



CONTINUING RESOLUTIONS 2021-2022

Adequate and Equitable School Facility Funding

(Adopted 1999; amended 2001, 2002, 2005, 2008, 2011, 2013, 2016, 2017, 2018, 2020, 2021)

WHEREAS, the Maryland Constitution requires that the state provide a “thorough and efficient” system of public education, and providing a “thorough and efficient” system of public education requires adequate public school facilities; and

WHEREAS, all 24 school districts are in urgent need of adequate capital funding and annually request state and local funding to construct, renovate, and maintain school facilities; and

WHEREAS, adequately maintaining school facilities requires significant investments from both state and local governments; and

WHEREAS, needs and uses of public schools are dynamic, and local boards of education must be able to adequately address and finance the range of facility needs in capital projects; and

WHEREAS, local school systems develop capital improvement plans (CIPs) and construct and maintain school facilities in accordance with adopted procurement and construction laws and regulations; and

WHEREAS, the Bridge to Excellence in Public Schools Act of 2002 mandated that all local school systems provide universal full-day kindergarten and targeted pre-kindergarten programs for all economically disadvantaged four-year-olds; and

WHEREAS, the Task Force to Study Public School Facilities created by the Bridge to Excellence in Public Schools Act of 2002 conducted a statewide facilities needs assessment and recommended revisions to the state school construction program which were included in the School Facilities Act of 2004; and

WHEREAS, the School Facilities Act of 2004 revised state and local cost share formulas, reduced the state rated capacity for grades 1 to 5 from 25 to 23 students per classroom, enhanced opportunities to use alternative financing methods to fund projects, and adopted the goal of providing \$250 million per year in state capital funding for school facilities; and

WHEREAS, school construction costs continue to escalate, resulting in project costs that can dramatically exceed projected cost estimates and the anticipated state and local appropriations for pending projects; and

WHEREAS, the General Assembly has enacted significant mandates affecting school construction procedures and project costs, including: expanding the scope of prevailing wage rates; raising minority business enterprise contracting participation standards; and strict environmental design standards; and

WHEREAS, state policy regarding prevailing wage and school construction shifted in 2000 when the General Assembly enacted legislation to lower the percentage of state funding triggering prevailing wage requirements from 75 percent to 50 percent. Following 2000, the 50 percent threshold resulted in dramatically increased project costs for many school systems and unnecessarily diluted the benefit of the state and local investment in public school construction during these years. In 2014 the threshold of state funding mandating prevailing wage from 50 percent to 25 percent, resulting in school facility project cost increases of more than 10 percent. In 2021 the minimum project cost triggering prevailing wage requirements was lowered from \$500,000 to \$250,000; and

WHEREAS, in 2007 the General Assembly enacted the High Performance Buildings Act, which requires that all new school buildings be constructed to meet or exceed the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) criteria for a silver rating or satisfy a comparable numeric rating approved by the Board of Public Works; and

WHEREAS, since the late 1970s Maryland's Minority Business Enterprise (MBE) program has promoted the awarding of state contracts, including school construction projects, to certified MBEs; and the level of monitoring and enforcement of MBE program compliance by the Governor's Office of Minority Affairs (GOMA) has grown significantly since the 2000s; and

WHEREAS, in 2013 the General Assembly enacted a school construction and renovation funding initiative to provide more than \$1 billion in state and local funding for the Baltimore City Public School System over a ten-year period; and

WHEREAS, the state capital budget has provided additional funding for the Capital Grant Program for Local School Systems with Significant Enrollment Growth or Relocatable Classrooms established in 2015; and for heating, ventilation, and air conditioning improvements, and for school safety improvements; and

WHEREAS, in 2016 the Speaker of the House and President of the Senate established the 21st Century School Facilities Commission 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 including the Maryland Department of Planning, Department of General Services, Board of Public Works, and Interagency Committee for Public School Construction; and

WHEREAS, in 2015 MABE formed an Ad Hoc Committee on School Funding and in 2016 expanded the charge of this committee to include capital funding issues and to provide a forum for discussing and informing MABE's participation on the Knott Commission on 21st Century School Facilities; and

WHEREAS, the interim report of the Commission on 21st Century School Facilities issued in January 2017 identified major themes including: providing local flexibility while ensuring quality and accountability, streamlining the state's review process, providing incentives for local school systems to be innovative, exploring an alternative sustainability standard to LEED certification, and providing a state clearinghouse for best practices and to provide technical assistance to local school systems; and

WHEREAS, in 2018 the 21st Century School Facilities Act was enacted to make more than 30 reforms to school facilities project procurement, design review and approval, and funding approval process, including:

- altering the name, composition, and role of the Interagency Committee on School Construction;
- requiring the expanded, restructured, and renamed Interagency "Commission" on School Construction, rather than the Board of Public Works, to make final decisions on 100% of state funding for school construction projects;
- requiring educational facility sufficiency standards, a facility condition index, and periodic facility assessments;
- streamlining the state approval process for school construction projects;
- adopting the best value method of procurement, as an alternative to lowest price; and
- adopting the new baseline amount of at least \$400 million for public school construction annually; and

WHEREAS, in 2020 the Built to Learn Act (HB 1), legislation to establish a \$2 billion school construction program administered by the Maryland Stadium Authority, passed in the General Assembly but did not take effect because it was contingent on the passage of the Blueprint for Maryland's Future legislation (HB 1300) which Governor Hogan vetoed, but which took effect in 2021 following the veto override of the Blueprint legislation; and

WHEREAS, in 2021 legislation entitled the "Safe School Drinking Water Act" passed to redefine "elevated level of lead" to mean a lead concentration in drinking water that exceeds 5 parts per billion (ppb) for the purposes of lead water testing and required remedial measures in public and nonpublic schools by Aug. 1, 2022; and

WHEREAS, in 2021 legislation passed to require school systems to adopt or update a school district energy policy by July 1, 2022, including provisions on: energy purchasing, conservation and efficiency, and the monitoring and reporting; and

WHEREAS, the COVID-19 pandemic led to a public health and economic crisis which resulted in school closures from mid-March of 2020 through the end of the 2019-2020 school year and necessitated the emergency provision of distance learning access and school meals to students during school closures, and the development of a long-term State Education Recovery Plan and local education recovery and continuity of learning plans for the 2020-2021 school year; and

WHEREAS, the COVID-19 pandemic resulted in revisions to public health and safety standards for all commercial buildings, including revised guidance from the Centers for Disease Control (CDC) for school facilities, and endorsed by MSDE, which resulted in a wide array of unbudgeted investments in building systems, equipment, supplies, and school maintenance and custodial personnel; and

WHEREAS, significant funding was provided to States and local school systems by the Federal Emergency Management Administration (FEMA) and U.S. Department of Education to support COVID-19 response efforts and the safe operation of school facilities, including:

- Purchasing personal protective equipment (PPE) and supplies to sanitize school facilities; and
- Inspection, testing, maintenance, repair, and installation of new systems to improve the indoor air quality in school facilities, including heating, ventilation, and air conditioning systems, filtering, purification and other air cleaning, fans, control systems, and window and door repair and replacement; and

WHEREAS, the COVID-19 pandemic resulted in initiatives including expanded summer school programs which directly impact the operation and maintenance of school facilities;

NOW, THEREFORE, BE IT RESOLVED, that MABE urges a continued commitment by the Governor and General Assembly in future years to provide the state's share of the funding needed to address the school facility needs identified by local school systems; and

BE IT FURTHER RESOLVED, that MABE supports legislation to exempt school construction from prevailing wage requirements or, in the alternative, to raise the state funding threshold for the application of prevailing wage rates to school construction projects significantly above 25 percent in order to reduce construction costs; and

BE IT FURTHER RESOLVED, that MABE supports maintaining the option for local school systems to use alternative methods of project delivery, and to procure school construction by methods other than competitive bidding, in order to optimize cost savings and efficiencies in procurement; and

BE IT FURTHER RESOLVED, that MABE opposes any state mandated school sizes for elementary, middle, or high schools; and

BE IT FURTHER RESOLVED, that MABE supports maintaining a state school construction program that annually funds major construction and renovation projects, and systemic projects, to the benefit of all school systems; and

BE IT FURTHER RESOLVED, that MABE shall make every reasonable lobbying effort supporting sufficient state funding for school construction and renovation projects and building maintenance to ensure quality sustainable school facilities for all Maryland students; and

BE IT FURTHER RESOLVED, that MABE supports the Built to Learn Act, which establishes a school construction program administered by the Maryland Stadium Authority to supplement the capacity of the program administered by the Interagency

Commission on School Construction, in a manner that ensures local school system decision making on school design, construction standards, and project management; and

BE IT FURTHER RESOLVED, that MABE urges the Governor and the General Assembly to take steps to ensure that state funding for public school facilities is allocated equitably.