

Department of Legislative Services  
Maryland General Assembly  
2018 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1633  
Appropriations

(Delegate Hayes, *et al.*)

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Education - Public School Construction - Contingency Fund

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This bill extends the deadline for a local school system, including Baltimore City, to contract for a school construction project that has received State funding over more than one year before the State funds revert to a contingency fund for other projects in the same school system. **The bill takes effect June 1, 2018.**

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Fiscal Summary

**State Effect:** The bill is primarily procedural in nature and has no effect on total school construction funding. Due to the rare instances that funds revert to the statewide contingency account under current law, the bill has no material impact on school construction allocations.

**Local Effect:** The bill likely has no effect on local expenditures for public school construction projects, as discussed below.

**Small Business Effect:** None.

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Analysis

**Bill Summary/Current Law:** Under current law, any State funds approved for a school construction project in a county that has not been contracted for within two years of the project's approval are:

- available for another eligible project in the county in the current fiscal year; or
- available for another eligible project in the county in the next fiscal year, in addition to new funds allocated for eligible projects in the county in the next fiscal year.

The bill specifies that, in the case of projects that receive State funding over multiple years, a local school system has two years from the receipt of the final funding installment from the State, not from project approval and initial funding, to contract for the project before the State funds revert to the contingency fund.

Under current law and under the bill, any contingency funds reserved for a county that are not used within two years of the date that they were reserved become available for allocation to an eligible project in *any* county.

**Background/Local Fiscal Effect:** For an overview of State oversight and funding of school construction projects, please see the **Appendix – State Funding for Public School Construction**.

In general, large school construction projects receive funding over multiple years, which reflects the construction timelines of large projects. Typically, smaller systemic renovation projects that seek to replace or upgrade a component system of a public school (for instance, a roof or a boiler) typically receive funding from the State in a single year because those projects usually can be procured and completed within a year. However, in rare instances, funding for some larger systemic renovation projects is spread over two years. In a December 2017 letter to the 21<sup>st</sup> Century School Facilities Commission, the Interagency Committee on School Construction (IAC) advised that of the 106 systemic projects approved over the previous three fiscal years, only 5 received funding over multiple years.

In 2016, Baltimore City Public Schools (BCPS) notified IAC that multi-year funding for systemic renovations was proving to be an impediment to completing projects in a timely fashion and causing it to have to cancel multiple projects. Its limited resources mean that it is unable to forward fund systemic renovation projects, so it must wait for full funding to be provided by the State before bidding a project. In cases where funding was allocated over multiple years, it was unable to procure the project within two years, resulting in a substantial balance accumulating in its reserve contingency fund. The bill gives BCPS two years from the time it receives the *full* allocation to bid the project (instead of two years from the time any funding is approved), which provides more time before funds for a project revert to its reserve contingency fund, and then potentially to the statewide contingency account.

IAC notified the commission that, in response to the concerns raised by BCPS, it has discontinued the practice of allocating funding for systemic renovation projects over multiple years. Although the bill could pertain to large construction projects that receive funding over multiple years, IAC advises that no other local school system has expressed concern about the two-year deadline for signing a contract. Therefore, the bill likely has no practical effect on local school construction projects.

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Baltimore City; Montgomery County; Public School Construction Program; Department of Legislative Services

**Fiscal Note History:** First Reader - March 7, 2018  
mag/rhh

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# Appendix – State Funding for Public School Construction

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## *School Construction Review and Approval Process*

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 to BPW on which projects to fund. 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.

## *Eligible School Construction Costs*

IAC establishes a range of appropriate per student, square foot allocations for elementary, middle, and high schools as well as for special education students, career and technology students, and specialized programs. IAC also establishes, on an annual basis, a *cost per square foot* that is applicable to major school construction projects. For fiscal 2019, the cost per square foot is \$302 for new construction *without* site development (up from \$293 in fiscal 2018) and \$360 for new construction *with* site development (up from \$348.67 in fiscal 2018). In general, multiplying the cost per square foot allocation by the allowable

square feet (based primarily on the State-rated capacity of a building) yields the maximum allowable cost that is subject to the State/local cost-share formula.

The cost of acquiring land may not be considered an eligible construction cost and may not be paid by the State. Otherwise, BPW regulations specify public school construction-related costs that are eligible and ineligible for State funding. In general, the following costs are included among eligible expenses:

- construction of a new facility, a renovation of a new facility, an addition to an existing facility, or a replacement of an existing building or building portion (*i.e.*, “bricks and mortar”);
- building and site development;
- modular construction that meets specified standards;
- State-owned relocatable facilities and temporary facilities that are required to be on site during construction; and
- built-in equipment and furnishings.

Beginning in fiscal 2018, BPW approved the use of State funding for window air-conditioning units and associated electrical upgrades, installation, and security in schools where more than one-half of the classrooms are not temperature controlled.

Among the major items that explicitly are *not* eligible for State funding (besides site acquisition) are (1) architectural, engineering, and other consulting fees; (2) master plans and feasibility studies; (3) projects or systemic renovations for buildings and systems that have been replaced, upgraded, or renovated within the last 15 years; and (4) movable equipment and furnishings.

### *State Share of Eligible Costs*

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) requires that the cost-share formula be recalculated every three years. The first recalculation occurred in 2007, the second recalculation occurred in 2010, and the third was completed in 2014. The most recent recalculation was completed in 2017. IAC recommended updating the formula for the next three years, but BPW approved new cost shares *only* for fiscal 2019, which held harmless several jurisdictions that otherwise would have experienced a decrease in State support based on the 2017 recalculation of the formula. **Exhibit 1** shows the State share of eligible school construction costs for all Maryland jurisdictions for fiscal 2017 through 2019, as approved by BPW.

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**Exhibit 1**  
**State Share of Eligible School Construction Costs**  
**Fiscal 2017-2019**

<b>County</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
Allegany	83%	83%	85%
Anne Arundel	50%	50%	50%
Baltimore City	93%	93%	93%
Baltimore	52%	52%	56%
Calvert	53%	53%	53%
Caroline	80%	80%	81%
Carroll	59%	59%	59%
Cecil	63%	63%	66%
Charles	61%	61%	61%
Dorchester	76%	76%	76%
Frederick	64%	64%	64%
Garrett	50%	50%	50%
Harford	63%	63%	63%
Howard	55%	55%	55%
Kent	50%	50%	50%
Montgomery	50%	50%	50%
Prince George's	63%	63%	70%
Queen Anne's	50%	50%	51%
St. Mary's	58%	58%	58%
Somerset	100%	100%	100%
Talbot	50%	50%	50%
Washington	71%	71%	71%
Wicomico	97%	97%	97%
Worcester	50%	50%	50%
MD School for the Blind	93%	93%	93%

Source: Interagency Committee on School Construction

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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. The State achieved the \$2.0 billion target ahead of schedule, and Public School Construction Program (PSCP) funding has remained above the \$250.0 million target each year since. **Exhibit 2** shows annual State public school construction funding from fiscal 2010 through 2018, by county.

The Governor's proposed fiscal 2019 budget includes \$309.0 million in general obligation (GO) bonds and \$4.9 million in general funds for PSCP and an additional \$40.0 million in GO bonds for a supplemental grant program for school systems that have high enrollment growth or a large number of relocatable classrooms, as established by statute. The fiscal 2019 *Capital Improvement Program* includes \$280.0 million annually for PSCP in fiscal 2020 through 2023 and \$40.0 million annually for the supplemental grant program.

**Exhibit 2**  
**State Public School Construction Funding**  
**Fiscal 2010-2018**  
**(\$ in Thousands)**

<b>County</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
Allegany	\$0	842	\$727	\$1,999	\$2,496	\$6,597	\$10,837	\$24,242	12,873
Anne Arundel	25,020	26,200	32,400	33,349	34,870	36,200	39,419	42,598	36,829
Baltimore City	27,733	28,559	41,000	46,102	39,478	35,329	36,788	37,500	37,303
Baltimore	28,000	29,000	39,000	47,394	52,068	34,561	42,177	45,775	45,186
Calvert	8,181	8,450	7,317	7,129	5,577	2,653	1,500	9,964	14,575
Caroline	6,000	3,767	235	756	7,788	0	2,902	36	1,646
Carroll	10,520	8,444	9,079	15,211	4,874	3,915	6,415	3,418	3,853
Cecil	1,538	1,744	2,830	1,915	1,268	8,194	4,723	6,650	6,730
Charles	8,898	8,335	9,180	12,480	9,426	8,200	12,817	8,951	10,516
Dorchester	6,469	5,436	3,639	979	1,590	768	179	5,009	10,975
Frederick	16,226	14,000	16,532	19,254	20,163	15,901	21,000	21,295	19,564
Garrett	666	0	382	319	134	0	0	0	1,567
Harford	16,253	13,835	17,040	16,573	13,214	12,791	9,309	8,732	13,592
Howard	18,262	18,290	26,936	32,811	25,931	20,772	27,820	31,206	21,066
Kent	388	0	104	123	95	817	615	0	0
Montgomery	28,350	30,183	42,000	43,794	38,592	39,950	45,708	50,128	59,194
Prince George's	28,200	29,500	40,348	42,192	39,371	38,539	41,729	44,675	49,625
Queen Anne's	3,947	5,750	5,374	649	4,371	5,112	0	249	2,455
St. Mary's	4,028	6,600	3,354	3,172	7,472	11,876	7,015	1,273	815
Somerset	6,000	6,000	3,371	289	3,811	2,752	2,222	1,771	14,720
Talbot	436	344	135	35	634	0	308	0	0
Washington	7,965	7,970	8,571	9,117	8,494	7,467	8,404	4,847	2,592
Wicomico	13,170	9,975	1,864	11,290	13,327	10,991	7,440	10,373	11,847
Worcester	403	0	165	166	4,882	0	72	0	0
MD School for the Blind				2,800	6,063	14,733	8,616	6,000	9,376
Statewide		500		100	500	660	175	300	500
<b>Total</b>	<b>\$266,653</b>	<b>\$263,724</b>	<b>\$311,583</b>	<b>\$349,997</b>	<b>\$347,277</b>	<b>\$318,778</b>	<b>\$338,190</b>	<b>\$364,992</b>	<b>\$387,399</b>
<b>Amount Over \$250M</b>	<b>\$16,653</b>	<b>\$13,724</b>	<b>\$61,583</b>	<b>\$99,997</b>	<b>\$97,277</b>	<b>\$68,778</b>	<b>\$88,190</b>	<b>\$114,992</b>	<b>\$137,399</b>

Note: Includes new general obligation bonds, pay-as-you-go funds, and reallocated funds that were previously authorized. Counties receiving \$0 did not request any eligible projects to be funded in that year. Fiscal 2016-2018 include funds allocated for the Enrollment Growth and Relocatable Classroom program totaling \$20 million in fiscal 2016, \$40 million in fiscal 2017, and \$62.5 million in fiscal 2018. Fiscal 2017 total for Baltimore County includes \$5 million withheld by the Board of Public Works and later reauthorized by the General Assembly in fiscal 2018.

Source: Interagency Committee on School Construction; Department of Legislative Services