

SENATE BILL 994

F2, P1

7lr1261

By: **Senator Rosapepe**

Introduced and read first time: February 3, 2017

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **School Overcrowding Reduction Act of 2017**

3 FOR the purpose of renaming the Maryland Stadium Authority to be the Maryland
4 Construction Authority; specifying that the mission of the Maryland Construction
5 Authority includes the exploration and promotion of certain ways to construct public
6 school facilities; authorizing governmental units to request certain assistance from
7 the Authority regarding public school facility construction projects; requiring certain
8 parties to enter into and sign a certain memorandum of understanding that meets
9 certain requirements before the Authority may provide certain assistance;
10 authorizing a certain memorandum of understanding to waive certain provisions of
11 law and regulations that govern the public school construction program; prohibiting
12 a certain memorandum of understanding from waiving certain specified
13 requirements; authorizing certain exceptions to the requirement that certain public
14 school property must be held in trust by a county board of education; authorizing a
15 county board of education to contract with a county in a public-private
16 partnership agreement; establishing a design-construct-operate-maintain-finance
17 arrangement as an alternative financing method available for use by a county or a
18 county board; authorizing a county or a county board to solicit certain proposals and
19 lease certain property; authorizing certain alternative financing methods to include
20 certain reserves; repealing certain requirements relating to regulations for
21 alternative financing methods; repealing the requirement for the use of certain
22 standards and procedures for qualifying and approving certain alternative financing
23 methods; providing that certain provisions of law and regulations that govern the
24 public school construction program do not apply to alternative financing methods;
25 prohibiting a certain construction of a certain provision of this Act; requiring projects
26 that use alternative financing methods to comply with certain requirements;
27 providing that certain construction costs that exceed a certain amount per student
28 are ineligible for State public school construction funding unless the Interagency
29 Committee on School Construction grants a certain waiver; requiring the
30 Interagency Committee to calculate a certain average of public school construction
31 costs; requiring the State share of certain eligible costs to increase by a certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



percentage for certain projects under certain circumstances; altering the membership of the Interagency Committee; altering the selection of the chair of the Interagency Committee; requiring the membership of the Interagency Committee to reflect certain diversity; specifying the primary role of the Interagency Committee; providing that the Maryland Construction Authority is the successor of the Maryland Stadium Authority; providing that certain names and titles of a certain unit and officials in laws and other documents mean the names and titles of the successor unit and officials; providing for the continuity of certain matters and persons; requiring the publisher of the Annotated Code, in consultation with the Department of Legislative Services, to correct cross-references and terminology in the Code that are rendered incorrect by this Act; altering certain definitions; defining certain terms; and generally relating to alterations to the public school construction process to address overcrowding in public schools in the State.

BY repealing and reenacting, without amendments,
Article – Economic Development
Section 10–601(a), (f), (r), (v), and (w)
Annotated Code of Maryland
(2008 Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 10–601(b) and (q) and 10–604 to be under the amended subtitle “Subtitle 6.
Maryland Construction Authority”
Annotated Code of Maryland
(2008 Volume and 2016 Supplement)

BY adding to
Article – Economic Development
Section 10–601(o–1) and (dd–1) and 10–622.1
Annotated Code of Maryland
(2008 Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – Education
Section 4–114, 4–126, 5–301(b), and 5–302
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,
Article – Education
Section 5–301(a) and (c) through (j)
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

BY adding to
Article – Education

Section 5–301(k)
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

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

Article – Economic Development

Subtitle 6. Maryland [Stadium] **CONSTRUCTION** Authority.

10–601.

(a) In this subtitle the following words have the meanings indicated.

(b) “Authority” means the Maryland [Stadium] **CONSTRUCTION** Authority.

(f) “Baltimore City public school facility” means a property primarily used for
educational instruction that:

(1) is held in trust by Baltimore City or the Baltimore City Board of School
Commissioners for the benefit of the Baltimore City Public School System; and

(2) is designated for improvement under the memorandum of
understanding between the Authority, Baltimore City, the Baltimore City Board of School
Commissioners, and the Interagency Committee on School Construction entered into in
accordance with § 10–646 of this subtitle.

**(O–1) (1) “CONSTRUCTION” MEANS NEW CONSTRUCTION OR MAJOR
RENOVATION OR REPLACEMENT OF A PUBLIC SCHOOL FACILITY.**

**(2) “CONSTRUCTION” DOES NOT INCLUDE SYSTEMIC RENOVATION
PROJECTS AS DEFINED IN COMAR 23.03.02.15.**

(q) “Facility” means:

(1) a structure or other improvement developed at Camden Yards;

(2) a convention facility;

(3) the Hippodrome Performing Arts facility;

(4) a sports facility; [or]

(5) a Baltimore City public school facility; **OR**

(6) A PUBLIC SCHOOL FACILITY.

(r) “Governmental unit” means a county, a municipal corporation, a unit of State or local government, or any other public body created under State or local law.

(v) “Improve” means to add, alter, construct, equip, expand, extend, improve, install, reconstruct, rehabilitate, remodel, or repair.

(w) “Improvement” means addition, alteration, construction, equipping, expansion, extension, improvement, installation, reconstruction, rehabilitation, remodeling, or repair.

(DD-1) (1) “PUBLIC SCHOOL FACILITY” MEANS A PROPERTY PRIMARILY USED FOR EDUCATIONAL INSTRUCTION THAT IS DESIGNATED FOR IMPROVEMENT UNDER A MEMORANDUM OF UNDERSTANDING BETWEEN THE AUTHORITY AND A GOVERNMENTAL UNIT ENTERED INTO IN ACCORDANCE WITH § 10-622.1 OF THIS SUBTITLE.

(2) “PUBLIC SCHOOL FACILITY” DOES NOT INCLUDE A BALTIMORE CITY PUBLIC SCHOOL FACILITY.

10-604.

(a) There is a Maryland [Stadium] **CONSTRUCTION** Authority.

(b) (1) The Authority is a body politic and corporate and is an instrumentality of the State.

(2) The Authority is an independent unit in the Executive Branch of State government.

(3) The exercise by the Authority of its powers under this subtitle is an essential governmental function.

(c) The Authority is a public body under Title 5, Subtitle 4 of this article, the Maryland Industrial Development Financing Authority Act, for purposes of applying for, receiving, and making agreements in connection with:

(1) a loan;

(2) a grant;

(3) insurance; or

(4) any other form of financial assistance.

(D) THE MISSION OF THE AUTHORITY INCLUDES THE EXPLORATION AND PROMOTION OF EFFICIENT, EFFECTIVE, ECONOMICAL, AND INNOVATIVE WAYS TO CONSTRUCT PUBLIC SCHOOL FACILITIES IN THE STATE.

10-622.1.

(A) A GOVERNMENTAL UNIT MAY REQUEST THE AUTHORITY TO PROVIDE:

(1) TECHNICAL ASSISTANCE TO DEVELOP A PUBLIC SCHOOL FACILITY CONSTRUCTION PROJECT, INCLUDING PROJECT SCOPE AND PROJECT DELIVERY METHOD; OR

(2) ASSISTANCE WITH MANAGING THE CONSTRUCTION OF A PUBLIC SCHOOL FACILITY.

(B) BEFORE THE AUTHORITY MAY PROVIDE ASSISTANCE IN ACCORDANCE WITH THIS SECTION, A FOUR-PARTY MEMORANDUM OF UNDERSTANDING THAT MEETS THE REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION SHALL BE ENTERED INTO AND SIGNED BY THE AUTHORITY, THE COUNTY, THE COUNTY SCHOOL BOARD, AND THE INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION SPECIFYING THE ROLES, RIGHTS, AND RESPONSIBILITIES OF EACH PARTY.

(C) (1) IN THE MEMORANDUM OF UNDERSTANDING REQUIRED UNDER SUBSECTION (B) OF THIS SECTION, THE INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION SHALL AGREE TO PROVIDE THE AUTHORITY WITH THE SAME DEGREE OF FLEXIBILITY AS THE INTERAGENCY COMMITTEE PROVIDES TO THE AUTHORITY REGARDING THE CONSTRUCTION AND REVITALIZATION OF BALTIMORE CITY PUBLIC SCHOOL FACILITIES.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE MEMORANDUM OF UNDERSTANDING REQUIRED UNDER SUBSECTION (B) OF THIS SECTION MAY WAIVE THE REQUIREMENTS OF § 5-301 OF THE EDUCATION ARTICLE AND THE REGULATIONS THAT GOVERN THE PUBLIC SCHOOL CONSTRUCTION PROGRAM.

(3) THE MEMORANDUM OF UNDERSTANDING REQUIRED UNDER SUBSECTION (B) OF THIS SECTION MAY NOT WAIVE THE FOLLOWING REQUIREMENTS:

(I) THE STATE AND LOCAL COST-SHARE ESTABLISHED FOR EACH COUNTY IN REGULATIONS;

(II) THE MAXIMUM STATE CONSTRUCTION ALLOCATION FOR

1 EACH PROJECT APPROVED FOR STATE FUNDING;

2 (III) THE RECOMMENDATION OF THE INTERAGENCY
3 COMMITTEE TO THE BOARD OF PUBLIC WORKS REGARDING PROJECT FUNDING;

4 (IV) THE APPROVAL OF PROJECT FUNDING BY THE BOARD OF
5 PUBLIC WORKS;

6 (V) SMART GROWTH REQUIREMENTS;

7 (VI) MINORITY BUSINESS ENTERPRISE REQUIREMENTS;

8 (VII) PREVAILING WAGE REQUIREMENTS;

9 (VIII) ENVIRONMENTAL REQUIREMENTS;

10 (IX) A REQUIREMENT FOR A PROCUREMENT PROCESS THAT
11 INCLUDES PUBLIC NOTICE AND RESULTS IN THE MOST ADVANTAGEOUS PROPOSAL;
12 AND

13 (X) THE REQUIREMENT THAT, UNLESS WAIVED BY THE
14 INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION, PUBLIC SCHOOL
15 CONSTRUCTION COSTS PER STUDENT THAT EXCEED \$30,000, ADJUSTED ANNUALLY
16 FOR CONSTRUCTION COST INFLATION, ARE INELIGIBLE FOR STATE FUNDING.

17 Article – Education

18 4–114.

19 (a) All property granted, conveyed, devised, or bequeathed for the use of a
20 particular public school or school system:

21 (1) Except as provided in [subsection] SUBSECTIONS (c) THROUGH (E) of
22 this section, shall be held in trust for the benefit of the school or school system by the
23 appropriate county board or, for real property in Baltimore City, by the Mayor and City
24 Council of Baltimore; and

25 (2) Is exempt from all State and local taxes.

26 (b) Money invested in trust for the benefit of the public schools for any county or
27 city is exempt from all State and local taxes.

28 (c) (1) A private entity OR A COUNTY may hold title to property used for a
29 particular public school or local school system if the private entity OR COUNTY is
30 contractually obligated to transfer title to the appropriate county board on a specified date.

(2) The conveyance of title of school property to a private entity **OR A COUNTY** for a specified term under this subsection may not be construed to prohibit the allocation of construction funds to an approved school construction project under the Public School Construction Program.

(3) A county or county board may convey or dispose of surplus land under the jurisdiction of the county or county board in exchange for public school construction or development services.

(D) (1) THIS SUBSECTION APPLIES ONLY TO A PROJECT THAT USES AN ALTERNATIVE FINANCING METHOD UNDER § 4-126 OF THIS SUBTITLE.

(2) A COUNTY BOARD MAY TRANSFER TITLE TO PROPERTY USED FOR A PARTICULAR PUBLIC SCHOOL OR LOCAL SCHOOL SYSTEM TO A COUNTY, COUNTY REVENUE AUTHORITY, OR PRIVATE ENTITY IF THE COUNTY, COUNTY REVENUE AUTHORITY, OR PRIVATE ENTITY IS CONTRACTUALLY OBLIGATED TO OPERATE AND MAINTAIN THE PROPERTY UNTIL:

(I) THE PROPERTY OUTLIVES ITS USEFUL LIFE;

(II) THE PROPERTY IS NO LONGER NEEDED FOR SCHOOL PURPOSES; OR

(III) AS OTHERWISE AGREED TO BY THE PARTIES.

(E) A COUNTY, COUNTY REVENUE AUTHORITY, OR PRIVATE ENTITY MAY HOLD TITLE TO PROPERTY LEASED BY A COUNTY BOARD TO BE USED FOR A PARTICULAR PUBLIC SCHOOL OR LOCAL SCHOOL SYSTEM UNDER TERMS AGREED TO BY THE PARTIES.

4-126.

(a) **(1) In this section[, “alternative”] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) “ALTERNATIVE financing methods” includes ONE OR MORE OF THE FOLLOWING METHODS:

[(1)] (I) Sale-leaseback arrangements, in which a county board agrees to transfer title to a property, including improvements, to a private entity that simultaneously agrees to lease the property back to the county board and, on a specified date, transfer title back to the county board;

[(2)] (II) Lease-leaseback arrangements, in which a county board leases

1 a property to a private entity that improves the property and leases the property, with the
2 improvements, back to the county board;

3 [(3)] (III) Public-private partnership agreements, in which a county board
4 contracts with a COUNTY OR A private entity for the acquisition, design, construction,
5 improvement, renovation, expansion, equipping, or financing of a public school, and may
6 include provisions for cooperative use of the school or an adjacent property and generation
7 of revenue to offset the cost of construction or use of the school;

8 [(4)] (IV) Performance-based contracting, in which a county board enters
9 into an energy performance contract to obtain funding for a project with guaranteed energy
10 savings over a specified time period;

11 [(5)] (V) Preference-based arrangements, by which a local governing body
12 gives preference first to business entities located in the county and then to business entities
13 located in other counties in the State for any construction that is not subject to prevailing
14 wage rates under Title 17, Subtitle 2 of the State Finance and Procurement Article; [and]

15 [(6)] (VI) Design-build arrangements, that permit a county board to
16 contract with a design-build business entity for the combined design and construction of
17 qualified education facilities, including financing mechanisms where the business entity
18 assists the local governing body in obtaining project financing; AND

19 (VII) DESIGN-CONSTRUCT-OPERATE-MAINTAIN-FINANCE
20 ARRANGEMENTS, THAT PERMIT A COUNTY BOARD TO CONTRACT WITH A COUNTY OR
21 A PRIVATE ENTITY FOR THE DESIGN, CONSTRUCTION, OPERATION, AND
22 MAINTENANCE OF A PUBLIC SCHOOL UNDER TERMS AGREED TO BY THE PARTIES.

23 (3) "COUNTY" INCLUDES, UNLESS THE CONTEXT REQUIRES
24 OTHERWISE, A COUNTY REVENUE AUTHORITY.

25 (b) (1) Except when prohibited by local law, in order to finance or to speed
26 delivery of, transfer risks of, or otherwise enhance the delivery of public school construction,
27 a county OR COUNTY BOARD may:

28 [(1)] (I) Use alternative financing methods;

29 [(2)] (II) Engage in competitive negotiation, rather than competitive
30 bidding, in limited circumstances, including construction management at-risk
31 arrangements and other alternative project delivery arrangements, as provided in
32 regulations adopted by the Board of Public Works;

33 [(3)] (III) Accept unsolicited proposals for the development of public
34 schools in limited circumstances, as provided in regulations adopted by the Board of Public
35 Works; [and]

1 (IV) SOLICIT PROPOSALS FOR THE DEVELOPMENT OF PUBLIC
2 SCHOOLS;

3 (V) LEASE PROPERTY FROM A COUNTY OR A PRIVATE ENTITY
4 FOR USE AS A PUBLIC SCHOOL FACILITY; AND

5 [(4)] (VI) Use quality-based selection, in which selection is based on a
6 combination of qualifications and cost factors, to select developers and builders, as provided
7 in regulations adopted by the Board of Public Works.

8 (2) THE ALTERNATIVE FINANCING METHODS DESCRIBED UNDER
9 PARAGRAPH (1)(I) OF THIS SUBSECTION MAY INCLUDE RESERVES SUFFICIENT TO
10 COVER OPERATION, FACILITY RENEWAL, MAINTENANCE, AND ENERGY COSTS AS
11 PART OF A CONTRACT.

12 [(c)] The Board of Public Works shall adopt regulations requiring a project that
13 qualifies for alternative financing methods under this section to meet requirements
14 regarding the advantages of the project to the public that include provisions addressing:

15 (1) The probable scope, complexity, or urgency of the project;

16 (2) Any risk sharing, added value, education enhancements, increase in
17 funding, or economic benefit from the project that would not otherwise be available;

18 (3) The public need for the project; and

19 (4) The estimated cost or timeliness of executing the project.

20 (d) Projects that qualify for alternative financing methods under this subsection:

21 (1) Shall meet the educational standards, design standards, and
22 procedural requirements under this article and under regulations adopted by the Board of
23 Public Works; and

24 (2) Consistent with the requirements of this article, shall be approved by:

25 (i) The county governing body;

26 (ii) The State Superintendent of Schools; or

27 (iii) The Interagency Committee on School Construction and the
28 Board of Public Works.]

29 [(e)] (C) Use of alternative financing methods under this section may not be
30 construed to prohibit the allocation of State funds for public school construction to a project

under the Public School Construction Program.

[(f)] (D) A county board may not use alternative financing methods under this section without the approval of the county governing body.

[(g)] The Board of Public Works shall adopt regulations recommended by the Interagency Committee on School Construction to implement the provisions of this section, including:

(1) Guidelines for the content of proposals, for the acceptance and evaluation of unsolicited proposals, and for accepting competing unsolicited proposals;

(2) Requirements for the content and execution of a comprehensive agreement governing an arrangement authorized under this section;

(3) Guidelines for content and issuance of solicitations;

(4) Requirements for the prequalification of bidders or offerors;

(5) Requirements for public notice of solicited and unsolicited proposals and proposed execution of a comprehensive agreement;

(6) Regulations that require compliance with requirements applicable to qualified projects that would otherwise be in effect under the State procurement law if the procurement were competitively bid; and

(7) (i) Regulations that require that contracts and subcontracts adhere to the requirements of Title 17, Subtitle 2 and Title 14 of the State Finance and Procurement Article if the requirements would otherwise be applicable; and

(ii) Regulations that specify elements to be included in any preference-based arrangement adopted by a local governing body that gives preference first to business entities located in the county and then to business entities located in other counties in the State for any construction that is not subject to prevailing wage rates under Title 17, Subtitle 2 of the State Finance and Procurement Article.]

(E) (1) (I) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, § 5-301 OF THIS ARTICLE AND THE REGULATIONS THAT GOVERN THE PUBLIC SCHOOL CONSTRUCTION PROGRAM DO NOT APPLY TO PROJECTS THAT USE ALTERNATIVE FINANCING METHODS UNDER THIS SECTION.

(II) NOTHING IN THIS SECTION MAY BE CONSTRUED TO AUTHORIZE OR REQUIRE STATE APPROVAL BEFORE AN ALTERNATIVE FINANCING METHOD MAY BE USED BY A LOCAL SCHOOL SYSTEM.

(2) PROJECTS THAT USE ALTERNATIVE FINANCING METHODS UNDER

1 THIS SECTION SHALL COMPLY WITH THE FOLLOWING REQUIREMENTS:

2 (I) THE STATE AND LOCAL COST-SHARE ESTABLISHED FOR
3 EACH COUNTY IN REGULATIONS;

4 (II) THE MAXIMUM STATE CONSTRUCTION ALLOCATION FOR
5 EACH PROJECT APPROVED FOR STATE FUNDING;

6 (III) THE RECOMMENDATION OF THE INTERAGENCY
7 COMMITTEE TO THE BOARD OF PUBLIC WORKS REGARDING PROJECT FUNDING;

8 (IV) THE APPROVAL OF PROJECT FUNDING BY THE BOARD OF
9 PUBLIC WORKS;

10 (V) SMART GROWTH REQUIREMENTS;

11 (VI) MINORITY BUSINESS ENTERPRISE REQUIREMENTS;

12 (VII) PREVAILING WAGE REQUIREMENTS;

13 (VIII) ENVIRONMENTAL REQUIREMENTS;

14 (IX) A REQUIREMENT FOR A PROCUREMENT PROCESS THAT
15 INCLUDES PUBLIC NOTICE AND RESULTS IN THE MOST ADVANTAGEOUS PROPOSAL;
16 AND

17 (X) THE REQUIREMENT THAT, UNLESS WAIVED BY THE
18 INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION, PUBLIC SCHOOL
19 CONSTRUCTION COSTS PER STUDENT THAT EXCEED \$30,000, ADJUSTED ANNUALLY
20 FOR CONSTRUCTION COST INFLATION, ARE INELIGIBLE FOR STATE FUNDING.

21 5-301.

22 (a) In this subtitle, "Interagency Committee" means the Interagency Committee
23 on School Construction established under § 5-302 of this subtitle.

24 (b) (1) For the purposes of this section other than subsection (c), the Board of
25 Public Works shall define by regulation what constitutes an eligible and ineligible public
26 school construction or capital improvement cost.

27 (2) (i) The Board of Public Works shall include modular construction as
28 an approved public school construction or capital cost.

29 (ii) The Board of Public Works, at the recommendation of the
30 Interagency Committee on School Construction, shall adopt regulations that:

1 1. Define modular construction; and

2 2. Establish the minimum specifications required for
3 approval of modular construction as a public school construction or capital improvement
4 cost.

5 (3) The cost of acquiring land may not be considered a construction or
6 capital improvement cost and may not be paid by the State.

7 **(4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
8 **PARAGRAPH, PUBLIC SCHOOL CONSTRUCTION COSTS PER STUDENT THAT EXCEED**
9 **\$30,000, ADJUSTED ANNUALLY FOR CONSTRUCTION COST INFLATION IN THE**
10 **STATE, ARE INELIGIBLE FOR STATE FUNDING.**

11 **(II) THE INTERAGENCY COMMITTEE MAY GRANT A WAIVER OF**
12 **THE REQUIREMENT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR GOOD**
13 **CAUSE SHOWN.**

14 (c) The State shall pay the costs in excess of available federal funds of the State
15 share of public school construction projects and public school capital improvements in each
16 county if:

17 (1) The projects or improvements have been approved by the Board of
18 Public Works; and

19 (2) Contracts have been executed on or after July 1, 1971 for the projects
20 or improvements.

21 (d) (1) The Board of Public Works may adopt regulations for the
22 administration of the programs provided for in this section.

23 (2) The regulations adopted by the Board of Public Works may contain
24 requirements for:

25 (i) The development and submission of long range plans;

26 (ii) The submission of annual plans and plans for specific projects;

27 (iii) The submission of other data or information that is relevant to
28 school construction or capital improvement;

29 (iv) The approval of sites, plans, and specifications for the
30 construction of new school buildings or the improvement of existing buildings;

31 (v) Site improvements;

- 1 (vi) Competitive bidding;
- 2 (vii) The hiring of personnel in connection with school construction or
3 capital improvements;
- 4 (viii) The actual construction of school buildings or their
5 improvements;
- 6 (ix) The relative roles of different State and local governmental
7 agencies in the planning and construction of school buildings or school capital
8 improvements;
- 9 (x) School construction and capital improvements necessary or
10 appropriate for the proper implementation of this section;
- 11 (xi) At the recommendation of the Interagency Committee, the
12 establishment of priority public school construction programs;
- 13 (xii) Development of cooperative arrangements that permit the
14 sharing of facilities among two or more school systems;
- 15 (xiii) The selection of architects and engineers by school systems;
- 16 (xiv) The award of contracts by school systems; and
- 17 (xv) Method of payments made by the State under the Public School
18 Construction Program.
- 19 (3) The regulations adopted by the Board of Public Works shall contain
20 provisions:
- 21 (i) Establishing a State and local cost-share formula for each county
22 that identifies the factors used in establishing the formulas;
- 23 (ii) Requiring local education agencies to adopt educational facilities
24 master plans and annual capital improvement programs;
- 25 (iii) Providing a method for establishing a maximum State
26 construction allocation for each project approved for State funding;
- 27 (iv) Referencing the policies stated in § 5-7B-07 of the State Finance
28 and Procurement Article;
- 29 (v) Requiring local school systems to adopt procedures consistent
30 with the minority business enterprise policies of the State as required under the Code of
31 Maryland Regulations;

(vi) Establishing a process for the appeal of decisions by the Interagency Committee to the Board of Public Works;

(vii) Requiring local education agencies to adopt, implement, and periodically update comprehensive maintenance plans; and

(viii) Authorizing the Board of Public Works to withhold State public school construction funds from a local education agency that fails to comply with the requirements of item (vii) of this paragraph.

(4) In adopting any of these requirements, the State Board and the Board of Public Works shall provide for the maximum exercise of initiative by school personnel in each county to ensure that the school buildings and improvements meet both the needs of the local communities and the rules and regulations necessary to ensure the proper operation of this section and the prudent expenditure of State funds.

(e) The Board of Public Works shall develop the rules, regulations, and procedures authorized by this section in consultation with representatives of the county boards and the county governing bodies.

(f) The regulations and procedures of the Board of Public Works adopted under this section and their promulgation are exempt from § 8–127(b) of the State Finance and Procurement Article.

(g) (1) With respect to public school construction or public school capital improvements, including sites for school buildings, the authority, responsibilities, powers, and duties of the following are subject to the regulations adopted by the Board of Public Works under this section:

(i) The State Board;

(ii) The State Superintendent;

(iii) The county governments;

(iv) The county boards; and

(v) All other State or local governmental agencies under this article.

(2) If, as to public school construction or public school capital improvements, there is any conflict between the regulations and procedures of the Board of Public Works and the authority, responsibilities, powers, and duties of the individuals and agencies specified in paragraph (1) of this subsection, the regulations and procedures of the Board of Public Works shall prevail.

(h) The obligation of the State to pay the costs of public school construction and

public school capital improvements extends only to those projects or parts of projects that comply with the regulations and procedures of the Board of Public Works.

(i) (1) This subsection does not apply to the proceeds from the sale, lease, or disposition of public school buildings constructed under contracts executed before February 1, 1971.

(2) Consistent with § 4–115 of this article and regulations adopted by the Board of Public Works to implement § 4–126 of this article, the Board of Public Works may require by regulation that the portion of the proceeds received by a county from the sale, lease, or disposal of any public school building that represent State funds provided within 15 years prior to the date of the transaction shall be used solely as part of the State funding of the construction of future public school buildings in the county in which the sale, lease, or disposal occurred, if the public school building was constructed under a contract executed on or after February 1, 1971.

(3) The part of the proceeds from the sale, lease, or disposal of a public school building that fairly represents the appraised value of land and that part of the cost of the public school building that was funded by the county shall remain as the funds of the county.

(4) A transfer of interest in a public school building in connection with a financing of the cost of construction and improvements to such buildings is not a sale, lease, or disposal of the public school facility.

(j) (1) Whether by budget bill or supplementary appropriation bill, all money appropriated to carry out the purposes of this section is a separate fund that shall be administered by the State Comptroller in accordance with the regulations adopted by the Board of Public Works.

(2) Subject to paragraph (3) of this subsection, any unexpended allocations of funds for previously approved projects shall be transferred to the fund established under paragraph (1) of this subsection.

(3) (i) Any funds approved for a county for a project that has not been contracted for within 2 years of the approval of the project, shall be:

1. Available for another eligible project in the county in the current fiscal year; or

2. Reserved for eligible projects in the county in the next fiscal year, in addition to the new funds allocated for eligible projects in the county in the next fiscal year.

(ii) Any funds reserved under subparagraph (i)2 of this paragraph that have not been used to contract for a project within 2 years of the date the funds were reserved shall be available for allocation to an eligible project in any county.

(4) On or before March 30, June 30, September 30, and December 31 of each year, the Interagency Committee shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, and the Department of Legislative Services on the balance in the fund as of the reporting date as the result of transfers or reversions required under this subsection and any expenditures.

(K) (1) IN THIS SECTION, “ROLLING STATE AVERAGE OF PUBLIC SCHOOL CONSTRUCTION COSTS” MEANS THE AVERAGE STATE COST PER STUDENT FOR PUBLIC SCHOOL CONSTRUCTION PROJECTS AND CAPITAL IMPROVEMENTS OVER THE PREVIOUS 3 FISCAL YEARS.

(2) FOR EACH FISCAL YEAR, THE INTERAGENCY COMMITTEE SHALL CALCULATE THE ROLLING STATE AVERAGE OF PUBLIC SCHOOL CONSTRUCTION COSTS.

(3) IF A COUNTY’S PUBLIC SCHOOL CONSTRUCTION COSTS FOR A PARTICULAR PROJECT ARE 30% OR MORE BELOW THE ROLLING STATE AVERAGE OF PUBLIC SCHOOL CONSTRUCTION COSTS, THE STATE SHARE OF ELIGIBLE COSTS SHALL INCREASE BY 10% FOR THAT PROJECT.

5-302.

(a) (1) The Board of Public Works shall establish the Interagency Committee on School Construction as a unit within the Department for administrative and budgetary purposes.

(2) The Interagency Committee consists of the following members:

(i) [The State Superintendent of Schools, or the Superintendent’s designee] **THREE MEMBERS APPOINTED BY THE GOVERNOR;**

(ii) [A member of the public] **THREE MEMBERS** appointed by the President of the Senate; **AND**

(iii) [A member of the public] **THREE MEMBERS** appointed by the Speaker of the House[;

(iv) The Secretary of the Department of Planning, or the Secretary’s designee; and

(v) The Secretary of General Services, or the Secretary’s designee].

(3) The [State Superintendent of Schools, or the Superintendent’s designee, shall be the Chairman of the] Interagency Committee **SHALL ELECT A CHAIR**

1 ANNUALLY FROM AMONG ITS MEMBERS.

2 (4) A member of the Interagency Committee on School Construction may
3 not be:

4 (i) An individual who is a regulated lobbyist as described in §
5 5–702(a)(1), (2), (3), or (4) of the General Provisions Article;

6 (ii) A member of the General Assembly;

7 (iii) An employee of a county government or board of education; or

8 (iv) A local elected official.

9 **(5) THE MEMBERSHIP OF THE INTERAGENCY COMMITTEE SHALL**
10 **INCLUDE REPRESENTATION BY PUBLIC AND PRIVATE SECTOR INDIVIDUALS AND, TO**
11 **THE EXTENT PRACTICABLE, SHALL REFLECT REGIONAL DIVERSITY.**

12 **[(5)] (6)** The Board of Public Works may delegate the administrative and
13 budgetary authority of the Board to the Interagency Committee as determined by the Board
14 to be necessary and appropriate.

15 (b) (1) The Department or any other State agency may lend its employees to
16 serve as the staff for the Interagency Committee.

17 (2) These employees shall be paid by the agency that employs them.

18 (c) The Executive Director of the Interagency Committee shall be appointed by
19 the Interagency Committee with the approval of the Board of Public Works.

20 (d) (1) (i) The Interagency Committee shall prepare projections of school
21 construction and capital improvement needs for submission to the Capital Debt
22 Affordability Committee under § 8–112(c)(3) of the State Finance and Procurement Article.

23 (ii) The projections shall be prepared in accordance with the
24 regulations adopted by the Board under § 5–301 of this subtitle.

25 (2) (i) The Board of Public Works or the Interagency Committee shall
26 notify each county board and each local governing body of the annual allocation of school
27 construction funds recommended to the Board of Public Works by the Governor under the
28 consolidated capital debt program of the State Finance and Procurement Article.

29 (ii) The notification shall be made immediately after the Governor
30 has recommended the allocations so that each county may structure its respective school
31 construction and capital improvement priorities in accordance with the annual allocation
32 and any amendments.

(D-1) THE PRIMARY ROLE OF THE INTERAGENCY COMMITTEE IS TO PROVIDE TECHNICAL ASSISTANCE ON SCHOOL CONSTRUCTION, INCLUDING RESEARCH-BASED BEST PRACTICES IN ALL AREAS OF SCHOOL DESIGN AND CONSTRUCTION, TO COUNTY BOARDS, COUNTIES, AND COUNTY REVENUE AUTHORITIES.

(e) (1) Before May 1 of each year, the Board of Public Works may not approve public school construction projects that comprise more than 75% of the preliminary school construction allocation, determined under § 8-113 of the State Finance and Procurement Article, for the following fiscal year.

(2) On or before December 31 of each year, the Interagency Committee shall provide recommendations to the Board of Public Works for public school construction projects that comprise 75% of the preliminary school construction allocation, determined under § 8-113 of the State Finance and Procurement Article, for the following fiscal year.

(3) On or before March 1 of each year, the Interagency Committee shall provide recommendations to the Board of Public Works, the presiding officers and the budget committees of the General Assembly, and the Department of Legislative Services for public school construction projects that comprise 90% of the school construction allocation included in the capital budget submitted by the Governor for the following fiscal year.

(4) The remaining public school construction allocation for the following fiscal year may be allocated by the Board of Public Works as provided in regulation.

(f) (1) The Interagency Committee on School Construction is a public body and subject to Title 3 of the General Provisions Article.

(2) Deliberations and decisions regarding the eligibility of projects and allocation of funding shall be considered quasi-legislative functions for the purposes of the Open Meetings Law.

SECTION 2. AND BE IT FURTHER ENACTED, That, as provided in this Act:

(a) The Maryland Construction Authority is the successor of the Maryland Stadium Authority.

(b) In every law, executive order, rule, regulation, policy, or document created by an official, an employee, or a unit of the State, the names and titles of those agencies and officials mean the names and titles of the successor agency or official.

SECTION 3. AND BE IT FURTHER ENACTED, That nothing in this Act affects the term of office of an appointed or elected member of any commission, office, department, agency, or other unit. An individual who is a member of a unit on the effective date of this Act shall remain for the balance of the term to which appointed or elected, unless the

1 member sooner dies, resigns, or is removed under provisions of law.

2 SECTION 4. AND BE IT FURTHER ENACTED, That any transaction or
3 employment status affected by or flowing from any change of nomenclature or any statute
4 amended by this Act and validly entered into or existing before the effective date of this Act
5 and every right, duty, or interest flowing from a statute amended by this Act remains valid
6 after the effective date of this Act and may be terminated, completed, consummated, or
7 enforced as required or allowed by any statute amended by this Act as though the
8 amendment had not occurred. If a change in nomenclature involves a change in name or
9 designation of any State unit, the successor unit shall be considered in all respects as
10 having the powers and obligations granted the former unit.

11 SECTION 5. AND BE IT FURTHER ENACTED, That:

12 (1) the continuity of every commission, office, department, agency, or other
13 unit is retained; and

14 (2) the personnel, records, files, furniture, fixtures, and other properties
15 and all appropriations, credits, assets, liabilities, and obligations of each retained unit are
16 continued as the personnel, records, files, furniture, fixtures, properties, appropriations,
17 credits, assets, liabilities, and obligations of the unit under the laws enacted by this Act.

18 SECTION 6. AND BE IT FURTHER ENACTED, That the publisher of the
19 Annotated Code of Maryland, in consultation with and subject to the approval of the
20 Department of Legislative Services, shall correct, with no further action required by the
21 General Assembly, cross-references and terminology rendered incorrect by this Act. The
22 publisher shall adequately describe any such correction in an editor's note following the
23 section affected.

24 SECTION 7. AND BE IT FURTHER ENACTED, That this Act shall take effect July
25 1, 2017.