

HOUSE BILL 1246

F3, F1, B5

2lr1797

By: **Delegates Mitchell, Clippinger, Conaway, Glenn, Hammen, Harrison, McIntosh, Oaks, B. Robinson, Rosenberg, Stukes, and Tarrant**

Introduced and read first time: February 10, 2012

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore City Public School Construction Authority**

3 FOR the purpose of establishing the Baltimore City Public School Construction
4 Authority; providing for the purpose, duties, membership, appointment, terms,
5 and compensation of the Authority; authorizing the Authority to hold title to
6 certain property purchased or financed through a certain block grant;
7 authorizing the Authority to acquire land, school sites, and buildings and to
8 improve and transfer buildings; authorizing the Authority to use alternative
9 financing methods and issue bonds to finance public school construction
10 projects; establishing the rights and duties associated with the bonding
11 authority of the Authority; requiring the State to provide a certain block grant
12 each year to Baltimore City for certain public school construction projects and
13 requiring the Authority to administer and manage the block grant; providing for
14 the initial amount, the source of funding, and an annual increase in the amount
15 of a certain annual block grant for certain school construction projects in
16 Baltimore City; specifying the uses for a certain block grant; authorizing the
17 Baltimore City Board of School Commissioners and the Authority to acquire,
18 construct, reconstruct, equip, maintain, repair, or renovate facilities at any
19 location in Baltimore City through another entity acting as its agent and enter
20 into contracts with public or private entities for such purposes; defining certain
21 terms; providing that certain authority granted under this Act is not in
22 derogation of certain other existing authority; submitting this Act to a
23 referendum of the qualified voters of Baltimore City; and generally relating to
24 the Baltimore City Public School Construction Authority.

25 BY repealing and reenacting, with amendments,

26 Article – Education

27 Section 4–114, 4–115(a), (b), and (c)(1), 4–126, 4–301, 4–306.1, 4–306.2, 4–306.3,
28 4–306.4, 4–306.5, 4–306.6, and 5–301(d) through (j)

29 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2008 Replacement Volume and 2011 Supplement)

2 BY adding to

3 Article – Education

4 Section 4–306.1 and 5–301(d)

5 Annotated Code of Maryland

6 (2008 Replacement Volume and 2011 Supplement)

7 BY repealing and reenacting, without amendments,

8 Article – Education

9 Section 5–301(c)

10 Annotated Code of Maryland

11 (2008 Replacement Volume and 2011 Supplement)

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

14 **Article – Education**

15 4–114.

16 (a) All property granted, conveyed, devised, or bequeathed for the use of a
17 particular public school or school system:

18 (1) Except as provided in subsection (c) of this section, shall be held in
19 trust for the benefit of the school or school system by the appropriate county board or,
20 for real property in Baltimore City, by the Mayor and City Council of Baltimore; and

21 (2) Is exempt from all State and local taxes.

22 (b) Money invested in trust for the benefit of the public schools for any
23 county or city is exempt from all State and local taxes.

24 (c) (1) A private entity may hold title to property used for a particular
25 public school or local school system if the private entity is contractually obligated to
26 transfer title to the appropriate county board on a specified date.

27 (2) The conveyance of title of school property to a private entity for a
28 specified term under this subsection may not be construed to prohibit the allocation of
29 construction funds to an approved school construction project under the Public School
30 Construction Program.

31 (3) A county or county board may convey or dispose of surplus land
32 under the jurisdiction of the county or county board in exchange for public school
33 construction or development services.

1 **(4) IF PROPERTY IS PURCHASED OR FINANCED THROUGH THE**
2 **BLOCK GRANT UNDER § 5-301(D) OF THIS ARTICLE, THE BALTIMORE CITY**
3 **PUBLIC SCHOOL CONSTRUCTION AUTHORITY ESTABLISHED UNDER § 4-306.1**
4 **OF THIS TITLE MAY HOLD TITLE TO PROPERTY.**

5 4-115.

6 (a) **(1) In this subtitle[, “county] THE FOLLOWING WORDS HAVE THE**
7 **MEANINGS INDICATED.**

8 **(2) “AUTHORITY” MEANS THE BALTIMORE CITY PUBLIC SCHOOL**
9 **CONSTRUCTION AUTHORITY ESTABLISHED UNDER § 4-306.1 OF THIS TITLE.**

10 **(3) “COUNTY council” means, in Baltimore City, the Mayor and City**
11 **Council of Baltimore.**

12 (b) With the approval of the State Superintendent, each county board **AND**
13 **THE AUTHORITY** may:

14 (1) Buy or otherwise acquire land, school sites, or buildings; and

15 (2) Rent, repair, improve, and build school buildings or approve
16 contracts for doing so, if the plans conform to the bylaws, rules, and regulations of the
17 State Board.

18 (c) (1) (i) Except as provided in this subsection, if, with the approval
19 of the State Superintendent, a county board **OR THE AUTHORITY** finds that any land,
20 school site, or building no longer is needed for school purposes, it shall inform the
21 county commissioners or county council of [the county board’s] **THE** determination
22 under this subparagraph.

23 (ii) When the county commissioners or county council receive
24 notice under subparagraph (i) of this paragraph, the county commissioners or county
25 council shall notify the county board **OR THE AUTHORITY** within 30 days after
26 receiving the notice from the county board **OR THE AUTHORITY**:

27 1. Of the need to transfer the land, school site, or
28 building to the county commissioners or county council if the land, school site, or
29 building is an integral component of an existing economic development plan that will,
30 in the judgment of the county commissioners or county council, significantly benefit
31 the county; or

32 2. That the county commissioners or county council have
33 no existing plans for the use of the land, school site, or building.

1 (iii) 1. If the county commissioners or county council provide
2 the required notice to the county board **OR THE AUTHORITY** under subparagraph
3 (ii)1 of this paragraph or a public charter school does not need the school site or
4 building under § 9–111 of this article, the land, school site, or building shall be
5 transferred by the county board **OR THE AUTHORITY** to the county commissioners or
6 county council and may be used, sold, leased, or otherwise disposed of, except by gift,
7 by the county commissioners or county council; or

8 2. If the county commissioners or county council provide
9 the required notice to the county board **OR THE AUTHORITY** under subparagraph
10 (ii)2 of this paragraph, the county board **OR THE AUTHORITY** shall comply with the
11 provisions of § 9–111 of this article.

12 4–126.

13 (a) In this section, “alternative financing methods” includes:

14 (1) Sale–leaseback arrangements, in which a county board **OR THE**
15 **AUTHORITY** agrees to transfer title to a property, including improvements, to a
16 private entity that simultaneously agrees to lease the property back to the county
17 board **OR THE AUTHORITY** and, on a specified date, transfer title back to the county
18 board **OR THE AUTHORITY**;

19 (2) Lease–leaseback arrangements, in which a county board **OR THE**
20 **AUTHORITY** leases a property to a private entity that improves the property and
21 leases the property, with the improvements, back to the county board **OR THE**
22 **AUTHORITY**;

23 (3) Public–private partnership agreements, in which a county board
24 **OR THE AUTHORITY** contracts with a private entity for the acquisition, design,
25 construction, improvement, renovation, expansion, equipping, or financing of a public
26 school, and may include provisions for cooperative use of the school or an adjacent
27 property and generation of revenue to offset the cost of construction or use of the
28 school;

29 (4) Performance–based contracting, in which a county board **OR THE**
30 **AUTHORITY** enters into an energy performance contract to obtain funding for a
31 project with guaranteed energy savings over a specified time period;

32 (5) Preference–based arrangements, by which a local governing body
33 gives preference first to business entities located in the county and then to business
34 entities located in other counties in the State for any construction that is not subject to
35 prevailing wage rates under Title 17, Subtitle 2 of the State Finance and Procurement
36 Article; and

1 (6) Design–build arrangements, that permit a county board **OR THE**
2 **AUTHORITY** to contract with a design–build business entity for the combined design
3 and construction of qualified education facilities, including financing mechanisms
4 where the business entity assists the local governing body in obtaining project
5 financing.

6 (b) Except when prohibited by local law, in order to finance or to speed
7 delivery of, transfer risks of, or otherwise enhance the delivery of public school
8 construction, a county **OR THE AUTHORITY** may:

9 (1) Use alternative financing methods;

10 (2) Engage in competitive negotiation, rather than competitive
11 bidding, in limited circumstances, including construction management at–risk
12 arrangements and other alternative project delivery arrangements, as provided in
13 regulations adopted by the Board of Public Works;

14 (3) Accept unsolicited proposals for the development of public schools
15 in limited circumstances, as provided in regulations adopted by the Board of Public
16 Works; and

17 (4) Use quality–based selection, in which selection is based on a
18 combination of qualifications and cost factors, to select developers and builders, as
19 provided in regulations adopted by the Board of Public Works.

20 (c) The Board of Public Works shall adopt regulations requiring a project
21 that qualifies for alternative financing methods under this section to meet
22 requirements regarding the advantages of the project to the public that include
23 provisions addressing:

24 (1) The probable scope, complexity, or urgency of the project;

25 (2) Any risk sharing, added value, education enhancements, increase
26 in funding, or economic benefit from the project that would not otherwise be available;

27 (3) The public need for the project; and

28 (4) The estimated cost or timeliness of executing the project.

29 (d) Projects that qualify for alternative financing methods under this
30 subsection:

31 (1) Shall meet the educational standards, design standards, and
32 procedural requirements under this article and under regulations adopted by the
33 Board of Public Works; and

1 (2) Consistent with the requirements of this article, shall be approved
2 by:

3 (i) The county governing body;

4 (ii) The State Superintendent of Schools; or

5 (iii) The Interagency Committee on School Construction and the
6 Board of Public Works.

7 (e) Use of alternative financing methods under this section may not be
8 construed to prohibit the allocation of State funds for public school construction to a
9 project under the Public School Construction Program.

10 (f) A county board **OR THE AUTHORITY** may not use alternative financing
11 methods under this section without the approval of the county governing body.

12 (g) The Board of Public Works shall adopt regulations recommended by the
13 Interagency Committee on School Construction to implement the provisions of this
14 section, including:

15 (1) Guidelines for the content of proposals, for the acceptance and
16 evaluation of unsolicited proposals, and for accepting competing unsolicited proposals;

17 (2) Requirements for the content and execution of a comprehensive
18 agreement governing an arrangement authorized under this section;

19 (3) Guidelines for content and issuance of solicitations;

20 (4) Requirements for the prequalification of bidders or offerors;

21 (5) Requirements for public notice of solicited and unsolicited
22 proposals and proposed execution of a comprehensive agreement;

23 (6) Regulations that require compliance with requirements applicable
24 to qualified projects that would otherwise be in effect under the State procurement law
25 if the procurement were competitively bid; and

26 (7) (i) Regulations that require that contracts and subcontracts
27 adhere to the requirements of Title 17, Subtitle 2 and Title 14 of the State Finance and
28 Procurement Article if the requirements would otherwise be applicable; and

29 (ii) Regulations that specify elements to be included in any
30 preference-based arrangement adopted by a local governing body that gives
31 preference first to business entities located in the county and then to business entities
32 located in other counties in the State for any construction that is not subject to

1 prevailing wage rates under Title 17, Subtitle 2 of the State Finance and Procurement
2 Article.

3 4–301.

4 (a) In this subtitle the following words have the meanings indicated.

5 (B) “AUTHORITY” MEANS THE BALTIMORE CITY PUBLIC SCHOOL
6 CONSTRUCTION AUTHORITY ESTABLISHED UNDER § 4–306.1 OF THIS SUBTITLE.

7 [(b)] (C) “Board” means the Baltimore City Board of School Commissioners
8 of the Baltimore City Public School System.

9 [(c)] (D) “Bonds” means revenue bonds, refunding bonds, certificates, notes,
10 demand notes, commercial paper, other evidence of indebtedness, and, where
11 applicable, bond anticipation notes.

12 [(d)] (E) “Chief Executive Officer” means the Chief Executive Officer of the
13 Baltimore City Board of School Commissioners.

14 [(e)] (F) “Costs” as applied to any project means all costs of the project,
15 including:

16 (1) The cost of acquisition, construction, reconstruction, equipping,
17 maintenance, repair, and renovation;

18 (2) The cost of acquisition of all land, rights-of-way, property rights,
19 easements, and interests acquired by the board;

20 (3) Finance charges and interest prior to and during construction and
21 for 1 year after completion of construction;

22 (4) The cost of architectural, engineering, and legal expenses, plans,
23 specifications, feasibility studies, surveys, estimates of costs and revenue, and other
24 expenses necessary or desirable for determining the feasibility or practicability of
25 construction of any project;

26 (5) Reserves for the payment of debt service, operating reserves, and
27 repair and replacement funds; and

28 (6) Administrative expenses and other expenses necessary or allocable
29 to any project, the financing or refinancing of any project, the issuance of bonds, and
30 the placing of any project in operation.

31 [(f)] (G) “Project” means the acquisition, construction, reconstruction,
32 equipping, maintenance, repair, or renovation of any public school facility.

1 **[(g)] (H)** “Public school facility” means a building, parking facility, athletic
2 facility, testing facility, or other facility in the City of Baltimore, now existing or
3 hereafter acquired or constructed, that is used by the board in relation to the
4 education of students in the Baltimore City Public School System.

5 **4-306.1.**

6 **(A) THERE IS A BALTIMORE CITY PUBLIC SCHOOL CONSTRUCTION**
7 **AUTHORITY.**

8 **(B) THE PURPOSE OF THE AUTHORITY IS TO IMPROVE THE CONDITION**
9 **OF THE PUBLIC SCHOOL FACILITIES WITHIN THE BALTIMORE CITY PUBLIC**
10 **SCHOOL SYSTEM.**

11 **(C) (1) THE AUTHORITY CONSISTS OF THE FOLLOWING MEMBERS**
12 **APPOINTED BY THE MAYOR OF BALTIMORE CITY:**

13 **(I) THE CHIEF EXECUTIVE OFFICER OF THE BALTIMORE**
14 **CITY BOARD OF SCHOOL COMMISSIONERS, OR THE CHIEF EXECUTIVE**
15 **OFFICER’S DESIGNEE;**

16 **(II) TWO MEMBERS OF THE BALTIMORE CITY BOARD OF**
17 **SCHOOL COMMISSIONERS; AND**

18 **(III) FOUR MEMBERS OF THE PUBLIC WITH EXPERTISE IN**
19 **PUBLIC SCHOOL CONSTRUCTION OR IN ALTERNATIVE FUNDING AND FINANCING**
20 **OF PUBLIC SCHOOL CONSTRUCTION.**

21 **(2) (I) 1. THE CHIEF EXECUTIVE OFFICER SHALL SERVE**
22 **AS A MEMBER OF THE AUTHORITY UNTIL THE CHIEF EXECUTIVE OFFICER NO**
23 **LONGER HOLDS THE POSITION OF CHIEF EXECUTIVE OFFICER.**

24 **2. WHEN THE CHIEF EXECUTIVE OFFICER NO**
25 **LONGER HOLDS THE POSITION OF CHIEF EXECUTIVE OFFICER, THE CHIEF**
26 **EXECUTIVE OFFICER’S SUCCESSOR SHALL SERVE AS A MEMBER OF THE**
27 **AUTHORITY.**

28 **(II) 1. A MEMBER OF THE BALTIMORE CITY BOARD OF**
29 **SCHOOL COMMISSIONERS APPOINTED AS A MEMBER OF THE AUTHORITY**
30 **UNDER THIS SUBSECTION SHALL SERVE AS A MEMBER OF THE AUTHORITY**
31 **UNTIL THE INDIVIDUAL NO LONGER HOLDS A POSITION ON THE BOARD.**

1 **2. WHEN THE INDIVIDUAL NO LONGER HOLDS A**
2 **POSITION ON THE BOARD, THE MAYOR SHALL APPOINT A SUCCESSOR FROM THE**
3 **BOARD TO SERVE AS A MEMBER OF THE AUTHORITY.**

4 **(III) 1. EACH OF THE PUBLIC MEMBERS APPOINTED AS A**
5 **MEMBER OF THE AUTHORITY UNDER THIS SUBSECTION SHALL SERVE FOR A**
6 **TERM OF 3 YEARS FROM JULY 1 OF THE YEAR THE APPOINTMENT IS MADE**
7 **UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.**

8 **2. THE TERMS OF THE PUBLIC MEMBERS ARE**
9 **STAGGERED, AND OF THE INITIAL APPOINTMENTS TO THE AUTHORITY, TWO**
10 **SHALL BE FOR TERMS OF 1 AND 2 YEARS, RESPECTIVELY, AND TWO SHALL BE**
11 **FOR A TERM OF 3 YEARS.**

12 **(3) EACH MEMBER OF THE AUTHORITY SERVES WITHOUT**
13 **COMPENSATION.**

14 **(4) FROM AMONG ITS MEMBERS THE AUTHORITY SHALL ELECT A**
15 **CHAIR.**

16 **(D) ANY ACTION BY THE AUTHORITY SHALL REQUIRE:**

17 **(1) A QUORUM OF A MAJORITY OF THE MEMBERS THEN SERVING;**
18 **AND**

19 **(2) THE AFFIRMATIVE VOTE OF A MAJORITY OF THE MEMBERS**
20 **THEN SERVING.**

21 **(E) (1) THE AUTHORITY SHALL BE RESPONSIBLE FOR THE**
22 **ADMINISTRATION AND MANAGEMENT OF THE BLOCK GRANT UNDER § 5-301(D)**
23 **OF THIS ARTICLE FOR PUBLIC SCHOOL CONSTRUCTION PROJECTS AND PUBLIC**
24 **SCHOOL CAPITAL IMPROVEMENTS IN THE CITY OF BALTIMORE.**

25 **(2) THE AUTHORITY MAY ADOPT RULES AND REGULATIONS AND**
26 **DEVELOP POLICIES AND PROCEDURES FOR THE ADMINISTRATION AND**
27 **MANAGEMENT OF THE BLOCK GRANT UNDER § 5-301(D) OF THIS ARTICLE.**

28 **(3) THE AUTHORITY MAY NOT BE DEEMED AN AGENCY OF THE**
29 **STATE.**

30 **[4-306.1.] 4-306.2.**

1 (a) In order to provide public school facilities, the board **AND THE**
2 **AUTHORITY** may:

3 (1) [Acquire] **DIRECTLY OR THROUGH ANOTHER ENTITY ACTING**
4 **AS THE DESIGNATED AGENT OF THE BOARD OR THE AUTHORITY, ACQUIRE,**
5 construct, reconstruct, equip, maintain, repair, or renovate facilities at any location in
6 the City of Baltimore, now existing or hereafter acquired **AND ENTER INTO**
7 **CONTRACTS WITH PUBLIC OR PRIVATE ENTITIES TO ACCOMPLISH THE**
8 **ACQUISITION, CONSTRUCTION, RECONSTRUCTION, EQUIPPING, MAINTENANCE,**
9 **REPAIR, OR RENOVATION;**

10 (2) Issue bonds in accordance with § [4-306.2] **4-306.3** of this
11 subtitle;

12 (3) In accordance with State law, and **WITH REGARD TO THE BOARD,**
13 the June 24, 1998, memorandum of understanding between the board and the Mayor
14 and City Council of Baltimore, acquire, hold, and dispose of real and personal property
15 in the exercise of its powers and the performance of its duties under this subtitle;

16 (4) Enter into all contracts and agreements necessary or incidental to
17 the performance of its duties and the execution of its powers under this subtitle,
18 employ consulting engineers, architects, attorneys, construction and financial experts,
19 and other employees and agents, and determine their compensation;

20 (5) Receive and accept from the United States of America or any
21 agency of the federal government grants and loans for the purpose of financing or
22 refinancing all or any part of the costs of any project;

23 (6) Receive and accept aid or contributions from any sources of money,
24 property, labor, or other things of value, to be held, used, and applied for the purposes
25 for which the grants and contributions were made; and

26 (7) Perform all acts and things necessary to carry out the powers
27 expressly granted by the provisions of this subtitle.

28 (b) The board **AND THE AUTHORITY** shall maintain records identifying the
29 sources and amounts of payments used to support the costs of any project authorized
30 under the provisions of this subtitle.

31 **[4-306.2.] 4-306.3.**

32 (a) The board **AND THE AUTHORITY** may issue bonds for the purpose of
33 financing or refinancing all or any part of the costs of any project.

34 (b) (1) Except as provided in paragraph (2) of this subsection, the
35 aggregate principal amount of bonds outstanding, including the amount of any reserve

1 fund requirement established for the bonds, may not exceed, as of the date that the
2 bonds are issued, \$100,000,000.

3 (2) The aggregate principal amount of bonds outstanding does not
4 include Qualified School Construction Bonds as defined in § 54F of the Internal
5 Revenue Code.

6 (c) Bonds shall be authorized by a resolution of the board **OR THE**
7 **AUTHORITY** and may be secured by a trust agreement by and between the board **OR**
8 **THE AUTHORITY** and a corporate trustee or trustees which may be any trust
9 company or bank having the powers of a trust company within or outside of the State.

10 (d) Before the board **OR THE AUTHORITY** may issue a bond under this
11 section, the Mayor and City Council of Baltimore shall pass a resolution approving the
12 board's **OR THE AUTHORITY'S** issuance of the bond and shall forward that resolution
13 to the board **OR THE AUTHORITY**.

14 (e) The resolution of the board **OR THE AUTHORITY** authorizing the bonds:

15 (1) Shall describe the projects which are to be financed or refinanced
16 by the bond;

17 (2) Shall state the maximum principal amount of the bond;

18 (3) Shall describe the sources of payment of the bonds;

19 (4) Shall provide that the proceeds of the bonds shall be invested in
20 accordance with any investment policy approved by the board **OR THE AUTHORITY**;
21 and

22 (5) May provide that the bonds are redeemable before maturity at a
23 price or prices and under terms and conditions or in accordance with a method
24 determined by the board **OR THE AUTHORITY**.

25 (f) The resolution of the board **OR THE AUTHORITY** or the trust agreement
26 relating to the bonds may contain provisions that:

27 (1) Limit the purpose to which the proceeds of any issue of bonds may
28 be applied and restrict the investment of revenues or bond proceeds in government
29 obligations for which principal and interest are unconditionally guaranteed by the
30 United States of America;

31 (2) Provide for the issuance of additional bonds to finance or refinance
32 any projects, which may not exceed the total value of the outstanding bonds allowed
33 under subsection (b) of this section;

1 (3) Assign all or any part of the board's **OR THE AUTHORITY'S** funds
2 or assets;

3 (4) Protect and enforce the rights and remedies of the bondholders
4 that are reasonable and proper and not in violation of the law, including covenants
5 that shall include:

6 (i) The duties of the board **OR THE AUTHORITY** in relation to
7 the project;

8 (ii) The duties of the board **OR THE AUTHORITY** in relation to
9 its funds;

10 (iii) The custody, safeguarding, and application of all moneys;
11 and

12 (iv) The rights and remedies of bondholders and trustees, and
13 may restrict the individual right of action by bondholders; and

14 (5) The board **OR THE AUTHORITY** deems reasonable and proper for
15 the security of the bondholders, including covenants pertaining to the issuance of
16 additional parity bonds upon stated conditions.

17 (g) The bonds shall:

18 (1) Be dated and bear interest at the fixed or variable rate or rates
19 determined by the method provided in the resolution of the board **OR THE**
20 **AUTHORITY** authorizing the issuance of the bonds;

21 (2) Mature at a time or times not exceeding the useful life of the
22 projects for which the bonds are issued, but in no event shall the maturity of the bonds
23 exceed 30 years from their date or dates of issue, as may be determined by the board
24 **OR THE AUTHORITY**;

25 (3) Be issued at, above, or below par value, for cash or other valuable
26 consideration;

27 (4) Be payable at a time or times, in the denominations and form,
28 either coupon or registered or both, and carry the registration and privileges as to
29 conversion and for the replacement of mutilated, lost, or destroyed bonds as the
30 resolution of the board **OR THE AUTHORITY** may provide;

31 (5) Bear the manual or facsimile signature of the Chief Executive
32 Officer or one of the other members of the board **OR THE AUTHORITY**. In case any
33 officer whose manual or facsimile signature appears on any bonds or coupons ceases to
34 be an officer before the delivery of the bonds, the signature or facsimile of the former

1 officer is valid and sufficient for all purposes as if the officer had remained in office
2 until delivery;

3 (6) Bear the official seal of the board **OR THE AUTHORITY** or a
4 facsimile of the seal affixed to the bonds and attested by the manual or facsimile
5 signature of the secretary of the board **OR THE CHIEF EXECUTIVE OFFICER**;

6 (7) Be payable in lawful money of the United States of America at a
7 designated place;

8 (8) Be subject to the terms of purchase, payment, redemption,
9 refunding, or refinancing that the resolution of the board **OR THE AUTHORITY**
10 provides; and

11 (9) Be sold in the manner and upon the terms determined by the board
12 **OR THE AUTHORITY** including private or negotiated sale.

13 (h) All bonds issued under the provisions of this subtitle shall have all the
14 qualities and incidents of negotiable instruments under the laws of the State relating
15 to negotiable instruments.

16 (i) Prior to the preparation of definitive bonds, the board **OR THE**
17 **AUTHORITY**, under like restrictions, may issue interim receipts or temporary bonds,
18 with or without coupons, exchangeable for definitive bonds when the bonds are
19 executed and available for delivery.

20 (j) (1) Bonds may be issued under the provisions of this subtitle:

21 (i) Without obtaining the consent of any department, division,
22 commission, board, bureau, or agency of the State; or

23 (ii) Without any other proceedings or the occurrence of any
24 other conditions other than those proceedings or conditions that are required
25 specifically by provisions of this subtitle.

26 (2) The provisions of Title 8, Subtitle 2 of the State Finance and
27 Procurement Article do not apply to bonds issued under the provisions of this subtitle.

28 (k) The board **OR THE AUTHORITY** shall establish one or more trust funds
29 for the deposit of the proceeds of the bonds of any issue.

30 (l) The board **OR THE AUTHORITY** may:

31 (1) Maintain separate accounts for purposes of identifying the sources
32 of payment of the bonds for the acquisition, development, or improvement of public
33 school facilities; and

1 (2) Retain the interest revenue or other investment income from the
2 bonds of any issue for the purposes of applying the revenue or income to the costs of
3 acquiring, constructing, reconstructing, renovating, equipping, maintaining, or
4 repairing school facilities.

5 (m) (1) Any bond issued under this subtitle shall state on its face that the
6 bond does not create or constitute any indebtedness or obligation of the State, of the
7 Mayor and City Council of Baltimore, or of any other political subdivision of the State,
8 except the Baltimore City Board of School Commissioners **OR THE AUTHORITY**.

9 (2) The bonds do not constitute a debt or obligation contracted by the
10 General Assembly or pledge the faith and credit of the State within the meaning of
11 Article III, § 34 of the Maryland Constitution.

12 (n) The bonds of any issue shall be payable from and secured solely by:

13 (1) All or any part of the fees or revenues generated by an activity of
14 the board **OR THE AUTHORITY** to the extent lawfully available for such purpose;

15 (2) The proceeds of the bonds and investment earnings thereon;

16 (3) Any grant or gift received by the board **OR THE AUTHORITY** to the
17 extent lawfully available for such purpose;

18 (4) Reserves or other funds established for the bonds under the
19 resolution or trust agreement;

20 (5) Any moneys which may lawfully be applied to the payment of the
21 bonds, including without limitation any appropriation by the State or Baltimore City
22 made lawfully available for such purpose; or

23 (6) Any source of funds to which the board **OR THE AUTHORITY** has
24 access to the extent lawfully available for such purpose.

25 (o) Prior to and during construction and for 1 year after completion of
26 construction of any public school facility for which bonds have been issued, the interest
27 on the bonds may be paid out of the proceeds of the bonds or out of other moneys
28 allocated for that purpose.

29 (p) (1) The board **OR THE AUTHORITY** may provide, from time to time,
30 for the issuance and sale of bond anticipation notes in accordance with the procedures
31 set forth in Article 31, § 12 of the Code for the issuance of bonds.

32 (2) Except where the provisions of this subtitle would be inapplicable
33 to bond anticipation notes, the term "bonds" used in this subtitle shall include bond

1 anticipation notes, including the provisions pertaining to the exemption from taxation
2 by the State and its political subdivisions.

3 (q) In connection with the issuance of any bonds, the board **OR THE**
4 **AUTHORITY** may:

5 (1) Obtain or enter into agreements and contracts for bond insurance,
6 reserve fund insurance, a letter of credit, a line of credit, or any form of additional,
7 substitute, or replacement security for any bonds; and

8 (2) Pledge or assign all or any part of the funds of the board **OR THE**
9 **AUTHORITY** to the repayment or reimbursement of the provider of the bond
10 insurance, reserve fund insurance, letter of credit, line of credit, or other form of
11 additional, substitute, or replacement security.

12 (r) Any of the agreements and contracts may contain the covenants, terms,
13 and conditions as may be contained in any trust agreement for any bonds.

14 (s) Any bank or trust company incorporated under the laws of the State that
15 acts as a depository of the proceeds of the bonds may furnish indemnifying bonds or
16 pledge securities as required by the board **OR THE AUTHORITY**.

17 (t) The resolution providing for the issuance of bonds is a trust agreement if
18 it so stipulates.

19 (u) All expenses incurred in carrying out the provisions of any trust
20 agreement or any resolution may be treated as a part of the cost of the operations of
21 the board **OR THE AUTHORITY**.

22 (v) Upon the issuance of bonds **BY THE BOARD OR THE AUTHORITY**, the
23 State Comptroller shall withhold from any installment due the board from the general
24 State school fund moneys for deposit to the credit of a sinking fund maintained to pay
25 the principal and interest on the bonds. Such moneys shall be withheld until the bonds
26 are no longer outstanding and unpaid and shall be withheld in installments. The
27 amount of each installment shall be determined at the time the bonds are issued and
28 shall be provided in writing by the board **OR THE AUTHORITY** to the State
29 Comptroller, provided that the frequency and amount of such installments shall allow
30 for the timely payment of the principal and interest on the bonds.

31 **[4-306.3.] 4-306.4.**

32 (a) The exercise of the powers granted by the provisions of this subtitle shall
33 be for the benefit of the students who attend the public schools under the board and
34 for the improvement of their education, prosperity, health, living conditions, and
35 general welfare.

1 (b) The board **OR THE AUTHORITY** shall not be required to pay any taxes or
2 assessments of any kind whatsoever and its bonds, their transfer, the interest payable
3 on them, and any income derived from them, including any profit realized in their sale
4 or exchange, shall be exempt at all times from every kind and nature of taxation by
5 the State or by any of its political subdivisions, municipal corporations, or public
6 agencies of any kind.

7 ~~[4-306.4.] 4-306.5.~~

8 The bonds are investment securities.

9 ~~[4-306.5.] 4-306.6.~~

10 The title to any property acquired or constructed under the provisions of this
11 subtitle shall be held in accordance with State law.

12 ~~[4-306.6.] 4-306.7.~~

13 (a) The provisions of this subtitle, being necessary for the welfare of the City
14 of Baltimore and its inhabitants, shall be liberally construed to effect the purposes of
15 the provisions.

16 (b) The provisions of this subtitle are severable, and if any of the provisions
17 shall be held unconstitutional by any court of competent jurisdiction, the decision of
18 the court may not affect or impair any of the remaining provisions.

19 5-301.

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

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

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

27 **(D) (1) THIS SUBSECTION APPLIES ONLY TO BALTIMORE CITY.**

28 **(2) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE**
29 **THE MEANINGS INDICATED.**

30 **(II) "AUTHORITY" MEANS THE BALTIMORE CITY PUBLIC**
31 **SCHOOL CONSTRUCTION AUTHORITY ESTABLISHED UNDER § 4-306.1 OF THIS**
32 **ARTICLE.**

1 (III) “BLOCK GRANT” MEANS A LUMP-SUM PAYMENT OF
2 FUNDS.

3 (3) THE STATE SHALL PROVIDE A BLOCK GRANT EACH YEAR TO
4 PAY THE COST OF PUBLIC SCHOOL CONSTRUCTION PROJECTS AND PUBLIC
5 SCHOOL CAPITAL IMPROVEMENTS IN THE CITY OF BALTIMORE.

6 (4) THE BLOCK GRANT SHALL BE ADMINISTERED AND MANAGED
7 BY THE AUTHORITY.

8 (5) THE AMOUNT OF THE BLOCK GRANT SHALL BE IN THE
9 AMOUNT OF THE GREATER OF:

10 (I) 15% OF THE ENTIRE STATE CAPITAL PUBLIC SCHOOL
11 CONSTRUCTION PROGRAM; OR

12 (II) \$32,000,000, ADJUSTED ANNUALLY BY THE GREATER
13 OF:

14 1. THE CONSUMER PRICE INDEX-URBAN FOR THE
15 BALTIMORE METROPOLITAN AREA, PUBLISHED BY THE U.S. DEPARTMENT OF
16 LABOR, BUREAU OF LABOR STATISTICS;

17 2. THE IMPLICIT PRICE DEFLATOR FOR STATE AND
18 LOCAL GOVERNMENT EXPENDITURES; OR

19 3. 5%.

20 (6) THE BLOCK GRANT SHALL BE FUNDED FROM AVAILABLE
21 MONEY THAT DOES NOT CONSTITUTE PROCEEDS OF OBLIGATIONS EXEMPT
22 FROM FEDERAL INCOME TAXATION BEFORE THE USE OF THE PROCEEDS OF ANY
23 TAX-EXEMPT OBLIGATIONS.

24 (7) THE BLOCK GRANT MAY BE USED TO MAKE PAYMENTS UNDER
25 LEASES, INSTALLMENT PURCHASE, OR OTHER SIMILAR ARRANGEMENTS FOR
26 THE FINANCING OF PUBLIC SCHOOL FACILITIES AS AUTHORIZED UNDER § 4-126
27 OF THIS ARTICLE.

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

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

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

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

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

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

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

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

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

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

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

22 **[(e)] (F)** The Board of Public Works shall develop the rules, regulations,
23 and procedures authorized by this section in consultation with representatives of the
24 county boards and the county governing bodies.

25 **[(f)] (G)** The regulations and procedures of the Board of Public Works
26 adopted under this section and their promulgation are exempt from § 8-127(b) of the
27 State Finance and Procurement Article.

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

32 (i) The State Board;

33 (ii) The State Superintendent;

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

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

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

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

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

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

29 (4) **IN THIS SECTION, A TRANSFER OF INTEREST IN A PUBLIC**
30 **SCHOOL BUILDING IN CONNECTION WITH A FINANCING AS AUTHORIZED UNDER**
31 **§ 4–126 OF THIS ARTICLE IS NOT A SALE, LEASE, OR DISPOSAL OF THE PUBLIC**
32 **SCHOOL FACILITY.**

33 [(j)] (K) (1) Whether by budget bill or supplementary appropriation bill,
34 all money appropriated to carry out the purposes of this section is a separate fund that
35 shall be administered by the State Comptroller in accordance with the regulations
36 adopted by the Board of Public Works.

1 (2) (i) Except as provided in subparagraph (ii) of this paragraph,
2 any funds approved for a project that has not been contracted for within 2 years of the
3 approval of the project shall revert to the fund established under paragraph (1) of this
4 subsection.

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

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

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

16 SECTION 2. AND BE IT FURTHER ENACTED, That any authority granted
17 under this Act is not in derogation of any other existing power or authority.

18 SECTION 3. AND BE IT FURTHER ENACTED, That before this Act becomes
19 effective it shall first be submitted to a referendum of the qualified voters of Baltimore
20 City at the general election to be held in November of 2012. The City governing body
21 and the Baltimore City Board of Elections shall do those things necessary and proper
22 to provide for and hold the referendum required by this section. If a majority of the
23 votes cast on the question are “For the referred law” the provisions of this Act shall
24 become effective on the 30th day following the official canvass of votes for the
25 referendum, but if a majority of the votes cast on the question are “Against the
26 referred law” the provisions of this Act are of no effect and null and void.

27 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions
28 of Section 3 of this Act and for the sole purpose of providing for the referendum
29 required by Section 3 of this Act, this Act shall take effect July 1, 2012.