

# SENATE BILL 208

P2, F1, M3

8lr0244

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By: **The President (By Request - Administration) and Senators Madaleno, King, Brochin, Forehand, Frosh, Garagiola, Lenett, Pinsky, ~~and Rosapepe~~ Rosapepe, Currie, DeGrange, Edwards, Jones, Kasemeyer, Kramer, McFadden, Munson, Peters, Robey, and Zirkin**

Introduced and read first time: January 18, 2008

Assigned to: Budget and Taxation

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 18, 2008

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **High Performance Buildings Act**

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

19 BY repealing and reenacting, with amendments,  
20 Article – State Finance and Procurement  
21 Section 3–602(d)  
22 Annotated Code of Maryland

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2006 Replacement Volume and 2007 Supplement)

2 BY adding to

3 Article – State Finance and Procurement

4 Section 3–602.1

5 Annotated Code of Maryland

6 (2006 Replacement Volume and 2007 Supplement)

7 BY repealing and reenacting, without amendments,

8 Article – Education

9 Section 5–301(d)

10 Annotated Code of Maryland

11 (2006 Replacement Volume and 2007 Supplement)

12 BY adding to

13 Article – Education

14 Section 5–312

15 Annotated Code of Maryland

16 (2006 Replacement Volume and 2007 Supplement)

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

19 **Article – State Finance and Procurement**

20 3–602.

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

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

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

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

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

34 (ii) 1. A unit of State government requesting an  
35 appropriation for preliminary planning of a proposed capital project may include in its

1 request a justification for proposing that a building in the project is appropriate for  
2 design as a high performance building.

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

8                   (2)] (1) Before an appropriation may be authorized for preliminary  
9 planning of a proposed capital project:

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

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

15                   [(3)] (2) Before an appropriation may be authorized for construction  
16 of a proposed capital project:

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

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

23 **3-602.1.**

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

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

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

31                   (II) **ACHIEVES AT LEAST A COMPARABLE NUMERIC RATING**  
32 **ACCORDING TO A NATIONALLY RECOGNIZED, ACCEPTED, AND APPROPRIATE**  
33 **NUMERIC SUSTAINABLE DEVELOPMENT RATING SYSTEM, GUIDELINE, OR**

1 STANDARD APPROVED BY THE SECRETARIES OF BUDGET AND MANAGEMENT  
2 AND GENERAL SERVICES.

3 (3) "MAJOR RENOVATION" MEANS THE RENOVATION OF A  
4 BUILDING WHERE:

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

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

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

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

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

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

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

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

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

30 (1) WAREHOUSE AND STORAGE FACILITIES;

31 (2) GARAGES;

- 1           (3)    **MAINTENANCE FACILITIES;**  
 2           (4)    **TRANSMITTER BUILDINGS;**  
 3           (5)    **PUMPING STATIONS; AND**  
 4           (6)    **OTHER SIMILAR TYPES OF BUILDINGS, AS DETERMINED BY**  
 5 **THE DEPARTMENT.**

6           **(E) (1) THE DEPARTMENT OF BUDGET AND MANAGEMENT AND THE**  
 7 **DEPARTMENT OF GENERAL SERVICES SHALL JOINTLY ESTABLISH A PROCESS**  
 8 **TO ALLOW A UNIT OF STATE GOVERNMENT TO OBTAIN A WAIVER FROM**  
 9 **COMPLYING WITH SUBSECTION (C) OF THIS SECTION.**

10           **(2) THE WAIVER PROCESS SHALL:**

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

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

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

20                                   **Article - Education**

21    5-301.

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

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

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

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

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

- 1 (iv) The approval of sites, plans, and specifications for the  
2 construction of new school buildings or the improvement of existing buildings;
- 3 (v) Site improvements;
- 4 (vi) Competitive bidding;
- 5 (vii) The hiring of personnel in connection with school  
6 construction or capital improvements;
- 7 (viii) The actual construction of school buildings or their  
8 improvements;
- 9 (ix) The relative roles of different State and local governmental  
10 agencies in the planning and construction of school buildings or school capital  
11 improvements;
- 12 (x) School construction and capital improvements necessary or  
13 appropriate for the proper implementation of this section;
- 14 (xi) At the recommendation of the Interagency Committee, the  
15 establishment of priority public school construction programs;
- 16 (xii) Development of cooperative arrangements that permit the  
17 sharing of facilities among two or more school systems;
- 18 (xiii) The selection of architects and engineers by school systems;
- 19 (xiv) The award of contracts by school systems; and
- 20 (xv) Method of payments made by the State under the Public  
21 School Construction Program.
- 22 (3) The regulations adopted by the Board of Public Works shall  
23 contain provisions:
- 24 (i) Establishing a State and local cost-share formula for each  
25 county that identifies the factors used in establishing the formulas;
- 26 (ii) Requiring local education agencies to adopt educational  
27 facilities master plans and annual capital improvement programs;
- 28 (iii) Providing a method for establishing a maximum State  
29 construction allocation for each project approved for State funding;
- 30 (iv) Referencing the policies stated in § 5-7B-07 of the State  
31 Finance and Procurement Article;

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

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

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

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

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

16 **5-312.**

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

20 (B) THIS SECTION APPLIES TO THE CONSTRUCTION OF NEW SCHOOLS  
21 THAT HAVE NOT INITIATED A REQUEST FOR PROPOSAL FOR THE SELECTION OF  
22 AN ARCHITECTURAL AND ENGINEERING CONSULTANT ON OR BEFORE JULY 1,  
23 2009.

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

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

30 (2) THE WAIVER PROCESS SHALL:

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

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

3 (E) FOR FISCAL YEARS 2010 THROUGH 2014 ONLY, THE STATE SHALL  
4 PAY 50% OF THE LOCAL SHARE OF THE EXTRA COSTS, IDENTIFIED AND  
5 APPROVED BY THE INTERAGENCY COMMITTEE, THAT ARE INCURRED IN  
6 CONSTRUCTING A NEW SCHOOL TO MEET THE HIGH PERFORMANCE BUILDING  
7 REQUIREMENTS OF THIS SECTION.

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

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

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

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.