

**The Crosswalk:
Knott Commission's Recommendations
Vs.
21st Century School Facilities Act (HB 1783)**

Focus Area: Funding and School Construction Needs

Commission Charge: Review the Kopp Commission findings and progress toward Implementation.

Commission Charge: Identify a long-term plan for jurisdictions with growing enrollment, as well as maintaining facilities in jurisdictions with flat and declining enrollment.

Recommendation 1: The State should conduct a statewide facility assessment that will enable local education agencies (LEAs) to regularly assess school facilities in a uniform manner statewide. The integrated data system, to be known as the Integrated Master Facility Asset Library, should be managed by the State and the State should provide access to all 24 jurisdictions using a cloud-based system. The assessment and integrated data system should be done by an outside vendor initially and, to the extent feasible, draw from existing data sources that document the condition of school facilities in the State. The State and LEAs should continually update the facility data. The LEAs should work with the State to identify the data elements that should be maintained at the State level, utilizing existing reporting sources such as the Educational Facilities Master Plan and the Maryland Association of Boards of Education (for LEAs that participate in their insurance program) for data reporting to the extent possible. Once the initial facility assessment is completed, the results should be shared with State and local officials, including LEAs, county governments, IAC members, and legislators, a group of whom should determine collaboratively how the results should be incorporated into funding decisions.

21st Century School Facilities Act: *Conceptually implemented as suggested in consultation with the Interagency Commission and the Workgroup on the Assessment and Funding of School Facilities.*

Recommendation 2: The State should provide at least \$345 million for school construction in fiscal 2019, which is roughly the fiscal 2018 funding level (including supplemental funds for school systems with significant enrollment growth/relocatable classrooms but not including Aging Schools or Qualified Zone Academy Bonds). Revenues that exceed projections, particularly one-time revenues like bond premiums, should be considered to supplement school construction funding in fiscal 2019. However, the current funding level has not kept up with inflation based on the \$250 million annual goal set in fiscal 2006. As soon as practicable, the State should increase funding to at least \$400 million annually within current debt affordability guidelines. Recognizing fiscal constraints, this goal may be phased in over several years. Once the initial school facility assessment is completed, the new \$400 million goal should be

compared to the assessment results, which may result in developing a higher long-term funding goal.

21st Century School Facilities Act: *Conceptually implemented as suggested in consultation with the Interagency Commission and the Workgroup on the Assessment and Funding of School Facilities.*

Recommendation 3: The State-local cost-share formula should continue to favor jurisdictions with limited resources to support school construction. After reviewing the cost-share formula as revised by IAC in fall 2017, the Commission does not recommend any changes to the components of the formula or their relative weighting. However, a common definition of local pay-as-you-go included in the local school construction effort calculation should be developed so that all 24 counties are reporting comparable data. In addition, the cost-share formula should be updated every two years (instead of three years) to reflect changes in local conditions.

21st Century School Facilities Act: *Implemented as suggested.*

Recommendation 4: Costs that are eligible and ineligible for State funding should be reviewed and updated in light of changing circumstances within existing State policy that requires eligible costs to have a median useful life of at least 15 years. For example, projectors are ineligible but many classrooms now have projectors permanently mounted to ceilings. Systems or items that have not exceeded their median useful life, based on industry standards, or that do not have a median useful life of at least 15 years, should not be eligible for State funding. However, there should be some exception to this policy for systems that, while still within their median useful life, have failed despite having a documented record of preventive maintenance or are no longer supported by the manufacturer.

21st Century School Facilities Act: *Implemented as suggested.*

Recommendation 5: The State should continue to provide increased financial support to local school systems with increasing enrollment.

21st Century School Facilities Act: *Continued under current provisions.*

Recommendation 6: Local school systems with declining enrollment should be encouraged to consolidate buildings and/or find alternative uses for undersubscribed school buildings. However, final authority for redistricting should remain with local school boards.

21st Century School Facilities Act: *Implemented as suggested.*

Focus Area: Alternative Financing and Public-private Partnerships

Commission Charge: *Identify areas where innovative financing mechanisms, including public-private partnerships (P3s), as well as alternatives to traditional general obligation debt can be used for construction and ongoing maintenance.*

Recommendation 7: The State should explore the possibility of creating a school construction authority that includes members with expertise in school construction to accelerate State school construction funding and provide more flexibility for financing school construction projects than traditional general obligation (GO) bonds. Although GO debt is typically the least expensive option for the State and moving to appropriation- or revenue backed bonds increases the cost of debt, these higher costs may be offset by completing projects sooner and avoiding the inflationary costs. Alternative funding such as a dedicated revenue source or perhaps combining State and local revenue should be considered. The State may also wish to consider creating a revolving loan fund (similar to the Water Quality Revolving Loan Fund for local wastewater and sewer costs) to help counties fund the local share of school construction costs.

21st Century School Facilities Act: *Implemented in consultation with the Interagency Commission and the Maryland Stadium Authority.*

Recommendation 8: The State should provide technical assistance and help facilitate P3s, such as developing template lease agreements between developers and school systems. The State should encourage innovation through alternative financing by providing a financial incentive to assist one or more LEA(s) interested in pursuing alternative financing to cover the associated risks (*e.g.*, the contingency allowance could be increased and used for a broader set of changes than are currently allowed). If an LEA undertakes a project with alternative financing, IAC and the LEA should fully document the process, expectations, and results so that other LEAs can determine whether they want to pursue alternative financing.

21st Century School Facilities Act: *Implemented in consultation with the Interagency Commission and the Maryland Stadium Authority.*

Recommendation 9: To encourage greater use of alternative financing and P3s for school facilities, the State should consider allowing school systems to enter into long-term lease agreements for school buildings that do not require the local board of education to own the building at the end of the lease term. This would enable school systems to lease commercial or other space to serve as school buildings and would also allow the P3 model whereby in addition to design-build, the developer would also maintain and operate the building for a set period of time. The legal and financial implications related to this should be examined.

21st Century School Facilities Act: *In addition to the local board, a private entity or a County Revenue Authority may hold title to property used for a public school under certain circumstances. Also allow for P3 Design-Construct-Operate-Maintain-Finance type arrangements. Added a new Maintenance of Effort (MOE) exemption to help facilitate these types of leasing instruments.*

Recommendation 10: The State should explore the feasibility of regional (multi-district) school construction projects including regional P3 zones, *e.g.*, regional career and technical education high schools, and develop mechanisms and incentives to provide State funding.

21st Century School Facilities Act: *Implemented as suggested.*

Focus Area: State and Local Roles in the School Construction Process

Commission Charge: Evaluate the appropriate role for State agencies, including the Maryland Department of Planning (MDP), Department of General Services (DGS), Maryland State Department of Education (MSDE), and Board of Public Works, as well as the appropriate statutory structure for IAC.

Commission Charge: Review the relationship between State agencies and local governments on school construction projects.

Recommendation 11: Local school systems should have the flexibility to design schools that meet local needs and programmatic priorities.

21st Century School Facilities Act: *Implemented via the Interagency Commission and the Workgroup on Educational Development Specifications.*

Recommendation 12: Final project proposals should be subject to review and approval by the State. The process for evaluating school construction projects for State funding should be locally driven using a merit-based, apolitical process. Each stage of the process should include appropriate State oversight that adds value by utilizing professional expertise to build modern, efficient, and high-quality public school facilities for Maryland’s students.

21st Century School Facilities Act: *To be reviewed by the Interagency Commission in consultation with the Workgroup on the Assessment and Funding of School Facilities.*

Recommendation 13: Although the Commission recommends that the State should maintain a role in the review and approval of State-funded projects, the approval process should be streamlined to minimize unnecessary delays. Specifically, the Commission recommends:

a. maintain mandatory MSDE review and IAC approval of educational specifications and schematic designs for major construction projects, but explore the possibility of altering the two review processes to save time. A rolling deadline for submission of each document, with schematic designs submitted following completion of educational specifications review, should be considered;

21st Century School Facilities Act: *To be reviewed by the Interagency Commission and the Department of General Services in consultation with the LEAs.*

b. eliminate required DGS review and IAC approval of change orders for both major construction and systemic renovation projects;

21st Century School Facilities Act: *Implemented as suggested.*

c. eliminate required DGS review and IAC approval of design and construction documents for both major construction and systemic renovation projects for local school systems that successfully complete a voluntary certification process that demonstrates that they have the expertise and capacity in their counties to complete those reviews in-house. A State certification process should (1) be developed by DGS; (2) be reviewed and approved by IAC; and (3) result in a renewable, multi-year certification for successful school systems. The State, in consultation with local school systems, should develop a timeline for submission and review/approval of design and construction documents for those local school systems that continue to rely on DGS/IAC review and approval;

21st Century School Facilities Act: *The Department of General Services (DGS), in consultation with the Interagency Commission, will develop a certification process through which LEAs with demonstrated expertise and capacity can self-perform their reviews of Educational Specifications, Schematic Designs, Design and Construction Documents, and Preventive Maintenance Schedules. The DGS certification shall be renewable for a 5-year period for the LEA.*

d. eliminate MSDE review of any projects that are funded wholly with local funds unless they substantially alter or expand an existing school built in part with State funds; and

21st Century School Facilities Act: *Implemented as suggested.*

e. maintain IAC review and approval of procurement contracts and payments/closeout.

21st Century School Facilities Act: *Implemented as suggested.*

Recommendation 14: The 2.5% withholding for contingencies related to change orders from the State allocation should be eliminated, but LEAs should be required to maintain a contingency fund to address unanticipated construction costs above the State allocation.

21st Century School Facilities Act: *Implemented as suggested.*

Recommendation 15: The State should examine the potential benefits and disadvantages of (1) making project design costs eligible for State funding and (2) reducing or eliminating State support for systemic renovations to focus available resources on major construction projects.

21st Century School Facilities Act: *Recommendations to study these items not including in the Bill as passed.*

Recommendation 16: The requirement that LEAs submit future planning and construction project requests in the CIP beyond the upcoming fiscal year should be eliminated; LEAs should still be required to submit their 10-year EFMP each year.

21st Century School Facilities Act: *Implemented as suggested.*

Recommendation 17: Site approval should be required within three years of local planning submittal instead of at the time of new land purchase. This will eliminate duplicative site approval by MDP and IAC both at the time a school system purchases land and, sometimes many years later, when the school system moves forward with the planning process to build a new school.

21st Century School Facilities Act: *Implemented as suggested*

Recommendation 18: The requirement that all schools undergoing renovation qualify as emergency management shelters should be repealed; designation of schools as emergency shelters should be consistent with local emergency management plans and criteria as well as funding availability.

21st Century School Facilities Act: *Implemented as suggested.*

Focus Area: Educational Specifications and Space Guidelines

Commission Charge: *Review existing educational specifications for school construction projects and determine whether the existing specifications are appropriate for the needs of 21st century schools.*

Recommendation 19: The State should convene a stakeholder group that includes LEA facility planners and others to review the square footage allocations that are currently used to calculate the State maximum allowable square footage for a project to identify any overly restrictive requirements and to determine if alternative methodologies or allocations could result in more efficient use of space in school buildings. The stakeholder group should provide its recommendations to IAC, including any regarding allocations for community use space including community schools, especially for schools with high proportions of students eligible for free and reduced-price meals, *i.e.*, living in poverty.

21st Century School Facilities Act: *Implemented via the workgroup on Educational Development Specifications.*

Recommendation 20: The stakeholder group recommended above should also review MSDE-issued design standards and guidelines to ensure that they are aligned with the space allowances for each type of space (*e.g.*, health suites, classrooms, community use areas, etc.) and are not overly specific.

21st Century School Facilities Act: *Implemented via the workgroup on Educational Development Specifications.*

Recommendation 21: The State should consider using regional cost per square foot figures rather than one statewide amount in the State allowable cost per square foot figures established annually to reflect the different construction and labor markets in regions of the State.

21st Century School Facilities Act: *Implemented via the workgroup on Educational Development Specifications.*

Recommendation 22: The SRC process should be reviewed and updated to address special programs/adjacent schools/etc. utilizing enrollment projections provided by MDP.

21st Century School Facilities Act: *Implemented via the workgroup on Educational Development Specifications.*

Focus Area: Construction Efficiencies and Maintenance

Commission Charge: *Identify best practices from the construction industry to determine whether there are efficiencies that can be made in the construction of public schools and public charter schools.*

Commission Charge: *Determine areas for efficiencies and cost-saving measures for construction and maintenance.*

Recommendation 23: IAC should be a central repository for information on the use of pre-fab and building system options, procurement methods, school facility design and construction and, generally, best practices in school construction.

21st Century School Facilities Act: *Implemented as suggested.*

Recommendation 24: The State should provide technical assistance and support to local educational agencies on the use of alternative project delivery methods.

21st Century School Facilities Act: *Implemented in consultation with the Interagency Commission and the Maryland Stadium Authority.*

Recommendation 25: The State and local school systems should use technological advances to the greatest extent possible to both make building design more efficient and innovative, and utilize technology to streamline compliance reviews and project deliveries.

21st Century School Facilities Act: *Implemented as suggested.*

Recommendation 26: All required documents/data should be able to be submitted electronically to IAC.

21st Century School Facilities Act: *Implemented as suggested.*

Recommendation 27: Incentives should be provided for the use of prototype school designs, including expedited State review of projects that use them, but use of prototypes should not be required.

21st Century School Facilities Act: *Implemented as suggested.*

Recommendation 28: School construction procurement should be reoriented toward obtaining best value rather than lowest price, consistent with State procurement law for State projects.

21st Century School Facilities Act: *Implemented as suggested.*

Recommendation 29: Local school systems should be allowed to bundle (for approval and procurement purposes) similar systemic renovation projects at different schools (*e.g.*, roofs at three schools) and interrelated systemic projects at a single school (*e.g.*, windows and HVAC at one school).

21st Century School Facilities Act: *Implemented as suggested.*

Recommendation 30: Bulk purchasing, bundling, and intergovernmental purchasing for common items (*e.g.*, HVAC, windows) should be encouraged, consistent with competitive bidding requirements.

21st Century School Facilities Act: *Implemented as suggested.*

Recommendation 31: The State should encourage and provide technical support for agreements between and among LEAs and county governments, including regional partnerships, to improve efficiencies.

21st Century School Facilities Act: *Implemented in consultation with the Interagency Commission and the Maryland Stadium Authority.*

Recommendation 32: The Maryland Green Building Council should be asked to develop guidelines for achieving the equivalent of LEED Silver standards without requiring LEED certification of new school buildings, including some independent certification that school systems have achieved the required standards.

21st Century School Facilities Act: *Implemented as suggested.*

Recommendation 33: Incentives should be established for the construction of “net-zero” school buildings, in which the total amount of energy used by a building on an annual basis is roughly equal to or less than the amount of renewable energy created on the site.

21st Century School Facilities Act: *Implemented as suggested.*

Recommendation 34: Local education agencies should continue to be allowed choice in construction materials but incentives for energy efficient or other preferred materials should be given.

21st Century School Facilities Act: *Implemented as suggested.*

Recommendation 35: Local school systems should be required to report annually on their preventive maintenance schedules, which should be based on industry standards, and the preventive maintenance measures they have carried out on all major functional systems in each of their school buildings. The State should collect and monitor maintenance data through a comprehensive maintenance management system that is integrated with the facility assessment information system.

21st Century School Facilities Act: *Implemented as suggested.*

Recommendation 36: The effect of prevailing wage requirements on school construction costs should be further examined.

21st Century School Facilities Act: *Implemented as suggested.*