

State Aid for Capital Construction Costs

16 V.S.A. Chapter 123

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State Aid for School Construction Working Group

Approval and funding of school construction projects; renewable energy

- ▶ Under 16 V.S.A. Chapter 123, § 3448, a district or independent school intending to construct or purchase a new school or make extensive additions or alterations to its existing school can submit a written preliminary application to the Secretary of Education for construction aid. The preliminary application is required to include information required by State Board rule and specify the need for and purpose of the project.
- ▶ In the consideration of an application for approval, the Secretary shall consider:
 - regional educational opportunities and needs, including school building capacities across school district boundaries, and available infrastructure in neighboring communities;
 - economic efficiencies;
 - the suitability of an existing school building to continue to meet educational needs; and
 - statewide educational initiatives and the strategic plan of the State Board of Education.

- ▶ The Secretary may approve a preliminary application if:
 - ▶ the need addressed by the project cannot reasonably be met by another means;
 - ▶ the project or part of the project fulfils a need occasioned by:
 - conditions which threaten the health or safety of students or employees;
 - facilities which are inadequate to provide programs required by state or federal law or regulation;
 - excessive energy use resulting from the design of a building or reliance on fossil fuels or electric space heat; or
 - deterioration of an existing building; and
 - ▶ the proposed type, kind, quality, size, and estimated cost of the project are suitable for the proposed curriculum and meet all legal standards.

Priority

- ▶ Following approval of a preliminary application and provided that the district has voted funds or authorized a bond for the total estimated cost of a project, the State Board assigns points to the project so that the project can be placed on a priority list based on the number of points it receives.
- ▶ Points are assigned as follows:
 - First priority is given to emergency projects in excess of \$100,000.00 which address threats to the safety and health of students or employees created by unanticipated circumstances or events.
 - Second priority is given to construction projects in excess of \$10,000.00 which address a need occasioned by deterioration of an existing building or equipment which extend the useful life of the building but which do not make additions or extensive alterations to existing school facilities in which students are provided services (examples include replacement, addition, or repair to utilities; projects which address environmental quality issues; repair of a roof; replacement of an existing space-heating, water-heating, cooling, or refrigeration system; and replacement or upgrading of mechanical equipment)
 - Remaining projects given priority based on consideration of the need indicated in their application
- ▶ Under 16 V.S.A. § 3454, no State aid shall be available under Title 16 for any proposed project or construction if the Secretary finds the need for the project or construction has arisen in whole or in part from significant deferred maintenance, as defined by State Board rule.

Request for legislative appropriation

- ▶ By January 15 of each year, the State Board shall present the House and Senate Institutions Committees with its annual capital construction funding request. Following receipt of the request, the Committee on Institutions shall recommend a total school construction appropriation for the next fiscal year to the General Assembly. The General Assembly is prohibited from revising the order of the project priorities presented by the State Board.
- ▶ The funding request to the committees shall include:
 - a list of projects in order of priority, including the voted funds or authorized bond amount for each project
 - the cost of emergency projects which the State Board has approved but not yet reimbursed due to insufficient funds, and estimated cost of those that might be approved by State Board in coming fiscal year,
 - the cost of projects to extend the life of a building which the State Board has approved but not yet reimbursed due to insufficient funds, as well as the estimated cost of those which might be approved by the Board in the coming fiscal year

Final approval for construction aid

► A school district shall not begin construction before the State Board approves a final application, unless it receives approval by the Secretary for good cause. A school district may submit a written final application to the State Board at any time following approval of a preliminary application. The Board may approve a final application for a project provided that:

- the project has received preliminary approval;
 - the district has voted funds or authorized a bond for the total estimated cost of the project;
 - the district has made arrangements for project construction supervision by persons competent in the building trades;
 - the district has provided for construction financing of the project during a period prescribed by the State Board;
 - if the proposed project includes a playground, the project includes a requirement that the design and construction of playground equipment follow the guidelines set forth in the United States Consumer Product Safety Commission Handbook for Public Playground Safety; and
 - if the total estimated cost of the proposed project is less than \$50,000.00, no performance bond or irrevocable letter of credit shall be required.
- A district may begin construction upon receipt of final approval. However, a district shall not be reimbursed for debt incurred due to borrowing of funds in anticipation of aid under § 3448.

Award of construction aid & eligible construction cost

- ▶ For the majority of projects: 30 percent of the approved project costs
- ▶ For renewable energy projects: 75 percent of the approved project costs of those elements of the project specifically related to the renewable fuel source being used
- ▶ For consolidation projects: 50 percent of the approved project costs or applicable portion of the project
- ▶ Space and cost parameters: only those portions of a project shall be eligible for construction aid which meet space and cost parameters adopted by the State Board, which shall define maximum square footage costs, maximum gross square footage per student by grade range and school size, and minimum and maximum square footage allowances per student for programs and services.
- ▶ Construction costs eligible for State aid may include the cost of a preliminary land test on an approved project as required under 10 V.S.A. chapter 151 and any expenditures of federal funds for retrofitting to conserve energy or for asbestos abatement. Expenditures of federal funds for any other purpose shall not be eligible for State aid.

Payment

Upon satisfactory evidence that an approved project is under construction or has been constructed, and upon appropriation of funds sufficient to fund the State aid due under § 3448, the State Board shall certify an award for the project to the Commissioner of Finance and Management who shall issue a warrant for the payment of one-half of the award, or the entire award if the project is complete. After a project has been completed according to approved plans and specifications and the cost has been audited by the Agency of Education, the Secretary shall certify the remainder of the award due for the project to the Commissioner of Finance and Management who shall issue a warrant for the payment.

Other provisions of Chapter 123

- ▶ § 3448a addresses appeals: Any municipal corporation or independent school as defined in section 3447 of this title aggrieved by an order, allocation, or award of the State Board of Education may, within 30 days, appeal to the Superior Court in the county in which the project is located.
- ▶ § 3448b addresses repayment obligations upon sale of a school building
- ▶ § 3448f addresses funding for energy performance contracting
- ▶ § 3448e addresses funding for the construction of career and technical education facilities
 - Project must receive approval by the CTE center's regional advisory board
 - Awards are 50 percent of the approved cost of the project. If the project is undertaken in conjunction with the construction of noncareer and technical educational facilities, the approved costs shall be allocated as determined by the Secretary.
- ▶ § 3453a addresses the allocation of costs associated with wiring installation for school buildings that may be designated as an emergency operation center or shelter.
- ▶ § 3455a addresses the form of site and building plans to be submitted to the Secretary
- ▶ § 3456 addresses debt incurred due to school construction projects and a district's debt limit

Moratorium

- ▶ 2007 Acts and Resolves No. 52:
 - Sec. 36: suspension of state aid for school construction except for emergency aid and certain consolidation projects
 - Sec. 37: JFO and LC required to provide analysis of state aid for school construction
 - Sec. 38: AOE and Commissioner of Finance and Management to report on recommendations for state aid for school construction program
- ▶ 2008 Acts and Resolves No. 200:
 - Sec. 45: continues suspension of state aid because of “absence of a viable plan for funding school construction;” requires Secretary to review prelim applications of voter approved projects upon district’s request solely for the purposes of calculating excess spending
- ▶ 2009 Acts and Resolves No. 54:
 - Sec. 22: clarified preliminary approval could be used for projects to move forward with other funds besides State aid
- ▶ 2011 Acts and Resolves No. 40:
 - Sec. 43: requires report from AOE on the costs of lifting the moratorium on state aid for school construction, consideration of new funding formulas and how other states fund school construction, and recommendations about when the moratorium should be lifted

Moratorium cont.

- ▶ 2013 Acts and Resolves No. 51:
 - Sec. 45: continues suspension of state aid and declares intent to honor obligations by FY2016 to pay for projects for which state aid had been committed prior to the suspension
- ▶ 2016 Acts and Resolves No. 160: completed payment on all awards for past school construction projects
- ▶ 2021 Acts and Resolves No. 72: An act relating to addressing the needs and conditions of public school facilities in the State
 - Required AOE to update the school construction facilities standards on or before 1/15/23
 - Required AOE to update and adopt the Capital Outlay Financing Formula on or before 1/15/23
 - Required school facilities inventory and conditions assessment
 - Required AOE to report on recommendations on a State aid to school construction program on or before 1/15/23
- ▶ 2023 Acts and Resolves No. 78:
 - Sec. E.131.1 creates School Construction Aid Task Force to examine, evaluate, and report on issues relating to school construction
 - School Construction Aid Taskforce Report
- ▶ 2024 Acts and Resolves No. 149: creates State Aid for School Construction Working Group