

SENATE BILL 551

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1lr1764

By: **Senator Rosapepe**

Introduced and read first time: January 26, 2021

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 27, 2021

CHAPTER _____

1 AN ACT concerning

2 ~~**School Construction Incentive Act of 2021**~~
3 ~~**Workgroup on School Construction Incentives**~~

4 FOR the purpose of ~~requiring an eligible cost of a public school construction or capital~~
5 ~~improvement project to include costs relating to certain planning, design, and~~
6 ~~analysis; authorizing the Interagency Commission on School Construction to adopt~~
7 ~~regulations for requiring the installation of certain utilities metering for certain~~
8 ~~school construction projects and the use of a certain maintenance management~~
9 ~~system; requiring the Interagency Commission to establish a certain incentive~~
10 ~~program for certain school construction and renewal projects; specifying criteria for~~
11 ~~a project to qualify for an incentive; providing for the calculation of the incentive,~~
12 ~~including an increase in the State share percentage and a decrease in the local share~~
13 ~~percentage of school construction and renewal costs; requiring the Interagency~~
14 ~~Commission to distribute certain incentive funding at certain periods of time;~~
15 ~~requiring a local education agency to submit to the Interagency Commission for~~
16 ~~certain projects an estimated total cost of ownership during a certain phase of the~~
17 ~~project and a projected actual total cost of ownership as constructed during a certain~~
18 ~~period of time; requiring the Interagency Commission to develop certain cost~~
19 ~~standards in coordination with the State Department of Education; requiring the~~
20 ~~Interagency Commission to adopt certain regulations; defining certain terms; and~~
21 ~~generally relating to public school construction~~ establishing the Workgroup on
22 School Construction Incentives; providing for the purpose, composition, chair, and
23 staffing of the Workgroup; prohibiting a member of the Workgroup from receiving
24 certain compensation, but authorizing the reimbursement of certain expenses;
25 requiring the Interagency Commission on School Construction to use certain funds

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



for a certain purpose; authorizing the Commission to contract with any person for a certain purpose; requiring the Workgroup to report certain findings and recommendations regarding school construction incentives to certain committees of the General Assembly on or before a certain date; requiring the Department of Budget and Management to disburse a certain amount to the Interagency Commission on School Construction for a certain purpose, subject to a certain limitation; providing for the termination of this Act; and generally relating to the Workgroup on School Construction Incentives.

~~BY repealing and reenacting, with amendments,
Article — Education
Section 5—303(a)(1) and (d)(2)
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)~~

~~BY repealing and reenacting, without amendments,
Article — Education
Section 5—310(a)(1) and (3)
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)~~

~~BY adding to
Article — Education
Section 5—324
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)~~

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

~~Article — Education~~

~~5—303.~~

~~(a) (1) (i) The Interagency Commission shall define by regulation what constitutes an eligible and ineligible public school construction or capital improvement cost.~~

~~(ii) In order for the cost of an item or a system funded with the proceeds of general obligation bonds to be considered an eligible cost, it must have a median useful life of at least 15 years.~~

~~(III) AN ELIGIBLE PUBLIC SCHOOL CONSTRUCTION OR CAPITAL IMPROVEMENT COST SHALL INCLUDE COSTS RELATED TO:~~

~~1. PLANNING, INCLUDING THE PREPARATION OF AN ESTIMATE OF TOTAL COST OF OWNERSHIP, AND DESIGN FOR THE PUBLIC SCHOOL CONSTRUCTION OR CAPITAL IMPROVEMENT; AND~~

~~2. ANALYZING THE PROJECTED ACTUAL TOTAL COST OF
OWNERSHIP AS CONSTRUCTED FOR THE CONSTRUCTION OF A NEW SCHOOL
BUILDING OR A SCHOOL FACILITY RENEWAL IN ACCORDANCE WITH § 5-324 OF THIS
SUBTITLE.~~

~~(d) (2) The regulations adopted by the Interagency Commission may contain
requirements for:~~

~~(i) The submission of other data or information that is relevant to
school construction or capital improvement;~~

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

~~(iii) Site improvements;~~

~~(iv) Competitive bidding;~~

~~(v) The hiring of personnel in connection with school construction or
capital improvements;~~

~~(vi) The actual construction of school buildings or their
improvements;~~

~~(vii) The relative roles of different State and local governmental
agencies in the planning and construction of school buildings or school capital
improvements;~~

~~(viii) School construction and capital improvements necessary or
appropriate for the proper implementation of this section;~~

~~(ix) The establishment of priority public school construction
programs;~~

~~(x) Development of cooperative arrangements that permit the
sharing of facilities among two or more school systems;~~

~~(xi) The selection of architects and engineers by school systems;~~

~~(xii) The award of contracts by school systems; [and]~~

~~(xiii) Method of payments made by the State under the Public School
Construction Program;~~

~~(XIV) THE INSTALLATION OF REAL-TIME UTILITIES METERING FOR THE CONSTRUCTION OF A NEW SCHOOL BUILDING OR A SCHOOL FACILITY RENEWAL, AS DEFINED IN § 5-324 OF THIS SUBTITLE; AND~~

~~(XV) THE USE OF A STANDARD STATEWIDE COMPUTERIZED MAINTENANCE MANAGEMENT SYSTEM FOR TRACKING AND REPORTING ON SCHOOL FACILITIES MAINTENANCE WORK ORDERS.~~

~~5-310.~~

~~(a) (1) In this section the following words have the meanings indicated.~~

~~(3) "Facility condition index" means a calculation to determine the relative physical condition of public school facilities by dividing the total repair cost of a facility by the total replacement cost of a facility.~~

~~5-324.~~

~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(2) "BASELINE TOTAL COST OF OWNERSHIP" MEANS THE TYPICAL TOTAL COST OF OWNERSHIP OF A NEW SCHOOL BUILDING OR A SCHOOL FACILITY RENEWAL, AS CALCULATED BY THE INTERAGENCY COMMISSION.~~

~~(3) "ESTIMATED TOTAL COST OF OWNERSHIP" MEANS THE TOTAL COST OF OWNERSHIP OF A NEW SCHOOL BUILDING OR A SCHOOL FACILITY RENEWAL AND THE CONCOMITANT ANALYSIS AS ESTIMATED BY A LOCAL EDUCATION AGENCY BEFORE THE CONSTRUCTION OF A NEW SCHOOL BUILDING OR A SCHOOL FACILITY RENEWAL BEGINS.~~

~~(4) "LOCAL SHARE PERCENTAGE" MEANS THE PERCENTAGE OF ELIGIBLE COSTS, AS DEFINED IN § 5-303 OF THIS SUBTITLE, FOR THE CONSTRUCTION OF A NEW SCHOOL BUILDING OR A SCHOOL FACILITY RENEWAL PAID FOR BY A COUNTY.~~

~~(5) (i) "PROJECTED ACTUAL TOTAL COST OF OWNERSHIP AS CONSTRUCTED" MEANS THE TOTAL COST OF OWNERSHIP OF A NEW SCHOOL BUILDING OR A SCHOOL FACILITY RENEWAL AND THE CONCOMITANT ANALYSIS AS CALCULATED BY A LOCAL EDUCATION AGENCY AFTER THE CONSTRUCTION OF THE NEW SCHOOL BUILDING OR THE SCHOOL FACILITY RENEWAL IS COMPLETE.~~

~~(ii) "PROJECTED ACTUAL TOTAL COST OF OWNERSHIP AS CONSTRUCTED" INCLUDES:~~

~~1. THE ACTUAL COSTS OF CONSTRUCTION AND OPERATION OF THE NEW SCHOOL BUILDING OR THE SCHOOL FACILITY RENEWAL AS OF THE DATE OF THE CALCULATION; AND~~

~~2. AN ESTIMATION OF FUTURE COSTS.~~

~~(6) "SCHOOL FACILITY RENEWAL" MEANS A CAPITAL IMPROVEMENT PROJECT FOR AN EXISTING SCHOOL THAT, ON COMPLETION:~~

~~(i) WILL REDUCE THE SCHOOL'S FACILITY CONDITION INDEX, AS DEFINED IN § 5-310 OF THIS SUBTITLE, TO 0.15 OR LOWER; AND~~

~~(ii) RESULTS IN A LIKE NEW OPERATIONAL CONDITION FOR THE SCHOOL.~~

~~(7) "STATE SHARE PERCENTAGE" MEANS THE PERCENTAGE OF ELIGIBLE COSTS, AS DEFINED IN § 5-303 OF THIS SUBTITLE, FOR THE CONSTRUCTION OF A NEW SCHOOL BUILDING OR A SCHOOL FACILITY RENEWAL PAID FOR BY THE STATE.~~

~~(B) (1) THE INTERAGENCY COMMISSION SHALL ESTABLISH A SCHOOL CONSTRUCTION INCENTIVE PROGRAM IN ACCORDANCE WITH THIS SECTION.~~

~~(2) A PROJECT FOR THE CONSTRUCTION OF A NEW SCHOOL BUILDING OR A SCHOOL FACILITY RENEWAL QUALIFIES FOR THE INCENTIVE IF THE ESTIMATED TOTAL COST OF OWNERSHIP FOR THE CONSTRUCTION OR RENEWAL IS AT LEAST 10% LESS THAN THE BASELINE TOTAL COST OF OWNERSHIP FOR THE CONSTRUCTION OR RENEWAL.~~

~~(3) FOR EACH WHOLE PERCENTAGE POINT THAT THE ESTIMATED TOTAL COST OF OWNERSHIP FOR THE PROJECT IS LESS THAN THE BASELINE TOTAL COST OF OWNERSHIP FOR THE PROJECT, THE INCENTIVE IS AN INCREASE OF 0.75% TO THE STATE SHARE PERCENTAGE.~~

~~(4) SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, IF A PROJECT QUALIFIES FOR THE INCENTIVE UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE INTERAGENCY COMMISSION SHALL:~~

~~(i) DISTRIBUTE HALF OF THE INCENTIVE FUNDING, AS CALCULATED UNDER PARAGRAPH (3) OF THIS SUBSECTION, BEFORE CONSTRUCTION IS COMPLETE; AND~~

~~(ii) IF THE ANALYSIS SUBMITTED UNDER SUBSECTION (C)(1)(ii) OF THIS SECTION DEMONSTRATES THAT THE PROJECT'S PROJECTED ACTUAL TOTAL~~

~~COST OF OWNERSHIP AS CONSTRUCTED IS LESS THAN OR EQUAL TO THE ESTIMATED TOTAL COST OF OWNERSHIP FOR THE PROJECT, DISTRIBUTE THE REMAINING INCENTIVE FUNDING AFTER THE PROJECT IS COMPLETE, BUT BEFORE 18 MONTHS AFTER THE DATE ON WHICH THE PROJECT IS COMPLETE.~~

~~(5) IF THE ANALYSIS SUBMITTED UNDER SUBSECTION (C)(1)(H) OF THIS SECTION DEMONSTRATES THAT THE PROJECT'S PROJECTED ACTUAL TOTAL COST OF OWNERSHIP AS CONSTRUCTED EXCEEDS THE ESTIMATED TOTAL COST OF OWNERSHIP FOR THE PROJECT, THE PROJECT DOES NOT QUALIFY FOR THE DISTRIBUTION OF INCENTIVE FUNDING UNDER PARAGRAPH (4)(H) OF THIS SUBSECTION.~~

~~(6) IF A LOCAL EDUCATION AGENCY RECEIVES AN INCENTIVE UNDER THIS SECTION, THE LOCAL SHARE PERCENTAGE SHALL DECREASE BY THE SAME PERCENTAGE POINTS AS THE INCREASE TO THE STATE SHARE PERCENTAGE.~~

~~(C) (1) TO BE ELIGIBLE TO RECEIVE THE INCENTIVE, A LOCAL EDUCATION AGENCY SHALL SUBMIT TO THE INTERAGENCY COMMISSION FOR EACH PROJECT FOR THE CONSTRUCTION OF A NEW SCHOOL BUILDING OR A SCHOOL FACILITY RENEWAL:~~

~~(I) DURING THE PLANNING PHASE FOR THE CONSTRUCTION OF A NEW SCHOOL BUILDING OR A SCHOOL FACILITY RENEWAL, AN ESTIMATED TOTAL COST OF OWNERSHIP FOR THE BUILDING OR RENEWAL; AND~~

~~(H) BETWEEN 12 AND 17 MONTHS AFTER THE DATE ON WHICH CONSTRUCTION IS COMPLETE AND THE LOCAL EDUCATION AGENCY BEGINS USING THE BUILDING OR RENEWAL FOR ITS INTENDED PURPOSE, THE PROJECTED ACTUAL TOTAL COST OF OWNERSHIP AS CONSTRUCTED FOR THE BUILDING OR RENEWAL.~~

~~(2) IN DETERMINING THE ESTIMATED TOTAL COST OF OWNERSHIP, THE LOCAL EDUCATION AGENCY SHALL BASE THE ESTIMATE ON LIFE CYCLE COST ANALYSIS STANDARDS ESTABLISHED UNDER SUBSECTION (D) OF THIS SECTION.~~

~~(D) THE INTERAGENCY COMMISSION, IN COORDINATION WITH THE DEPARTMENT, SHALL DEVELOP LIFE CYCLE COST ANALYSIS STANDARDS.~~

~~(E) THE INTERAGENCY COMMISSION SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.~~

(a) There is a Workgroup on School Construction Incentives.

(b) The purpose of the Workgroup is to convene a working group of diverse stakeholders to:

1 (1) make recommendations regarding appropriate incentives within the
2 school construction process to encourage consideration of the long-term effects of
3 construction decisions for school facilities; and

4 (2) consider the benefits of school construction incentives for students and
5 taxpayers.

6 (c) The Workgroup consists of the following members:

7 (1) two members of the Senate of Maryland, appointed by the President of
8 the Senate;

9 (2) two members of the House of Delegates, appointed by the Speaker of
10 the House;

11 (3) two representatives of the Maryland Association of Counties,
12 designated by the Executive Director of the Association;

13 (4) two representatives of the Maryland Association of Boards of
14 Education, designated by the Executive Director of the Association;

15 (5) two representatives of the Interagency Commission on School
16 Construction, designated by the Executive Director of the Commission;

17 (6) two representatives of the Public School Superintendents' Association
18 of Maryland, designated by the Executive Director of the Association; and

19 (7) the following nonvoting members of the Workgroup, designated by the
20 Executive Director of the Interagency Commission on School Construction:

21 (i) any appropriate professional staff of the Interagency
22 Commission on School Construction; and

23 (ii) any other appropriate stakeholders.

24 (d) The Workgroup shall elect by a majority vote a chair from among its legislator
25 members.

26 (e) The Interagency Commission on School Construction:

27 (1) shall provide staff for the Workgroup;

28 (2) shall use the funds appropriated under subsection (h) of this section to
29 support the Workgroup in carrying out its duties under this section, including by
30 contracting with any person in accordance with item (3) of this subsection; and

(3) may contract with any person for the purpose of supporting the Workgroup in carrying out the duties under this section.

(f) A member of the Workgroup:

(1) may not receive compensation as a member of the Workgroup; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(g) On or before November 1, 2021, the Workgroup shall report to the Senate Budget and Taxation Committee and the House Appropriations Committee, in accordance with § 2-1257 of the State Government Article, on its findings and recommendations, including:

(1) identification and analysis of approaches for accelerating school construction while reducing costs per student using appropriate incentives offered by local governments for school construction in 10 school systems in the State that volunteer to be the subject of this analysis, to the extent practicable;

(2) recommendations on total cost of ownership, real-time utilities metering, and other methods of assessing project efficiency and the appropriate uses of those assessments in applicable State administrative processes, project approval criteria, and funding structures; and

(3) for each formula or calculation that the Workgroup recommends under item (2) of this subsection:

(i) examples using different types of school facility projects; and

(ii) a sensitivity analysis of design decisions that the Workgroup recommends to be favored or disfavored in the formula or calculation.

(h) The Department of Budget and Management shall, subject to the State budget, disburse \$30,000 to the Interagency Commission on School Construction for the purposes of carrying out the Workgroup's duties under this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ June 1, 2021. It shall remain effective for a period of 1 year and, at the end of May 31, 2022, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.