

SENATE BILL 646

F1

3lr2109

By: **Senator McCray**

Introduced and read first time: February 6, 2023

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **School Construction – Public Charter School Facility Fund – Establishment**

3 FOR the purpose of establishing the Public Charter School Facility Fund as a special,
4 nonlapsing fund; exempting the Fund from a certain provision of law requiring
5 interest earnings on State money to accrue to the General Fund of the State;
6 requiring the Interagency Commission on School Construction to administer the
7 Fund; requiring the Fund to be used only to acquire, plan, develop, finance,
8 construct, lease, improve, repair, and maintain public charter school facilities; and
9 generally relating to the Public Charter School Facility Fund.

10 BY repealing and reenacting, without amendments,
11 Article – Education
12 Section 5–301
13 Annotated Code of Maryland
14 (2022 Replacement Volume)

15 BY adding to
16 Article – Education
17 Section 5–330
18 Annotated Code of Maryland
19 (2022 Replacement Volume)

20 BY repealing and reenacting, without amendments,
21 Article – State Finance and Procurement
22 Section 6–226(a)(2)(i)
23 Annotated Code of Maryland
24 (2021 Replacement Volume and 2022 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article – State Finance and Procurement
27 Section 6–226(a)(2)(ii) 170. and 171.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Annotated Code of Maryland
(2021 Replacement Volume and 2022 Supplement)

BY adding to
Article – State Finance and Procurement
Section 6–226(a)(2)(ii)172.
Annotated Code of Maryland
(2021 Replacement Volume and 2022 Supplement)

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

Article – Education

5–301.

In this subtitle, “Interagency Commission” means the Interagency Commission on
School Construction established under § 5–302 of this subtitle.

5–330.

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

**(2) “ELIGIBLE FACILITY EXPENSES” MEANS THE FOLLOWING ACTUAL
EXPENSES INCURRED BY A PUBLIC CHARTER SCHOOL FOR PUBLIC CHARTER
SCHOOL FACILITIES:**

**(I) DEBT SERVICE UNDER A MORTGAGE, BOND, OR OTHER
DEBT INSTRUMENT;**

(II) RENT;

(III) OPERATIONS;

(IV) MAINTENANCE;

(V) INSURANCE;

(VI) USAGE FEES; AND

**(VII) ANY OTHER EXPENSES THAT THE INTERAGENCY
COMMISSION DETERMINES WERE INCURRED FOR PUBLIC CHARTER SCHOOL
FACILITIES.**

1 **(3) “FUND” MEANS THE PUBLIC CHARTER SCHOOL FACILITY FUND.**

2 **(4) (I) “MAINTENANCE” MEANS THE SERVICES AND MATERIALS**
3 **REQUIRED TO KEEP PUBLIC CHARTER SCHOOL FACILITIES IN SUCH CONDITION**
4 **THAT THE FACILITIES MAY BE FULLY FUNCTIONAL AND CONTINUOUSLY UTILIZED**
5 **FOR THEIR INTENDED LIFESPAN, FOR THEIR INTENDED PURPOSES, AND AT THEIR**
6 **MAXIMUM ENERGY EFFICIENCY.**

7 **(II) “MAINTENANCE” INCLUDES ROUTINE AND CAPITAL**
8 **MAINTENANCE.**

9 **(5) (I) “OPERATIONS” MEANS THE SERVICES AND MATERIALS**
10 **REQUIRED TO KEEP PUBLIC CHARTER SCHOOL FACILITIES CLEAN, SANITARY, AND**
11 **TIDY SO THAT STUDENTS, TEACHERS, AND OTHER OCCUPANTS ARE COMFORTABLE,**
12 **HEALTHY, AND PRODUCTIVE.**

13 **(II) “OPERATIONS” INCLUDES:**

14 **1. THE PROVISION OF UTILITIES SUCH AS FUEL,**
15 **ELECTRICITY, WATER, AND SEWERAGE;**

16 **2. SUPPORT SERVICES TO ASSIST OCCUPANTS; AND**

17 **3. DISPOSAL AND RECYCLING OF TRASH AND**
18 **UNNECESSARY STRUCTURES AND EQUIPMENT.**

19 **(6) “PUBLIC CHARTER SCHOOL” HAS THE MEANING STATED IN §**
20 **9–102 OF THIS ARTICLE.**

21 **(7) “PUBLIC CHARTER SCHOOL FACILITIES” MEANS PREMISES THAT**
22 **ARE:**

23 **(I) OWNED OR LEASED BY A PUBLIC CHARTER SCHOOL; AND**

24 **(II) OCCUPIED AND UTILIZED BY A PUBLIC CHARTER SCHOOL**
25 **TO PROVIDE A PROGRAM OF PRIMARY OR SECONDARY EDUCATION TO ITS STUDENTS**
26 **UNDER TITLE 9 OF THIS ARTICLE.**

27 **(B) THERE IS A PUBLIC CHARTER SCHOOL FACILITY FUND.**

28 **(C) THE PURPOSE OF THE FUND IS TO PROVIDE FUNDING ON AN ANNUAL**
29 **BASIS TO PUBLIC CHARTER SCHOOLS IN THE STATE FOR ELIGIBLE EXPENSES**
30 **ASSOCIATED WITH PUBLIC CHARTER SCHOOL FACILITIES.**

1 (D) THE INTERAGENCY COMMISSION SHALL ADMINISTER THE FUND.

2 (E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT
3 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

4 (2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,
5 AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

6 (F) THE FUND CONSISTS OF:

7 (1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

8 (2) ANY INTEREST EARNINGS OF THE FUND; AND

9 (3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR
10 THE BENEFIT OF THE FUND.

11 (G) THE FUND MAY BE USED ONLY TO PROVIDE FUNDING TO PUBLIC
12 CHARTER SCHOOLS FOR ELIGIBLE EXPENSES ASSOCIATED WITH PUBLIC CHARTER
13 SCHOOL FACILITIES.

14 (H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND
15 IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

16 (2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO
17 THE FUND.

18 (I) (1) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE AMOUNT
19 OF FUNDING PROVIDED TO A PUBLIC CHARTER SCHOOL UNDER THIS SECTION FOR
20 EACH FISCAL YEAR SHALL BE EQUAL TO THE ELIGIBLE FACILITY EXPENSES THAT
21 THE PUBLIC CHARTER SCHOOL DEMONSTRATES THAT IT INCURRED DURING THE
22 IMMEDIATELY PRECEDING FISCAL YEAR.

23 (2) THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL
24 AN APPROPRIATION THAT IS EQUAL TO THE TOTAL AGGREGATE ENROLLMENT IN
25 PUBLIC CHARTER SCHOOLS IN THE STATE IN THE PRIOR FISCAL YEAR MULTIPLIED
26 BY \$2,000.

27 (3) THE AMOUNT OF FUNDING PROVIDED TO A PUBLIC CHARTER
28 SCHOOL UNDER THIS SECTION FOR A SINGLE FISCAL YEAR MAY NOT EXCEED \$2,000
29 PER PUPIL ENROLLED IN THE PUBLIC CHARTER SCHOOL AS OF SEPTEMBER 30 OF
30 THE PRIOR FISCAL YEAR.

(4) FUNDING UNDER THIS SECTION SHALL BE PAID DIRECTLY TO THE PUBLIC CHARTER SCHOOL AND MAY NOT BE PAID TO A LOCAL GOVERNMENT OR COUNTY BOARD.

(J) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE INTERAGENCY COMMISSION SHALL ESTABLISH APPLICATION PROCEDURES FOR PUBLIC CHARTER SCHOOLS TO REQUEST FUNDS UNDER THIS SECTION.

(2) THE INTERAGENCY COMMISSION SHALL ESTABLISH AWARD PROCEDURES TO MAKE AWARDS FROM THE FUND NOT MORE THAN 45 DAYS AFTER RECEIVING AN APPLICATION.

(K) A PUBLIC CHARTER SCHOOL IS INELIGIBLE TO APPLY FOR FUNDING UNDER THIS SECTION AFTER ITS CHARTER HAS BEEN REVOKED, NONRENEWED, OR SURRENDERED, REGARDLESS OF WHEN THE ELIGIBLE EXPENSES WERE INCURRED.

(L) (1) A PUBLIC CHARTER SCHOOL MAY NOT SELL, LEASE, EXCHANGE, GIVE AWAY, OR OTHERWISE TRANSFER OR DISPOSE OF ANY INTEREST IN REAL PROPERTY FOR WHICH IT RECEIVED REIMBURSEMENT FOR DEBT SERVICE UNDER THIS SECTION TO ACQUIRE THE PROPERTY UNLESS THE BOARD OF PUBLIC WORKS GIVES PRIOR WRITTEN CONSENT, FOLLOWING AT LEAST 60 CALENDAR DAYS WRITTEN NOTICE FROM THE PUBLIC CHARTER SCHOOL BEFORE THE PROPOSED TRANSFER OR DISPOSITION.

(2) THE BOARD OF PUBLIC WORKS MAY CONDITION PERMISSION TO TRANSFER OR DISPOSE OF THE PROPERTY ON THE REPAYMENT BY THE PUBLIC CHARTER SCHOOL OF THE PROCEEDS RECEIVED UNDER THIS SECTION FOR DEBT SERVICE TO ACQUIRE THE PROPERTY, AS DETERMINED BY THE BOARD OF PUBLIC WORKS IN ITS SOLE DISCRETION.

(M) FUNDING PROVIDED UNDER THIS SECTION MAY NOT SUPPLANT ANY OTHER STATE FUNDING RECEIVED BY THE PUBLIC CHARTER SCHOOL.

Article – State Finance and Procurement

6–226.

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

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

3 170. the Cannabis Public Health Fund; [and]

4 171. the Community Reinvestment and Repair Fund; AND

5 **172. THE PUBLIC CHARTER SCHOOL FACILITY FUND.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
7 1, 2023.