

# MAINE STATE LEGISLATURE

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LAWS  
OF THE  
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE

FIRST REGULAR SESSION

January 5, 1977 to July 25, 1977

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1977

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PUBLIC LAWS  
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The inhabitants of said cities, towns and plantations shall indicate by a cross or check mark placed within a square upon their ballots their opinion of the same, those in favor of ratification voting "Yes" and those opposed to ratification voting "No" and the ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings, and return made to the office of the Secretary of State in the same manner as votes for Governor and Members of the Legislature, and the Governor shall review the same and if it shall appear that a majority of the inhabitants voting on the question are in favor of the Act, the Governor shall forthwith make known the fact by his proclamation, and the Act shall thereupon become effective in 30 days after the date of said proclamation.

Secretary of State shall prepare ballots. The Secretary of State shall prepare and furnish to the several cities, towns and plantations ballots and blank returns in conformity with the foregoing Act, accompanied by a copy thereof.

Effective October 24, 1977

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## CHAPTER 563

### AN ACT Relating to Approving and Financing School Construction.

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, there is an urgent need for some administrative units to construct facilities for school pupils; and

Whereas, it is in the best interests of local units and the State to know on what basis school construction projects will be approved; and

Whereas, some students are attending schools which are unsafe and obsolete; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

*Be it enacted by the People of the State of Maine, as follows:*

Sec. 1. 5 MRSA c. 153, sub-c. 1-A, as enacted by PL 1977, c. 320, is repealed.

Sec. 2. 5 MRSA c. 153, sub-c. 1-A is repealed and reenacted to read:

#### SUBCHAPTER 1-A

### ENERGY CONSERVATION IN BUILDINGS ACT

## § 1761. Short title

This subchapter may be cited as the "Energy Conservation in Buildings Act."

## § 1762. No facility constructed without life-cycle costs

No public improvement, as defined in this chapter, or public school facility, with an area in excess of 5,000 square feet, shall be constructed without having secured from the designer a proper evaluation of life-cycle costs, as computed by a qualified architect or engineer or as computed by a qualified architect and engineer. Construction shall proceed only upon disclosing, for the design chosen, the life-cycle costs as determined in section 1764 and the capitalization of the initial construction costs of the facility or building. The life-cycle costs shall be a primary consideration in the selection of the design.

## § 1763. No facility leased without life-cycle costs

No public improvement, as defined in this chapter, or public school facility, with an area in excess of 10,000 square feet within a given building boundary, shall be leased until a life-cycle costs analysis has been performed and a lease shall only be approved where the life-cycle costs analysis compare favorably to available like facilities.

In the event of an emergency such as a building destroyed by fire, this requirement may be waived by the Bureau of Public Improvements.

## § 1764. Life-cycle costs

1. Bureau of Public Improvements to promulgate rules and procedures. The Bureau of Public Improvements shall promulgate rules and procedures, including energy conservation guidelines, for conducting an energy-related life-cycle costs analysis of alternative architectural or engineering designs, or both, and shall evaluate the efficiency of energy utilization for designs in the construction and lease of public improvements and public school facilities. Such rules and procedures shall take effect 90 days after the enactment of this subchapter.

## 2. Life-cycle costs. Such life-cycle costs shall include:

A. The reasonably expected energy costs over the life of the building, as determined by the designer, that are required to maintain illumination, power, temperature, humidity and ventilation and all other energy-consuming equipment in a facility; and

B. The reasonable energy-related costs of probable maintenance, including labor and materials and operation of the building.

3. Determination of life-cycle costs. To determine the life-cycle costs, the Bureau of Public Improvements shall promulgate rules that shall include but are not limited to:

A. The orientation and integration of the facility with respect to its physical site;

B. The amount and type of glass employed in the facility and the directions of exposure;

C. The effect of insulation incorporated into the facility design and the effect on solar utilization to the properties of external surfaces;

D. The variable occupancy and operating conditions of the facility and subportions of the facility; and

E. Energy consumption analysis of the major equipment of the facility's heating, ventilating and cooling system, lighting system, hot water system and all other major energy-consuming equipment and systems as appropriate. This analysis shall include:

(1) The comparison of alternative systems;

(2) A projection of the annual energy consumption of major energy-consuming equipment and systems for a range of operations of the facility over the life of the facility; and

(3) The evaluation of the energy consumption of component equipment in each system, considering operation of such components at other than full or rated outputs.

4. Annual updating of rules. Such rules shall be based on the best currently available methods of analysis and provisions shall be made for an annual updating of rules and standards as required.

#### § 1765. Application of subchapter to certain public school buildings

Sections 1762 to 1764 shall not apply to any public school facility approved by the State Board of Education prior to the effective date of this subchapter.

Sec. 3. 20 MRSA § 3457, as last amended by PL 1975, c. 746, § 21, is further amended by inserting before the first paragraph a new paragraph to read:

This section shall apply only to school construction projects approved by the State Board of Education prior to July 1, 1977.

Sec. 4. 20 MRSA § 3458, as last amended by PL 1975, c. 272, § 9, is further amended by inserting before the first paragraph a new paragraph to read:

This section shall apply only to school construction projects approved by the State Board of Education prior to July 1, 1977.

Sec. 5. 20 MRSA § 3459, as last amended by PL 1975, c. 272, § 11, is further amended by inserting before the first paragraph a new paragraph to read:

This section shall apply only to school construction projects approved by the State Board of Education prior to July 1, 1977.

Sec. 6. 20 MRSA § 3460, as last amended by PL 1975, c. 272, § 12, is further amended by inserting before the first paragraph a new paragraph to read:

This section shall apply only to school construction projects approved by the State Board of Education prior to July 1, 1977.

Sec. 7. 20 MRSA c. 502 is enacted to read:

#### CHAPTER 502

### SCHOOL CONSTRUCTION PROJECTS

#### § 347I. School construction projects

This chapter shall apply only to school construction projects approved by the State Board of Education subsequent to June 30, 1977.

1. Definition. "School construction projects" shall be defined as on-site additions to existing schools, new schools, the cost of land acquisition, the building of or acquisition of other facilities related to the operation of administrative units and major renovations to existing schools, which in the judgment of the commissioner are more feasible than new construction. Off-site construction may only be approved 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 the project. All school construction projects are subject to approval by the State Board of Education. Equipment approved in conjunction with a school construction project shall be defined as a major capital cost.

2. Approval authority. The State Board of Education shall have authority to approve school construction projects.

A. The State Board of Education is authorized to approve projects as long as no project approval will cause debt service costs, as defined in section 3743, subsection 10, paragraph A, to exceed \$30,000,000 in any subsequent fiscal year.

B. Nonstate funded projects, such as school construction projects or portions of projects financed by proceeds from insured losses, money from federal sources, other noneducation funds, or local funds which shall not be reimbursed by the State, shall be considered as being outside the total cost limitations set by the Legislature.

C. The State Board of Education shall have authority to establish reasonable rules and regulations relating to the approval of school construction projects.

D. Concept approval shall be defined as the initial approval of a school construction project by the State Board of Education which indicates:

- (1) Acknowledgement of the local need;
- (2) Approval of the preliminary design;
- (3) Approval of estimated costs; and
- (4) The board's intent to issue final approval subject to a favorable local

vote and approval of final cost estimates.

E. Each school construction project shall receive a favorable vote from the legislative body of the administrative unit prior to final approval by the State Board of Education. In an article submitted to the legislative body of any administrative unit seeking a favorable vote on a school construction project, it shall be clearly indicated that, in addition to the 5% or 1 mill local share of the total cost of the project, the entire operating costs of the new project during its first year will be borne by revenues raised by the local administrative unit.

F. A certificate of approval shall be issued for each project approved by the board and shall bear the amount of state aid and any other stipulations or conditions as may be reasonably required by the board. Such certificate shall be signed by the commissioner and shall be conclusive evidence of the facts stated thereon.

G. In order to provide the technical assistance required by the State Board of Education in assessing proposed school construction projects, the Bureau of Public Improvements is authorized to contract for the services of a professional engineer whenever the bureau is not employing such personnel on a full-time basis.

H. In carrying out the provisions of this chapter, the State Board of Education shall approve only those projects which have been designed in accordance with rigorous standards for the conservation of energy.

I. The Department of Educational and Cultural Services and the Bureau of Public Improvements shall not approve the plans and specifications of any project which does not meet the requirements of Title 5, chapter 153, subchapter 1-A.

#### § 3472. School construction financing

1. Rate of construction aid. The unit's share of the total cost of each project shall be either 5% of the total cost or the equivalent of one mill multiplied by the unit's state valuation, whichever is less. The one mill shall be calculated on the state valuation in effect at the time the project is first approved by the State Board of Education. The unit's share shall be applied to the project costs during the period of construction. The unit's share may be derived from either local appropriations or gifts or any combination of gifts and local appropriations. The unit's share shall not be considered an educational cost for purposes of subsidy reimbursement under chapter 512-A.

A. Local units shall sell bonds in their name in the amount of the state's share. Such sale shall be consistent with rules and regulations adopted by the board. The amount to be bonded shall be determined as follows. The total cost of the project shall be reduced by the local share, any proceeds from insured losses, any money from federal sources, and any other non-education funds, except gifts and moneys from federal revenue sharing sources.

B. Administrative units shall have authority to borrow money for projects in anticipation of bond sales, providing such borrowing is within rules and regulations established by the State Board of Education. Administrative units shall have authority to sell bonds consistent with State Board of Education rules and regulations.



C. The State shall pay its share of project costs to units as the bonds become due.

2. Deductions; cost of project. Proceeds from insured losses, money from federal sources and any other noneducation funds shall be deducted from the total cost of the project in order to determine the amount on which the state's share shall be calculated, except that proceeds from gifts or moneys from federal revenue sharing sources shall be treated as local appropriations.

3. Total cost defined. Total costs of school construction projects shall be defined as all costs related to or incidental to the project, except financing costs.

4. Unit's authority to raise funds. Administrative units shall have authority to sell bonds to raise the local share of project costs.

5. Payment of state's share. The State shall pay its share of project costs to the units according to the unit's debt retirement schedule.

6. Local funds nonreimbursable, chapter 512-A. Notwithstanding any other statute to the contrary, the local share of school construction projects shall not be considered education costs for purposes of reimbursement in any way under chapter 512-A. Expenditures for the state and local share of school construction projects including gifts shall be considered as outside any limit on expenditures by local units under chapter 512-A.

#### § 3473. Construction project reports and applications; withholding aid

Applications for approval of a project shall include such information as may be required by the State Board of Education. Each administrative unit shall file a copy of the debt retirement schedule, if any, with the commissioner as soon as bonds are sold. Units shall file a final report on each project to include such information as the commissioner may determine. Such report shall be made within the time specified by the commissioner.

No unit shall sign a contract for construction or begin construction until the final plans and specifications have been approved by the commissioner, the Bureau of Public Improvements, the Department of Human Services, the State Fire Marshal and the Department of Environmental Protection. Failure to submit accurate reports within specified times shall be deemed sufficient cause for withholding school construction aid until the unit complies.

#### § 3474. Tuition students; 2 years' notice; withholding aid

Any unit which receives tuition students shall render at least 2 years' notice to sending units before discontinuing such acceptance. Whenever a unit gives a 2-year notice to other units that it will discontinue the acceptance of tuition students, the unit shall file a copy of the notice with the commissioner. If the school committee or board of directors of a unit refuses to accept tuition students without having given a proper 2-year notice, the commissioner is authorized to withhold school construction aid until the unit complies.

#### § 3475. Community services; conditions of approval

The State Board of Education is authorized to approve construction of certain school buildings without obligating the State to pay a share of the

costs of such buildings, whenever, if in the judgment of the board, those certain portions are to be constructed to fulfill a community service need. If construction of facilities to meet a community service need occurs in conjunction with a school construction project, the board shall require a breakdown of all costs for the entire project and shall approve a plan as to how operating costs, including repairs, shall be shared by agreement between the municipal officers and the school committee or board of directors. The board's findings shall become a part of the certificate of approval issued by the board and shall be the basis on which all costs shall be apportioned between the community and the school unit for as long as that portion of the project shall continue to serve that community need and shall remain under the control of other than the appropriate school authorities.

Applications from local units for approval of a school construction project shall include evidence that approval of the project as submitted will result in meeting or helping to meet the total construction and program needs of the area to be served to the satisfaction of the board.

§ 3476. Insurance

Administrative units shall carry fire and allied coverages in the amount of the replacement cost of the project, except that the commissioner may, at his discretion, approve an alternate amount of insurance coverage if the replacement insurance coverage cannot be acquired at a reasonable cost.

§ 3477. Maintenance of plant

1. Definition. "Maintenance of plant" shall be defined as 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.

2. Financing. Maintenance of plant and minor remodeling shall be the responsibility of administrative units with state financial participation in such activities determined under operating costs of chapter 512-A.

Sec. 8. 20 MRSA § 3743, sub-§ 10, ¶ A, as enacted by PL 1975, c. 660, § 2, is repealed and the following enacted in its place:

A. Principal and interest costs for approved major capital projects;

Sec. 9. 20 MRSA § 3743, sub-§ 11, as enacted by PL 1975, c. 660, § 2, is repealed and the following enacted in its place:

11. Major capital costs. "Major capital costs" shall be approved by the State Board of Education and shall be defined as all costs related to or incidental to additions to existing schools, new schools, the cost of land acquisition, and the building of or acquisition of other facilities related to the operation of administrative units and major renovations to existing schools which in the judgment of the commissioner are more feasible than new construction. Equipment approved in conjunction with a school construction project shall be defined as a major capital cost. Major capital costs approved by the State Board of Education during any single year shall not exceed the limitation established by the Legislature in section 3471.

Sec. 10. 20 MRSA § 3743, sub-§ 12, as enacted by PL 1975, c. 660, § 2, is repealed and the following enacted in its place:

12. Minor capital costs. "Minor capital costs" shall include all costs which are related to maintenance of plant and minor remodeling. Minor capital costs shall not include construction of new buildings or the purchase of land. All minor capital costs shall be a part of operating costs. Units are authorized, with approval of the legislative body, to arrange financing for maintenance of plant and minor remodeling. Funds expended to repay funds borrowed for maintenance of plant and minor remodeling shall be considered minor capital costs in the year which these funds are repaid. Units are authorized to establish a capital reserve fund for maintenance of plant and minor remodeling.

Sec. 11. 20 MRSA § 3747, sub-§ 3, 1st paragraph, as repealed and replaced by PL 1975, c. 754, § 1, is repealed and the following enacted in its place:

3. Basic education appropriation. Establish the basic education allocation for paragraphs A through G and subsection 5 and the appropriations for paragraphs I and J and subsections 4 and 7.

Sec. 12. 20 MRSA § 3748, sub-§ 1, ¶ C, sub-¶ (4), as repealed and replaced by PL 1975, c. 746, § 24-J, is repealed and the following enacted in its place:

(4) Debt service. Principal and interest costs for approved major capital projects shall be reimbursed in the year of allocation.

Sec. 13. 20 MRSA § 3748, sub-§ 6, as enacted by PL 1975, c. 660, § 2, is repealed and the following enacted in its place:

6. Construction aid payments. Construction aid payments by the State to administrative units on approved projects shall be made in accordance with the unit's debt retirement schedule. Such payments shall be made from a major capital construction fund as authorized by the Legislature under section 3747, subsection 3, ¶ H.

Sec. 14. 20 MRSA § 3750, as repealed and replaced by PL 1975, c. 746, § 24-X, is repealed and the following enacted in its place:

§ 3750. Construction project approval limit

1. Approval limit. The State Board of Education shall not approve state funded projects if the state's share would be in excess of the amount authorized by the Legislature for school construction projects.

2. Lease approval. The commissioner is authorized to approve the leasing of space to keep schools open until such time as appropriate school facilities can be constructed.

Emergency clause. In view of the emergency cited in the preamble, sections 1 and 2 of this Act shall take effect when approved and sections 3 to 14 shall take effect on July 1, 1977.