

CHAPTER 124

(Senate Bill 208)

AN ACT concerning

High Performance Buildings Act

FOR the purpose of requiring certain buildings to be high performance buildings; requiring certain buildings that are renovated to be high performance buildings under certain circumstances; exempting certain building types from certain high performance building standards; providing for a certain waiver process from certain high performance building requirements; repealing certain provisions of law relating to high performance buildings; expressing a certain intent of the General Assembly; requiring certain new schools receiving State public school construction funds to be high performance buildings; requiring the Board of Public Works to establish a certain waiver process from certain high performance building requirements; requiring that a certain waiver process include a certain review and approval by the Interagency Committee on School Construction; requiring the State to pay a certain amount of certain local costs related to the construction of schools that are high performance buildings for certain fiscal years; requiring the Board of Public Works to adopt certain regulations; providing for the applicability of certain provisions of this Act; defining certain terms; and generally relating to high performance buildings.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 3–602(d)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – State Finance and Procurement
Section 3–602.1
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Education
Section 5–301(d)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – Education

Section 5-312
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – State Finance and Procurement

3-602.

(d) [(1) (i) In this paragraph, “high performance building” means a building that:

1. achieves at least a silver rating according to the U.S. Green Building Council’s LEED (Leadership in Energy and Environmental Design) Green Building Rating System as adopted in 2001 or subsequently by the Maryland Green Building Council;

2. achieves at least a two globe rating according to the Green Globes Program as adopted by the Green Building Initiative;

3. achieves at least a comparable numeric rating according to a nationally recognized, accepted, and appropriate numeric sustainable development rating system, guideline, or standard; or

4. meets nationally recognized, consensus-based, and accepted green building guidelines, standards, or systems approved by the State.

(ii) 1. A unit of State government requesting an appropriation for preliminary planning of a proposed capital project may include in its request a justification for proposing that a building in the project is appropriate for design as a high performance building.

2. If justification is submitted under subsubparagraph 1 of this subparagraph concerning a building in a proposed capital project, the Department shall review whether it is practicable and fiscally prudent to incorporate in the capital project the use of a comprehensive process of design and construction that would result in the building being a high performance building.

(2)] (1) Before an appropriation may be authorized for preliminary planning of a proposed capital project:

(i) the unit of the State government requesting the appropriation shall submit to the Department a program describing, in detail, the scope and purpose of the project; and

(ii) the Secretary of Budget and Management must approve the program.

[(3)] (2) Before an appropriation may be authorized for construction of a proposed capital project:

(i) the unit of State government requesting the appropriation shall submit to the Departments of Budget and Management and General Services a detailed design program, which shall include all information required by the Departments; and

(ii) both the Secretary of Budget and Management and the Secretary of General Services must approve the detailed design program.

3-602.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “HIGH PERFORMANCE BUILDING” MEANS A BUILDING THAT:

(I) MEETS OR EXCEEDS THE CURRENT VERSION OF THE U.S. GREEN BUILDING COUNCIL’S LEED (LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN) GREEN BUILDING RATING SYSTEM SILVER RATING; OR

(II) ACHIEVES AT LEAST A COMPARABLE NUMERIC RATING ACCORDING TO A NATIONALLY RECOGNIZED, ACCEPTED, AND APPROPRIATE NUMERIC SUSTAINABLE DEVELOPMENT RATING SYSTEM, GUIDELINE, OR STANDARD APPROVED BY THE SECRETARIES OF BUDGET AND MANAGEMENT AND GENERAL SERVICES.

(3) “MAJOR RENOVATION” MEANS THE RENOVATION OF A BUILDING WHERE:

(I) THE BUILDING SHELL IS TO BE REUSED FOR THE NEW CONSTRUCTION;

(II) THE HEATING, VENTILATING, AND AIR CONDITIONING (HVAC), ELECTRICAL, AND PLUMBING SYSTEMS ARE TO BE REPLACED; AND

(III) THE SCOPE OF THE RENOVATION IS 7,500 SQUARE FEET OR GREATER.

(B) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT, TO THE EXTENT PRACTICABLE:

(1) THE STATE SHALL EMPLOY GREEN BUILDING TECHNOLOGIES WHEN CONSTRUCTING OR RENOVATING A STATE BUILDING NOT SUBJECT TO THIS SECTION; AND

(2) HIGH PERFORMANCE BUILDINGS SHALL MEET THE CRITERIA AND STANDARDS ESTABLISHED UNDER THE "HIGH EFFICIENCY GREEN BUILDING PROGRAM" ADOPTED BY THE MARYLAND GREEN BUILDING COUNCIL.

(C) (1) THIS SUBSECTION APPLIES TO CAPITAL PROJECTS THAT ARE FUNDED SOLELY WITH STATE FUNDS.

(2) EXCEPT AS PROVIDED IN SUBSECTIONS (D) AND (E) OF THIS SECTION, IF A CAPITAL PROJECT INCLUDES THE CONSTRUCTION OR MAJOR RENOVATION OF A BUILDING THAT IS 7,500 SQUARE FEET OR GREATER, THE BUILDING SHALL BE CONSTRUCTED OR RENOVATED TO BE A HIGH PERFORMANCE BUILDING.

(D) THE FOLLOWING TYPES OF UNOCCUPIED BUILDINGS ARE NOT REQUIRED TO BE CONSTRUCTED OR RENOVATED TO BE HIGH PERFORMANCE BUILDINGS:

(1) WAREHOUSE AND STORAGE FACILITIES;

(2) GARAGES;

(3) MAINTENANCE FACILITIES;

(4) TRANSMITTER BUILDINGS;

(5) PUMPING STATIONS; AND

(6) OTHER SIMILAR TYPES OF BUILDINGS, AS DETERMINED BY THE DEPARTMENT.

(E) (1) THE DEPARTMENT OF BUDGET AND MANAGEMENT AND THE DEPARTMENT OF GENERAL SERVICES SHALL JOINTLY ESTABLISH A PROCESS

TO ALLOW A UNIT OF STATE GOVERNMENT TO OBTAIN A WAIVER FROM COMPLYING WITH SUBSECTION (C) OF THIS SECTION.

(2) THE WAIVER PROCESS SHALL:

(I) INCLUDE A REVIEW BY THE MARYLAND GREEN BUILDING COUNCIL ESTABLISHED UNDER § 4-809 OF THIS ARTICLE, TO DETERMINE IF THE USE OF A HIGH PERFORMANCE BUILDING IN A PROPOSED CAPITAL PROJECT IS NOT PRACTICABLE; AND

(II) REQUIRE THE APPROVAL OF A WAIVER BY THE SECRETARIES OF BUDGET AND MANAGEMENT, GENERAL SERVICES, AND TRANSPORTATION.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Education

5-301.

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

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

(i) The development and submission of long range plans;

(ii) The submission of annual plans and plans for specific projects;

(iii) The submission of other data or information that is relevant to school construction or capital improvement;

(iv) The approval of sites, plans, and specifications for the construction of new school buildings or the improvement of existing buildings;

(v) Site improvements;

(vi) Competitive bidding;

(vii) The hiring of personnel in connection with school construction or capital improvements;

(viii) The actual construction of school buildings or their improvements;

(ix) The relative roles of different State and local governmental agencies in the planning and construction of school buildings or school capital improvements;

(x) School construction and capital improvements necessary or appropriate for the proper implementation of this section;

(xi) At the recommendation of the Interagency Committee, the establishment of priority public school construction programs;

(xii) Development of cooperative arrangements that permit the sharing of facilities among two or more school systems;

(xiii) The selection of architects and engineers by school systems;

(xiv) The award of contracts by school systems; and

(xv) Method of payments made by the State under the Public School Construction Program.

(3) The regulations adopted by the Board of Public Works shall contain provisions:

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

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

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

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

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

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

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

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

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

5-312.

(A) IN THIS SECTION, "HIGH PERFORMANCE BUILDING" HAS THE MEANING STATED IN § 3-602.1 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(B) THIS SECTION APPLIES TO THE CONSTRUCTION OF NEW SCHOOLS THAT HAVE NOT INITIATED A REQUEST FOR PROPOSAL FOR THE SELECTION OF AN ARCHITECTURAL AND ENGINEERING CONSULTANT ON OR BEFORE JULY 1, 2009.

(C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A NEW SCHOOL THAT RECEIVES STATE PUBLIC SCHOOL CONSTRUCTION FUNDS SHALL BE CONSTRUCTED TO BE A HIGH PERFORMANCE BUILDING.

(D) (1) THE BOARD OF PUBLIC WORKS SHALL ESTABLISH A PROCESS TO ALLOW A SCHOOL SYSTEM TO OBTAIN A WAIVER FROM COMPLYING WITH SUBSECTION (C) OF THIS SECTION.

(2) THE WAIVER PROCESS SHALL:

(I) INCLUDE A REVIEW BY THE INTERAGENCY COMMITTEE TO DETERMINE IF THE CONSTRUCTION OF A HIGH PERFORMANCE BUILDING IS NOT PRACTICABLE; AND

(II) REQUIRE THE APPROVAL OF A WAIVER BY THE INTERAGENCY COMMITTEE.

(E) FOR FISCAL YEARS 2010 THROUGH 2014 ONLY, THE STATE SHALL PAY 50% OF THE LOCAL SHARE OF THE EXTRA COSTS, IDENTIFIED AND APPROVED BY THE INTERAGENCY COMMITTEE, THAT ARE INCURRED IN

CONSTRUCTING A NEW SCHOOL TO MEET THE HIGH PERFORMANCE BUILDING REQUIREMENTS OF THIS SECTION.

(F) THE BOARD OF PUBLIC WORKS SHALL ADOPT REGULATIONS TO IMPLEMENT THE REQUIREMENTS OF THIS SECTION.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall apply to capital projects that have not initiated a Request For Proposal for the selection of an architectural and engineering consultant on or before the effective date of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 24, 2008.