

## CHAPTER 609

### SCHOOL CONSTRUCTION

#### §15901. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1981, c. 693, §§5, 8 (NEW).]

**1. Concept approval.** "Concept approval" means the initial approval of a school construction project by the state board which indicates:

- A. Acknowledgment of the local need; [PL 1981, c. 693, §§5, 8 (NEW).]
- B. Approval of the preliminary design; [PL 1981, c. 693, §§5, 8 (NEW).]
- C. Approval of estimated costs; and [PL 1981, c. 693, §§5, 8 (NEW).]

D. The state board's intent to issue design and funding approval subject to a favorable local vote and approval of final cost estimates. [PL 2013, c. 167, Pt. B, §2 (AMD).]  
[PL 2013, c. 167, Pt. B, §2 (AMD).]

**1-A. Design and funding approval.** "Design and funding approval" means approval by the state board indicating that a school construction project's drawings and specifications have been developed to 100% completion, the project has gained the recommendations of the department and the school administrative unit is authorized to seek bids for the work.  
[PL 2013, c. 167, Pt. B, §3 (NEW).]

**2. Maintenance of plant.** "Maintenance of plant" means those activities concerned with keeping the grounds, buildings and equipment at their original condition of completeness or efficiency either through repairs or by replacement of property.  
[PL 1981, c. 693, §§5, 8 (NEW).]

**3. Major capital cost.** "Major capital cost" means school construction projects and may include the cost for equipment approved under a school construction project.  
[PL 1981, c. 693, §§5, 8 (NEW).]

**4. School construction project.** "School construction project" means:

- A. On-site additions to existing schools; [PL 1981, c. 693, §§5, 8 (NEW).]
- B. New schools; [PL 1981, c. 693, §§5, 8 (NEW).]
- C. The cost of land acquired in conjunction with projects otherwise defined by this subsection; [PL 1983, c. 612 (AMD).]
- D. The building of or acquisition of other facilities related to the operation of school administrative units; [PL 1981, c. 693, §§5, 8 (NEW).]
- E. The complete restoration of existing school buildings in lieu of replacement when in the judgment of the commissioner the action is in the best interest of the State and local unit; and [PL 1983, c. 613 (RPR).]
- F. Off-site construction only if, in the judgment of the commissioner, it is economically in the best interests of the State or there is no other practical way to complete a project. [PL 2005, c. 683, Pt. B, §12 (AMD).]

"School construction project" does not mean the purchase, lease-purchase or construction of portable temporary classroom space, as defined in section 15672, subsection 21-B, the lease-purchase of bus

garage and maintenance facilities or a permanent space lease-purchase project as defined in section 15901, subsection 4-B.

[PL 2005, c. 683, Pt. B, §12 (AMD).]

**4-A. Small scale school construction project.** "Small scale school construction project" means a project that will not be eligible for state subsidy and is limited to:

A. New buildings not exceeding 600 square feet in gross area to be utilized solely for storage or custodial work, or both; or [PL 1985, c. 248, §2 (NEW).]

B. On-site additions to existing school buildings not exceeding 600 square feet in gross area. [PL 1985, c. 248, §2 (NEW).]

"Small scale school construction project" does not mean the purchase, lease-purchase or construction of portable temporary classroom space, as defined in section 15672, subsection 21-B, or the lease-purchase of bus garage and maintenance facilities.

[PL 2005, c. 683, Pt. B, §13 (AMD).]

**4-B. Permanent space lease-purchase project.** "Permanent space lease-purchase project" means the lease-purchase of permanent administrative space or permanent small nonadministrative or instructional space whose costs are wholly or partially eligible as debt service costs for subsidy purposes under section 15672, subsection 2-A, paragraph B, subparagraph (1) or subparagraph (3). "Permanent space lease-purchase project" does not mean the purchase, lease-purchase or construction of portable temporary classroom space, as defined in section 15672, subsection 21-B, or the lease-purchase of bus garage and maintenance facilities.

[PL 2005, c. 683, Pt. B, §14 (AMD).]

**5. Total cost of school construction projects.** "Total costs of school construction projects" means all costs related to or incidental to the project, except financing costs and proceeds from insured losses. [PL 1981, c. 693, §§5, 8 (NEW).]

**6. School administrative unit.** "School administrative unit" means a school administrative unit as defined by section 1, subsection 26 and a career and technical education region as defined by section 8301-A, subsection 6, except that in section 15907, the reference to "unit" or "school administrative unit" means a unit within a career and technical education region.

[RR 1991, c. 2, §71 (COR); PL 2003, c. 545, §5 (REV).]

**7. School board.** "School board" means a school board as defined in section 1, subsection 28 and the cooperative board of a career and technical education region.

[RR 1991, c. 2, §71 (COR); PL 2003, c. 545, §5 (REV).]

**8. Superintendent.** "Superintendent" means a superintendent as defined by section 1, subsection 39, and the director of a career and technical education region, if that person had been appointed to serve as administrative officer of the region, or the superintendent who has been appointed to serve as ex officio administrative officer.

[RR 1991, c. 2, §71 (COR); PL 2003, c. 545, §5 (REV).]

## SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 1983, c. 612 (AMD). PL 1983, c. 613 (AMD). PL 1985, c. 248, §2 (AMD). PL 1987, c. 98, §5 (AMD). PL 1989, c. 466, §§5,6 (AMD). RR 1991, c. 2, §71 (COR). PL 1991, c. 268, §§5,6 (AMD). PL 1999, c. 81, §§6,7 (AMD). PL 2003, c. 545, §5 (REV). PL 2005, c. 683, §§B12-14 (AMD). PL 2013, c. 167, Pt. B, §§2, 3 (AMD).

## §15902. Administrative units

**1. Building committee.** The legislative body of a school administrative unit may establish a special building committee at a regular or specially called meeting held prior to a school construction project receiving the concept approval provided in section 15901. If the legislative body does not

establish a special building committee, the school board shall act as the building committee and may delegate the powers and duties of the building committee to the superintendent. If a vacancy occurs in the membership of a special building committee established under this subsection by the legislative body, the legislative body may fill that vacancy. The powers and duties of the building committee must be determined at the time of its establishment by the legislative body of the school administrative unit, or by the school board when it acts as the building committee and delegates those powers and duties to the superintendent. Powers and duties not assigned to the building committee that are not specifically delegated to other entities in this section remain with the school board.

[PL 1993, c. 197, §1 (AMD).]

**2. School board approval.** A plan for a school construction project voted for by a school administrative unit shall be approved by the school board.

[PL 1981, c. 693, §§5, 8 (NEW).]

**3. Authority to sell bonds.** A school administrative unit may sell bonds to raise the local share of project costs.

[PL 1981, c. 693, §§5, 8 (NEW).]

**4. Final report to commissioner.** On the completion of a school construction project or a permanent space lease-purchase project, the building committee shall certify to the commissioner that the construction project has been completed in conformity with the approved plans and specifications.

[PL 1999, c. 81, §8 (AMD).]

#### SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 1993, c. 197, §1 (AMD). PL 1999, c. 81, §8 (AMD).

#### §15903. Approval of plans and specifications

**1. Application.** A school construction project, permanent space lease-purchase project or the minor capital costs of a project with an estimated cost of more than \$50,000 must meet the requirements of this section.

[PL 1999, c. 81, §9 (AMD).]

**2. Requirements.** The plans and specifications shall contain suitable provision for the health, welfare and safety of persons who will utilize the project.

[PL 1981, c. 693, §§5, 8 (NEW).]

**3. Approval.**

[PL 2019, c. 398, §38 (RP).]

**4. Changes.** Changes in the plans and specifications shall be approved by the department.

[PL 1981, c. 693, §§5, 8 (NEW).]

**5. Inspection and compliance.** Review and inspection of school construction projects and permanent space lease-purchase projects for compliance with approved plans and specifications must be provided in accordance with this subsection.

A. If it appears to the commissioner that the school construction project or permanent space lease-purchase project has not been completed in conformity with the approved plans and specifications, the commissioner may cause an inspection of the project to take place. [PL 1999, c. 81, §10 (AMD).]

B. Upon receipt by the commissioner of a written petition from one or more residents of the school administrative unit where the school construction project or permanent space lease-purchase project is located claiming that the project has not been completed in conformity with the approved plans and specifications, the commissioner shall cause an inspection of the project to be made or shall issue a written explanation to the petitioner or petitioners explaining the commissioner's refusal to do so. The petitioner or petitioners shall certify as part of the petition that the claim of

nonconformance has been brought to the attention of the superintendent of the school administrative unit in which the school construction project or permanent space lease-purchase project is located and that the superintendent has failed to respond in a satisfactory manner to that claim. [PL 1999, c. 81, §10 (AMD).]

C. If an investigation is held, the commissioner shall notify the building committee, or legislative body of the school administrative unit when no building committee exists, of the findings of the investigation and of any changes required. The building committee or legislative body of the school administrative unit shall make the changes within a reasonable period of time. Failure to do so shall render the school administrative unit liable to the penalties provided in section 6801-A. [PL 1987, c. 379 (NEW).]

[PL 1999, c. 81, §10 (AMD).]

#### SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 1983, c. 35 (AMD). PL 1985, c. 785, §A93 (AMD). PL 1987, c. 379 (AMD). PL 1999, c. 81, §§9,10 (AMD). PL 2003, c. 689, §B6 (REV). PL 2011, c. 691, Pt. B, §21 (AMD). PL 2019, c. 398, §38 (AMD).

#### §15904. Local vote

Prior to design and funding approval by the state board, a school construction project, except a small scale school construction project as defined in section 15901, subsection 4-A, must receive a favorable vote conducted in accordance with the following. [PL 2013, c. 167, Pt. B, §4 (AMD).]

**1. Municipal schools.** In a municipality where the responsibility for final adoption of the school budget is vested in a municipal council by municipal charter or in a town meeting, the vote shall be by referendum in accordance with the appropriate provisions set forth in Title 21-A and Title 30-A, except that the filing requirement contained in Title 30-A, section 2528, subsection 5, does not apply. [PL 1987, c. 737, Pt. C, §§60, 106 (RPR); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**2. School administrative districts.** In a school administrative district the vote must be conducted in accordance with section 1305 or sections 1351 to 1354. [PL 1999, c. 81, §11 (AMD).]

**3. Community school districts.** In a community school district, the vote shall be conducted in accordance with Title 30-A, sections 2528 to 2532. The return and counting of votes shall be conducted in accordance with the procedures established in section 1353, subsection 3. The district school committee shall:

A. Issue a warrant ordering the municipalities within the district to place the school construction article on the ballot; and [PL 1981, c. 693, §§5, 8 (NEW).]

B. Prepare and furnish the required number of ballots for carrying out the vote. [PL 1981, c. 693, §§5, 8 (NEW).]

[PL 1987, c. 737, Pt. C, §§61, 106 (AMD); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**3-A. Regional school units.** In a regional school unit, the vote must be conducted in accordance with chapter 103-A.

[PL 2007, c. 240, Pt. XXXX, §35 (NEW).]

**4. Form.** The article shall indicate:

A. [PL 1985, c. 248, §5 (RP).]

B. [PL 1985, c. 248, §5 (RP).]

C. [PL 2005, c. 12, Pt. WW, §8 (RP).]

D. The estimated amount of the additional operating costs during each of the first 2 years; and [PL 1981, c. 693, §§5, 8 (NEW).]

E. The school administrative unit is responsible for the local share of annual principal and interest payments for this school construction project included in the total cost of education appropriated pursuant to section 15690, subsection 1, if any, and for the annual principal and interest payments for the non-state-funded portion of this school construction project. [PL 2005, c. 12, Pt. WW, §9 (AMD).]

[PL 2005, c. 12, Pt. WW, §§8, 9 (AMD).]

**5. Career and technical education regions.** In a career and technical education region, the vote must be conducted in accordance with sections 1351 to 1354 and section 8465. References in sections 1351 to 1354 to school administrative unit and board of directors mean "career and technical education region" and "cooperative board," respectively.

[RR 1991, c. 2, §72 (COR); PL 2003, c. 545, §5 (REV).]

**6. Permanent space lease-purchase projects.** A permanent space lease-purchase project, as defined in section 15901, subsection 4-B, whose costs are wholly eligible as debt service costs for subsidy purposes under section 15672, subsection 2-A, paragraph B must receive a favorable vote of the legislative body of the school administrative unit. A permanent space lease-purchase project whose lease-purchase costs are not eligible as debt service costs for subsidy purposes under section 15672, subsection 2-A, paragraph B must receive a favorable vote of the legislative body conducted in accordance with this section, except that subsection 4 does not apply. The vote may authorize the school board or school committee to enter into a mortgage, security interest or other encumbrance on the permanent space lease-purchase project determined to be necessary for the permanent space lease-purchase project.

[PL 2005, c. 683, Pt. B, §15 (AMD).]

**SECTION HISTORY**

PL 1981, c. 693, §§5,8 (NEW). PL 1985, c. 161, §4 (AMD). PL 1985, c. 248, §§3-5 (AMD). PL 1985, c. 506, §§B15,16,18 (AMD). PL 1985, c. 570, §§1,2 (AMD). PL 1985, c. 737, §A46 (AMD). PL 1987, c. 98, §§6,7 (AMD). PL 1987, c. 402, §A131 (AMD). PL 1987, c. 737, §§C60,C61, C106 (AMD). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,C10 (AMD). RR 1991, c. 2, §72 (COR). PL 1999, c. 81, §§11,12 (AMD). PL 2003, c. 545, §5 (REV). PL 2005, c. 12, §§WW8,9 (AMD). PL 2005, c. 683, §B15 (AMD). PL 2007, c. 240, Pt. XXXX, §35 (AMD). PL 2013, c. 167, Pt. B, §4 (AMD).

**§15905. State board**

**1. Approval authority.** The state board must approve each school construction project, unless it is a small scale school construction project as defined in section 15901, subsection 4-A, a nonstate funded project as defined in section 15905-A or a permanent space lease-purchase project.

A. The state board may approve projects as long as no project approval will cause debt service costs, as defined in section 15672, subsection 2-A, paragraph A and pursuant to rules adopted in accordance with Resolve 2007, chapter 223, section 4, to exceed the maximum limits specified in Table 1 and Table 2 in subsequent fiscal years.

Table 1

Fiscal year	Major Capital	Integrated, Consolidated Secondary and Postsecondary Project
	Maximum Debt Service Limit	Maximum Debt Service Limit
1990	\$ 48,000,000	
1991	\$ 57,000,000	
1992	\$ 65,000,000	

1993	\$ 67,000,000	
1994	\$ 67,000,000	
1995	\$ 67,000,000	
1996	\$ 67,000,000	
1997	\$ 67,000,000	
1998	\$ 67,000,000	
1999	\$ 69,000,000	
2000	\$ 72,000,000	
2001	\$ 74,000,000	
2002	\$ 74,000,000	
2003	\$ 80,000,000	
2004	\$ 80,000,000	
2005	\$ 84,000,000	
2006	\$ 90,000,000	
2007	\$ 96,000,000	
2008	\$100,000,000	
2009	\$104,000,000	
2010	\$108,000,000	
2011	\$126,000,000	
2012	\$116,000,000	
2013	\$116,000,000	
2014	\$126,000,000	\$10,000,000
2015	\$126,000,000	\$10,000,000
2016	\$126,000,000	\$10,000,000
2017	\$126,000,000	\$10,000,000
2018	\$126,000,000	\$10,000,000
2019	\$126,000,000	\$10,000,000
2020	\$126,000,000	\$20,000,000
2021	\$126,000,000	\$20,000,000
2022	\$126,000,000	\$20,000,000
2023	\$126,000,000	\$20,000,000

Table 2

Fiscal year	Maximum Debt Service Limit
2024	\$150,000,000
2025	\$150,000,000
2026	\$150,000,000
2027	\$150,000,000

[PL 2023, c. 462, §1 (AMD).]

A-1. Beginning with the second regular session of the Legislature in fiscal year 1990 and every other year thereafter, on or before March 1st, the commissioner shall recommend to the Legislature and the Legislature shall establish maximum debt service limits for the next 2 biennia for which debt service limits have not been set for capital projects, including major projects and integrated, consolidated secondary and postsecondary projects. [PL 2019, c. 616, Pt. C, §10 (AMD).]

B. Nonstate funded projects, such as school construction projects or portions of projects financed by proceeds from insured losses, money from federal sources, other noneducational funds or local funds that are not eligible for inclusion in an administrative unit's state-local allocation, are outside the total cost limitations set by the Legislature. [PL 1999, c. 81, §13 (AMD).]

[PL 2023, c. 462, §1 (AMD).]

**2. Secondary school construction project limitations.** The state board may approve a secondary school construction project designed to accommodate fewer than 300 pupils only if the state board has determined that the school will have an adequate educational program. The board may not approve a secondary school construction project if fewer than 10 full-time teachers will be employed at the school, unless the location of the school would be geographically isolated.

[PL 1981, c. 693, §§5, 8 (NEW).]

**3. Certificate of approval.** A certificate of approval must be issued by the commissioner for each project for which design and funding approval has been given by the state board. The certificate must bear the amount approved for subsidy and other stipulations or conditions. The certificate must be signed by the commissioner and is conclusive evidence of the facts stated on it.

[PL 2013, c. 167, Pt. B, §5 (AMD).]

**4. Rules.** The state board may adopt or amend rules relating to the approval of school construction projects. Rules adopted pursuant to this subsection relating to the approval of major capital school construction projects under this chapter are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

The state board is encouraged to review school construction rules regarding costs per square foot, consider other measures for containing building costs and report on these efforts to the joint standing committee of the Legislature having jurisdiction over education matters during the First Regular Session of the 115th Legislature. On or before February 1, 1994 the state board shall adopt rules for approving movable equipment costs for school construction.

[PL 2005, c. 683, Pt. J, §1 (AMD); PL 2005, c. 683, Pt. J, §2 (AFF).]

**5. Approval criteria.** In approving school construction projects, the state board shall ensure that school administrative units have made efficient use of existing school facilities within the unit and have explored and when feasible developed agreements for sharing facilities with neighboring school administrative units.

[PL 1993, c. 410, Pt. ZZZ, §1 (NEW).]

**6. Facility maintenance plan required.** The state board shall require a school administrative unit applying for state funds for a school construction project to establish a facility maintenance plan for the projected life cycle of the proposed school building.

[PL 2013, c. 506, §17 (AMD).]

**7. Interest-only interim local financing.** Notwithstanding any provision of law or rule to the contrary, the state board may accelerate the dates on which it grants concept approval and funding approval for a school construction project that has been placed on the special priority list of the state board on the condition that the school administrative unit provide interest-only interim local financing for the project in accordance with this subsection. The period of interest-only interim local financing must be determined by the state board at the time concept approval is granted for a project and must be based on the time difference between the date that final funding approval is expected to be granted on an accelerated basis and the date that final funding approval would have been expected to be granted in the normal course. The period of interim local financing for a project may not exceed 5 years.

Notwithstanding any provision of law or rule to the contrary, a school administrative unit, including a school administrative unit established by private and special law, authorized to issue securities for school construction purposes may issue its securities for school construction purposes on an interest-only basis during a period of interest-only interim local financing approved by the state board in accordance with this subsection. The period of interest-only interim local financing must precede, and be in addition to, the periods for interest payments and principal payments otherwise established pursuant to the school construction rules of the state board. The length of the period of interest-only interim local financing and the length of the debt service schedule otherwise established must be clearly stated on the face of the securities.

The interest-only payments made by a school administrative unit during the period of interim financing must be paid from local funds without state participation and may not be included in the unit's debt service costs for state subsidy purposes under section 15672, subsection 2-A. Such interest-only payments during the period of interim local financing may not be considered debt service costs as defined in section 15672, subsection 2-A for purposes of calculating amounts subject to the debt service limit established by this section.

The referendum question that is submitted to the voters for a project subject to interest-only interim local financing under this subsection must include, in addition to the information required by section 15904, an informational statement that sets forth the length of the period of interest-only interim financing established by the state board, an estimate of the annual interest cost during the period of interest-only interim local financing and a statement that the interest-only payments during the period of interim local financing is not eligible for inclusion in the debt service allocation of the school administrative unit for purposes of calculating state school construction subsidy to the unit.

The maximum period that securities for a school construction project may be outstanding under any applicable statute or rule must be extended by the length of the period of interest-only interim local financing approved by the state board under this subsection.

If the voters of a school administrative unit do not vote to approve a school construction project subject to interest-only interim local financing under this subsection, the unit's school construction project remains eligible for concept and funding approval from the state board at the time that the project would be eligible for such approval without interest-only interim location funding.

[PL 2005, c. 683, Pt. B, §16 (AMD).]

#### SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 1983, c. 426, §3 (AMD). PL 1983, c. 859, §§L1,L3 (AMD). PL 1985, c. 248, §6 (AMD). PL 1985, c. 469 (AMD). PL 1985, c. 737, §A47 (AMD). PL 1985, c. 780, §1 (AMD). PL 1987, c. 395, §B1 (AMD). PL 1987, c. 402, §A132 (AMD). PL 1987, c. 803, §§1,2,5 (AMD). PL 1989, c. 911, §§9,10 (AMD). PL 1991, c. 875 (AMD). PL 1993, c. 324, §3 (AMD). PL 1993, c. 410, §§F20,ZZZ1 (AMD). PL 1993, c. 693, §1 (AMD). PL 1995, c. 632, §§1,2 (AMD). PL 1997, c. 397, §1 (AMD). PL 1997, c. 469, §2 (AMD). PL 1999, c. 81, §13 (AMD). PL 1999, c. 731, §§YY3,4 (AMD). PL 2001, c. 439, §OOOO1 (AMD). PL 2003, c. 673, §N2 (AMD). PL 2005, c. 519, §J3 (AMD). PL 2005, c. 595, §1 (AMD). PL 2005, c. 595, §2 (AFF). PL 2005, c. 683, §§B16,J1 (AMD). PL 2005, c. 683, §J2 (AFF). PL 2007, c. 539, Pt. C, §16 (AMD). PL 2011, c. 1, Pt. E, §1 (AMD). PL 2011, c. 678, Pt. D, §1 (AMD). PL 2013, c. 44, §1 (AMD). PL 2013, c. 167, Pt. B, §5 (AMD). PL 2013, c. 506, §17 (AMD). PL 2015, c. 267, Pt. C, §15 (AMD). PL 2015, c. 389, Pt. C, §10 (AMD). PL 2017, c. 284, Pt. C, §56 (AMD). PL 2019, c. 616, Pt. C, §§9, 10 (AMD). PL 2023, c. 462, §1 (AMD).

#### §15905-A. Approval of nonstate funded projects

**1. Approval authority.** The commissioner must approve each nonstate funded project.  
[PL 1987, c. 395, Pt. A, §87 (NEW).]

**2. Rules.** The commissioner may adopt or amend rules relating to the approval of nonstate funded projects.  
[PL 1987, c. 395, Pt. A, §87 (NEW).]

**3. Local vote.** Prior to approval by the commissioner, each nonstate funded project, except a municipal school construction project pursuant to subsection 4, must receive a favorable vote in accordance with section 15904, except that section 15904, subsection 4 does not apply.  
[PL 1999, c. 95, §1 (AMD).]

**4. Municipal schools.** In a municipal school unit where the responsibility for final adoption of the school budget is vested in the municipal council by municipal charter, a nonstate funded project may be approved without a referendum vote if the charter does not require a referendum.  
[PL 1999, c. 95, §2 (NEW).]

#### SECTION HISTORY

PL 1987, c. 395, §A87 (NEW). PL 1991, c. 655, §10 (AMD). PL 1999, c. 95, §§1,2 (AMD).

#### §15906. Suits challenging school bond issues, security required

In any action challenging the validity of the issuance of bonds for a school construction project authorized and approved under this chapter, or seeking to enjoin the commencement, construction or completion of any such school construction project, the following shall apply. [PL 1981, c. 693, §§ 5, 8 (NEW).]

**1. The plaintiff to provide security.** If the court has granted a motion to dismiss or has granted summary judgment against the plaintiff, the court may require the plaintiff to provide security during the period of any appeal from that judgment to cover any costs or damages as may be incurred or suffered by any party resulting from delay of the project, including any loss of purchasing power during the period of delay.  
[PL 1981, c. 693, §§ 5, 8 (NEW).]

**2. The amount of security.** In determining the amount of security to be required, the court shall consider a recognized index of building costs, the consumer price index and other relevant evidence concerning the cost of the project and the estimated period of delay during the appeal.  
[PL 1981, c. 693, §§ 5, 8 (NEW).]

#### SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW).

#### §15907. Payment

**1. Payment of State's share.** The state allocation for debt service costs must be paid by the commissioner to each unit according to that unit's debt retirement schedule and rules adopted pursuant to this chapter.

A. For all current and future debt service costs payable by a school administrative unit to the Maine Municipal Bond Bank, the state allocation for debt service costs must be paid by the commissioner to the bond bank or its designated trustee one business day prior to the date of the unit's next debt service cost payment as outlined in the unit's debt retirement schedule and in accordance with rules adopted pursuant to this chapter. If the payment date falls on a Monday, payment must be made to the bond bank on the preceding Friday. [PL 1997, c. 787, §10 (NEW).]

B. At least 60 days prior to the date of the school administrative unit's next debt service cost as outlined in the unit's debt retirement schedule, the commissioner shall inform the bond bank as to the unit's state share of debt service for its next debt service payment. [PL 1997, c. 787, §10 (NEW).]

[PL 1997, c. 787, §10 (AMD).]

**2. Payment of local share.** A school administrative unit shall pay the local share of their project costs.  
[PL 1981, c. 693, §§ 5, 8 (NEW).]

**3. Local funds not included in state-local allocation.**

[PL 1985, c. 248, §7 (RP).]

#### SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 1983, c. 426, §4 (AMD). PL 1985, c. 248, §7 (AMD). PL 1997, c. 787, §10 (AMD).

### §15908. Design limits

**1. Technical assistance.** In order to provide the technical assistance required by the state board in assessing proposed school construction projects, the department may contract for the services of a professional engineer whenever the department is not employing qualified personnel on a full-time basis.

[PL 2019, c. 398, §39 (AMD).]

**2. Energy conservation standards.** The state board shall approve only those projects which have been designed in accordance with rigorous standards for the conservation of energy.

[PL 1981, c. 693, §§5, 8 (NEW).]

**3. Life-cycle costs.** The department may not approve the plans and specifications of a project that does not meet the requirements of Title 5, chapter 153, subchapter 1-A.

[PL 2019, c. 398, §40 (AMD).]

**4. Consistent siting.** The state board shall adopt criteria governing applications under this chapter to direct construction projects for new schools to areas determined suitable under the provisions of Title 30-A, chapter 187, subchapter II, by the municipality within which the project will be located. The board may not require a minimum contiguous parcel size for the project as a condition of approval.

[PL 1993, c. 721, Pt. B, §1 (NEW); PL 1993, c. 721, Pt. H, §1 (AFF).]

**5. Backup energy generators.** In the case of a school construction project in which the school is expected to be used as a community shelter, the state board may approve only those projects designed to accommodate backup energy generators.

[PL 2005, c. 634, §9 (NEW).]

### SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 1993, c. 721, §B1 (AMD). PL 1993, c. 721, §H1 (AFF). PL 2005, c. 634, §9 (AMD). PL 2011, c. 691, Pt. B, §22 (AMD). PL 2019, c. 398, §§39, 40 (AMD).

### §15908-A. School energy efficiency standards rules

**1. Definition.** For purposes of this section, "substantially renovated" means any renovation for which the cost exceeds 50% of the building's current value prior to renovation.

[PL 2003, c. 497, §2 (NEW); PL 2003, c. 497, §5 (AFF).]

**2. Rules.** The state board, in consultation with the Department of Administrative and Financial Services and the Public Utilities Commission, shall by rule require as a condition for state funding for construction that, except as provided in subsection 4, all planning and design for new or substantially renovated schools or school buildings subject to state board approval:

A. Involve consideration of architectural designs and energy systems that show the greatest net benefit over the life of the building by minimizing long-term energy and operating costs; [PL 2003, c. 497, §2 (NEW); PL 2003, c. 497, §5 (AFF).]

B. Include an energy-use target that exceeds by at least 20% the energy efficiency standards in effect for commercial and institutional buildings pursuant to the Maine Uniform Building and Energy Code under Title 10, chapter 1103; and [PL 2017, c. 475, Pt. C, §3 (AMD).]

C. Include a life-cycle cost analysis that explicitly considers cost and benefits over a minimum of 30 years and that explicitly includes the public health and environmental benefits associated with energy-efficient building design and construction, to the extent they can be reasonably quantified. [PL 2003, c. 497, §2 (NEW); PL 2003, c. 497, §5 (AFF).]

The state board shall adopt rules pursuant to this section by July 1, 2004. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2017, c. 475, Pt. C, §3 (AMD).]

**3. Requirements for approval.** Except as provided in subsection 4, the state board shall withhold approval of a state-funded new or substantially renovated school or school building if the local school authority proposing the project can not show that it has duly considered the most energy-efficient and environmentally efficient designs suitable in accordance with rules adopted pursuant to this section. [PL 2007, c. 578, §1 (AMD).]

**4. Renovation of historic school buildings; waiver.** The state board may, in consultation with the Public Utilities Commission and the Executive Director of the State Historic Preservation Commission, grant a waiver from the requirements of this section on a case-by-case basis for instances of substantial renovation of a historic school building. For the purposes of this subsection, "historic school building" means a school building that is on the National Register of Historic Places, eligible for nomination to the national register or designated as a historic building by a certified municipal historic preservation ordinance.

A. The state board shall grant a waiver request if, in the board's opinion, the local school authority proposing the renovation project has demonstrated that renovation of the historic school building would not compromise the public health and safety requirements of this chapter and that 2 or more of the following circumstances exist:

(1) Renovation of the historic school building is in substantial compliance with the energy efficiency standards required under this section as determined by the Public Utilities Commission;

(2) Renovation of the historic school building provides substantial energy efficiency as determined by the Public Utilities Commission and also provides education, social or environmental benefits as determined by the department over alternative proposals, including, but not limited to, any proposals to construct a new school on an alternative site; and

(3) Adherence to the energy building standards would result in irreparable damage to the historic character of a historic school building as determined by the Executive Director of the State Historic Preservation Commission. [PL 2007, c. 578, §1 (NEW).]

B. An application for a waiver from the requirements of this section must be submitted to the state board in accordance with requirements established by the state board by rule pursuant to paragraph D. The waiver application must include documentation to substantiate the conditions of this subsection. If the request is denied, the state board shall communicate the reasons for denying the request to the applicant. [PL 2007, c. 578, §1 (NEW).]

C. The state board shall render a decision on an application for a waiver from the requirements of this section within 60 days of the receipt by the state board of a complete application for a waiver. In rendering a decision, the state board may place conditions upon the granting of a waiver. Failure on the part of the state board to render a decision within the 60-day period constitutes approval of the request for the waiver. [PL 2007, c. 578, §1 (NEW).]

D. The state board shall adopt or amend rules to implement the requirements of this subsection. Rules adopted under this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2007, c. 578, §1 (NEW).]

[PL 2007, c. 578, §1 (NEW).]

#### SECTION HISTORY

PL 2003, c. 497, §2 (NEW). PL 2003, c. 497, §5 (AFF). PL 2007, c. 578, §1 (AMD). PL 2017, c. 475, Pt. C, §3 (AMD).

**§15908-B. Heating systems**

In approving school construction projects, the state board shall ensure that school administrative units have considered heating systems that use renewable, locally sourced wood-based fuels and that benefit the State's economy and reduce carbon dioxide emissions in all planning and design for new or substantially renovated schools or school buildings subject to state board approval. [PL 2019, c. 53, §1 (NEW).]

As used in this section, "substantially renovated" has the same meaning as in section 15908-A, subsection 1. [PL 2019, c. 53, §1 (NEW).]

**SECTION HISTORY**

PL 2019, c. 53, §1 (NEW).

**§15909. Financing****1. Rate of construction aid.**

[PL 2011, c. 678, Pt. C, §4 (RP).]

**2. Bonds.** A school administrative unit shall sell bonds in its name for the total cost of a school construction project minus the amounts listed in paragraph A. Bond sales must be consistent with rules adopted or amended by the state board.

A. The amount to be bonded must be determined as follows. The total cost of the project must be reduced by:

- (2) Proceeds from insured losses;
- (3) Money from federal sources; and
- (4) Other noneducational funds, except gifts and money from federal revenue sharing sources. [PL 2011, c. 678, Pt. C, §5 (AMD).]

B. A school administrative unit may borrow money for projects in anticipation of bond sales. Borrowing must be consistent with rules adopted or amended by the state board. [PL 2011, c. 678, Pt. C, §5 (AMD).]

[PL 2011, c. 678, Pt. C, §5 (AMD).]

**3. Deductions; cost of project.** Proceeds from insured losses, money from federal sources and other noneducational funds must be deducted from the total cost of a school construction project to determine the amount on which the state's share must be calculated. Proceeds from gifts or moneys from federal revenue sharing sources must be treated as local appropriations.

[PL 2011, c. 678, Pt. C, §6 (AMD).]

**4. Construction projects approved in fiscal year 1984-85.**

[PL 2011, c. 678, Pt. C, §7 (RP).]

**5. Records.** All records for a school construction project must be kept for 7 years after the final compliance review.

[PL 2013, c. 167, Pt. B, §6 (AMD).]

**6. Compliance review.** All records for state-funded school construction projects must be reviewed for compliance by department staff or certified public accountants under contract with the department.

[PL 2013, c. 167, Pt. B, §6 (AMD).]

**SECTION HISTORY**

PL 1981, c. 693, §§5,8 (NEW). PL 1983, c. 426, §§5,6 (AMD). PL 1985, c. 248, §§8-10 (AMD). PL 1985, c. 506, §§B17,18 (AMD). PL 1987, c. 402, §A133 (AMD). PL 1987, c. 803, §§3,5

(AMD). PL 2011, c. 678, Pt. A, §8 (AMD). PL 2011, c. 678, Pt. C, §§4-7 (AMD). PL 2013, c. 167, Pt. B, §6 (AMD).

### §15910. Requirements

The following requirements shall apply to a school construction project. [PL 1981, c. 693, §§5, 8 (NEW).]

**1. Applications.** An application for approval of a project shall include the information required by the state board.

[PL 1981, c. 693, §§5, 8 (NEW).]

**2. Reports.** A school administrative unit shall file:

A. A copy of the debt retirement schedule with the commissioner as soon as bonds are sold; and [PL 1981, c. 693, §§5, 8 (NEW).]

B. A final report on a project to include any information the commissioner may require. This report shall be made within the time specified by rule by the commissioner. [PL 1981, c. 693, §§5, 8 (NEW).]

[PL 1981, c. 693, §§5, 8 (NEW).]

**3. Penalty.** Failure to submit accurate reports within specified times shall be deemed sufficient cause for withholding school construction aid until the school administrative unit complies.

[PL 1981, c. 693, §§5, 8 (NEW).]

**4. Time of signing.** A school administrative unit may not sign a contract for construction or begin construction until the final plans and specifications have been approved by the commissioner, the Bureau of General Services, the Department of Health and Human Services and the State Fire Marshal. [PL 2011, c. 691, Pt. B, §23 (AMD).]

### SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 2003, c. 689, §B6 (REV). PL 2011, c. 691, Pt. B, §23 (AMD).

### §15911. Community services; conditions of approval

The state board may approve construction of school buildings without obligating the State to pay a share of the costs of those buildings, if those portions are to be constructed to fulfill a community service need. [PL 1981, c. 693, §§ 5, 8 (NEW).]

**1. Community service.** "Community service" means a service which does not fulfill an educational purpose or which is not restricted to a school-age population.

[PL 1981, c. 693, §§ 5, 8 (NEW).]

**2. Breakdown of costs.** If construction of facilities to meet a community service need occurs in conjunction with a school construction project, the board shall:

A. Require a breakdown of costs for the entire project; and [PL 1981, c. 693, §§ 5, 8 (NEW).]

B. Approve a plan as to how operating costs, including repairs, shall be shared by agreement between the municipal officers and the school board. [PL 1981, c. 693, §§ 5, 8 (NEW).]

[PL 1981, c. 693, §§5, 8 (NEW).]

**3. Findings.** The state board's finding shall become a part of the certificate of approval and shall be the basis on which all costs shall be apportioned between the municipality and the school administrative unit for as long as that portion of the project shall:

A. Continue to serve that community need; and [PL 1981, c. 693, §§ 5, 8 (NEW).]

B. Remain under the control of persons other than the school board. [PL 1981, c. 693, §§ 5, 8 (NEW).]

[PL 1981, c. 693, §§5, 8 (NEW).]

**4. Application.** An application from a school administrative unit for approval of a school construction project shall include evidence that approval will result in meeting or helping to meet the total construction and program needs of the area to be served.

[PL 1981, c. 693, §§ 5, 8 (NEW).]

#### SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW).

#### §15912. Inspection of facility; compliance

If it appears that a school administrative unit has failed to maintain a school facility which protects the health, welfare and safety of the persons utilizing the facility, the commissioner may cause an inspection to be made. The commissioner shall notify the school administrative unit of the findings of the investigation and of any changes to be made. The school administrative unit shall make the changes promptly. If it fails to make the changes, it shall be liable to the penalties provided in section 6801.

[PL 1981, c. 693, §§ 5, 8 (NEW).]

#### SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW).

#### §15913. School bus shelters

**1. Placement.** School bus shelters for school children, when approved by the school board of the unit in which they are located, may be placed or maintained outside the right-of-way and at least 33 feet from the center line of a highway.

[PL 1981, c. 693, §§ 5, 8 (NEW).]

**2. Requirement.** A shelter shall be:

A. Constructed of steel or other durable material with concrete floor raised above ground level; [PL 1981, c. 693, §§ 5, 8 (NEW).]

B. Kept clean, well painted or otherwise suitably maintained at all times; and [PL 1981, c. 693, §§ 5, 8 (NEW).]

C. Kept free from snow. [PL 1981, c. 693, §§ 5, 8 (NEW).]

**3. Removal.** The school board may order its removal if it does not meet these requirements.

[PL 1981, c. 693, §§ 5, 8 (NEW).]

#### SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW).

#### §15914. Current fiscal year funding

**(REPEALED)**

#### SECTION HISTORY

PL 1983, c. 426, §7 (NEW). PL 1985, c. 248, §§11,12 (AMD). PL 1987, c. 803, §§4,5 (RP).

#### §15915. Energy service companies and 3rd-party financing

**1. Initial agreement for energy conservation improvements.** A school administrative unit may enter into an agreement of up to 20 years with an energy services company. For the purposes of this section, "energy services company" means a company or 3rd-party financing company that provides design, installation, operation, maintenance and financing of locally funded energy conservation

improvements, air quality improvements or combined energy conservation and related air quality improvements at existing school administrative unit facilities. The school administrative unit's costs to enter into such an agreement are not applicable to the unit's school construction project costs, the debt service on which is eligible for subsidy purposes under section 15907. Such an agreement is deemed to be a professional service, which is not subject to the competitive bidding requirements of Title 5, section 1743-A, if the agreement:

- A. Provides for operation or maintenance of the improvement for at least 5 years or the entire term of the financing agreement if longer than 5 years; [PL 2011, c. 279, §1 (RPR).]
- B. Requires a guaranty by the contractor that the improvement will meet performance criteria set forth in the agreement for at least 5 years or for the entire term of the financing agreement if longer than 5 years; and [PL 2011, c. 279, §1 (RPR).]
- C. Has a total contract cost, excluding private or federal grant funds, interest and operating and maintenance costs, of less than \$10,000,000 for any school building or project. [PL 2019, c. 385, §1 (AMD).]

A school administrative unit may select an energy services company on the basis of a request for qualifications or a request for proposals, and it is not required to use a competitive method set forth in this chapter and Title 5, section 1743-A and Private and Special Law 1999, chapter 79. The selection process must include at a minimum a request for qualifications or a request for proposals that is advertised in a newspaper of general circulation in the school administrative unit and a newspaper of general circulation in the City of Augusta. The deadline for receipt of requests for qualifications or requests for proposals may not be less than 15 days from the last day the advertisement was published. The school administrative unit shall establish an interview committee, which must include the superintendent of the school administrative unit and at least one school board member. The interview committee shall interview not fewer than 3 energy services companies unless a smaller number of energy services companies responds to the request for qualifications or request for proposals. A request for qualifications or a request for proposals may not contain terms that require an energy services company to have more than 3 years of experience in the energy conservation field, a minimum number of prior projects or project references or membership in or accreditation from a regional, national or international association of energy services companies or to use equipment that is not generally available to energy services companies or terms that are otherwise included for the purpose of bias or favoritism toward a particular energy services company.

Objections to the terms of a request for qualifications or a request for proposals under this subsection are deemed waived if not delivered in writing to the office of the superintendent of schools in that school administrative unit within 7 days of the last publication of the newspaper advertisement. If an objection is received, the school board shall conduct a hearing on the objection within 14 days of its receipt. The school board shall allow interested energy services companies to speak at the hearing and shall issue a decision to either validate or invalidate the request for qualifications or the request for proposals within 7 days of the close of the hearing. A decision by the school board in response to an objection is a final government action subject to appeal to the Superior Court.

[PL 2019, c. 385, §1 (AMD).]

**1-A. Performance criteria.** An agreement under this section between a school administrative unit and an energy services company must include performance criteria that guarantee:

- A. Energy savings; [PL 2011, c. 279, §2 (NEW).]
- B. A maximum price, including operation, maintenance and financing costs; [PL 2011, c. 279, §2 (NEW).]
- C. That the project will meet local, state and federal codes; [PL 2011, c. 279, §2 (NEW).]

D. That measurement and verification of energy savings are determined using the international performance measurement and verification protocol published by the United States Department of Energy, Office of Scientific and Technical Information; and [PL 2011, c. 279, §2 (NEW).]

E. An annual reconciliation of energy savings based on the measurement and verification process under this section. [PL 2011, c. 279, §2 (NEW).]

Prior to entering into an agreement, a school administrative unit may request that the Department of Administrative and Financial Services, Bureau of General Services review the performance criteria in the agreement for conformance with this subsection. The Bureau of General Services shall review and advise school administrative units to the extent resources allow.

[PL 2011, c. 279, §2 (NEW).]

**2. Future operation.** Any school administrative unit, at the termination of the agreement with the private party pursuant to this section, may acquire, operate and maintain the improvement, may renew the agreement with the private party or may make an agreement with another private party to operate and maintain the improvement.

[PL 1987, c. 402, Pt. A, §134 (RPR).]

## SECTION HISTORY

PL 1985, c. 621, §1 (NEW). PL 1985, c. 797, §62 (NEW). PL 1987, c. 402, §A134 (RPR). PL 2001, c. 376, §1 (AMD). PL 2005, c. 499, §1 (AMD). PL 2011, c. 279, §§1, 2 (AMD). PL 2019, c. 385, §1 (AMD).

### §15915-A. Telecommunications service agreements

**1. Service agreements.** The governing bodies of school administrative units and career and technical education regions are authorized to enter into agreements for not more than 10 years with private entities such as telecommunications service providers to purchase telecommunications services, including services for interactive audio and visual communication and transmission of data for educational purposes.

[PL 1997, c. 664, §1 (NEW); PL 2003, c. 545, §5 (REV).]

**2. Interlocal agreements.** The governing bodies of school administrative units and career and technical education regions are authorized to enter into interlocal agreements in accordance with Title 30-A, chapter 115 and may organize or cause to be organized joint boards and legal entities including public nonprofit corporations under Title 13, chapter 81 and Title 13-B to purchase telecommunications services and to acquire customer premise telecommunications, as defined by the Public Utilities Commission, and related technology equipment.

[PL 1997, c. 664, §1 (NEW); PL 2003, c. 545, §5 (REV).]

**3. Legal and tax status.** The interlocal agreement must provide for appointment or election of each member of a joint board or governing body of a legal entity formed under this section by the governing body of one or more of the constituent members of the interlocal agreement. The joint board or governing body of the legal entity formed may purchase telecommunications services and acquire, purchase, lease and lease-purchase customer premise telecommunications and related technology equipment on behalf of the constituent members of the interlocal agreement. Customer premise telecommunications and related technology equipment acquired by the joint board or governing board of the legal entity formed are deemed to be public school property for all purposes. A lease-purchase agreement for customer premise telecommunications and related technology equipment constitutes a proper public purpose and the interest or interest component of income derived from the lease-purchase agreement is exempt from taxation in this State. The net earnings of the joint board or governing body of the legal entity formed may not inure to the benefit of any private person. If the joint board or legal entity formed is dissolved, the distribution of all property owned by the joint board or legal entity

formed must be determined by the joint board or governing body of the legal entity formed and may not inure to the benefit of any private person.

[PL 1997, c. 664, §1 (NEW).]

#### SECTION HISTORY

PL 1997, c. 664, §1 (NEW). PL 2003, c. 545, §5 (REV).

#### **§15916. Federal construction aid**

The state board shall be the designated agency to administer any federal funds made available to assist in the construction of facilities for schools, educational programs or institutions of higher education. [PL 1987, c. 402, Pt. A, §135 (NEW).]

#### SECTION HISTORY

PL 1987, c. 402, §A135 (NEW).

#### **§15917. School facilities inventory**

##### **1. Inventory.**

[PL 2011, c. 171, §10 (RP).]

**2. Data base established.** The department shall establish and maintain a school facilities data base. The data base must be available for inclusion in the education information system maintained by the Education Research Institute and established in section 10.

[PL 1995, c. 632, §3 (NEW).]

**3. Inventory updated.** The department shall update information from the inventory at least every 3 years.

[PL 1995, c. 632, §3 (NEW).]

#### SECTION HISTORY

PL 1995, c. 632, §3 (NEW). PL 2011, c. 171, §10 (AMD).

#### **§15918. Maintenance and capital improvement plan assistance**

The department, within existing resources, shall support facility maintenance and capital planning training for school administrative units. [PL 2013, c. 506, §18 (NEW).]

#### SECTION HISTORY

PL 1997, c. 787, §11 (NEW). PL 2013, c. 506, §18 (RPR).

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