,
23 the expenses of administering and operating the State lottery, as authorized under
24 this subtitle and the State budget; and

25 (2) then, except as provided in § 10–113.1 of the Family Law Article
26 and § 11–618 of the Criminal Procedure Article, the holder of each winning ticket or
27 share.

28 (b) (1) By the end of the month following collection, the Comptroller shall
29 deposit or cause to be deposited:

30 (i) into the Maryland Stadium Facilities Fund established
31 under § 7–312 of the State Finance and Procurement Article from the money that

1 remains in the State Lottery Fund, after the distribution under subsection (a) of this
2 section, an amount not to exceed \$20,000,000 in any fiscal year;

3 (ii) after June 30, 2014, into the Maryland Veterans Trust Fund
4 10% of the money that remains in the State Lottery Fund from the proceeds of sales of
5 tickets from instant ticket lottery machines by veterans' organizations under §
6 9-112(d) of this subtitle, after the distribution under subsection (a) of this section;

7 (iii) after June 30, 2014, into the Baltimore City Public School
8 Construction Financing Fund established under § 10-656 of the Economic
9 Development Article the money that remains in the State Lottery Fund from the
10 proceeds of all lotteries after the distributions under subsection (a) of this section and
11 items (i) and (ii) of this paragraph, an amount equal to \$20,000,000 in each fiscal year
12 that bonds are outstanding and unpaid, to be paid in two installments with at least
13 \$10,000,000 paid no later than December 1 of each fiscal year; [and]

14 (IV) AFTER JUNE 30, 2015, INTO THE SUPPLEMENTAL
15 PUBLIC SCHOOL CONSTRUCTION FUND ESTABLISHED UNDER § 5-3A-04 OF
16 THE EDUCATION ARTICLE THE MONEY THAT REMAINS IN THE STATE LOTTERY
17 FUND FROM THE PROCEEDS OF ALL LOTTERIES AFTER THE DISTRIBUTIONS
18 UNDER SUBSECTION (A) OF THIS SECTION AND ITEMS (I), (II), AND (III) OF THIS
19 PARAGRAPH, AN AMOUNT EQUAL TO \$20,000,000 FOR EACH QUALIFYING
20 COUNTY THAT RECEIVES FUNDING UNDER TITLE 5, SUBTITLE 3A OF THE
21 EDUCATION ARTICLE FOR EACH FISCAL YEAR, TO BE PAID IN TWO
22 INSTALLMENTS WITH AT LEAST \$10,000,000 PAID NO LATER THAN DECEMBER 1
23 OF EACH FISCAL YEAR; AND

24 [(iv)] (V) into the General Fund of the State the money that
25 remains in the State Lottery Fund from the proceeds of all lotteries after the
26 distributions under subsection (a) of this section and items (i), (ii), [and] (iii), AND (IV)
27 of this paragraph.

28 (2) The money paid into the General Fund under this subsection is
29 available in the fiscal year in which the money accumulates in the State Lottery Fund.

30 (c) The regulations of the Agency shall apportion the money in the State
31 Lottery Fund in accordance with subsection (b) of this section.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 July 1, 2014.