

# HOUSE BILL 916

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CF SB 219

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By: **Delegates Morhaim, Aumann, Bromwell, Burns, Cardin, DeBoy, Frank, Impallaria, Jennings, Kach, Lafferty, McDonough, Nathan-Pulliam, Olszewski, Schuler, Stein, and Weir**

Introduced and read first time: February 6, 2008

Assigned to: Health and Government Operations and Appropriations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore County – Proposed New School Buildings – High Performance**  
3 **Buildings**

4 FOR the purpose of requiring that, in Baltimore County, each new school building  
5 shall be a high performance building; prohibiting the State or the Baltimore  
6 County Board of Education from authorizing an appropriation for the  
7 preliminary planning of a proposed capital project for a new school building  
8 until a certain program is submitted to the Department of Budget and  
9 Management; defining a certain term; authorizing the Board of Public Works to  
10 adopt certain regulations; and generally relating to the construction of new  
11 school buildings as high performance in Baltimore County.

12 BY repealing and reenacting, without amendments,  
13 Article – Education  
14 Section 2–303(f)  
15 Annotated Code of Maryland  
16 (2006 Replacement Volume and 2007 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Article – Education  
19 Section 5–112 and 5–301  
20 Annotated Code of Maryland  
21 (2006 Replacement Volume and 2007 Supplement)

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

24 **Article – Education**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 2-303.

2 (f) (1) Subject to the bylaws, rules, and regulations of the State Board,  
3 the State Superintendent shall approve or disapprove each:

4 (i) Proposal for the purchase or sale of any ground, school site,  
5 or building;

6 (ii) Plan or specification for the remodeling of a school building  
7 if the remodeling costs more than \$350,000;

8 (iii) Plan or specification for the construction of a new school  
9 building; and

10 (iv) Change order that costs more than \$25,000 for the  
11 remodeling, restoration, or construction of a school building.

12 (2) If the State Superintendent disapproves any plan, specification,  
13 proposal, or change order, he shall state in writing the reasons for his disapproval.

14 (3) If the construction is to be done by a county board, the board may  
15 not begin until the plans and specifications are approved in writing by the State  
16 Superintendent.

17 (4) If the construction is to be done by contract, the contract is invalid  
18 without the written approval of the State Superintendent.

19 5-112.

20 (a) This section does not apply to:

21 (1) Contracts for the purchase of books and other materials of  
22 instruction as defined in the State Department of Education Financial Reporting  
23 Manual;

24 (2) Emergency repairs; and

25 (3) A county board's participation in contracts for goods or  
26 commodities that are awarded by other public agencies or by intergovernmental  
27 purchasing organizations if the lead agency for the contract follows public bidding  
28 procedures.

29 (b) (1) Except as provided in paragraph (2) of this subsection, if the cost of  
30 any school building, improvement, supplies, or equipment is more than \$25,000, the  
31 county board, at least 2 weeks before bids are to be filed, shall advertise for bids in a  
32 medium accessible to the general public, which includes:

33 (i) A newspaper of general circulation in the region;

1 (ii) The Maryland Contract Weekly or comparable State  
2 publication; or

3 (iii) An electronic posting on a bid board and physical posting on  
4 the local school system bid board.

5 (2) If the amount specified in paragraph (1) of this subsection differs  
6 from the amount in § 13–109(a) of the State Finance and Procurement Article, the  
7 amount in § 13–109(a) of the State Finance and Procurement Article shall apply under  
8 paragraph (1) of this subsection.

9 (3) (i) The county board shall draft specifications that provide a  
10 clear and accurate description of the functional characteristics or the nature of an item  
11 to be procured, without modifying the county board’s requirements.

12 (ii) The specifications may:

13 1. Include a statement of any of the county board’s  
14 requirements; and

15 2. Provide for the submission of samples, inspection, or  
16 testing of the item before procurement.

17 (4) (i) Except as provided in subparagraph (ii) of this paragraph,  
18 specifications that use one or more manufacturer’s product to describe the standard of  
19 quality, performance, or other characteristics needed to meet the county board’s  
20 requirements, must allow for the submission of equivalent products.

21 (ii) Subparagraph (i) of this paragraph does not apply if the  
22 county board determines in the written specification that:

23 1. A particular manufacturer’s product is required to  
24 maintain compatibility of service or equipment;

25 2. A particular manufacturer’s product is required to  
26 meet the health needs of students;

27 3. Replacement parts or maintenance are a paramount  
28 consideration; or

29 4. A product is purchased for resale.

30 (c) (1) **[A] SUBJECT TO SUBSECTION (F) OF THIS SECTION, A** contract  
31 for the school building, improvements, supplies, or other equipment shall be awarded  
32 to the lowest responsible bidder who conforms to specifications with consideration  
33 given to:

- 1 (i) The quantities involved;
- 2 (ii) The time required for delivery;
- 3 (iii) The purpose for which required;
- 4 (iv) The competency and responsibility of the bidder;
- 5 (v) The ability of the bidder to perform satisfactory service; and
- 6 (vi) The plan for utilization of minority contractors.

7 (2) The county board may reject any and all bids and readvertise for  
8 other bids.

9 (d) (1) In this subsection, the term “minority business enterprise” has the  
10 meaning stated in § 14–301 of the State Finance and Procurement Article.

11 (2) In Montgomery County, by resolution and by implementing  
12 regulations, the Montgomery County Board of Education shall establish a minority  
13 business utilization program to facilitate the participation of responsible certified  
14 minority business enterprises in contracts awarded by the Montgomery County Board  
15 of Education in accordance with competitive bidding procedures.

16 (e) Nonpublic schools may participate under any contracts for goods or  
17 commodities that are awarded by county boards, other public agencies, or  
18 intergovernmental purchasing organizations, if the lead agency for the contract award  
19 follows public bidding procedures.

20 **(F) (1) IN THIS SUBSECTION, “HIGH PERFORMANCE BUILDING”**  
21 **MEANS A BUILDING THAT ACHIEVES AT LEAST:**

22 **(I) A SILVER RATING ACCORDING TO THE U.S. GREEN**  
23 **BUILDING COUNCIL’S LEED (LEADERSHIP IN ENERGY AND ENVIRONMENTAL**  
24 **DESIGN) GREEN BUILDING RATING SYSTEM AS ADOPTED IN 2001 OR**  
25 **SUBSEQUENTLY BY THE MARYLAND GREEN BUILDING COUNCIL;**

26 **(II) A TWO-GLOBE RATING ACCORDING TO THE GREEN**  
27 **GLOBES PROGRAM AS ADOPTED BY THE GREEN BUILDING INITIATIVE; OR**

28 **(III) A COMPARABLE NUMERIC RATING ACCORDING TO A**  
29 **NATIONALLY RECOGNIZED, ACCEPTED, AND APPROPRIATE NUMERIC**  
30 **SUSTAINABLE DEVELOPMENT RATING SYSTEM, GUIDELINE, OR STANDARD.**

31 **(2) IN BALTIMORE COUNTY, EACH NEW SCHOOL BUILDING SHALL**  
32 **BE A HIGH PERFORMANCE BUILDING.**



1                   2.     Establish the minimum specifications required for  
2 approval of modular construction as a public school construction or capital  
3 improvement cost.

4                   (4)     The cost of acquiring land may not be considered a construction or  
5 capital improvement cost and may not be paid by the State.

6                   (b-1) The Board of Public Works, in consultation with the Department of  
7 General Services and the Department of Housing and Community Development, shall  
8 adopt regulations establishing criteria designed to enhance indoor air quality for the  
9 occupants of relocatable classrooms purchased or leased using State or local funds,  
10 including specifications that:

11                   (1)     Require each unit to include appropriate air barriers to limit  
12 infiltration;

13                   (2)     Require that each unit be constructed in a manner that provides  
14 protection against water damage through the use of proper roofing materials, exterior  
15 sheathing, water drainage systems, and flashing;

16                   (3)     Require that each unit provide continuous forced ventilation when  
17 the unit is occupied;

18                   (4)     Require each unit to include a programmable thermostat;

19                   (5)     Require each unit to be outfitted with energy efficient lighting and  
20 heating and air-conditioning systems; and

21                   (6)     Mandate that each unit be constructed with building materials  
22 that contain low amounts of volatile organic compounds (VOC).

23                   (c)     The State shall pay the costs in excess of available federal funds of the  
24 State share of public school construction projects and public school capital  
25 improvements in each county if:

26                   (1)     The projects or improvements have been approved by the Board of  
27 Public Works; and

28                   (2)     Contracts have been executed on or after July 1, 1971 for the  
29 projects or improvements.

30                   (d)     (1)     The Board of Public Works may adopt regulations for the  
31 administration of the programs provided for in this section.

32                   (2)     The regulations adopted by the Board of Public Works may contain  
33 requirements for:

- 1 (i) The development and submission of long range plans;
- 2 (ii) The submission of annual plans and plans for specific  
3 projects;
- 4 (iii) The submission of other data or information that is relevant  
5 to school construction or capital improvement;
- 6 (iv) The approval of sites, plans, and specifications for the  
7 construction of new school buildings or the improvement of existing buildings;
- 8 (v) Site improvements;
- 9 (vi) Competitive bidding;
- 10 (vii) The hiring of personnel in connection with school  
11 construction or capital improvements;
- 12 (viii) The actual construction of school buildings or their  
13 improvements;
- 14 (ix) The relative roles of different State and local governmental  
15 agencies in the planning and construction of school buildings or school capital  
16 improvements;
- 17 (x) School construction and capital improvements necessary or  
18 appropriate for the proper implementation of this section, **INCLUDING HIGH**  
19 **PERFORMANCE BUILDING REQUIREMENTS FOR THE CONSTRUCTION OF NEW**  
20 **SCHOOL BUILDINGS IN BALTIMORE COUNTY IN ACCORDANCE WITH § 5-112(F)**  
21 **OF THIS TITLE;**
- 22 (xi) At the recommendation of the Interagency Committee, the  
23 establishment of priority public school construction programs;
- 24 (xii) Development of cooperative arrangements that permit the  
25 sharing of facilities among two or more school systems;
- 26 (xiii) The selection of architects and engineers by school systems;
- 27 (xiv) The award of contracts by school systems; and
- 28 (xv) Method of payments made by the State under the Public  
29 School Construction Program.
- 30 (3) The regulations adopted by the Board of Public Works shall  
31 contain provisions:

1 (i) Establishing a State and local cost–share formula for each  
2 county that identifies the factors used in establishing the formulas;

3 (ii) Requiring local education agencies to adopt educational  
4 facilities master plans and annual capital improvement programs;

5 (iii) Providing a method for establishing a maximum State  
6 construction allocation for each project approved for State funding;

7 (iv) Referencing the policies stated in § 5–7B–07 of the State  
8 Finance and Procurement Article;

9 (v) Requiring local school systems to adopt procedures  
10 consistent with the minority business enterprise policies of the State as required  
11 under the Code of Maryland Regulations;

12 (vi) Establishing a process for the appeal of decisions by the  
13 Interagency Committee to the Board of Public Works;

14 (vii) Requiring local education agencies to adopt, implement, and  
15 periodically update comprehensive maintenance plans; and

16 (viii) Authorizing the Board of Public Works to withhold State  
17 public school construction funds from a local education agency that fails to comply  
18 with the requirements of item (vii) of this paragraph.

19 (4) In adopting any of these requirements, the State Board and the  
20 Board of Public Works shall provide for the maximum exercise of initiative by school  
21 personnel in each county to insure that the school buildings and improvements meet  
22 both the needs of the local communities and the rules and regulations necessary to  
23 insure the proper operation of this section and the prudent expenditure of State funds.

24 (e) The Board of Public Works shall develop the rules, regulations, and  
25 procedures authorized by this section in consultation with representatives of the  
26 county boards and the county governing bodies.

27 (f) The regulations and procedures of the Board of Public Works adopted  
28 under this section and their promulgation are exempt from § 8–127(b) of the State  
29 Finance and Procurement Article.

30 (g) (1) With respect to public school construction or public school capital  
31 improvements, including sites for school buildings, the authority, responsibilities,  
32 powers, and duties of the following are subject to the regulations adopted by the Board  
33 of Public Works under this section:

34 (i) The State Board;

35 (ii) The State Superintendent;



- 1 (iii) The county governments;
- 2 (iv) The county boards; and
- 3 (v) All other State or local governmental agencies under this  
4 article.

5 (2) If, as to public school construction or public school capital  
6 improvements, there is any conflict between the regulations and procedures of the  
7 Board of Public Works and the authority, responsibilities, powers, and duties of the  
8 individuals and agencies specified in paragraph (1) of this subsection, the regulations  
9 and procedures of the Board of Public Works shall prevail.

10 (h) The obligation of the State to pay the costs of public school construction  
11 and public school capital improvements extends only to those projects or parts of  
12 projects that comply with the regulations and procedures of the Board of Public Works.

13 (i) (1) This subsection does not apply to the proceeds from the sale, lease,  
14 or disposition of public school buildings constructed under contracts executed before  
15 February 1, 1971.

16 (2) Consistent with § 4–115 of this article and regulations adopted by  
17 the Board of Public Works to implement § 4–126 of this article, the Board of Public  
18 Works may require by regulation that the portion of the proceeds received by a county  
19 from the sale, lease, or disposal of any public school building that represent State  
20 funds provided within 15 years prior to the date of the transaction shall be used solely  
21 as part of the State funding of the construction of future public school buildings in the  
22 county in which the sale, lease, or disposal occurred, if the public school building was  
23 constructed under a contract executed on or after February 1, 1971.

24 (3) The part of the proceeds from the sale, lease, or disposal of a public  
25 school building that fairly represents the appraised value of land and that part of the  
26 cost of the public school building that was funded by the county shall remain as the  
27 funds of the county.

28 (j) (1) Whether by budget bill or supplementary appropriation bill, all  
29 money appropriated to carry out the purposes of this section is a separate fund that  
30 shall be administered by the State Comptroller in accordance with the regulations  
31 adopted by the Board of Public Works.

32 (2) (i) Except as provided in subparagraph (ii) of this paragraph,  
33 notwithstanding any other contrary provision of the Annotated Code, any funds  
34 approved for a project that has not been contracted for within 2 years of the approval  
35 of the project shall revert to the fund established under paragraph (1) of this  
36 subsection.

1                   (ii)    The Interagency Committee, with the approval of the Board  
2 of Public Works, may extend the time period under subparagraph (i) of this paragraph  
3 if the Interagency Committee determines that unusual circumstances exist.

4                   (3)    Any unexpended allocations of funds for previously approved  
5 projects shall be transferred to the fund established under paragraph (1) of this  
6 subsection.

7                   (4)    On or before March 30, June 30, September 30, and December 31  
8 of each year, the Interagency Committee shall report to the General Assembly, in  
9 accordance with § 2-1246 of the State Government Article, and the Department of  
10 Legislative Services on the balance in the fund as of the reporting date as the result of  
11 transfers or reversions required under this subsection and any expenditures.

12                 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 October 1, 2008.