

SENATE BILL 551

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By: **Senator Rosapepe**

Introduced and read first time: January 26, 2021

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **School Construction Incentive Act of 2021**

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

21 BY repealing and reenacting, with amendments,
22 Article – Education
23 Section 5–303(a)(1) and (d)(2)
24 Annotated Code of Maryland
25 (2018 Replacement Volume and 2020 Supplement)

26 BY repealing and reenacting, without amendments,
27 Article – Education
28 Section 5–310(a)(1) and (3)
29 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(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.

1 **(7) “STATE SHARE PERCENTAGE” MEANS THE PERCENTAGE OF**
2 **ELIGIBLE COSTS, AS DEFINED IN § 5-303 OF THIS SUBTITLE, FOR THE**
3 **CONSTRUCTION OF A NEW SCHOOL BUILDING OR A SCHOOL FACILITY RENEWAL PAID**
4 **FOR BY THE STATE.**

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

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

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

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

19 **(I) DISTRIBUTE HALF OF THE INCENTIVE FUNDING, AS**
20 **CALCULATED UNDER PARAGRAPH (3) OF THIS SUBSECTION, BEFORE**
21 **CONSTRUCTION IS COMPLETE; AND**

22 **(II) IF THE ANALYSIS SUBMITTED UNDER SUBSECTION (C)(1)(II)**
23 **OF THIS SECTION DEMONSTRATES THAT THE PROJECT’S PROJECTED ACTUAL TOTAL**
24 **COST OF OWNERSHIP AS CONSTRUCTED IS LESS THAN OR EQUAL TO THE ESTIMATED**
25 **TOTAL COST OF OWNERSHIP FOR THE PROJECT, DISTRIBUTE THE REMAINING**
26 **INCENTIVE FUNDING AFTER THE PROJECT IS COMPLETE, BUT BEFORE 18 MONTHS**
27 **AFTER THE DATE ON WHICH THE PROJECT IS COMPLETE.**

28 **(5) IF THE ANALYSIS SUBMITTED UNDER SUBSECTION (C)(1)(II) OF**
29 **THIS SECTION DEMONSTRATES THAT THE PROJECT’S PROJECTED ACTUAL TOTAL**
30 **COST OF OWNERSHIP AS CONSTRUCTED EXCEEDS THE ESTIMATED TOTAL COST OF**
31 **OWNERSHIP FOR THE PROJECT, THE PROJECT DOES NOT QUALIFY FOR THE**
32 **DISTRIBUTION OF INCENTIVE FUNDING UNDER PARAGRAPH (4)(II) OF THIS**
33 **SUBSECTION.**

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

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

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

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

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

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

20 **(E) THE INTERAGENCY COMMISSION SHALL ADOPT REGULATIONS TO**
21 **CARRY OUT THIS SECTION.**

22 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July**
23 **1, 2021.**