

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 512
Appropriations

(Delegate Ghrist, *et al.*)

Public School Construction - Maximum Gross Area Allowance for English
Learner Students

This bill requires that regulations developed by the Interagency Commission on School Construction (IAC) include a maximum gross area allowance (MGAA) for specified English learners (EL) that is equal to the MGAA for special education students. The new allowance applies only to new construction or major renovations approved on or after the bill's effective date. **The bill takes effect July 1, 2019.**

Fiscal Summary

State Effect: No effect on total State funding for school construction, which is established annually by the Governor and General Assembly through the capital budget process. The bill will increase total allowable construction costs for approved projects at schools that serve English learner (EL) students, which will increase State funding for each individual project and leave less funding available for other projects, assuming a fixed amount for school construction. The Maryland State Department of Education and IAC can implement the bill with existing resources. No effect on revenues.

Local Effect: Likewise, the bill will increase required local funding for some school construction projects, which likely means less local funding available for other projects, assuming a fixed amount for school construction.

Small Business Effect: None.

Analysis

Current Law/Background: For a complete summary of State funding for public school construction projects, please see the **Appendix – State Funding for Public School Construction**.

In calculating the maximum State participation in a school construction project, IAC calculates a per student MGAA in square feet, which is then multiplied by projected student enrollment in the school. The total square footage is then multiplied by the cost per square foot (which is adjusted annually) to arrive at the maximum total allowable construction cost for each project that the State will participate in. The State-local cost share is then applied to the construction cost to determine the amount of State funding a project is eligible to receive. The current MGAA for an elementary school student ranges from 104 to 131 square feet, and no additional adjustment is made for EL students; by comparison, the MGAA for a student with special needs is 180 square feet, a difference of at least 49 square feet. The current cost per square foot used by IAC is \$318 for building costs only (not including site adjustments). Thus, raising the MGAA for ELs to the same level as for special education students increases the total construction cost of a project by at least \$15,582 for each EL student.

As of October 2018, there are 84,392 English learners in Maryland public schools. Maryland participates in a consortium of state and local education agencies called WIDA and uses ACCESS for English Language Learners to identify students who are not proficient in English and require language services. Students who have an overall composite score of less than 4.5 on ACCESS are considered not proficient in Maryland.

Chapter 14 of 2018 (the 21st Century School Facilities Act) established a Workgroup on Educational Specifications Development to, among other things, review the square footage allocations that are currently used to calculate the State maximum allowable square footage for a project. The review is intended to identify any overly restrictive requirements and to determine if alternative methodologies or allocation could result in more efficient use of space in school buildings. IAC advises that the workgroup is considering eliminating MGAA's in favor of an alternative method for calculating school size; its final recommendations are due by July 1, 2019.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Department of Education; Interagency Commission on School Construction; Department of Legislative Services

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Analysis by: Michael C. Rubenstein

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

Appendix – State Funding for Public School Construction

School Construction Review and Approval Process

As enacted by Chapter 14 of 2018 (the 21st Century School Facilities Act), the Interagency Commission 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 determines which projects to fund. By December 31 of each year, IAC must approve projects comprising 75% of the preliminary school construction allocation projected to be available by the Governor for the upcoming fiscal year. Local school systems may appeal these preliminary decisions by IAC. By March 1 of each year, IAC must recommend to the General Assembly projects comprising 90% of the allocation for school construction submitted in the Governor's capital budget. Following the legislative session, IAC approves projects comprising the remaining school construction funds included in the enacted capital budget, no earlier than May 1. The final allocations are not subject to appeal.

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 2020, the cost per square foot is \$318 for new construction *without* site development (up from \$302 in fiscal 2019) and \$378 for new construction *with* site development (up from \$360 in fiscal 2019). 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, 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.

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; (4) movable equipment and furnishings; and (5) items that do not have a useful life of at least 15 years.

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 21st Century School Facilities Act requires that the cost-share formula be recalculated every two years (previously, statute required recalculation every three years). The most recent recalculation was approved by IAC in January 2019. **Exhibit 1** shows the State share of eligible school construction costs for all Maryland jurisdictions for fiscal 2020, as approved by IAC.

Chapter 14 also established the State’s intent to provide at least \$345 million for school construction in fiscal 2019 and at least \$400 million annually as soon as practicable and within current debt affordability guidelines. The State far surpassed the fiscal 2019 goal with a total of \$435.4 million approved for public school construction funding. **Exhibit 2** shows annual State public school construction funding from fiscal 2015 through 2019, by county.

The Governor’s proposed fiscal 2020 capital budget includes \$280.0 million in general obligation (GO) bonds for public school construction 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. It also includes \$45 million from the Education Trust Fund (ETF) for additional public school construction projects, \$30.0 million in pay-as-you-go (PAYGO) general funds for the

Healthy School Facility Fund established by Chapter 561 of 2018, and \$20.0 million from ETF for a revolving loan fund created by Chapter 14 to assist local governments in forward funding school construction projects. The fiscal 2020 *Capital Improvement Program* includes \$280.0 million annually for public school construction in fiscal 2021 through 2024 and \$40.0 million annually for the supplemental grant program. Additional funding totaling \$1.8 billion beginning in fiscal 2021 from revenue bonds supported by \$125 million from ETF is also projected for public school construction projects, as proposed by the Governor.

Exhibit 1
State Share of Eligible School Construction Costs
Fiscal 2020

County	FY 2020
Allegany	85%
Anne Arundel	50%
Baltimore City	91%
Baltimore	56%
Calvert	53%
Caroline	81%
Carroll	55%
Cecil	66%
Charles	61%
Dorchester	75%
Frederick	60%
Garrett	50%
Harford	60%
Howard	54%
Kent	50%
Montgomery	50%
Prince George's	70%
Queen Anne's	51%
St. Mary's	57%
Somerset	96%
Talbot	50%
Washington	71%
Wicomico	95%
Worcester	50%
MD School for the Blind	93%

Source: Interagency Commission on School Construction

Exhibit 2
State Public School Construction Funding
Fiscal 2015-2019
(\$ in Thousands)

County	FY2015	FY 2016	FY 2017	FY 2018	FY 2019
Allegany	\$6,597	\$10,837	\$24,242	\$12,873	\$3,950
Anne Arundel	36,200	39,419	42,598	36,829	28,832
Baltimore City	35,329	36,788	37,500	37,303	68,735
Baltimore	34,561	42,177	45,775	45,186	41,865
Calvert	2,653	1,500	9,964	14,575	9,763
Caroline	0	2,902	36	1,646	423
Carroll	3,915	6,415	3,418	3,853	6,853
Cecil	8,194	4,723	6,650	6,730	5,152
Charles	8,200	12,817	8,951	10,516	14,856
Dorchester	768	179	5,009	10,975	11,026
Frederick	15,901	21,000	21,295	19,564	19,178
Garrett	0	0	0	1,567	0
Harford	12,791	9,309	8,732	13,592	12,278
Howard	20,772	27,820	31,206	21,066	10,374
Kent	817	615	0	0	0
Montgomery	39,950	45,708	50,128	59,194	59,714
Prince George's	38,539	41,729	44,675	49,625	49,031
Queen Anne's	5,112	0	249	2,455	806
St. Mary's	11,876	7,015	1,273	815	6,347
Somerset	2,752	2,222	1,771	14,720	17,500
Talbot	0	308	0	0	8,390
Washington	7,467	8,404	4,847	2,592	12,042
Wicomico	10,991	7,440	10,373	11,847	9,971
Worcester	0	72	0	0	4,336
MD School for the Blind	14,733	8,616	6,000	9,376	14,000
Statewide	660	175	300	500	20,000
Total	\$318,778	\$338,190	\$364,992	\$387,399	\$435,422

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 2016-2019 include funds allocated for the Enrollment Growth and Relocatable Classroom program totaling \$20 million in fiscal 2016, \$40 million in fiscal 2017, \$62.5 million in fiscal 2018, and \$68.2 million in fiscal 2019. 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. Does not include funding for projects supported by Maryland Stadium Authority revenue bonds.

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