

LAWS OF DELAWARE  
VOLUME 84  
CHAPTER 242  
152nd GENERAL ASSEMBLY  
FORMERLY  
HOUSE BILL NO. 305

AN ACT TO AMEND THE LAWS OF DELAWARE RELATING TO THE BOND AND CAPITAL IMPROVEMENTS ACTS OF THE STATE OF DELAWARE AND CERTAIN OF THEIR AUTHORITIES FOR THE FISCAL YEARS ENDING JUNE 30, 2023, AND JUNE 30, 2024.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 340, Volume 83, Section 166 of the Laws of Delaware by making deletions as shown by strike throughs and insertions as shown by underlines as follows:

**Section 166. School Construction Market Pressure Contingency Fund.** Section 1 Addendum of this Act creates a School Construction Market Pressure Contingency Fund in the Department of Education to be administered by the Secretary of Education. Notwithstanding the provisions of any other state law, the Department is authorized to transfer funds based on validated market increases and in accordance with the project certificate of necessity with the approval of the Director of the Office of Management and Budget and the Controller General. These funds shall be used to enable these districts to maintain a high level of construction quality in the environment of increased market pressure and escalating costs for the new construction of public education classrooms. Notwithstanding any provisions of the Delaware Code to contrary, school districts are required to pay for their respective local share of each project. School districts may use the following funds to meet the local match: Minor Capital Improvement Funds, Division III Equalization, Impact Fees, and/or local funds raised in excess of those required on the certificate of necessity issued by the Department of Education.

(a) School Construction Market Pressure Contingency Funds, which are appropriated pursuant to Section 1 of this Act, shall be allocated as follows:

<u>District</u>	<u>Project</u>	<u>Maximum State Share</u>
<u>Appoquinimink (76/24)</u>	<u>New Summit ES</u>	<u>\$2,213,342</u>
<u>Appoquinimink (76/24)</u>	<u>Redding MS</u>	<u>\$18,977,965</u>
<u>Cape Henlopen (60/40)</u>	<u>600 Student MS</u>	<u>\$7,183,839</u>
<u>New Castle Co. Vo-Tech (62/38)</u>	<u>Hodgson Replacement</u>	<u>\$39,502,902</u>
<u>Total</u>		<u>\$67,878,048</u>

(b) It is the intent that the School Construction Market Pressure Contingency Fund support the escalated construction costs within the scope of each respective project's Certificate of Necessity, as originally approved by the Department of Education. Notwithstanding the provisions of Delaware Code to the contrary, the costs associated with any expansion of scope beyond the approved Certificate of Necessity shall be considered a local obligation, unless

otherwise approved by the Secretary of Education, Director of the Office of Management and Budget, and Controller General.

Section 2. Amend Chapter 83, Volume 84, Section 38 of the Laws of Delaware by making deletions as shown by strike throughs and insertions as shown by underlines as follows:

**Section 38. Federal Fund Reporting.** The Office of Management and Budget shall provide a monthly report to the members of the Joint Committee on Capital Improvement and the Controller General on the allocations, expenditures, and unallocated balance, of those items funded through ~~the Bipartisan Infrastructure Law (the Infrastructure Investment and Jobs Act), and~~ the State Fiscal Recovery Funds and State Capital Project Funds as allocated to Delaware under the American Rescue Plan Act, and shall provide a monthly report of funds awarded or allocated to the State of Delaware through the Bipartisan Infrastructure Law, (the Infrastructure Investment and Jobs Act). Further, the Office of Management and Budget shall provide a biannual reporting of the program accomplishments and project status of the items referenced above, due on ~~October 1~~ February 15 and ~~May 1~~ August 15 of each year.

Prior to any reallocation of ~~funding~~ State Fiscal Recovery Funds and State Capital Project Funds submitted in the reports listed above, the Office of Management and Budget shall notify the members of the Joint Committee on Capital Improvement and the Controller General with the proposed reallocation amounts, project or program details, and timelines for completion.

Any State Fiscal Recovery Funds and State Capital Project Funds ~~funds~~ unallocated as of January 1, 2024, shall be subject to appropriation by the Joint Committee on Capital Improvement if the project is deemed in compliance with applicable federal requirements and approvals.

Section 3. Amend Chapter 83, Volume 84, Section 95 of the Laws of Delaware by making insertions as shown by underlines as follows:

**Section 95. Polly Drummond Yard Waste.** (a) Section 1 Addendum of this Act makes an appropriation to the Department of Natural Resources and Environmental Control (DNREC) for Park Facility Rehab and Public Recreation Infrastructure. Of that amount, funds shall be used for the continued operation of the Polly Drummond Yard Waste site at a minimum of the service level consistent with Fiscal Year 2023.

(b) Pursuant to 83 Del. Laws Chapter 340, the Department of Natural Resources and Environmental Control has worked with members of the General Assembly to pursue a permanent solution for relocation of the Polly Drummond Yard Waste Site and ensure New Castle County residents have a safe and accessible drop-off site. The department subsequently reported to the Co-Chairs of the Joint Committee on Capital Improvements, the Director of the Office of Management and Budget and the Controller General regarding alternative sites. The department shall work with the Delaware Solid Waste Authority (DSWA) to transition operations under DSWA in the vicinity of the current Polly Drummond Yard Waste Site. DNREC and DSWA will provide a status report back to the General Assembly and Governor by December 1, 2023, with a plan to address the alternative yard waste drop-off plan.

(c) Any alternative yard waste drop-off plan and relocation must ensure the same level of service as the existing Polly Drummond Yard Waste site is continued, as per the current operating rules. If the same level of service,

as per the current operating rules, cannot be reached at an alternative site, DNREC will ensure operations at the Polly Drummond Yard are open and continued.

Section 4. Amend Chapter 83, Volume 84, Section 99 of the Laws of Delaware by making deletions as shown by strike throughs and insertions as shown by underlines as follows:

**Section 99. Resource, Conservation and Development.** Section 1 Addendum of this Act makes an appropriation to the Department of Natural Resources and Environmental Control for Resource, Conservation and Development. Of this amount, ~~\$330,000~~\$100,000 shall be used for the Oak Ridge drainage project, ~~and~~ \$800,000 for Woodlawn Run Park, \$67,000 for Valley Brook Drive, \$50,000 for Meadowbrook Drive, \$20,000 for Harlech Drive, \$50,000 for School House Road, and \$10,000 for Hitchens Farm drainage improvements.

Section 5. Amend Chapter 83, Volume 84, Section 129 of the Laws of Delaware by making deletions as shown by strike throughs and insertions as shown by underlines as follows:

**Section 129. Port of Wilmington.** For the purpose of restructuring the loan agreement dated November 30, 2001, as amended, between the Diamond State Port Corporation (DSPC) and the Transportation Trust Fund, the Secretary of Transportation is hereby authorized and directed to cancel any notes and forego all amounts owed under the loan agreement including any outstanding principal and accrued or capitalized interest then payable as of such date of cancellation ~~defer the principal and interest payments to be made by the DSPC through Fiscal Year 2024. The Secretary of Finance shall prepare a new amortization schedule for the loan to include recapitalized interest for the foregone amounts deferred, subject to approval by the Co-Chairs of the Joint Committee on Capital Improvements.~~

Section 6. Amend Chapter 83, Volume 84, Section 138 of the Laws of Delaware by making deletions as shown by strike throughs and insertions as shown by underlines as follows:

**Section 138. Cover Crop Investment.** Section 1 Addendum of this act makes an appropriation to the Department of Agriculture for Cover Crop Investment. For Fiscal Years 2023 and 2024, up to \$400,000 may be allocated to the Delaware Nutrient Management Commission to fund alternative projects that seek to improve cover crop innovation, implementation, and accessibility throughout the state. The ~~entire~~ remaining balance of the appropriation shall be divided among the three conservation districts based on a formula agreed to by the Department and districts and administered as part of their respective cost share programs for cover crops. The conservation districts are hereby authorized to use an amount not to exceed 10 percent of the entire appropriation for direct and indirect expenses associated with administering the cover crop program.

Section 7. Amend Chapter 83, Volume 84, Section 160 of the Laws of Delaware by making deletions as shown by strike throughs and insertions as shown by underlines as follows:

**Section 160. School Construction Market Pressure Contingency Fund.** Section 1 Addendum of this Act creates a School Construction Market Pressure Contingency Fund in the Department of Education to be administered by the Secretary of Education. Notwithstanding the provisions of any other state law, the Department is authorized to transfer funds based on validated market increases and in accordance with the project certificate of necessity with the approval of the Director of the Office of Management and Budget and the Controller General. These funds shall be used to enable these districts to maintain a high level of construction quality in the environment of increased market

pressure and escalating costs for the new construction of public education classrooms. Notwithstanding any provisions of the Delaware Code to contrary, school districts are required to pay for their respective local share of each project. School districts may use the following funds to meet the local match: Minor Capital Improvement Funds, Division III Equalization, Impact Fees, and/or local funds raised in excess of those required on the certificate of necessity issued by the Department of Education. Districts may also elect to finance the local match in accordance with the provisions of Chapter 21, Title 14 of the Delaware Code upon the passage of a successful referendum for such purpose, or under authority granted pursuant to 14 Del. C. §2601. The district shall notify the Department of Education, Office of the State Treasurer, Office of Management and Budget, and Controller General’s Office, if they elect to pursue their local match through the aforementioned bonding provisions. In order to access the State funds, the district must demonstrate that the local funds are available or authorized.

(a) School Construction Market Pressure Contingency Funds, which are appropriated pursuant to Section 1 of this Act, shall be allocated as follows:

<u>District</u>	<u>Project</u>	<u>Maximum State Share</u>	<u>Maximum Local Share</u>
<u>Appoquinimink (76/24)</u>	<u>New Summit ES</u>		<u>\$698,950</u>
<u>Appoquinimink (76/24)</u>	<u>Redding MS</u>		<u>\$5,993,041</u>
<u>Cape Henlopen (60/40)</u>	<u>600 Student MS</u>		<u>\$4,789,226</u>
<u>Indian River (60/40)</u>	<u>New Sussex Central</u>	<u>\$18,000,000</u>	<u>\$12,000,000</u>
<u>Milford (74/26)</u>	<u>Milford Middle School</u>	<u>\$11,100,000</u>	<u>\$3,900,000</u>
<u>Smyrna (77/23)</u>	<u>New Elementary School</u>	<u>\$14,988,514</u>	<u>\$4,477,088</u>
<u>Smyrna (77/23)</u>	<u>Clayton Intermediate School</u>	<u>\$9,654,018</u>	<u>\$2,883,668</u>
<u>Smyrna (77/23)</u>	<u>North Smyrna ES</u>	<u>\$4,212,218</u>	<u>\$1,258,195</u>
<u>New Castle Co. Vo-Tech (62/38)</u>	<u>Hodgson Replacement</u>	<u>\$5,036,128</u>	<u>\$27,298,116</u>
<u>Sussex Vo-Tech (60/40)</u>	<u>New Sussex Vo-Tech</u>	<u>\$42,938,675</u>	<u>\$28,625,783</u>
<b><u>Total</u></b>		<b><u>\$105,929,553</u></b>	<b><u>\$91,924,067</u></b>

(b) It is the intent that the School Construction Market Pressure Contingency Fund support the escalated construction costs within the scope of each respective project’s Certificate of Necessity, as originally approved by the Department of Education. Notwithstanding the provisions of Delaware Code to the contrary, the costs associated with any expansion of scope beyond the approved Certificate of Necessity shall be considered a local obligation, unless otherwise approved by the Secretary of Education, Director of the Office of Management and Budget, and Controller General.

Section 8. Amend Chapter 83, Volume 84 of the Laws of Delaware by adding a new Section 171 by making deletions as shown by strike through and insertions as shown by underline as follows:

**Section 171. Community Transportation Funds.** Notwithstanding any provision of Title 29 of the Delaware Code to the contrary, the Department of Transportation is hereby authorized to use Community Transportation Funds for a one-time reimbursement to each of the following:

- (1) Bellevue Community Center in an amount of up to \$100,000 for an ADA-compliant ramp.
- (2) Belvedere Community Center in an amount of up to \$100,000 for the purchase of playground equipment.
- (3) Brandywine School District in an amount of up to \$100,000 for playground equipment at Lancashire Elementary.
- (4) City of Dover in an amount of up to \$90,000 for engineering design costs of Woodbrook Pond.
- (5) City of Seaford in an amount of up to \$20,000 for security equipment and public safety needs.
- (6) Delaware Agricultural Museum and Village in an amount of up to \$25,000 for electronic signage.
- (7) Kalmar Nyckel Foundation in an amount of up to \$35,000 for drydock inspection.
- (8) Leipsic Volunteer Fire Company in an amount of up to \$28,100 for a fire service vehicle and associated outfitting.
- (9) Providence Crossing Homeowners Association in an amount of up to \$100,000 for playground equipment and park improvements.
- (10) Rehoboth Beach Volunteer Fire Company in an amount of up to \$81,010 for a command vehicle and associated outfitting.
- (11) Richard Allen Coalition in an amount of up to \$50,000 for asphalt replacement.
- (12) Sussex Technical School District in an amount of up to \$150,000 for vehicles to be used for CDL training classes.
- (13) Town of Laurel in an amount of up to \$20,000 for security equipment and public safety needs.
- (14) Town of Milton in an amount of up to \$31,300 for a repaving project on Reed Street.
- (15) Village of Ardencroft in an amount up to \$13,000 for tree removal.
- (16) Wilmington Delaware Area Rotary Clubs Community Fund in an amount of up to \$50,000 for a ninja playground project.
- (17) Wilmington Institute Library in an amount of up to \$215,000 for commemorative displays at North Wilmington Library Campus Hub.

Section 9. Amend Chapter 83, Volume 84 of the Laws of Delaware by adding a new Section 172 by making deletions as shown by strike through and insertions as shown by underline as follows:

**Section 172. Community Reinvestment Fund.** Section 27 of 82 Del. Laws c. 86 appropriated funding to the Community Reinvestment Fund to assist community organizations with capital infrastructure projects. Of these projects, \$15,000 shall be reallocated from the Veterans Victory Village to the MOT Senior Center.

Section 10. Amend Chapter 83, Volume 84 of the Laws of Delaware by adding a new Section 173 by making deletions as shown by strike through and insertions as shown by underline as follows:

**Section 173. DHSS Land Donation.** Notwithstanding the provisions of 29 Del. C. c. 94, the Department of Health and Social Services is hereby authorized to donate tax parcel 26-035.10-550 located at 305 W. 8<sup>th</sup> Street, Wilmington, to the Wilmington Renaissance Corporation to be used as a public park.

Section 11. Amend Chapter 83, Volume 84 of the Laws of Delaware by adding a new Section 174 by making deletions as shown by strike through and insertions as shown by underline as follows:

**Section 174. Carvel State Office Building Mechanical Upgrades.** The Section 1 Addendum appropriates funding to the Office of Management and Budget for Carvel State Office Building Mechanical Upgrades. This appropriation may be used for the Carvel State Office Building Maintenance and Restoration window replacement project.

Section 12. Amend Chapter 83, Volume 84 of the Laws of Delaware by adding a new Section 175 by making deletions as shown by strike through and insertions as shown by underline as follows:

**Section 175. Wharton Hall Market Pressure.** The Section 1 Addendum appropriates funding to the Office of Management and Budget for Wharton Hall Market Pressure. This appropriation may be used for construction or renovations of the Cleveland White building as market pressure increases are incurred.

Section 13. Amend Chapter 83, Volume 84 of the Laws of Delaware by adding a new Section 176 by making deletions as shown by strike through and insertions as shown by underline as follows:

**Section 176. Elbert-Palmer School Sale/Transfer.** Notwithstanding any provisions or law to the contrary, the Board of Education of the Christina School District is authorized to donate, sell, or transfer all or part of parcels 2605130241 and 2605130245, known as “Elbert-Palmer School” situated at 1212 Lobdell Street and 326 Chapel Street, Wilmington, Delaware in exchange for cash. All (100%) of the value of the property received (anticipated to be \$1.00) shall be available to the District. The Christina School District shall keep the Department of Education, the Office of Management and Budget, and the Office of the Controller General informed on the progress of the disposition of the parcels.

Section 14. Amend Chapter 83, Volume 84 of the Laws of Delaware by adding a new Section 177 by making deletions as shown by strike through and insertions as shown by underline as follows:

**Section 177. Port Terminal Access Improvements.** Section 1 of 83 Del. Laws, c.56 appropriated funding to the Department of State for Port Terminal Access Improvements. Of the appropriation, \$1,200,000 may be used for the demolition of the former Elbert-Palmer School and related site work. Any remaining funds may be used for the Absalom Jones Performing Arts Center construction or renovation.

Section 15. Amend Chapter 83, Volume 84 of the Laws of Delaware by adding a new Section 178 by making deletions as shown by strike through and insertions as shown by underline as follows:

**Section 178. Caesar Rodney School District.** Notwithstanding the provisions of 29 Del. c. § 7504, Caesar Rodney School District’s Certificate of Necessity 2210B, originally set to expire on November 15, 2022, shall be extended and shall now expire on June 30, 2025.

Section 16. Amend Chapter 83, Volume 84 of the Laws of Delaware by adding a new Section 179 by making deletions as shown by strike through and insertions as shown by underline as follows:

**Section 179. Municipal Infrastructure Funds – Bowers Beach.** Municipal Infrastructure Funds appropriated in 82 Del. Laws c.86 to Bowers Beach for “Bowers Beach – Boatlift” may be utilized for Drainage Improvement projects.

Section 17. Amend Chapter 83, Volume 84 of the Laws of Delaware by adding a new Section 180 by making deletions as shown by strike through and insertions as shown by underline as follows:

**Section 180. Summit Marina.** Notwithstanding any law or provision to the contrary, the Department of Natural Resources and Environmental Control shall transfer ownership of the state-owned dredge (serial # 501390) in its current condition to Summit North Marina LLC.

Approved January 31, 2024