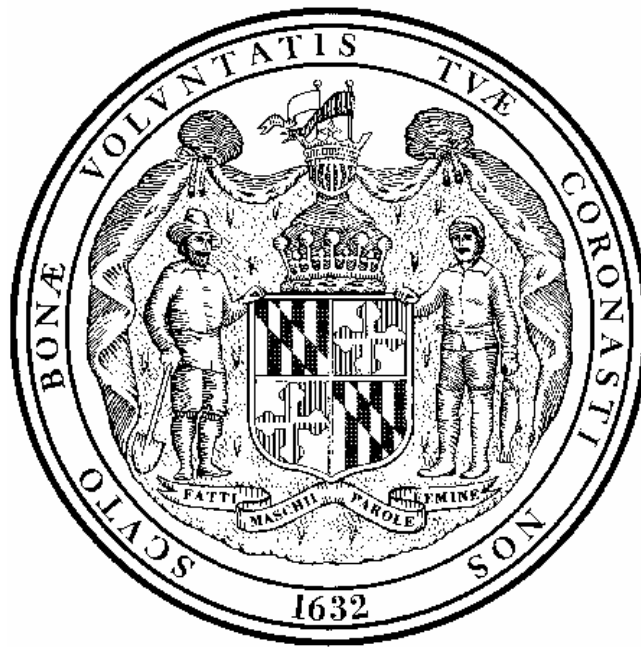


Task Force to Study Public School Facilities

Final Report



Annapolis, Maryland
February 2004

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Annapolis, Maryland

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February 24, 2004

The Honorable Robert L. Ehrlich, Jr.
Governor of Maryland

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate

The Honorable Michael E. Busch
Speaker of the House of Delegates

Gentlemen:

On behalf of the Task Force to Study Public School Facilities, I respectfully submit the final report. This report completes nearly two years of work by the task force to fulfill its broad charge to examine the adequacy and equity of the State's public school construction program. The difficult and unprecedented nature of the task force's charge and the challenge of doing a comprehensive job required an enormous amount of work and effort by the task force's members and staff. I believe that the task force's findings and recommendations reflect this effort and represent a comprehensive approach to addressing the State's public school facility needs.

The task force's major undertaking during 2003, and I believe the most important accomplishment of the task force for policymakers and the public in the long-term, was the development and completion of the Facility Assessment Survey proposed in the task force's 2002 interim report. This unprecedented assessment of the condition of public schools in Maryland was designed to identify basic, minimum facility needs critical to the health and safety of students and faculty and the accomplishment of basic, required educational programs in public schools across the State. The survey data identified deficiencies in school facilities in every jurisdiction of the State. **The cost of bringing all schools up to the minimum standards is an estimated \$3.85 billion in 2003 dollars.**

Approximately \$1.54 billion, or 40 percent of the total \$3.85 billion, is required for additional student capacity for the 2007/2008 school year, \$910 million at high schools and middle schools and \$634 million at elementary schools. It is estimated that \$165 to \$188 million of the cost at the elementary schools is due to the need to construct facilities to meet the Bridge to Excellence mandates for full-day kindergarten and pre-kindergarten for certain students, although the use of non-public school space may reduce some of this cost.

Critical improvements in building conditions that impact health and safety, student capacity, and other direct education-related facility needs were identified by the task force and State school facility experts as having the greatest potential for impact on education programs and learning. For these “high impact” standards, the estimated cost to bring schools up to current standards for new construction is approximately \$3.2 billion, or 84 percent of the total estimated cost of almost \$3.9 billion. The remaining costs of approximately \$700 million are related to support services and other education programs (e.g., fine arts and auditorium/theatre arts). The 31 fundamental elements clearly did not encompass many of the elements that most school systems – as well as most parents, teachers, and students – believe are necessary for a good education. These additional elements include gyms in elementary schools, health facilities in all schools, smaller classrooms for primary grades, separate lunch and assembly rooms, etc. But the 31 fundamental elements were commonly acknowledged to be at the core of any adequate facility.

Clearly, Maryland faces a crisis in public school construction. Even before the 2003 Facility Assessment Survey, it was recognized that school construction and renovation needs were growing. Based simply on the current and anticipated requests submitted prior to the 2003 survey, the total State share for the public school capital program for fiscal 2005 to 2010 was anticipated to exceed \$2.1 billion. At the same time, annual State funding for school construction has declined from a peak of \$286 million in fiscal 2002 to the current anticipated level of \$100 million in fiscal 2005 through 2009. This decline in State funding reflects the decline in the State’s general fund revenue over this period and the disappearance of surplus general funds which had supplemented the bond-funded school construction program.

Addressing the facility needs identified by the Facility Assessment Survey, at a minimum, over the next eight years should be a goal of the State and local governments. The State would need to allocate at least \$250 million annually for the next eight years to achieve the goal. The task force also recommends that the State establish a School Emergency Repair Fund, with an initial investment of \$2 million, to address any deficiencies that present an immediate hazard, or, if not corrected, may present an immediate hazard, to the health or safety of the students or staff of the schools, as certified by local school system authorities and approved by the Interagency Committee on School Construction (IAC) following the re-examination and scrutiny of the 2003 survey results. The task force appreciates the fiscal difficulties facing the State and local governments. However, school facilities are critical to a strong education system and a strong community, and the needs will only increase over time. **Good schools must be a top priority for Maryland.**

The task force has identified several alternative funding sources that could assist the State in meeting this goal, such as utilizing a portion of the State's \$1.2 billion in unused debt capacity (note that capacity is \$370 million if all the debt is issued immediately). The task force has also identified other potential revenue sources that the Governor and General Assembly may wish to consider for school construction.

The task force made numerous recommendations concerning other aspects of public school construction including:

- Modifying the State/local cost share formula to reflect the fiscal 2004 State share of the Foundation program and to incorporate several new factors in the formula, including status as a distressed county, enrollment growth, percentage of students eligible for free and reduced price meals, eligibility for the Guaranteed Tax Base program, and local school construction debt. The task force recommends that the new formula be implemented in fiscal 2006, provided that, as a transition, in fiscal 2006 counties receive the higher of the State share under the old formula or new formula;
- Authorizing alternative financing mechanisms for lease-leaseback, sale-leaseback, and other public-private partnerships for local jurisdictions to meet immediate school construction needs. The task force notes that in most cases traditional, general obligation bond debt is less expensive over time and should still be used whenever possible;
- Requiring the State to provide \$1 million in each of the next three years for the State share of the purchase of relocatable classrooms by local jurisdictions, to address critical, short-term space needs in many jurisdictions, in part due to implementation of the full-day kindergarten/pre-kindergarten mandates. The Interagency Committee on School Construction should adopt minimum standards for relocatable classrooms. While useful in the short term, relocatable buildings are not recommended as permanent space;
- Reducing the State Rated Capacity (SRC) for elementary grades 1 to 5 from 25 students per classroom to 23 students per classroom. This would bring the SRC into alignment with the current actual average class size for grades 1 to 5;
- Codifying or formalizing in regulations the current practices of the IAC and the Board of Public Works to provide a more formal process for adopting policy changes to the Public School Construction Program;
- Modifying the Aging School Program allocation beginning in fiscal 2006 to reflect updated, pre-1970 square footage of school buildings in each jurisdiction;

- Encouraging the reuse of recent school designs, when educationally appropriate and with appropriate site and programmatic adaptation, within and across local school system boundaries. In addition, the IAC should consider whether stronger action – incentives or requirements – would be appropriate; and
- Providing financial incentives, such as supplemental design funds and/or additional construction funding, for projects that include energy conservation, sustainable building, or green architecture design features, or use innovative building technologies, which would result in life-cycle savings.

Thank you for this opportunity to serve the citizens of Maryland in this important work. I wish to express my appreciation to the members and staff of the task force, especially the staff of the Department of Legislative Services and the Interagency Committee for School Construction, for their participation and hard work over the past two years.

Sincerely,

Nancy K. Kopp

NKK/RHH/kjl

cc: Members of the General Assembly

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Task Force to Study Public School Facilities 2003 Membership Roster

State Treasurer Nancy K. Kopp, **Chairman**

Ms. Sylvia H. Barrios
Mr. Dunbar Brooks
Dr. Charles I. Ecker
Delegate George C. Edwards
Secretary James C. DiPaula
Commissioner Jan H. Gardner
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Ms. Marcel Hall
Mr. David C. Harrington
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Public School Construction Program Staff

Allen Abend
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Department of Budget and Management Staff

Arthur Hilsenrad
Bernard Fox

Task Force Charge and Summary of Meetings

Task Force Charge and Background

The Task Force to Study Public School Facilities was established by the Bridge to Excellence in Public Schools Act of 2002 (Senate Bill 856/Chapter 288). The task force was recommended by the Commission on Education Finance, Equity, and Excellence (Thornton Commission) to review issues related to the adequacy and equity of the State's public school construction program and continuation of the Aging School program. The task force's final report was due December 31, 2002.

The task force submitted an interim report in 2002 and requested a one-year extension of the task force's deadline, due to the difficult and unprecedented nature of its charge and the challenge of doing a comprehensive job by the deadline. Most importantly, the task force was not able to complete a major part of its charge related to implementation of the Bridge to Excellence Act until each local jurisdiction submits its comprehensive master plan by October 2003. Further, the task force was undertaking an unprecedented assessment of the current conditions of the State's public school facilities as a baseline measure of facility needs. The task force's interim report contained several recommendations and identified numerous items to be studied further in 2003.

Chapter 388, Acts of 2003 (Senate Bill 498) as enacted extended the task force's deadline to December 31, 2003, modified the task force's charge, and implemented several recommendations of the task force, including making the Aging School program permanent. The task force's members were not fully appointed until September 2003, which delayed the task force's work during the 2003 interim. In light of this delay, a one-month extension in the final report deadline was requested and approved by the Governor and Presiding Officers.

Specifically, the task force was directed to review, evaluate, and make findings and recommendations regarding: (1) whether public school facilities are adequate to support educational programs funded through an adequate operating budget as proposed by the Thornton Commission; (2) the equity of the State's school construction program, particularly the equity of the State and local cost shares for school construction projects; (3) whether the Aging Schools Program should be continued as a permanent program, and if so, whether the current allocation should be modified; and (4) whether the State should provide a greater share of eligible school construction costs for schools with 50 percent or more of the students eligible for free and reduced price meals; small schools in priority funding areas; and schools in qualified distressed counties; and (5) any other matters that are relevant to the adequacy and equity of the State's school construction program.

The task force, chaired by State Treasurer Nancy Kopp, includes: four legislators; the State Superintendent of Schools; the Secretaries of relevant cabinet agencies; the director and former director of the Public School Construction Program; and representatives of county governments, State Board of Education, local boards of education, educators, and the public.

Summary of Meetings in 2003 Interim

The task force began meeting in September 2003, when the membership was fully appointed. The task force worked diligently over the following five months to complete its work, meeting seven times including the final decision meeting on February 2, 2004. The task force's schedule and work plan, shown below, summarizes the topics and issues that the task force considered during its meetings. Materials from the meetings are also available on the General Assembly's website, www.mlis.state.md.us\other#.

One of the major undertakings of the task force throughout 2003 to address its primary charge to evaluate the adequacy of the school construction program was an assessment of the condition of the State's public school facilities based on a set of "fundamental elements," or minimum standards. The survey, the first of its kind done Statewide in Maryland, was intended to provide baseline information on the facility needs of public schools. The results of the Facility Assessment Survey were presented to the task force on November 6, 2003. Cost estimates to address the deficiencies identified by the survey were presented to the task force on December 1, 2003. The task force reviewed actions selected states have taken in response to similar survey results and considered various options to address the findings of the survey and the costs to address the deficiencies.

The task force examined the State/local cost share formula as part of its charge to evaluate the equity of the school construction program. The task force considered modifying the cost share formula, which was last updated in 1995, to reflect various factors, such as enrollment growth, in the formula. The task force also spent considerable time reviewing alternative financing and funding mechanisms for school construction at the State and local levels. The Treasurer appointed a workgroup to study the issues and make recommendations to the task force, which were ultimately modified and adopted by the full task force. In addition, the task force reviewed: past and anticipated State and local school construction funding; enrollment projections; Public School Construction Program Rules, Regulations, and Procedures; the Aging School Program allocations; the facilities needs identified by school systems in the comprehensive master plans required by the Bridge to Excellence in Public Schools Act of 2002, including implementation of full-day kindergarten and pre-kindergarten for disadvantaged 4-year olds by the 2007-2008 school year; and class sizes and State Rated Capacity.

Various options for recommendations were considered at the task force's meetings on December 18, 2003 and January 12, 2004. Public input was requested for the draft options under consideration by the task force after the January 12 meeting, prior to adoption of final recommendations by the task force on February 2, 2004.

Assessing and Responding to Facility Needs

One of the primary charges to the task force was to evaluate and make recommendations regarding whether public school facilities in Maryland are adequate to support educational programs funded through an adequate operating budget as proposed by the Thornton Commission. The December 2002 Interim Report of the task force recommended identifying fundamental elements necessary for an adequate school facility, the design of a survey instrument, and completion of a statewide facilities survey in order to collect baseline data on the present condition of Maryland's public schools and their ability to support educational programs.

The interim report recommended establishing an advisory panel, chaired by the State Superintendent of Schools, to assist in the development of the fundamental elements and the survey instrument. Other members of the advisory panel included members of the task force and one county superintendent. The task force also asked that a workgroup be formed to make recommendations to the advisory panel regarding the fundamental elements and survey instrument. The workgroup consisted of facilities planners from local school systems and the State Departments of Education, General Services, and Planning as well as the Public School Construction Program. (See **Appendix 3, Attachments I and II** for the membership of the advisory panel and the workgroup.)

Developing Minimum Standards and the Survey Instruments

The workgroup developed 31 fundamental elements, or minimum standards, deemed essential for a new school facility constructed in 2003. The fundamental elements were developed based on applicable federal and State requirements, State guidelines for various components of facilities, and local practices. (See **Appendix 5** for the definitions of the standards.) The 31 fundamental elements and the survey instrument assessing each facility based on the 31 elements, following approval by the advisory panel and the full task force, were released on March 17, 2003. The survey was undertaken in two phases. Data from the first phase, self-reported by school systems, were received by July 18, 2003. A total of 1,342 schools were included in the Facility Assessment Survey³. Following a data verification process that continued through October 2003, the results of the Facility Assessment Survey were presented to the task force on November 6, 2003, and made available to the public at that time.

The survey data represent information assessed at a specific point in time – July 2003. A building system that met the current standard in July 2003 may not meet the standard that is current at some time in the future. Conversely, a building system that did not meet the current standard in July 2003 may meet the current standard some time in the future due to the completion of a capital improvement project. The one exception is the Student Capacity

³ Maryland has a total of 1,355 public schools. Thirteen schools were eliminated from the survey due to their unique characteristics.

standard, which looks to a future date. The data for this standard measures a school's capacity to accommodate at least 95 percent of the projected student enrollment for the 2007/2008 school year.

The 31 fundamental elements clearly did not encompass many of the elements that most school systems – as well as most parents, teachers, and students – believe are necessary for a good education. These additional elements include gyms in elementary schools, health facilities in all schools, smaller classrooms for primary grades, separate lunch and assembly rooms, etc. But the 31 fundamental elements were commonly acknowledged to be at the core of any adequate facility.

The second phase of the survey estimated the cost of bringing schools up to the 2003 standards used in the Facility Assessment Survey. A cost estimate survey instrument was developed by the workgroup and advisory panel in the spring of 2003 and approved by the full task force in July 2003. The cost estimate survey, self-reported by school systems, was completed in October 2003. After a data verification process, results were reported to the task force on December 1, 2003, and made available to the public at that time. (See **Appendices 3 and 4** for the full results of the survey.)

Survey Results

It is crucial to recognize that this survey is unprecedented and provides information on the condition of school facilities that has not been available in this form previously to policymakers or the public. The survey was conducted in a relatively brief period of time, and was conducted by school facilities experts from the State and local systems. It was based on criteria deemed to be critical to the health and safety of students and faculty, and the accomplishment of basic, required educational programs. It would be appropriate to scrutinize the survey results in greater depth prior to embarking on the necessary corrective program. Nevertheless, the basic findings clearly indicate that an ambitious school facilities renovation/construction program must be undertaken.

The survey found that the total estimated cost to bring existing schools up to the 31 standards currently used for new school construction is \$3.85 billion.

Of the total \$3.85 billion, approximately \$1.54 billion is required for additional student capacity for the 2007/2008 school year, \$910 million at high schools and middle schools and \$634 million at elementary schools. It is estimated that \$165 to \$188 million at the elementary schools is due to the need to construct facilities to meet the Bridge to Excellence mandates for

full-day kindergarten and pre-kindergarten for certain students, although the use of non-public school space may reduce some of this cost⁴.

The 31 standards in the survey are grouped into four categories: building and site factors, student capacity, education programs, and support services. Of the almost \$3.9 billion total cost:

- \$1.33 billion or 34 percent of the total is needed to repair or replace building systems (e.g. mechanical, electrical, plumbing and structural) and site factors (e.g. human comfort, acoustics, and lighting.);
- \$1.54 billion or 40 percent of the total is needed to provide additional student capacity to accommodate 95 percent of student enrollments anticipated in 2007/2008;
- \$765.55 million or 20 percent of the total is required for needs related to education programs (e.g. elementary and secondary classrooms, special education, and science laboratories); and
- \$214.91 million or 6 percent of the total is needed for support services (e.g. health services, food services, and guidance).

Those standards within the four categories that have, in the judgment of State school facility experts, the greatest potential for impact on education programs and learning are highlighted in **Exhibit 1**. These include critical improvements in building conditions that impact health and safety, student capacity, and other direct education-related facility needs. For these “high impact” standards, the estimated cost to bring schools up to current standards for new construction is approximately \$3.2 billion, or 84 percent of the total estimated cost of almost \$3.9 billion. The remaining costs of approximately \$700 million are related to support services and other education programs (e.g., fine arts and auditorium/theatre arts).

⁴ The costs for the Bridge to Excellence mandates are corroborated by an independent review of the kindergarten and pre-kindergarten costs included in the local education agencies’ (LEAs) Fiscal Year 2005 Capital Improvement Program submissions. With 19 of the 24 LEAs reporting on these costs, the total cost to meet the mandate is now estimated at \$165.4 million. It is anticipated that this number will increase as several of the LEAs complete assessments of their kindergarten and pre-kindergarten needs. An estimate of the total costs for all 24 LEAs prepared by the Public School Construction Program is approximately \$188 million. The final number as shown in future year Capital Improvement Programs (CIP) is likely to be higher than that developed through the Facility Assessment survey because the latter asked for costs associated with 95% of the anticipated enrollment, whereas CIPs are typically built around 100% capacity. Of the \$188 million, approximately \$10.5 million is estimated to be required to meet the pre-kindergarten requirement only. Since kindergarten and pre-kindergarten services can be provided through qualified private vendors, there is the possibility that some portion of this cost can be avoided particularly related to pre-kindergarten.

The American Civil Liberties Union Foundation commissioned a report on the prioritization of the 31 minimum standards for school buildings⁵. Dr. Glen Earthman cites research that demonstrates a strong correlation between certain facility factors and student achievement. Dr. Earthman concluded that health and safety issues should be the first priority, followed by human comfort, air quality, lighting, acoustics, science laboratories and equipment, and overcrowded school buildings. These priorities are similar to the high impact standards identified by State facility experts.

⁵ Earthman, Glen I. *Prioritization of 31 Criteria for School Building Adequacy*, American Civil Liberties Union Foundation of Maryland, Baltimore, Maryland, January 5, 2004.

Exhibit 1
Survey Standards with Greatest Potential Impact on Education

| | <u>Number of Schools</u> | <u>Cost (000)</u> | <u>Percent of Total Cost</u> |
|-------------------------------------|------------------------------|--------------------|----------------------------------|
| 1. Health and Safety | | \$273,682 | 7% |
| • Indoor Air Quality | 848 | \$150,217 | |
| • Fire Safety | 364 | 54,728 | |
| • Security | 258 | 9,351 | |
| • Potable Water | 183 | 115 | |
| • Lavatories | 173 | 9,150 | |
| • Communication Systems | 94 | 12,145 | |
| • Site Layout | 245 | 37,976 | |
| 2. Building and Site Factors | | \$1,030,872 | 27% |
| • Building Systems | 221 | 85,273 | |
| • Human Comfort | 454 | 642,002 | |
| • Acoustics | 208 | 247,515 | |
| • Lighting | 312 | 56,082 | |
| 3. Student Capacity | 467 | \$1,543,349 | 40% |
| • Pre-K/Full-Day K Mandate | | 163,365 | |
| • Other Elementary | | 470,249 | |
| • Secondary | | 909,735 | |
| 4. Education Programs | | \$ 373,711 | 10% |
| • Pre-K/K Classrooms (existing) | 356 | 43,800 | |
| • Elementary Classrooms | 127 | 72,224 | |
| • Secondary Classrooms | 110 | 76,836 | |
| • Special Education | 305 | 35,236 | |
| • Instructional Resource | 262 | 17,942 | |
| • Secondary Science | 169 | 57,262 | |
| • Accessibility | 442 | 70,411 | |
| | Total | \$3,221,614 | 84% |

Source: 2003 Facility Assessment Survey

Needs Vary Across Maryland

It is important to note that, while the assessment study found serious needs related to conditions of current facilities and insufficient student capacity across the State, specific needs and challenges vary significantly among the 24 local school systems. Many areas of Maryland are experiencing rapid growth that requires new classroom space. In other areas, the increase in the number of students with special learning needs affect the design and capacity of schools. School buildings constructed in the 1960s and 1970s need to be renovated; the building systems in these schools are at the end of their useful life and do not align with contemporary educational standards. School districts that are experiencing enrollment declines need to consolidate their facilities, requiring renovation and even expansion of the host facility. Finally, the Bridge to Excellence mandates for full-day kindergarten and pre-kindergarten for disadvantaged children can only be achieved in some districts through facility improvements. Some school systems are experiencing several of these factors simultaneously, compounding their facility needs.

Other States' Approaches

The task force considered the approaches other states took in assessing and then responding to their own school facilities needs. The task force examined in depth the programs in Arizona, North Carolina, and Ohio. A brief description of how each state conducted its survey and changed its school facilities program in response to survey findings follows.

Arizona reformed its school facility finance program in response to adequacy litigation which required the state to pay the full costs of school construction. The court required the state to develop minimum adequacy standards for public schools and ensure that all facilities in the state met these standards. The Arizona School Facilities Board developed minimum standards for the physical environment and capacity to facilitate learning in a facility and conducted a survey of all schools statewide to determine compliance with the standards. This survey identified approximately \$1.3 billion in needs to meet only minimum standards.

In response, Arizona lawmakers passed the Students FIRST initiative, including the Deficiencies Corrections Fund, a three-year, self-directed program solely to address this \$1.3 billion in minimum needs. Other Students FIRST programs included the New School Facilities Fund and the Building Renewal fund to address the needs for new schools and major renovations to existing schools beyond projects to achieve minimum standards. The Students FIRST legislation authorized the School Facilities Board to issue up to \$800 million in bonds, and voters passed a 0.6 percent increase in the state sales tax to fund public school operating and capital expenditures.

North Carolina undertook a school facilities survey in 1995. North Carolina's survey was not based on a specific set of minimum standards, but required each school administrative unit to submit a five-year facility needs assessment report, approved by both the local board of education and the board of county commissioners. This survey revealed \$6.2 billion in needs.

To meet these five-year needs, North Carolina estimated \$363 million in state funds and \$121 million in local matching funds would be generated through an existing school facility program funded by the corporate tax. An additional \$1.2 billion would be generated through an existing local option sales tax. To fund the remaining needs, North Carolina authorized a \$1.8 billion bond issue. Each jurisdiction received an allocation based on its average daily membership, and qualifying jurisdictions received additional allocations for low-wealth and high-growth status. Local match rates varied from 3 to 75 percent based on wealth, and low-wealth jurisdictions were entirely exempted from a matching requirement. The state estimated local matching funds would total \$2.9 billion. Jurisdictions had until 2003 to raise their required matching funds, or their allocations would be redistributed. All projects funded with bond proceeds and matching funds had to be approved by the State Board of Education.

Ohio also reformed its school facilities program in response to adequacy litigation. Ohio developed a new system of school finance for both operating and capital expenditures in 1997. The Governor instituted a 12-year funding pledge of over \$10.2 billion, based on adjusted needs identified in a 1990 facilities survey. This funding included capital bond funds, tobacco settlement funds, and general and other fund appropriations.

To respond to the requirements of the adequacy litigation, Ohio developed the Classroom Facilities Assistance Program. This program conducts a comprehensive facilities survey in each jurisdiction, and funds all new construction and renovation needs identified in this survey. The program began with the least wealthy jurisdiction, and serves each jurisdiction in turn based on its wealth. Local match rates vary from 1 percent in the poorest county to 95 percent in the wealthiest.

Though these states employed different approaches to respond to their specific needs, several strategies stood out for potential application in Maryland:

- all three states developed a specific time frame within which to correct facilities deficiencies (3 years in Arizona, 8 years in North Carolina, and 12 years in Ohio);
- both states not required to fund all construction developed variable wealth-based match rates that recognized strong prior local efforts; and
- strong planning and effective communication appear to have contributed to the successes Arizona and Ohio have achieved.

Funding Adequate Facilities

Clearly, Maryland faces a crisis in public school construction.

Even before the 2003 Facility Assessment Survey, it was recognized that school construction and renovation needs were growing. Based simply on the current and anticipated requests submitted prior to the 2003 survey, the total State share for the public school capital program for fiscal 2005 to 2010 was anticipated to exceed \$2.1 billion. At the same time, annual State funding for school construction has declined from a peak of \$286 million in fiscal 2002 to the current anticipated level of \$100 million in fiscal 2005. (See **Appendix 6** for a summary of public school construction funding.) This decline in State funding reflects the decline in the State's general fund revenue over this period and the disappearance of surplus general funds which had supplemented the bond-funded school construction program. If the level of available State funding remains at \$100 million annually through fiscal 2010, the deficit in school construction funding will approach \$1.5 billion. Included in this figure is a backlog of \$267 million in projects that have received planning approval but only partial, or no construction funding, as yet; this amount will increase as new projects are approved for planning.

Against this backdrop, the 2003 Facility Assessment Survey, as noted above, identified facility costs of nearly \$3.9 billion simply to bring facilities up to the 31 fundamental elements, including providing for presently anticipated enrollment. Approximately \$3.2 billion of the total cost is needed to address the standards determined to have the greatest impact on education. Assuming school construction remains at \$100 million annually, and based on the current State and local share of costs, it would take about 16 years for the State to address **only** the "high impact" standards as identified in 2003.⁶ That presumes all of the State funding is dedicated solely to addressing the high impact standards, which is neither practical nor desirable.

The task force appreciates the fiscal difficulties facing the State and local governments. However, school facilities are critical to a strong education system and a strong community, and the needs will only increase over time. **Good schools must be a top priority for Maryland.**

Recommendations: Levels of Funding for Adequate School Facilities

- The Interagency Committee on School Construction (IAC), in consultation with local school systems and local governments, should scrutinize the results of the 2003 Facility Assessment Survey as soon as possible, to reaffirm the findings and assure that all inadequacies which might pose an immediate threat to the health and safety of students and staff are identified and the appropriate remedial actions are developed and implemented. The IAC should report to the Governor, General Assembly, and Board of Public Works (BPW) by March 15, 2004, on the steps it will take to assure that this recommendation is accomplished. The IAC should exercise due diligent oversight over this process and assure that the appropriate authorities are held accountable. It is imperative that all schools meet minimum health and safety standards.

⁶ Assumes 85% of total costs are eligible for State funding and that, on average, the State pays 60% of eligible costs.

The Governor and General Assembly should establish a School Emergency Repair Fund to finance any renovations and repairs to schools required to resolve deficiencies that present an immediate hazard, or, if not corrected, may present an immediate hazard, to the health or safety of the students or staff of the schools, as certified by local school system authorities and approved by the IAC following the re-examination and scrutiny of the 2003 survey results. This fund should be in addition to the on-going Public School Construction Program (PSCP), should have an initial investment of at least \$2 million, and should incorporate appropriate local match requirements.

- The General Assembly and Governor should increase annual State funding for school construction and renovation to address critical school construction needs. They should establish a goal of fully funding by fiscal 2013, at a minimum, the appropriate State share of the \$3.85 billion in needs reflected in the 2003 School Facility Assessment Survey. It is recognized that achieving this goal will require a significant commitment by the State to provide approximately \$2 billion and by the local governments to provide approximately \$1.85 billion over the next eight years. The State would need to allocate at least \$250 million annually for the next eight years to achieve the goal. It is recognized that this amount does not include many projects which school systems believe are necessary, but does include the basic, minimum facility standards. While some needs will shift over time, school systems should establish a goal of fully meeting these basic standards through necessary facility changes, unless they demonstrate to the IAC that there are extenuating circumstances or greater countervailing needs.
- The State should establish a three-year, \$3 million program to provide State funding for relocatable classrooms, to address critical, short-term space needs in many jurisdictions, in part due to implementation of the full-day kindergarten/pre-kindergarten mandates. The State should provide an additional \$1 million for three years to fund the State's share of purchasing relocatable classrooms. The IAC should adopt minimum standards for relocatable classrooms. While useful in the short term, relocatable buildings are not recommended as permanent space.

Recommendations: Procedures to Incorporate Standards in Planning

- Following review and scrutiny of the 2003 Facility Assessment Survey by the IAC and school systems, school systems should identify how the facility needs identified will be systematically addressed and how this will be documented in facilities-related proposals incorporated in the Master Plan and Updates, annual Capital Improvement Plans, 10-Year Facility Master Plans, and other capital funding requests.
- The IAC should consider the facility needs identified by the 2003 survey among the criteria used to evaluate requests for State planning approval in the annual Capital Improvement Program (CIP) review. While local priorities should continue to be given great weight by the IAC in approving projects, the goal of both the school systems and

the IAC should be to fully meet the 2003 facility standards by fiscal 2013, barring extenuating circumstances or greater countervailing needs, starting with the most immediate needs found in the review. Any immediate health and safety deficiencies should be given priority.

- There must be regular maintenance of school buildings by school systems. In addition to maintaining and strengthening the IAC's annual survey of school building maintenance (See Recommendation on page 44), the IAC should regularly review each school system's comprehensive maintenance plan and its implementation. Weaknesses should be reported to the respective local school systems and governments, the Governor and General Assembly, and the Board of Public Works. Inadequate facility maintenance clearly impedes good educational programs and is costly in the long run.
- School systems should give priority, when appropriate, to limited renovation projects that address critical systemic renovations and priority educational program enhancements while costing less than full renovation projects.
- The IAC should regularly survey the condition of public school facilities at least once every four years. The surveys should be similar to the 2003 Facility Assessment Survey, incorporating additional standards and guidelines that may be adopted. The State should provide funds necessary to conduct the survey.

Alternatives for Funding Adequate Facilities

As noted above, to fully fund critical school construction needs over the next eight years, the State would need to provide at least \$250 million annually. A variety of alternatives should be considered by the Governor and General Assembly in order to meet these needs.

The task force notes that according to the Department of Legislative Services (DLS), the State has "unused" debt capacity of about \$1.2 billion under the two capital debt affordability criteria. This assumes only one-third of the debt would be issued in the first year. If all of the debt authorized is issued in fiscal 2005, then capacity is about \$370 million. There are some concerns with issuing additional debt, including added additional debt service. Authorizing an additional \$100 million in debt in each of the next eight years would increase debt service costs by \$359 million over presently anticipated costs in the next 10 years (maximum annual increase of \$87 million during bond repayment). Another concern is whether Grant Anticipation Revenue Vehicles bonds, used for transportation projects, are counted as State debt. Credit rating agencies have advised that while they aren't presently counted as State debt, they are included in the overall consideration of a state's credit worthiness. If they are counted in the future, then most of the State's unused debt capacity could be eliminated in the next few years. Finally, the State may want to maintain unused debt capacity.

The task force also notes that some states have separate bond issuance authorities to issue school construction debt, and some states issue bonds for more than 15 years. The Maryland Constitution requires State general obligation bonds to be repaid within 15 years. Spreading bond repayment over 20-30 years would reduce annual debt service costs in the short-term, potentially freeing up resources to issue additional debt, while increasing debt service costs over the life of the bonds. It would, however, more closely match the term of the bond to the life of the facility it funds. Approximately 62 percent of public schools have an average age of construction of 23 years or more, according to the PSCP's Facility Inventory Database.

In addition to additional general obligation debt or creation of a School Construction Authority, other alternatives that could be considered include alternative financing mechanisms (e.g. lease-leaseback, performance contracting) and new revenue sources. Alternative financing mechanisms are discussed in detail beginning on page 39. Although the task force was not asked to identify funding sources for school construction, the task force did briefly discuss potential new revenues sources including taxes or fees, earmarked or not, at either the State or local level (See **Exhibit 2**).

Recommendations

- Urge the Governor and General Assembly to initiate a study of possible new revenue sources at the State and local levels that would be dedicated to school construction, including additional bonding with State general obligation bonds or a separate authority.
- The Capital Debt Affordability Committee should give special consideration to school construction needs in light of the \$3.85 billion in needs identified by the 2003 Facility Assessment Survey when recommending the State's debt affordability limit.

Exhibit 2
Potential Revenue Sources
(\$ in Millions)

| | <u>Potential Annual Revenue</u> |
|--|---------------------------------|
| <u>Debt</u> | |
| Unused General Obligation Bonding Capacity ¹ | 1,200 |
| Separate School Construction Authority | unknown ² |
| <u>Personal Income Tax</u> | |
| Increase top rate from 4.75% to 6% for incomes over \$100,000 to \$150,000 for joint returns | \$200 |
| Eliminate itemized deductions | |
| Home mortgage interest | 360 |
| Charitable contribution deduction | 140 |
| Real property tax | 110 |
| Other itemized deductions (medical and miscellaneous) | 85 |
| Eliminate subtraction modifications | |
| Subtraction for Social Security benefits | |
| Pension exclusion | 75 |
| | 55 |
| <u>Corporate Income Tax</u>³ | |
| Address Delaware Holding Company and other issues related to multi-state corporations | 50 |
| Increase rate from 7% to 8% | 65 |
| <u>Sales Tax</u> | |
| Increase rate from 5% to 6% | 565 |
| Eliminate vendor discount | 22 |
| Eliminate exemptions | |
| Food for home consumption | 280 |
| Residential utilities | 150 |
| Property used in manufacturing | 140 |
| Medical/health supplies | 90 |
| Sales to and by tax-exempt organizations | 85 |
| Property used in agriculture | 55 |
| Expand base to include services | |
| Business services | 600 |
| Information services | 325 |

| | |
|---|----------------------|
| Professional services | 200 |
| Transportation services | 200 |
| Financial services | 150 |
| Entertainment | 50 |
| Repair services | 50 |
| Personal services | 40 |
| <u>Tobacco Tax</u> | |
| Increase rate by 25 cents per pack | 50 |
| <u>Alcoholic Beverage Tax</u> | |
| Double current rates | 25 |
| <u>Miscellaneous</u> | |
| Controlling interest transfer tax ⁴ | 10 |
| Impose insurance premium tax on HMOs/MCOs | 80 |
| Impose new utility tax on residential (\$40/yr) and commercial/industrial (\$60/yr) customers | unknown ⁵ |
| <u>Transportation Revenues</u> ⁶ | |
| Increase motor fuel tax by 7 cents | 215 |
| Increase motor vehicle titling tax rate from 5% to 6% | 135 |
| Impose sales and use tax on sale of motor fuel | 235 |
| Increase vehicle registration fees (\$10 annual increase per vehicle) ⁷ | 50 |

¹ Creation of a separate school construction authority that would issue bonds for 20-30 years.

² Total unused State general obligation debt capacity as of January 2004.

³ 24% of these revenues to TTF under current law.

⁴ State revenue. Local governments would receive additional revenues of \$30 to \$35 million from local recordation and transfer taxes.

⁵ Informal estimate of approximately \$90 million annually.

⁶ Total TTF revenue increase. Under current law, part of these revenues would be shared with local governments.

⁷ \$10 annual increase on all vehicles. About \$35 million would be generated if the increase applied only to Class A (passenger cars) and Class M (multipurpose vehicles).

Ability of School Facilities to Accommodate Needs Identified in Bridge to Excellence Master Plans

Facilities Needs Identified in Bridge to Excellence Master Plans

The Bridge to Excellence in Public Schools Act (Chapter 288 of the Acts of 2002) required all local school systems to develop five-year comprehensive master plans to achieve improvements in academic performance across all student populations. These plans were submitted to the Maryland State Department of Education (MSDE) by October 1, 2003. MSDE put the plans through a peer review process to determine if they had addressed required components and included goals and strategies to strengthen academic performance. The State Superintendent of Schools recommended and the State Board of Education approved 22 of the master plans on December 2, 2003. The remaining two master plans are expected to be approved by February 2004.

At the recommendation of the task force's 2002 interim report, one of the required components in the master plans is a facilities section to include: 1) specific needs for additional space for full-day kindergarten and pre-kindergarten for economically disadvantaged four year olds; 2) likely methods to provide the additional space such as construction or leased facilities; and 3) identification of other capital improvements needed to support other educational strategies contained in the plan. The document distributed by MSDE for guidance to school systems did not specifically instruct systems to report kindergarten and pre-kindergarten needs separately.

The level of specificity provided in the master plans varied considerably. In general the school systems fell into three categories. Six systems reported no needs for additional space for full-day kindergarten and pre-kindergarten space. These systems reported they had programs currently in operation and/or had space available due to declining enrollments. Ten school systems provided preliminary planning reports for a phase-in plan. In some cases the plans specifically named schools and identified the number of rooms required at each location. Other plans were more general. The remaining eight school systems simply reported that they were initiating studies and/or would address the space needs in future CIP requests to PSCP.

Because most school systems reported very preliminary facilities plans for full-day kindergarten and pre-kindergarten classrooms, they also addressed the means of providing the space in generalities. For the most part school systems reported they would identify space in existing school buildings, initially lease or buy relocatable classrooms to increase school capacity, and construct permanent additions to existing schools in the future. Few systems identified the option of contracting with qualified vendors.

Seventeen school systems identified a general need for additional capital improvements to support enrollment growth, aging infrastructure, and educational strategies such as class size

reduction and special programs for identified populations. Seven school systems did not address other capital needs.

Recommendations

- There is a clear need for greater coordination of facilities plans with educational programs and budget plans at the local level. MSDE should require each submission to be coordinated and reflect common themes on more specific levels. Local education agencies (LEAs) should address facility needs in the Comprehensive Master Plans and annual updates, and address them with greater specificity in the Educational Facilities Master Plan submitted to PSCP each July and in the annual CIP request submitted each October.
- Future submissions of the facilities section of the Comprehensive Master Plans should separately report on the needs related to full-day kindergarten programs and pre-kindergarten for economically disadvantaged four year olds.
- CIP request forms should specifically address the relationship of the request to the Comprehensive Master Plan for the school system, as well as to the issues of student capacity and aging infrastructure.
- The IAC should give priority to projects that are aligned with the local education agencies' (LEAs) comprehensive master plans, while continuing to give weight to projects that address critical capacity and aging infrastructure needs.

Full-day Kindergarten

The Bridge to Excellence Act requires school systems to implement full-day kindergarten for all students by the 2007-2008 school year. Preliminary reports for Maryland public schools show over 30,000 children or 55 percent of all kindergarten students enrolled in full-day kindergarten programs in school year 2003-2004. The national average is 65 percent. Six school systems report 100 percent participation in full-day kindergarten programs (Allegany, Baltimore City, Caroline, Garrett, Prince George's, and Talbot.). There are 500 public schools in Maryland with full-day or extended-day kindergarten programs. This is an increase of 162 percent from school year 1997-1998. There are 1,548 full-day kindergarten classrooms in operation.

Maryland's education regulations require children to attend kindergarten before the start of first grade, allowing some flexibility to parents, who may exercise a level of maturity waiver, holding an age-eligible child back for one year before starting kindergarten. Parents may also pursue attendance at alternative settings such as a full-time child care, enrollment in Head Start, or attendance at MSDE approved non-public schools. Local school systems may also approve a request by parents who want their child to attend half-day kindergarten rather than full-day.

MSDE has identified a number of options to address the additional space needed to implement full-day kindergarten programs. These options include:

- identify classroom space at each school;
- establish flexible design criteria for early childhood spaces;
- adapt existing space through minor renovations;
- provide relocatable classroom buildings for upper grade students to free space for kindergarten classrooms in the main building until permanent additions can be constructed;
- return former schools that have been transferred to local government back to the school system;
- include full-day kindergarten space in new school construction projects;
- provide pre-kindergarten off site through a qualified vendor* to free space for additional kindergarten classrooms; and
- provide kindergarten off site through qualified vendors.*

*Qualified vendors may include for-profit or not-for-profit licensed or registered regulated child care centers programs and approved programs in non-public schools as defined by COMAR 13A.08-02-2. .

Recommendations

- The anticipated capital costs related to the full-day kindergarten requirement of the Bridge to Excellence Act is \$165 million - \$188 million. This should be appropriately funded as part of the \$3.85 billion identified minimum facility needs, taking into consideration the mandate that the program be fully implemented by the 2007-08 school year.
- A need for additional permanent facility space does not mean that LEAs cannot provide full-day kindergarten to all students by fall 2007, but might do so through the use of temporary facilities (for older students) and creative space solutions. MSDE and PSCP should provide technical assistance to local school systems to creatively address space needs for full-day kindergarten programs, including the creation of regional programs, contracts with qualified vendors, and use of temporary facilities. MSDE and PSCP should share creative solutions with other LEAs.

- MSDE should conduct a survey to assess the availability and compatibility of classroom space at qualified vendor sites.

Pre-kindergarten

The Bridge to Excellence Act requires school systems to make publicly-funded pre-kindergarten programs available to all economically disadvantaged four-year-old children by the 2007-2008 school year. All school systems have established some pre-kindergarten programs for at-risk children using State funding from the Extended Elementary Education Program (EEEP). EEEP is folded into the new compensatory aid formula provided in the Bridge to Excellence Act. School systems assigned specific schools, such as Title 1 schools, to operate pre-kindergarten classrooms. In two cases (Hagerstown and Greenbelt) local school systems contracted with a vendor to provide pre-kindergarten.

Facilities for pre-kindergarten students are eligible for State school construction funding through PSCP. At the request of the task force in the 2002 interim report, the Maryland Department of Planning has begun to include pre-kindergarten enrollments in their statewide and system-wide projections of public school enrollments.

MSDE has identified a number of options to implement pre-kindergarten programs for all economically disadvantaged four-year olds, including both programs on school sites and off-site at qualified vendors. Qualified vendors may include for-profit or not-for-profit regulated child care programs, Head Start programs, and approved programs in non-public schools. Options include:

- establishing regional pre-kindergarten sites at public school or vendor facilities;
- where the number of children is very small, providing transportation for individual children from home to a qualified vendor's program;
- assigning a certified teacher to a vendor's program and providing funding to the vendor to purchase materials of instruction;
- purchasing services in full from a qualified vendor; and
- establishing a Memorandum of Agreement (MOA) with local Head Start grantee to coordinate recruitment and enrollment for eligible four-year-olds, among other provisions. MSDE is currently developing a statewide model MOA between MSDE and the Maryland Head Start Association to serve as a format for developing county MOAs.

Recommendations

- Of the anticipated \$165-188 million capital costs related to the full-day kindergarten requirement of the Bridge to Excellence Act, \$10.5 million is estimated to be related to the pre-kindergarten requirement. This should be appropriately funded as part of the \$3.85 billion identified minimum facility needs, taking into consideration the mandate that the program be fully implemented in the 2007–08 school year.
- MSDE and PSCP should provide technical assistance to local school systems to creatively address space needs for pre-kindergarten programs, including the creation of regional programs and contracts with qualified vendors. MSDE and PSCP should share creative solutions with other LEAs.

Class Size/State-rated Capacity

PSCP uses an assumed school building capacity in evaluating requests for additional space and new schools. At the elementary school level the current State Rated Capacity (SRC) is 20 students per pre-kindergarten classroom, 22 students per kindergarten classroom, and 25 students per classroom for grades 1 to 5/6. (Some school systems include grade 6 in elementary schools, others in middle schools.) At the middle and high school levels, SRC is based on 25 students per classroom or laboratory teaching station, multiplied by an 85 percent utilization factor. For special education programs, SRC is 10 students per classroom. Planning officials in several local jurisdictions also use SRC in applying Adequate Public Facilities Ordinances to proposals for residential development.

Only six school systems specifically identified class size reduction as an educational strategy that would require additional facilities. Similarly, only seven systems have formally adopted reduced “local rated capacities.” Nevertheless, most school systems are staffing below the current SRC at the lower grades. The average size of pre-kindergarten and kindergarten classes is actually 19 students. The average size of grades 1 to 3 classes is 21 students. The average size of grades 1 to 5 classes is 23 students at this time.

Changes in the SRC formula directly affect the number of projects eligible for State construction funding as well as the total funding required for each project. If the capacity for grades 1 to 5 were reduced to 22 students per classroom, a 20-classroom school that has a capacity of 500 students would be assumed to house only 440 students, justifying a need for three additional classrooms. The present estimated construction cost of an average new elementary classroom is at least \$167,000.

Recommendations

- The IAC should reduce SRC for elementary grades 1 to 5 from 25 students per classroom to 23 students per classroom. This would bring SRC into alignment with the current average class size for grades 1 to 5.
- PSCP should study the current State funded maximum gross area allowances for elementary schools and make recommendations to the IAC on increasing or otherwise adjusting the allowance.
- MSDE and PSCP should monitor actual class size trends and current research on the impact of class size on student learning, and periodically recommend to the IAC adjustments to the formula.

State/Local Shared-cost Formula

The State established a State and local shared cost program in 1988 at the recommendation of the Task Force on School Construction. The task force recommended that the program be wealth-equalized, with the State paying a greater share of public school construction costs for less wealthy counties. The plan was approved and implemented by BPW, and the initial shared cost formula was in place from fiscal 1989 to 1994.

The 1993 Governor’s Task Force on School Construction recommended that the shared cost formula be updated to reflect more recent wealth estimates. Using projections of wealth and enrollment, the State share of the current expense program⁷ for each county was estimated for fiscal 1997 through 1999. The projected average State share during the three years was computed and used to set State shares in the formula. State shares for the school construction formula were rounded to the next higher 5 percent increment, and a minimum State share floor was set at 50 percent. The new shared cost formula was implemented in fiscal 1995 and, with two exceptions, has not changed since then. In response to separate court cases, the Baltimore City and Prince George’s County State shares have been increased through the enactment of State legislation. The current State/local shared cost formula is shown in **Exhibit 3**.

Exhibit 3 Current State/Local Shared Cost Formula for Public School Construction

| <u>50/50</u> | <u>55/45</u> | <u>65/35</u> | <u>70/30</u> | <u>75/25</u> | <u>80/20</u> | <u>90/10</u> |
|---|-----------------|--|--|--|--------------|--------------|
| A.A. Baltimore Howard Kent Mont. Talbot Worcester | Calvert Q.A. | Carroll Charles Frederick Harford Washington | Cecil Dorchester Garrett St. Mary’s Wicomico | Allegany Caroline Pr. George’s** | Somerset | Balt. City* |

*The 90% State match exists through fiscal 2005 and only applies to the first \$20 million in State funding provided to Baltimore City in a single fiscal year. State funding in excess of \$20 million has a 75/25 State/local match. After fiscal 2005, the State share for Baltimore City reverts to 75%.

**The 75% State match exists through fiscal 2007 and only applies to the first \$35 million in State funding provided to Prince George’s County in a single fiscal year. State funding in excess of \$35 million has a 65/35 State/local match. After fiscal 2007, the State share for Prince George’s County reverts to 60%.

Source: Department of Legislative Services

⁷ Now known as the foundation program.

Local Involvement in School Construction

The goal of the shared cost formula is to ensure equity across jurisdictions in the quality of school facilities by providing a greater State share of school construction costs to low-wealth jurisdictions and a lower State share to high-wealth counties. In effect, the goal is to provide a State share that would give every county an equal opportunity to meet the same school facility standards with roughly the same local effort. An equitable formula, therefore, should account for different local needs and different local wealth bases.

The current shared cost formula has not prevented disparity in the resources each jurisdiction devotes to public school construction. **Exhibit 4** shows school construction debt as a percent of local wealth for each jurisdiction in fiscal 2001.⁸ The percent ranges from 0.1 percent in Kent County to 2.3 percent in neighboring Queen Anne's County. The exhibit also calculates an "effort index"⁹ for each jurisdiction by comparing the local percentage to the statewide weighted average. Index values range from 0.13 (13 percent of the State average) to 2.59 (259 percent of the State average). To some extent, these differences are to be expected because local governments have differing priorities. For example, citizens in one county may be willing to pay higher taxes to maintain quality school facilities, while the local government in a different county may feel greater pressure to fund other projects or keep tax rates low. However, the wide variation in local effort could be an indication that competing local priorities are not the only factor driving differences in local support for school construction; local needs and local wealth bases may not be adequately accounted for in the existing shared cost formula.

To further analyze the equity of the existing formula, data from the School Facilities Survey were used. If the formula was designed to account for local attributes that drive facility needs, counties with high effort would not have identified many additional needs in the survey and counties with low effort would have identified many needs that have not been met. **Exhibit 5** estimates the debt each county would have to incur under the existing State/local shared cost formula in order to meet the needs recognized in the survey as having the highest potential to impact educational delivery. This amount is then added to outstanding school construction debt, and the sum is compared to current local wealth. The analysis shows that local school construction debt as a percent of local wealth would have to average 1.3 percent statewide to meet the high impact needs, nearly 50 percent more than the percentage in fiscal 2001. However, these needs would presumably be met over time, meaning that some of the debt will be retired and that the remaining debt will comprise a lower percentage of an increasing wealth base.

The index calculated for Exhibit 4 is also updated in Exhibit 5 to include the local contribution necessary to meet the high impact needs. A jurisdiction's index value is influenced by both its outstanding school construction debt (presumably, needs that have already been met)

⁸ Debt as a percent of wealth base should not be viewed as a "tax rate" for school construction since school construction debt is financed over 15 or 20 years.

⁹ The index is not intended to suggest what the proper local effort is. The index simply makes it easier to view differences in local support for school construction.

and its remaining needs, as measured by the Facility Assessment Survey. The values on this index contract somewhat compared to those in Exhibit 4, with a maximum of 1.67 and a minimum of 0.08, indicating that differences in unmet facility needs are, in part, a result of varying local effort. The disparity, however, is still significant. Several jurisdictions with high effort scores on the original index have significant remaining needs and would have to continue strong local support for school construction under the existing formula. Conversely, some counties with very low school facility needs could keep effort relatively low and meet all of their needs. This may indicate a need to adjust the existing State/local shared cost formula.

Exhibit 4
Local Debt for School Construction
Fiscal 2001
(\$ in Thousands)

| <u>County</u> | <u>Wealth*</u> | <u>FY01 School Construction Debt**</u> | <u>School Construction Debt as % of Wealth</u> | <u>Effort Index</u> |
|-------------------|----------------------|--|--|-------------------------|
| Allegany | \$1,593,675 | \$13,900 | 0.872% | 0.96 |
| Anne Arundel | 22,740,066 | 137,474 | 0.605% | 0.67 |
| Baltimore City*** | 13,397,785 | 94,160 | 0.703% | 0.78 |
| Baltimore | 31,040,655 | 104,432 | 0.336% | 0.37 |
| Calvert | 3,719,156 | 19,194 | 0.516% | 0.57 |
| Caroline | 799,585 | 11,530 | 1.442% | 1.59 |
| Carroll | 6,057,753 | 79,406 | 1.311% | 1.45 |
| Cecil | 2,991,478 | 35,195 | 1.177% | 1.30 |
| Charles | 4,800,206 | 31,557 | 0.657% | 0.73 |
| Dorchester | 931,179 | 7,262 | 0.780% | 0.86 |
| Frederick | 8,267,102 | 146,719 | 1.775% | 1.96 |
| Garrett | 1,043,274 | 2,109 | 0.202% | 0.22 |
| Harford | 8,471,266 | 62,695 | 0.740% | 0.82 |
| Howard | 13,767,359 | 197,386 | 1.434% | 1.58 |
| Kent | 802,760 | 929 | 0.116% | 0.13 |
| Montgomery | 53,697,288 | 629,326 | 1.172% | 1.29 |
| Prince George's | 26,124,246 | 185,037 | 0.708% | 0.78 |
| Queen Anne's | 1,916,965 | 44,962 | 2.345% | 2.59 |
| St. Mary's | 3,136,032 | 52,007 | 1.658% | 1.83 |
| Somerset | 455,594 | 1,754 | 0.385% | 0.43 |
| Talbot | 2,130,144 | 12,809 | 0.601% | 0.66 |
| Washington | 4,208,704 | 35,869 | 0.852% | 0.94 |
| Wicomico | 2,501,382 | 44,425 | 1.776% | 1.96 |
| Worcester | 3,188,506 | 22,521 | 0.706% | 0.78 |
| Total: | \$217,782,160 | \$1,972,655 | 0.906% | 1.00 |

* Equals wealth base used in fiscal 2002 education aid calculations. The calculation draws from actual fiscal 2001 wealth figures.

** From a Department of Legislative Services' 2002 survey of local governments.

*** The Baltimore City school construction debt figure includes \$25 million attributable to the Baltimore City Public School System, not the local government.

Source: Department of Legislative Services, January 2004

Exhibit 5
Estimated Local Effort to Meet High Impact Needs
(\$ in Thousands)

| <u>County</u> | <u>High Impact Need*</u> | <u>Current Local Share</u> | <u>Est. Local Share of High Impact Costs**</u> | <u>Outstanding Debt</u> | <u>Local Share of Costs Plus Debt</u> | <u>Percent of FY05 Wealth</u> | <u>Index</u> |
|-----------------|--|----------------------------|--|-------------------------|---------------------------------------|-------------------------------|--------------|
| Allegany | \$43,666 | 25% | \$15,829 | \$13,900 | \$29,729 | 1.666% | 1.24 |
| Anne Arundel | 263,385 | 50% | 151,446 | 137,474 | 288,920 | 1.089% | 0.81 |
| Baltimore City | 400,805 | 10% | 94,189 | 119,160 | 213,349 | 1.543% | 1.15 |
| Baltimore | 222,954 | 50% | 128,199 | 104,432 | 232,631 | 0.706% | 0.53 |
| Calvert | 99,552 | 45% | 53,011 | 19,194 | 72,205 | 1.644% | 1.23 |
| Caroline | 3,316 | 25% | 1,202 | 11,530 | 12,732 | 1.407% | 1.05 |
| Carroll | 114,887 | 35% | 51,412 | 79,406 | 130,818 | 1.829% | 1.37 |
| Cecil | 32,006 | 30% | 12,962 | 35,195 | 48,158 | 1.376% | 1.03 |
| Charles | 175,647 | 35% | 78,602 | 31,557 | 110,159 | 1.882% | 1.41 |
| Dorchester | 23,707 | 30% | 9,601 | 7,262 | 16,864 | 1.588% | 1.19 |
| Frederick | 138,925 | 35% | 62,169 | 146,719 | 208,887 | 2.121% | 1.58 |
| Garrett | 13,507 | 30% | 5,470 | 2,109 | 7,580 | 0.608% | 0.45 |
| Harford | 123,322 | 35% | 55,187 | 62,695 | 117,882 | 1.212% | 0.91 |
| Howard | 158,718 | 50% | 91,263 | 197,386 | 288,649 | 1.793% | 1.34 |
| Kent | 75 | 50% | 43 | 929 | 973 | 0.109% | 0.08 |
| Montgomery | 263,893 | 50% | 151,738 | 629,326 | 781,064 | 1.283% | 0.96 |
| Prince George's | 635,980 | 25% | 230,543 | 185,037 | 415,579 | 1.436% | 1.07 |
| Queen Anne's | 9,232 | 45% | 4,916 | 44,962 | 49,878 | 2.103% | 1.57 |
| St. Mary's | 50,065 | 30% | 20,276 | 52,007 | 72,283 | 1.955% | 1.46 |
| Somerset | 5,210 | 20% | 1,667 | 1,754 | 3,421 | 0.676% | 0.51 |
| Talbot | 15,976 | 50% | 9,186 | 12,809 | 21,995 | 0.892% | 0.67 |
| Washington | 60,988 | 35% | 27,292 | 35,869 | 63,161 | 1.306% | 0.98 |
| Wicomico | 44,005 | 30% | 17,822 | 44,425 | 62,247 | 2.216% | 1.66 |
| Worcester | 48,111 | 50% | 27,664 | 22,521 | 50,185 | 1.218% | 0.91 |
| Total | \$2,947,932 | | \$1,301,691 | \$1,997,655 | \$3,299,346 | 1.339% | 1.00 |
| | Estimated State share of high impact costs: | | \$1,646,241 | | | | |

* Source: Facility Assessment Survey

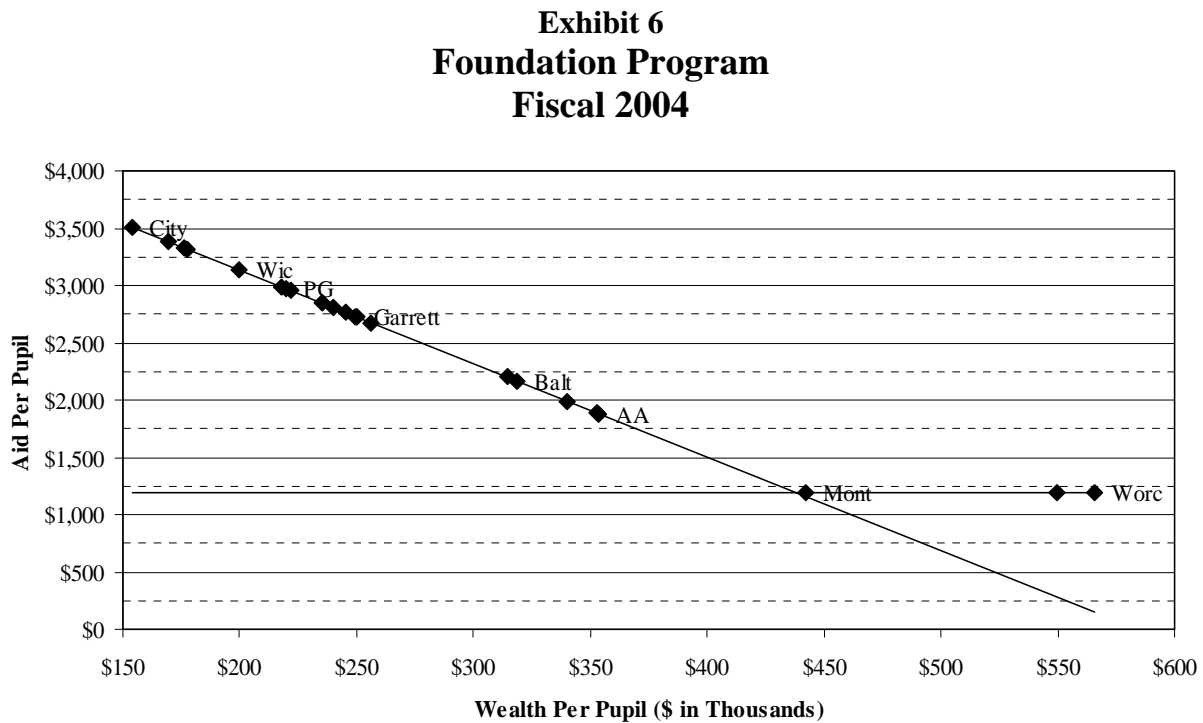
** Equals 15% of needs (the estimated ineligible cost percentage) plus local share times 85% of needs.

Note: The table assumes that the enhanced State shares for Baltimore City and Prince George's County (90% and 75% respectively) apply to all State school construction funding.

Options and Issues Regarding Updating and Adjusting the State/Local Shared Cost Formula

Foundation Program

The foundation program ensures a minimum level of funding per pupil (\$4,766 in fiscal 2004) in every school system and calculates the State and local shares of this amount using a formula. The formula calculates a uniform local contribution rate (essentially a tax rate) that makes up approximately 50% of full program cost, and the rate is applied to all jurisdictions to determine a local share of the program. The State then pays the amount of the full program that is not covered by the local share. Through the formula, the State provides a greater share of the per-pupil amount in low-wealth jurisdictions and a lower share in more wealthy jurisdictions. However, there is also a minimum level of per pupil aid that the State must provide regardless of local wealth (\$1,192 in fiscal 2004). **Exhibit 6** illustrates the way the program works; each diamond on the graph represents a local jurisdiction.



Source: Department of Legislative Services

As shown in Exhibit 6, the program differentiates between low-wealth and high-wealth counties and therefore could be used to update the existing State/local shared cost formula. The

percentage of the per pupil foundation amount each local school board is receiving in fiscal 2004 and estimates for the next five fiscal years are shown in **Exhibit 7**.

Exhibit 7
Actual and Projected Percentage of Per Pupil Foundation Amount Paid by
State
Fiscal 2004 to 2009

| <u>County</u> | <u>Actual</u> <u>FY04</u> | <u>Est.</u> <u>FY05</u> | <u>Est.</u> <u>FY06</u> | <u>Est.</u> <u>FY07</u> | <u>Est.</u> <u>FY08</u> | <u>Est.</u> <u>FY09</u> | <u>Current</u> <u>State</u> <u>Share</u> |
|-----------------|------------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|--|
| Baltimore City | 73.6% | 73.6% | 73.8% | 74.0% | 74.3% | 74.6% | 90/75% |
| Caroline | 71.0% | 70.1% | 69.6% | 69.3% | 68.9% | 68.7% | 75% |
| Somerset | 69.8% | 69.8% | 70.0% | 70.2% | 70.4% | 70.4% | 80% |
| Allegany | 69.6% | 69.6% | 69.9% | 70.2% | 70.4% | 70.6% | 75% |
| Wicomico | 65.8% | 65.6% | 65.4% | 65.5% | 65.7% | 65.9% | 70% |
| Cecil | 62.7% | 62.4% | 62.1% | 61.7% | 61.5% | 61.4% | 70% |
| Prince George's | 62.3% | 62.9% | 63.4% | 63.9% | 64.2% | 64.7% | 75/65/60% |
| Dorchester | 62.0% | 61.8% | 61.7% | 61.3% | 61.1% | 61.0% | 70% |
| Charles | 59.8% | 59.7% | 59.6% | 59.6% | 59.5% | 59.6% | 65% |
| St. Mary's | 59.7% | 59.7% | 59.8% | 59.1% | 58.5% | 58.0% | 70% |
| Washington | 58.9% | 58.4% | 57.6% | 57.0% | 56.6% | 56.2% | 65% |
| Harford | 58.0% | 57.2% | 56.4% | 55.5% | 54.7% | 53.8% | 65% |
| Carroll | 57.3% | 56.8% | 56.2% | 55.5% | 54.7% | 54.2% | 65% |
| Calvert | 57.2% | 57.3% | 57.4% | 57.5% | 57.6% | 57.2% | 55% |
| Garrett | 57.2% | 56.1% | 55.2% | 53.9% | 52.7% | 51.7% | 70% |
| Frederick | 56.1% | 55.4% | 54.7% | 54.1% | 53.6% | 53.4% | 65% |
| Queen Anne's | 46.2% | 45.8% | 45.5% | 45.1% | 44.1% | 43.7% | 55% |
| Baltimore | 45.4% | 45.4% | 45.4% | 45.4% | 45.4% | 45.3% | 50% |
| Howard | 41.8% | 41.5% | 41.0% | 40.5% | 40.0% | 39.7% | 50% |
| Anne Arundel | 39.6% | 38.6% | 37.7% | 36.7% | 36.2% | 35.7% | 50% |
| Kent | 39.5% | 39.2% | 38.2% | 37.5% | 35.4% | 33.4% | 50% |
| Montgomery | 25.0% | 25.0% | 25.4% | 25.9% | 26.5% | 27.3% | 50% |
| Talbot | 25.0% | 24.0% | 22.0% | 19.0% | 15.0% | 15.0% | 50% |
| Worcester | 25.0% | 24.0% | 22.0% | 19.0% | 15.0% | 15.0% | 50% |
| State | 50.9% | 50.6% | 50.5% | 50.3% | 50.2% | 50.2% | -- |

Source: Department of Legislative Services

In the context of considering whether the shared cost formula should be updated to reflect more recent wealth calculations, the task force considered whether to use the foundation program to determine State and local shares and, if so, whether:

- Actual numbers (from fiscal 2004 or 2005 aid calculations) or estimates of future aid numbers should be used to determine State and local shares;
- The technique of rounding to the next higher 5 percent increment should be maintained;
- The 50 percent floor should be maintained, and , if so, similar adjustments should be made for low-wealth jurisdictions at the other end of the scale; and
- Changes should be made regarding the special cost shares for Baltimore City and Prince George’s County.

Guaranteed Tax Base (GTB) Program

GTB program is a new formula that was established in the Bridge to Excellence in Public Schools Act of 2002. It is scheduled to begin in fiscal 2005 and will provide additional State aid to low-wealth jurisdictions based on local wealth and local effort towards education operating expenditures. The program can be viewed as an add-on to the foundation program for the counties that qualify. The additional per pupil aid from the GTB program (assuming it was implemented in fiscal 2004) could be added to per pupil foundation aid to calculate a higher State share for counties that qualify for the GTB program.

Adjusting Formula for Certain Schools or School Systems

The legislation proposed by this task force last session, which was enacted as Chapter 388 of the Acts of 2003, expanded the charge of the task force to include an examination of whether the State should provide a greater share of eligible school construction costs for: (1) schools where 50% or more of the students are eligible for free and reduced price meals; (2) small schools constructed or renovated in priority funding areas; and (3) schools in qualified distressed counties (i.e., “One Maryland” counties). These categories of schools are discussed individually below.

Schools with High Proportions of At-risk Students There are reasons the State might consider providing a greater share of the costs for schools that have large populations of students eligible for free and reduced price meals. First, local school systems would have an incentive to prioritize improvements to these schools. Second, local school systems could consider more expensive improvements at these schools, including improvements that impact the educational programs. There are approximately 370 Title I schools in Maryland (27% of all Maryland public schools). The task force could recommend that projects to improve these schools receive a greater State share.

A second option would involve making adjustments for at-risk students at the school system level rather than the school level. For example, jurisdictions that enroll free and reduced price meal students in proportions greater than the State average could receive add-ons to their State shares.

Small Schools There is a school of thought that believes smaller schools produce better results for students. In particular, advocates have focused on smaller high schools as part of an overall high school reform movement and the positive impact that these reforms have on at-risk students. To provide incentives that will allow school systems to build smaller schools, a greater State share of funding could be provided for new high schools designed to hold less than a given number of students or renovations that would allow a large high school buildings to be split into several smaller “schools.” The incentive could be an additional 5 to 10 percent State share.

Currently, the formula that determines the amount of the cost in which the State will share is sensitive to school size. PSCP uses a sliding scale based on projected school capacity to determine the maximum square footage in which the State will participate. Schools with smaller capacities are eligible for greater square footage per pupil. Any change in the State share for small schools would provide further encouragement to build small schools.

Distressed Counties Distressed counties, or “One Maryland” counties, are defined by having at least one of two negative economic indicators: an unemployment rate more than 1.5 times the State average, or per capita income below 67 percent of the State average. Baltimore City and Allegany, Caroline, Dorchester, Garrett, Somerset, and Worcester counties qualify as One Maryland counties. These jurisdictions have needs outside of public school construction that require more local support. To account for the other needs the jurisdictions face and the additional local resources that must be devoted to those priorities, the State share of public school construction funding could be enhanced. A qualifying county could be awarded, for example, a 5 percent add-on to its State share. Alternatively, a jurisdiction could receive an additional 5 percent State share for each economic risk factor that applies to the local jurisdiction. Counties that qualify based on both unemployment and per capita income, therefore, would receive a 10 percent bonus.

Enrollment Growth

The existing data suggest that many of the counties making the greatest relative efforts towards school construction funding are those with increasing enrollments. Based on this assessment, a higher State share for school systems experiencing growth in enrollment might be appropriate. Percent enrollment growth beyond the State average could be added to the State share. For example, from 1997 to 2002 enrollment increased 4.3 percent statewide. The State’s enrollment growth could be subtracted from the percent enrollment increases in growing counties to determine a State share add-on.

Age of School Facilities

Another factor that presumably affects local needs is the age of the school facilities in each district. A State share add-on could be developed that would account for the percentage of pre-1960s or pre-1970s square footage in each district.

Using a Comprehensive Approach to Set State Share

With the knowledge that different local pressures drive needs and that local wealth bases provide differential opportunities to meet local needs, a comprehensive model for setting the State share could be designed. The model could take into account local wealth as well as some of the factors that drive local needs, such as enrollment growth, student populations, and age of school facilities. Jurisdictions that have provided high levels of school construction funding in relation to their local wealth bases could also be rewarded with higher State shares. (See **Appendix 7** for options presented to the task force.)

Recommendations

- The cost share formula should be modified to use actual aid numbers for the current fiscal year (e.g., fiscal 2004 State share of foundation).
- The cost share formula should be modified to incorporate several appropriate factors, as described below. **Exhibit 8** shows the recommended cost share formula and the new estimated State and local shares. **Exhibit 9** compares the new formula to the current one for each jurisdiction.
- The task force further recommends maintaining the 50 percent minimum State share, eliminating the practice of rounding to the next 5 percent increment, updating the formula every three years to reflect incremental changes in local wealth and other factors, and providing a transition year in which a county would receive the higher State share in the old or new formula. The new formula should be implemented for planning and construction projects beginning in fiscal 2006. Counties that have a higher State share under the current formula should receive the higher amount in fiscal 2006.
- Recognizing special needs and commitments, the task force recommends that until the current laws creating the special shares expire, Baltimore City and Prince George's County school systems should receive the higher of the current special cost share or the share under the new formula beginning in fiscal 2006.

The revised cost share formula uses the actual 2004 State share of the foundation program and then increases the State share by:

- per pupil State aid (as a percent of the per pupil foundation amount) each county would be receiving under the guaranteed tax base program if it was fully implemented in fiscal

2004. The guaranteed tax base program is scheduled to begin in fiscal 2005 and will provide additional State aid to low-wealth jurisdictions based on local wealth and local effort towards education operating expenditures.

- 20 percent of the difference between the percentage of students eligible for free and reduced price meals in that jurisdiction and the statewide average. For example, in Allegany County, 45 percent of students are eligible for free and reduced price meals, 15 percentage points above the statewide eligibility of 30 percent. Therefore, Allegany County receives an additional State share of 3 percent, or 20 percent of 15 percent.
- 5 percent for counties that have an unemployment rates more than 1.5 times the State average and counties that have per capita incomes below 67 percent of the State average. If a county qualifies for both of these enhancements, it receives a total enhancement of 10 percent.
- an adjustment for high-growth counties equal to the percent enrollment growth beyond the State average from 1997 to 2002; and
- for counties where school construction debt equaled more than 1 percent of local wealth, an add-on equal to 10 times the percent by which the percentage exceeds 1 percent, based on fiscal 2001 local effort for public school construction. For example, Caroline County's school construction debt equaled 1.44 percent of local wealth in fiscal 2001. The county would receive an add-on of 4.4 percent to the State share.

Exhibit 8
Revised Cost Share Formula

| <u>County</u> | <u>FY 2004 State Share Foundation</u> | <u>Guaranteed Tax Base Add-On*</u> | <u>20% of FRPM% Above State Avg</u> | <u>Distressed County Add-On</u> | <u>Enrollment Growth 97-02 Beyond State Avg</u> | <u>FY 2001 Local Debt Above 1% of Local Wealth</u> | <u>Percent State Share with Add-ons</u> | <u>Percent Local Share with Add-ons</u> |
|-----------------|---|--|---|---|---|--|---|---|
| Allegany | 69.6% | 7.7% | 3.0% | 10.0% | 0.0% | 0.0% | 90% | 10% |
| Anne Arundel | 39.6% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 50% | 60% |
| Baltimore City | 73.6% | 10.2% | 7.6% | 5.0% | 0.0% | 0.0% | 96% | 4% |
| Baltimore | 45.4% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 50% | 55% |
| Calvert | 57.2% | 0.0% | 0.0% | 0.0% | 11.6% | 0.0% | 69% | 31% |
| Caroline | 71.0% | 5.5% | 2.7% | 5.0% | 0.0% | 4.4% | 89% | 11% |
| Carroll | 57.3% | 0.0% | 0.0% | 0.0% | 1.5% | 3.1% | 62% | 38% |
| Cecil | 62.7% | 2.3% | 0.0% | 0.0% | 1.3% | 1.8% | 68% | 32% |
| Charles | 59.8% | 0.0% | 0.0% | 0.0% | 10.3% | 0.0% | 70% | 30% |
| Dorchester | 62.0% | 1.3% | 3.4% | 10.0% | 0.0% | 0.0% | 77% | 23% |
| Frederick | 56.1% | 0.0% | 0.0% | 0.0% | 7.3% | 7.7% | 71% | 29% |
| Garrett | 57.2% | 0.0% | 2.4% | 10.0% | 0.0% | 0.0% | 70% | 30% |
| Harford | 58.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 58% | 42% |
| Howard | 41.8% | 0.0% | 0.0% | 0.0% | 12.1% | 4.3% | 58% | 42% |
| Kent | 39.5% | 0.0% | 1.7% | 0.0% | 0.0% | 0.0% | 50% | 59% |
| Montgomery | 25.0% | 0.0% | 0.0% | 0.0% | 7.0% | 1.7% | 50% | 66% |
| Prince George's | 62.3% | 2.2% | 2.9% | 0.0% | 1.1% | 0.0% | 69% | 31% |
| Queen Anne's | 46.2% | 0.0% | 0.0% | 0.0% | 9.5% | 13.5% | 69% | 31% |
| St. Mary's | 59.7% | 0.0% | 0.0% | 0.0% | 4.9% | 6.6% | 71% | 29% |
| Somerset | 69.8% | 11.2% | 6.3% | 10.0% | 0.0% | 0.0% | 97% | 3% |
| Talbot | 25.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 50% | 75% |
| Washington | 58.9% | 0.0% | 0.1% | 0.0% | 0.0% | 0.0% | 59% | 41% |
| Wicomico | 65.8% | 5.6% | 1.7% | 0.0% | 0.0% | 7.8% | 81% | 19% |
| Worcester | 25.0% | 0.0% | 0.7% | 5.0% | 0.0% | 0.0% | 50% | 69% |

Source: Department of Legislative Services

Exhibit 9
Comparison of Revised State Share Recommended by Task Force to Current State Share

| <u>County</u> | <u>Current State Share</u> | <u>Revised State Share</u> | | <u>Difference</u> |
|-----------------|----------------------------|----------------------------|---|-------------------|
| Allegany | 75% | 90% | + | 15% |
| Anne Arundel | 50% | 50% | | 0% |
| Baltimore City | 90%/75% | 96% | + | 6%/21% |
| Baltimore | 50% | 50% | | 0% |
| Calvert | 55% | 69% | + | 14% |
| Caroline | 75% | 89% | + | 14% |
| Carroll | 65% | 62% | - | 3% |
| Cecil | 70% | 68% | - | 2% |
| Charles | 65% | 70% | + | 5% |
| Dorchester | 70% | 77% | + | 7% |
| Frederick | 65% | 71% | + | 6% |
| Garrett | 70% | 70% | | 0% |
| Harford | 65% | 58% | - | 7% |
| Howard | 50% | 58% | + | 8% |
| Kent | 50% | 50% | | 0% |
| Montgomery | 50% | 50% | | 0% |
| Prince George's | 75%/65%/60% | 69% | - | 6%/+4%/+9% |
| Queen Anne's | 55% | 69% | + | 14% |
| St. Mary's | 70% | 71% | + | 1% |
| Somerset | 80% | 97% | + | 17% |
| Talbot | 50% | 50% | | 0% |
| Washington | 65% | 59% | - | 6% |
| Wicomico | 70% | 81% | + | 11% |
| Worcester | 50% | 50% | | 0% |

Source: Department of Legislative Services

Aging School Program

The Aging School Program (ASP) was established in Chapter 105 of the Acts of 1997 to provide additional funds to jurisdictions to address the needs at their aging school facilities. The funds may be used for capital improvements, repairs, and deferred maintenance. Projects are selected that will protect the school building from deterioration, improve the safety of students and staff, or enhance the delivery of educational programs.

The initial funding, \$4.35 million, was established in the same legislation as the Baltimore City-State partnership. The annual funding was increased in 1998 to \$10.37 million as part of the School Accountability and Funding for Excellence legislation. Funds for each jurisdiction are specified in statute. Allocations are based on each jurisdiction's proportion of square footage in the State built before 1960 (as of 1995). Each jurisdiction receives a minimum allocation.

Originally set to expire in 2002, ASP was extended by several pieces of legislation. In 2002, the General Assembly passed legislation (House Bill 937) making ASP permanent and altering the allocation of funds. The bill deleted minimum allocations for jurisdictions and revised allocations based on more recent pre-1960 square footage data (February 2002). The Governor vetoed the bill for policy reasons, and in his veto letter asked the task force to review the allocation proposed in House Bill 937 and make recommendations on whether to alter the allocation of funds if the program is recommended to continue. In 2003, at the recommendation of the task force in its 2002 interim report, the program was made permanent by legislation (Chapter 388) which also required the task force to review whether the current allocation of ASP funds should be continued permanently or be modified.

The ASP, which is administered by the IAC, incorporates procedures that make the program more flexible for jurisdictions than the regular capital improvement program. Smaller projects (minimum \$10,000) are eligible and include some projects (e.g., painting, carpeting, and site development) that would not be eligible as stand-alone projects under the CIP. Jurisdictions can submit project applications for approval throughout the year, rather than only once prior to the fiscal year under the CIP. No local match is required. Funds can be used for any building or building system that is 16 or more years of age. Required submissions for State review vary depending upon the type of project.

When ASP began, pre-1960 square footage (as of 1995) represented buildings 38 years of age or older. Current pre-1960 square footage represents buildings 44 years of age or older. Current pre-1970 square footage represents buildings 34 years of age or older. Providing a minimum allocation assures participation in the program for each jurisdiction. Using a minimum allocation and calculating funding based on current pre-1960 square footage provides the minimum allocation to several jurisdictions (Charles, Dorchester, Howard, Somerset, and Worcester) in which less than 1 percent of the square footage is pre-1960. Using a minimum allocation and calculating funding based on current pre-1970 square footage provides the

minimum allocation to several jurisdictions (Calvert, Dorchester, and Somerset) in which less than 5 percent of the square footage is pre-1970.

Recommendation

- The ASP funding allocations should be revised based on current pre-1970 square footage, maintaining the current minimum allocation of \$65,000 and \$85,000. The revised allocation should be implemented beginning in fiscal 2006. (**Exhibit 10** shows the current and recommended allocation).

Exhibit 10
**Aging School Program
Comparison of Allocations**

| Local Education Agencies | FY 2004 (\$000 omitted) | Revised Pre-1970 (\$000 omitted) |
|-------------------------------------|------------------------------------|---|
| Allegany | \$ 355 | \$ 166 |
| Anne Arundel | 570 | 859 |
| Baltimore City | 1,635 | 2,356 |
| Baltimore Co. | 2,940 | 1,484 |
| Calvert | 65 | 65 |
| Caroline | 85 | 85 |
| Carroll | 385 | 233 |
| Cecil | 355 | 163 |
| Charles | 65 | 85 |
| Dorchester | 65 | 65 |
| Frederick | 85 | 310 |
| Garrett | 85 | 65 |
| Harford | 400 | 369 |
| Howard | 65 | 149 |
| Kent | 65 | 65 |
| Montgomery | 1,170 | 1,023 |
| Prince George's | 970 | 2,053 |
| Queen Anne's | 85 | 85 |
| St. Mary's | 85 | 85 |
| Somerset | 65 | 65 |
| Talbot | 155 | 65 |
| Washington | 200 | 229 |
| Wicomico | 355 | 181 |
| Worcester | 65 | 65 |
| TOTAL | \$10,370 | \$10,370 |

Note: Minimum allocations of \$65,000 and \$85,000

Source: PSCP

Alternative Financing of School Facility Construction

To meet Maryland's growing educational facility needs, some local school systems, government officials, and members of the public have expressed interest in alternative financing methods. As recommended in its interim report, in the fall of 2003 the task force established a workgroup to investigate alternative financing, including whether alternative financing mechanisms could provide funding for school construction more quickly, more efficiently, and ultimately with less expense than traditional financing methods. (See **Appendix 8** for the workgroup membership.)

The workgroup found that traditional municipal bond financing is the least expensive and most efficient financing method available for public school construction and recommends that traditional municipal bond financing be used for most school construction. However, other financing options may be desirable under certain, limited circumstances, such as when the urgency of a project is so great that cost considerations are secondary to schedule impacts, when an unusual site location makes a public-private partnership reasonable, when the school district holds an unused or underused asset which can be capitalized into a profitable income stream, when the financial benefits of completing a project quickly outweigh the additional cost over time, or when a limited project scope warrants a performance based contracting approach.

Typically, in alternative financing arrangements, a government entity does not issue its own debt; instead, a private party serves as an intermediary and secures financing. The government entity typically repays the cost of financing through its operating budget. The principal types of alternative financing are: lease-leaseback, sale-leaseback, performance-based contracting, and public-private partnerships.

Lease-leaseback

The government entity leases a property (either land and improvements or improvements only) to a private entity. The private entity (lessor) then renovates or builds the facility and leases it back to the government entity.

Sale-leaseback

The public body sells a property (land, improvements, or land and improvements) to a private entity, which then leases the property back to the government entity. The revenues from the sale can then be used to renovate the property, to improve other properties or for other purposes.

Performance-based Contracting

Improvements are made to an existing building to reduce energy or maintenance costs. The operating budget savings are then used to pay the cost of the improvements. Typically, the contractor obtains the financing for the improvements, makes the improvements, and guarantees the savings.

Public-private Partnership

In one version of a public-private partnership, a private entity might share a facility with a school. The private entity could: (1) use the school facility when school is not in session; (2) occupy a dedicated portion of the school building; or (3) operate a building on the same site as the school building. Revenues generated through the use of the private facility reduce the debt service of the government entity.

The reputed advantages of alternative financing approaches include the speed with which financing can be put in place, the access they provide to funding without an increase in public debt, and the potential transfer of development and occupancy risk to the private entity. The principal disadvantage is the overall cost of funding, which, almost invariably, is higher than traditional governmental financing through sales of municipal bonds.

Based on current and anticipated requests in the fiscal 2005 School Construction Capital Improvement Programs, the total State share of public school capital requirements for fiscal 2005 through 2010 will be greater than \$2.1 billion. Meanwhile, annual State funding for school construction is anticipated to be only \$100 million through fiscal 2010. If State funding remains constant at this level, the deficit in school construction funding will approach \$1.5 billion.

In 2002, Virginia passed the Public-Private Education Facilities and Infrastructure Act (PPEA), modeled after the 1995 Virginia Public Private Transportation Act (PPTA). PPEA allows public bodies to receive solicited and unsolicited proposals for a broad range of facility needs, ranging from site acquisition to building construction, equipment and operation. The act allows the public body to engage in “competitive negotiation” with offerors, rather than competitive sealed bid. The law does specify, however, that the PPEA procedure must be justified by projects that serve a public need and for which private involvement will deliver the project in a timely or cost-effective fashion. As a result of this legislation, a number of innovative and ambitious public-private partnerships are now in development that will allow schools to be built to meet urgent needs well ahead of their scheduled delivery and at savings to the public, and with potential synergies between educational programs and private sector facilities that will enhance the educational program. Maryland should consider whether similar legislation would help meet some of its school facility needs.

Recommendations

- The State should assist LEAs in developing alternative financing approaches. For example:
 - PSCP should help LEAs identify when an alternative financing mechanism may be appropriate for a particular project and to develop the procurement, contractual, and technical instruments that will meet State and local procurement requirements and will bring the project to a successful conclusion.
 - The IAC should submit an annual report on the use of alternative financing mechanisms to BPW and the General Assembly, and disseminate the report to LEAs.
 - PCSP should prepare a guide for LEAs to use when evaluating alternative financing proposals. The guide should include model contracts and model solicitations, as well as references to other documents which provide information and education on alternative financing.
 - Local school systems should be allowed to lease school facilities in which the State has no financial contribution. Currently, leaseback arrangements are only possible for school projects in which the State participates (Section 304.3 of PSCP Administrative Procedures Guide).
 - The requirement for the LEA to hold title to the property in order to receive State funds should be waived under a sale-leaseback arrangement if the lease specifies a future date when the title will revert from the private developer to the LEA.
- The task force supports legislation to change the State’s requirement for competitive bidding for public school construction projects when the need for the facility serves the public interest. Alternative financing strategies appear to work best when the scope and cost of the project can be negotiated between the owner and the financier/builder. Specific options include:
 - Waive the competitive bid requirement for public school construction under specified circumstances, allowing for “competitive negotiation” with a sole offerer as a substitute.
 - Allow LEAs to receive unsolicited proposals for school development without the requirement to issue a Request for Proposals. If an LEA receives an unsolicited proposal, the law would require LEAs to advertise that the unsolicited proposal has been received, that it is available for study by interested parties, and that

alternative proposals will be accepted within a defined time period (e.g., 45 to 60 days).

- Permit LEAs to use Quality Based Selection (QBS) as a standard procedure to select a developer/builder, in which selection is based on a combination of qualification points and cost factors. QBS could be used as an alternative to standard competitive bidding, at the LEA's discretion.
- Authorize prequalification of performance-based contracting vendors through a competitive bid solicitation, and then allow LEAs to negotiate scope and cost with prequalified vendors. This prequalification would be similar to the Indefinite Delivery Contract now being solicited by the Maryland Energy Administration, but specifically tailored to school construction needs.

Alternative Local Funding

With municipal bonds remaining as the least costly financing alternative, the primary question remains: how the State and the local jurisdictions can provide sufficient funds to support Maryland's public school construction needs. The State can assist LEAs to more easily access municipal bond funds.

Recommendations

- The task force supports **enabling** legislation that would authorize all local governments to issue debt for school construction and to implement transfer taxes and excise taxes in order to fund the local share of school construction, without obtaining General Assembly approval.
- The State through MSDE should establish a capital campaign program to solicit private sector contributions for school construction, and should help LEAs to establish their own similar programs. Securing contributions for naming rights for certain types of facilities (e.g., gymnasiums, auditoriums) could be an element of the capital campaign. In designing the program, MSDE should address issues of equity that may arise in the distribution of collected funds, as well as concerns about the types of facilities that can be supported by the private sector.
- PSCP should encourage local governments to extend the range of proffers that are discussed with local developers to include school financing and actual construction, in addition to contributions of school sites.

Review of Public School Construction Rules and Procedures

The statutes governing public school construction are very sparse. Essentially, § 5-301 of the Education Article provides the primary statutory basis for State financial participation in public school construction. All other requirements relating to PSCP are found in the *Rules, Regulations, and Procedures of the School Construction Program (Rules and Regulations)* and *Administrative Procedures Guide (the Guide)*. Both of these documents are initially adopted by the IAC and are approved by BPW.

The *Rules and Regulations* are included in the *Guide* as Appendix A and contain many of the major requirements, including the State/local shared cost formula and the eligible and ineligible expenditures under PSCP. Requirements are also found in the text of the 200 page *Guide*, including requirements for a master plan, submittal of a CIP, and development of maximum State construction budgets and allocations.

In addition to the *Rules and Regulations* and the *Guide*, PSCP, the IAC, and BPW implement other policies which are not found in either document but which have become regularly implemented as a matter of practice. Most significantly, these practices include a recommendation in December of each year by the IAC to BPW of 75 percent% of the total public school construction allocation anticipated for the following fiscal year. This was instituted in 1998 at the request of the legislative budget committee chairmen but has never officially been adopted by the IAC or BPW. As a part of this practice, 25 percent of the anticipated allocation is withheld and the IAC then submits what is termed an “A” and “B” list with recommendations to the Governor in late April. The Governor reviews both lists and selects potential projects from the B list to be added to the A list, which is then submitted for review and concurrence by the Treasurer and the Comptroller and formal action by BPW.

There is no specific statutory basis for a majority of the items in the *Rules and Regulations*, the *Guide*, or the significant practices of the IAC and BPW. All are based on the broad authority of BPW to adopt rules, regulations, and procedures relating to PSCP. None of the rules, regulations, and procedures adopted by BPW is subject to the State Administrative Procedure Act (State APA) under Title 10, Subtitle 1 of the State Government Article. This means that none of the policies adopted by BPW under the broad authority granted by statute are required by law to be subject to the State APA public notice and comment process.

Clearly, many of the rules, regulations, procedures and practices relating to public school construction involve significant public policy decisions while others appear to be more administrative in nature. Historically, there are many public policy reasons why significant governmental agency decision-making is subject to the State APA. Additionally, some governmental decision-making may be considered to be so significant that exceeds the quasi-legislative process at the agency level and should be determined by the Maryland General Assembly.

Recommendations: Statutory or Regulatory Formalization of PSCP Rules and Regulations

Due to the significance of the governmental decision-making related to public school construction, the task force recommends the following statutory changes to codify current practices of the IAC and BPW and to provide a more formal process for adopting policy changes to PSCP:

Statutory Changes

- A statutory change should be made to § 5-301(b) of the Education Article which states that the State will pay “all public school construction costs” in excess of federal funds. When PSCP was created in 1971, it may have been contemplated that the State would pay all costs without a State/local cost share, however this language contradicts current practice. Additionally, this subsection appears to contradict subsection (i) of the same section which states that the obligation of the State to pay the costs of “approved” projects or parts of projects for public school construction.
- Certain provisions relating to public school construction are of such importance that they should be included in the statute governing PSCP. The task force does not recommend substantive changes at this time but recommends that the following processes and current practices of the IAC and BPW be codified *with many of the requirements to be carried out through the adoption of regulations*.

Provisions Relating to Practices of BPW and the IAC:

- The process for allocating the anticipated public school construction authorization, including any difference in the methods by which the percentage of the anticipated funds will be allocated (currently known as the 75%/25% practice);
- Authorizing BPW *to adopt regulations at the recommendation of the IAC* to include establishment of priority PSCP programs such as high school science laboratories; and
- Requiring the IAC to provide a biannual report to the budget committees of the General Assembly consistent with language in the 1999 *Joint Chairmen’s Report* on the balance in the PSCP Statewide Contingency Account that consists of funds transferred for any reason from a previously approved project and any intended use of account funds.

Provisions from the *Rules and Regulations* and the *Guide*:

- Requiring the development of a State/local cost shared cost formula for each county *by regulation* that identifies the factors or rationale used in establishing the formulas;

- Requiring that a “maximum State construction allocation” which is the maximum State participation for each project be developed *by regulation* that identifies the dollar amount approved for State funding;
- Requiring the adoption of Educational Facilities Master Plans and annual and five-year Capital Improvement Programs *as provided in regulation*;
- Authorizing *the regulations* to include a process and requirements for: cooperative arrangements for sharing of facilities among two or more school systems; selection of architects and engineers; award of contracts; and method of payment by the State;
- Requiring an appeals process to be established *by regulation* for appeal of decisions made by the IAC to BPW.
- Requiring BPW to mandate the reversion of funding with an allocation from the State Public School Construction Capital Improvement Program if the project has not been contracted for within two years of the approval and allowing the IAC to extend the time period with the approval of BPW if justified by unusual circumstances.
- Requiring transfer of any unexpended allocations for previously approved projects to the Statewide Contingency Account.

Changes Relating to the Administrative Procedure Act

As discussed above, regulations adopted by BPW for PSCP are exempt from the State APA. To enhance public notice and participation in public school construction decision-making, to ensure regulations adopted are consistent with legislative intent, and to provide a clearly designated public depository for public school construction regulations, the task force recommends that:

- The regulations adopted by BPW relating to PSCP are subject to the State APA under Title 10, Subtitle 1 of the State Government Article.
- Consistent with the recommendation above, the exemption under § 5-301(g) of the Education Article should be repealed.

Technical Changes to Statutes

The task force additionally makes the following suggestions for technical changes to the statutes governing school construction:

- Clarify the language in § 5-301(a) of the Education Article which requires BPW to define by regulation what constitutes an “approved” public school construction or capital

improvement cost. The costs defined by BPW are considered “eligible” and “ineligible” costs and are not technically “approved” costs but are costs “eligible” for approval.

- Include a cross-reference in §§ 5-301(j) and 5-308 (a)(3) and (b)(4) of the Education Article regarding title transfer of a school to a county government to § 4-115 of the Education Article relating to disposition of school buildings via transfer to county commissioners or county councils;
- Include a specific reference to § 5-7B-07 of the State Finance and Procurement Article which states that it is “the policy of the State that the emphasis for funding for public school construction projects shall be to target the rehabilitation of existing schools to ensure that facilities in established neighborhoods are of equal quality to new schools.”
- Include a provision consistent with COMAR 21.11.03.04 which requires the IAC to require each local board of education to adopt procedures consistent with the minority business enterprise policies of the State before obtaining State funds for public school construction projects. The provision should require BPW to adopt the requirement by regulation.

Prevailing Wage

Title 17, Subtitle 2 of the State Finance and Procurement Article outlines the requirements of Maryland's prevailing wage law. The prevailing wage law regulates hours, wages, and employment conditions of contractors and subcontractors for public works in Maryland. Currently, construction projects for elementary and secondary schools with construction costs of at least \$500,000 and for which the State funds 50 percent or more of the construction costs are subject to the prevailing wage law.

Maryland's prevailing wage law is based on the Davis-Bacon Act of 1931, which requires contractors or their subcontractors to pay workers employed directly on the work site, no less than the locally prevailing wages and fringe benefits paid on projects of similar character. Currently, 32 states have some type of prevailing wage law. Eight states (Alabama, Colorado, Florida, Idaho, Kansas, Louisiana, New Hampshire, and Utah) repealed their prevailing wage laws. The prevailing wage law was invalidated by a court decision in two states (Arizona and Oklahoma).

In *Barnes v. Commissioner of Labor & Industries*, the court stated that the purpose of the prevailing wage law was to protect local contractors and workmen against what was deemed to be unfair and predatory competition from outsiders who, by importing cheap migratory labor, could obtain important public works contract by underbidding contractors located in the community where the project was to be built. The common rationale of the prevailing wage law seems to be one of wage stabilization. *Barnes v. Commissioner of Labor & Industries*, 45 Md. App. 396, 413 A.2d 259, cert. denied, 288 Md. 731 (1980).

A DLS study in 1989 concluded that the prevailing wage increases project costs by 5 to 15 percent, and that the actual impact depends upon the type of project, labor costs as a share of total costs, and market conditions. In 1995, DLS reviewed the 1989 study and current data, and concluded that the 5 to 15 percent range was still valid.

Prevailing Wage Trends

During the 2000 legislative session, the General Assembly passed legislation repealing provisions of the prevailing wage law that required 75 percent or more of an elementary or secondary school construction project to be funded by the State in order for the prevailing wage law to apply. **Exhibit 11** shows the trend of increased school construction costs since fiscal 2001, with the cost of construction increasing approximately 20% from fiscal 2000 to 2001 when the repeal took effect. However, it is very difficult to determine how much of the increased construction costs are a direct result of the prevailing wage law.

Other factors may contribute to increased construction costs, including high demand in the construction industry due to a large number of federal, local, and private jobs occurring at the same time, increased costs of oil, and increased costs of materials. Facility planners tend to include a 5 to 10 percent increase in construction cost estimates for costs associated with prevailing wage. Recent information from Harford County indicates a major high school project would have increases within the 5 to 10 percent range; however, there are indications that for some types of projects, the increase may be more. For example, for labor-intensive roof work, there is evidence from a few years ago in Prince George's County that showed a potential increase of as much as 17 percent.

Prevailing wage applies to school construction projects if the project is over \$500,000 and the State is paying at least 50 percent of the construction costs. Most, if not all, jurisdictions will fall into this category for at least one project. Less wealthy jurisdictions receiving a higher State share for school construction costs will fall into this category most, if not all, of the time. Thus, prevailing wage has the effect of increasing project costs for the State and for the jurisdictions, especially those jurisdictions that are least able to afford it.

Exhibit 11
Approved State School Construction Costs

| | <u>Construction Costs</u> <u>(per square foot)</u> | <u>Annual % Increase</u> |
|------------------|---|---------------------------------|
| July 2000 | \$119.68 | |
| July 2001 | \$143.37 | 19.9% |
| July 2002 | \$149.80 | 4.4% |
| July 2003 | \$155.40 | 3.7% |
| July 2004 | \$156.80 | 1.0% |

Source: PSCP

According to the Department of Labor, Licensing, and Regulation (DLLR), the prevailing wage differs for each of the 23 counties and Baltimore City. As a result, DLLR is unable to determine an average pay differential between prevailing wage workers who work on similar projects in different counties. However, DLLR states that the prevailing wage in areas that have a greater number of unionized workers, such as Baltimore City and Baltimore County, is higher

than the prevailing wage in counties that have a smaller number of unionized workers, such as Frederick and Washington counties.

Critics, including ABC, IEC National, and Public Service Research Foundation, argue that prevailing wage laws have a negative impact on minority and small businesses because the laws limit the ability of minority and small businesses to compete for public construction projects.⁸ Prevailing wage laws require contractors to complete paperwork regarding payroll and wage earnings forms on a weekly basis.⁹ This becomes problematic for many minority and small businesses if they do not have adequate administrative staff to process the paperwork.

Task Force to Study Efficiency in Procurement Recommendation

On December 5, 2003, the Task Force to Study Efficiency in Procurement approved a recommendation to amend the prevailing wage threshold. In order to effectuate a large savings to the cost of the State's construction program, the task force proposed that legislation be passed tying the threshold to the Consumer Price Index (CPI) or some other appropriate index. The \$500,000 threshold was established in 1968 and has never been changed. If this threshold was tied to the CPI, the threshold would have increased to \$2.5 million at the end of fiscal 2003.

Apprenticeship Programs

A person who is at least 16 years old may participate in an apprenticeship program. A person under 18 years old must have a work permit to participate in an apprenticeship. An apprentice and the apprentice's sponsor or employer must register with the Maryland Apprenticeship and Training Council. Each sponsor or employer of an apprenticeship program must maintain a minimum ratio of three regularly employed journeypersons to one apprentice.

Prevailing wage laws apply to all registered apprentices. According to DLLR, a registered apprentice must be paid a percentage of the prevailing wage rate according to the year of apprenticeship. For example, a first year carpenter apprentice would receive a lower percentage of the prevailing wage rate, while a second or third year apprentice would receive a greater percentage. However, current law does not address pay differentiation between an apprenticeship for students participating in work-based learning and an apprentice program for adult employees who receive supervised, structured on-the-job training in a specific trade.

⁸ Daniel Kessler and Lawrence Katz, "Prevailing Wage Laws and Construction Labor Markets," National Bureau of Economic Research Associates, December 1999. See also Ohio Legislative Service Commission, "The Effects of the Exemption of School Construction Projects from Ohio's Prevailing Wage Law," May 20, 2002.

⁹ Fraundorf, Farrell, and Mason, "The Effects of the Davis-Bacon Act on Construction Costs in Rural Areas," The Review of Economics and Statistics, 1983.

Recommendations

- Support consideration by the General Assembly of legislation that would remove public school construction projects from the applicability of the prevailing wage law. This would reduce the cost of school construction projects for the State and local governments, and thus allow limited school construction dollars to fund more projects. To the extent that prevailing wage continues to apply to school construction projects, the task force supports raising the minimum construction threshold to reflect inflation and encourages more contractors to engage apprentices and to allow high school students to participate in approved on-site work-study programs.

Commission on the Structure and Efficiency of State Government's Recommendations Regarding the IAC

On December 8, 2003, the Commission on the Structure and Efficiency of State Government, chaired by former Governor Marvin Mandel, issued a report that includes recommendations regarding the IAC. The principal recommendation of the final report is that the IAC should be merged into the Maryland Stadium Authority (MSA), to be renamed the State Construction Management Authority. As stated in the report, this consolidation will allow MSA to bring its expertise in construction to bear on school facilities, with consequent improvements in design and execution and the realization of economies in planning, design, and construction costs. This single agency, it is claimed, would allow for statewide coordination of the public school construction process, providing a forum for interaction and consultation and helping the LEAs to optimize their school construction funding. It is suggested that the consolidation would also provide the opportunity for overall staff reductions, eliminating certain unspecified redundancies in operations.

There are compelling reasons to maintain the independence of the IAC and to leave responsibility for design and construction with the LEAs. Most significant is the fact that the IAC is an entity dedicated to educational facilities, a highly specialized area within the arena of facilities planning, design, and construction. It is doubtful that any savings would be achieved by the proposed merger, given the efficiency of the current operation in relation to the number of programs it administers and the services it provides. The proposal to merge the two agencies raises a number of concerns:

- The IAC was established in 1971 as an entity that reports directly to BPW. The interagency character of the program assures that decisions regarding school facilities will be made through a well-balanced process that takes account of educational needs, demographic patterns, and the requirements for durable, economical construction. The members of the IAC – the State Superintendent of Schools and the secretaries of the Department of Planning and the Department of General Services – express the perspectives of their respective agencies. The independence of the IAC from any specific agency allows it to maintain a focus on providing school facilities that will support the educational programs of the State and the school districts.
- School planning, design, and construction is a highly specialized domain within the facilities field, and requires focused attention and specialized skills; the construction aspect, in which MSA has unquestionable expertise, is only one episode in a lengthy process of project execution that incorporates the knowledge of educators, planners, community leaders, elected and appointed officials, architects and engineers, maintenance staff, and the building industry. To remove the IAC from its unique and independent interdisciplinary status would compromise the inclusiveness and balance that are so essential to a successful school construction program.

- The efficiencies that the report claims would be achieved through the merger are disputable. The operating budget of PSCP is slightly more than \$1 million, of which 92 percent supports the salaries and benefits of the 17 staff members. This staff administers funds and other activities for five programs, with a current value in excess of \$400,000,000 and representing more than 500 separate contracts. The staff is highly specialized in its functions, each individual performing critical actions in the approval of contracts, the administration of requisitions, and the close-out and auditing of projects. No reduction in staff could occur without a significant reduction in the number or size of programs administered by PSCP. Given the large needs across the State for school facilities, such a reduction is not in the best interests of the State or the school districts.
- The report claims that projected new growth will compromise the ability of PSCP to carry out its work. On the contrary, current staffing levels are appropriate to the number and size of projects that have been approved. The IAC is not a construction agency; rather, it manages the approval and disbursement of funds for projects that are procured by LEAs. During the peak of school construction activity in fiscal 2002, the IAC handled more than \$306 million in approved fiscal 2002 construction funds (PSCP, Qualified Zone Academy Bonds, and ASP), a figure that does not include funds from previous fiscal years that were still under contract and were also being administered. While this large load of projects did tax the staff, it could have been accommodated by engaging one or two additional staff members or consultants. It is not anticipated that State construction funding will reach these levels again for several years
- Statewide coordination of school construction activities is not desirable if it means a reduction in local control over educational matters. The IAC currently provides statewide coordination of capital requests through the annual Public School Construction Capital Improvement Program. It also serves as a node of communication among the LEAs and between the LEAs and other agencies of the State about every aspect of school construction, from enrollment assessments to the details of contract administration. Superintendents and facility planners throughout the State have indicated that placing the activities of the LEAs under a single State construction management process would be highly objectionable to local interests. The decentralization of the school construction process reflects the traditional deference paid to the local jurisdictions in defining and executing the facilities that support their educational programs, which are unique to their demographics, their cultures, and their local priorities. This change would in fact require large expenditures by the State, since it would be taking over functions that are now paid for and managed by the local jurisdictions.

Recommendation

- The task force opposes the proposed merger of the IAC with MSA. The task force does, however, encourage the staff of the IAC to hold dialogue as to how MSA could lend its construction expertise to the local management of school construction projects.

School Design, Construction, and Maintenance

Under State law the State Board of Education has the power and duty to establish standards and guidelines for planning and constructing school building projects. These standards and guidelines are used as the basis for reviewing plans and specifications submitted to the State Superintendent for approval. As part of this process, the Maryland State Department of Education School Facilities Branch assists local school systems in the development and review of preliminary and final plans and specifications for any public school building project, advises local boards as to the suitability of these construction plans on the basis of educational effectiveness, construction, and reasonable economy of costs, and distributes information on school construction procedures, methods, and materials. (Section 2-205, Education Article)

Maryland is unusual in having only 24 public school systems in a small geographic area. This enables State school construction staff to have a close working relationship and frequent personal contacts with local board of education construction staff. The large size of the local systems enables local boards to employ full-time facilities planning and construction staff. The local school board contracts with private architecture and engineering firms to provide design services and follows State and local procurement laws for bidding and awarding construction contracts.

The best school buildings are a source of pride to their communities and present refined architectural values that nonetheless are economical in their massing, their use of materials, and their interior spaces. The quality of the primary learning spaces takes precedence over the non-instructional spaces such as the lobby. Color, off-the-shelf materials, and natural daylight are used imaginatively to achieve memorable and economical effects.

School boards, facilities staff, and architects are keenly interested in meeting the educational, demographic, environmental, and technological needs of the school systems. Maryland accomplishes this goal through the guidelines and standards issued by MSDE and through the funding and review programs of PSCP. Because many architects work for more than one school system, there is frequent cross-fertilization of good ideas and new approaches. In addition, State staff play a key role in identifying appropriate models in jurisdictions and disseminating information to the other 23 systems, as well as encouraging local planning committees to visit other projects and incorporate successful, proven solutions into their design plans.

While each site and each local educational program make each school's design needs somewhat unique, there is widespread use of prototype and repeat design plans. A rapidly growing school system may build the same basic elementary school design on three or four different sites over a 5- to 10-year period. In one recent case, a single basic design for a high school was repeated in two Maryland school systems and one Virginia system. The architect was hired independently by each school system and made minor, site-specific modifications as required. Certain contractual and liability issues must be resolved to facilitate this process.

Repeating the design of a school can save approximately 25 to 30 percent of the architect/engineer design, or about 1 percent of the total project cost and may reduce construction costs through avoidance of some change orders. The primary benefit is in reducing the time period for design and permit reviews.

Quality control by the design consultants in the production of construction documents is of critical importance. Faulty coordination of architecture and engineering documents may result in a large number of costly change orders, as well as delays in receiving permits. PSCP review assists school systems in achieving the necessary coordination.

The amount of competition on bid day is one of the largest factors in determining up-front building costs. While many factors affect the willingness of contractors to bid on a specific project, anecdotal evidence suggests excessive delay in receiving payments is a strong inhibition to public sector work and raises costs for those contractors who do participate. To increase the number of bidders, some jurisdictions may benefit from implementing successful business practices of other school systems.

Each school system manages its own maintenance and operations programs and specifies the materials and systems to be included in a construction project. Unfortunately, while managers recognize the desirability of applying a life cycle cost approach to design decisions, the initial cost often rules. This short-term approach can be more costly in the long-term, and can have unnecessarily negative effects on both the cost and educational achievement. In a life cycle approach, maintenance and replacement costs of all materials and finishes are evaluated in a continuous attempt to balance initial and long-term costs. Similarly, energy conservation measures and sustainable building technology (green architecture) and new products should be evaluated for each design project. Many ecologically sound building and site design solutions may directly support educational and instructional programs, such as storm water management systems incorporated into outdoor environmental study sites. **The best design is not necessarily the one with the lowest initial costs, but the one that achieves economies in energy performance, maintenance, and operations over the life of the building.** PCSP plays a key role in these analyses.

There are at least two major alternative green architecture models available for the PSCP and local school systems to consider. The best known, the LEED standard, is being investigated currently for construction of State buildings. An alternative standard, the Collaborative for High Performance Schools (CHPS) standard is now being adapted specifically for school buildings in several states and could be a model for Maryland, as well.¹⁰

¹⁰Two recent reports address green buildings: *Building Health, High Performance Schools: A Review of Selected State and Local Initiatives*, Environmental Law Institute, September 2003; *The Costs and Financial Benefits of Green Buildings*, Lawrence Berkeley Laboratories, et al. for the California Sustainable Building Task Force, October, 2003.

PSCP annually inspects the condition of approximately 100 school buildings to identify specific and immediate maintenance needs, highlight the importance of effective maintenance programs, and increase awareness of and support for sound maintenance programs among school personnel and local boards of education. A formal report is prepared by the IAC and distributed to BPW. PSCP also receives and reviews Comprehensive Maintenance Plans submitted annually by each school system.

The IAC maintenance surveys are performed in accordance with a carefully developed procedure that has been refined over the last 23 years. Each year staff from MSDE selects schools to be inspected based on the size of the school district, proposed renovation or construction schedules, and any special circumstances. One hundred twenty four schools were surveyed in fiscal 2003. The number of schools per system ranged from 1 to 14. Fifteen school systems received “very good” or “superior” ratings for each school inspected. No schools received a “fair” or “poor” rating in fiscal 2003.

In recent years a staff member of the Department of General Services Division of Plant Management has conducted the surveys. Typically the local school system is notified one week prior to the visit. School personnel accompany the inspector and are generally helpful and cooperative. At the school the inspector evaluates the condition or performance of 34 systems or components and gives each a rating from “superior” to “poor.” The inspector applies weighting factors to determine an overall score and completes an itemized list with written observations that is provided to the school system. If any serious hazards or deficiencies are identified, the school system is asked to submit a written plan outlining how and when the deficiencies will be corrected.

The inspections for the current school year have been delayed. The inspector’s position was one of those cut from the Department of General Services (DGS) fiscal 2004 operating budget. DGS and the IAC are considering methods to fulfill this responsibility with contracted or other staff.

Recommendations

- PCSP and MSDE should encourage the reuse of recent school designs, when educationally appropriate and with appropriate site and programmatic adaptation, within and across local school system boundaries. In addition, the IAC should consider whether stronger action – incentives or requirements – would be appropriate.
- The IAC should provide financial incentives, such as supplemental design funds and/or additional construction funding, for projects that include energy conservation, sustainable building, or green architecture design features, or use innovative building technologies, which would result in life-cycle savings.

- MSDE should consider facilities standards and guidelines that incorporate appropriate components of the CHPS and LEED building designs. In addition, the PSCP should provide technical assistance to all school systems on green building strategies and systems. This program should include regularly scheduled meetings to share experiences and address “lessons learned” both in Maryland and in other states. The goal should be to incorporate green building systems as a normal aspect of school construction/renovation.
- DGS should identify any barriers to participation and distribute information on existing State purchasing contracts for school furniture, equipment, and services that may be shared by local school systems.
- PSCP should provide technical assistance to all school systems on achieving high standards in architectural and engineering documents including regularly scheduled meetings, focused workshops, and distribution of model documents.
- PSCP should compile the findings of recently completed “blue ribbon” reports on reducing school construction costs, evaluate the actual savings, and disseminate the information to local school systems.
- The IAC should continue its annual Maintenance Survey of Public School Buildings.
- MSDE should provide technical assistance to local school systems to develop shared use agreements with local governments for: community centers, libraries, pre-kindergarten, kindergarten, and other similar facilities.