

MAINE STATE LEGISLATURE

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December 18, 1974

Carroll R. McGary, Commissioner

Education & Cultural Services

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Attorney General

Petitions calling for local vote on school construction projects

You have asked two questions regarding the approval of projects for school construction aid by the State Board of Education. You have asked first whether such approval by the State Board, when granted prior to local vote on the project, is automatically withdrawn if the local voters reject the project. The answer to this question is that this is entirely up to the State Board. Your second question is whether the petition procedure outlined in § 225(2)(a) applies only after the approval of the State Board has been obtained. The answer to this question is no.

There is no statutory requirement of approval of projects for school aid construction by the State Board of Education prior to local approval of such projects. Such approval by the State Board of Education prior to local voter approval as outlined in a flow chart printed by the Department and entitled "Major Steps in a School Building Program" a copy of which chart is attached, has been set up entirely by the State Board under its power to make reasonable regulations (§ 223). 20 M.R.S.A. § 3458 provides for approval of projects for school aid construction by the State Board of Education subsequent to local approval as follows:

"Any eligible administrative unit qualifying for school construction aid. . . which. . . has authorized a school construction project and the financing thereof may apply to the Department of Educational and Cultural Services for such aid. Such application shall be accompanied by an attested copy of the vote or resolution authorizing such project and financing and by such additional information, drawings, preliminary plans and estimates of cost as the State Board may require. . . Forthwith upon receipt of such application the Board shall examine the application and any other information required by it relative thereto and shall approve or disapprove the proposed project for such state aid. . ."

20 M.R.S.A. § 225(2)(a) states in part as follows:

"When requested by 10 percent of the number of voters voting for the gubernatorial candidates at the last state-wide election in the municipalities comprising

the district, the director shall call a district meeting, placing before the voters the specific school construction article which has been requested by the petitioners."

This statutory right to petition is unconditional and is made in no way dependent upon prior state board approval of the construction project. After an affirmative vote on a project at such a district meeting called after request of 10 percent of the voters, any subsequent request for school construction aid by the administrative unit would be governed by 20 M.R.S.A. §§ 3457 and 3458 and reasonable regulations adopted by the State Board in furtherance of these sections.

HBWJr/mf