

BILL: Senate Bill 1243
TITLE: 21st Century School Facilities Act
DATE: March 15, 2018
POSITION: SUPPORT WITH AMENDMENTS
COMMITTEE: Budget and Taxation Committee
CONTACT: John R. Woolums, Esq.

The Maryland Association of Boards of Education (MABE) supports Senate Bill 1243 because it would implement many of the recommendations of the 21st Century School Facilities Commission, which has been chaired by Martin Knott and is therefore known as the Knott Commission.

In 2016, the Speaker of the House and President of the Senate established the 21st Century School Facilities Commission, which has been chaired by Martin Knott, and is therefore known as the Knott Commission. The Knott Commission was formed to: review existing educational specifications; identify best practices and efficiencies from the construction industry; identify a long-term plan for jurisdictions with growing or declining enrollment; identify innovative financing mechanisms including public-private partnerships and alternatives to general obligation debt; and evaluate the appropriate role for state agencies in the school construction process.

MABE was represented on the Knott Commission by our past president and Somerset County board member, Ret. Brig. General Warner Sumpter. MABE greatly appreciates Gen. Sumpter's representation and the leadership of Mr. Knott and participation of the other members of the Commission in crafting a set of recommendations for reforms to Maryland's public school construction program.

Maryland has an outstanding public school construction program; one that was led by only two directors since its inception in the mid-1970s, and one which has achieved a remarkable degree of equity and excellence across the diverse landscape of Maryland's local school systems. And yet, continuous improvement must be promoted and pursued in order to incorporate new best practices and optimize what are always limited, and therefore inadequate, state and local resources. MABE supported the formation of the Knott Commission for this reason; to provide a forum for the exploration and adoption of recommendations for ways to improve an already strong statewide program.

The Commission engaged in lengthy briefings and deliberations over the course of 2 years on a wide array of proposals for reforms. The bill reflects this, and yet, likely for the same reason includes provisions that are not squarely within the bounds of the recommendations adopted by the Commission. In this context, MABE supports the overall thrust of the bill and offers several specific amendments.

One example is the provision of the bill dealing with the alternative financing of school facility projects and properties through public private partnerships. The section refers to governmental entities including "county revenue authorities" which may hold title to public schools in alternative finance arrangements under Section 4-126 of the Education Article. MABE is aware of this concept appearing in other legislation, not endorsed by the Commission, but it does not appear in the Commission's report or recommendations.

Therefore, MABE requests amendments to remove references in the proposed amendments to Section 4-114 of the Education Article to counties or county revenue authorities holding title to school facility properties. Similarly, in Section 4-126, the bill introduces amendments to redefine public private partnerships for purposes of design-construct-operate-maintain-finance projects as being controlled by county governments. MABE requests amendments to remove reference to counties, and county revenue authorities, as entities with which school systems would contract. To be clear, MABE fully supports the ongoing pursuit of ways for school systems to utilize public private partnerships to build high quality schools that promptly meet local needs while generating the necessary stream of revenue for private partners.

By contrast, the bill includes many provisions which MABE strongly supports. The bill would:

- Remove the burden of automatically designating each school as an emergency shelter, and the resulting and often unwarranted costs;
- Clarify the state's endorsement of the use of intergovernmental, bundling, and bulk purchasing;
- Enhance the role of the Interagency Committee on School Construction (IAC) as a source of technical assistance to local school systems; and
- Promote and financially incentivize net-zero school facilities.

However, the bill's proposal to incentivize the use of prototypes schools raises questions about the intended outcomes regarding school cost and quality. Many, if not most, school systems have utilized prototype school designs to reduce cost and staff workload in developing new designs for similar facilities. However, all of these decisions have been made by local school systems and not under the imposition of state regulations. Therefore MABE request an amendment to remove this section of the bill; by striking the amendments to Section 5-309 of the Education Article.

In addition, this bill would require that on or before July 1, 2018, the IAC shall adopt educational facilities sufficiency standards and a Maryland School Facility Index. MABE knows that an agreed upon priority for the Commission was to establish a system for gathering and compiling current information on the quality of all public schools to help ensure the equitable allocation of available state resources. Although MABE has serious concerns with the implications of a ranking system for school funding allocations, MABE agrees to lend support for the school facility assessment efforts though data already collected by the Association.

MABE also has serious concerns about mandating that each local school system annually update a comprehensive assessment of all school facilities In Section 5-310 the bill includes provisions that appear to micromanage the detail of updating the facility maintenance data. In the same section, the bill would mandate that all local school system preventative maintenance schedules must be reviewed and approved by the IAC. MABE is not aware of any Commission recommendation aligned with this bill provision, and urges the removal of 5-310(h)(2)(ii) and (h)(3).

Under Section 5-314, the bill would impose a new requirement that educational specifications become subject to the review and approval of MSDE and the IAC. MABE opposes this provision under Section 5-314(b). MABE believed, by contrast, that the Commission had agreed to develop a system of certifying delegated authority to local school systems to operate under less, not more, state-level oversight. This process is outlined in the bill, and is wholly supported by MABE.

Importantly, MABE strongly supports the bill provision stating the “intent of the General Assembly that, as soon as practicable and within the current debt affordability guidelines, the State should provide at least \$400 million each year for public school construction.” And MABE supports other provisions of the bill, such as the creation of the School Construction Technical and Innovative Assistance Office to assist local school systems with alternative financing and of the aspects of the school construction process.

Lastly, the bill would require the IAC to study several issues, including whether to reduce or eliminate State support for systemic renovations to focus available resources on major construction projects. MABE urges the removal of this provision, or in the alternative modify it to refer to the option of increasing the state investment or mandating commensurate local government investments in such projects. The prospect of losing the provision of state funding for systemics is alarming, and unwarranted, given the significant and beneficial role these projects play in ensuring a healthy school environment conducive to learning for so many Maryland students.

MABE greatly appreciates the work of the Knott Commission and the forum for thoughtful deliberations on meaningful reforms to Maryland’s public school construction program. For MABE and Maryland’s 24 local school boards, the mission to provide all of Maryland’s students with high performing school facilities conducive to learning is a top priority. The Maryland Constitution requires that the State provide a “thorough and efficient” system of public education; and MABE believes that this includes the duty to equitably provide safe, high quality school facilities in which all students can learn.

For these reasons, MABE requests a favorable report on Senate Bill 1243, with the amendments described above.