

# MAINE STATE LEGISLATURE

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September 7, 1977

To: Richard Bachelder, Director, Bureau of Public Improvements

From: Donald G. Alexander, Deputy Attorney General

This responds to your request for advice regarding the extent to which the Bureau of Public Improvements is required to approve plans for construction of school buildings.

DISCUSSION

There are several laws which address the authority of the Bureau of Public Improvements regarding school building construction. Initially, it should be noted that the definition of "public improvements," 5 M.R.S.A. § 1741, includes all construction, major alteration or repair of school buildings involving costs in excess of \$25,000 and for which state school construction aid is to be paid.

Further, under the general powers and duties of the Bureau of Public Improvements, the Bureau of Public Improvements is authorized to:

1. Provide requested advice to school administrative units in connection with the engineering and architectural questions and other such matters pertaining to all public improvements, 5 M.R.S.A. § 1742-3.
2. Approve selection of architects and engineers intended to plan or supervise construction of public improvements - thus including all state-aided school projects in excess of \$25,000 - 5 M.R.S.A. § 1742-6.
3. Adopt building codes for public improvements, including school districts, except where a school administrative unit has adopted one of several statutory specified building codes, 5 M.R.S.A. § 1742-6A.
4. Approve all plans, specifications and construction for public improvements, including improvements for school administrative units costing in excess of \$25,000, 5 M.R.S.A. § 1742-7. The \$25,000 limit

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here does not indicate that it is restricted to state aid schools; however, that restriction does apply as a result of use of the term "public improvements" which is itself modified by the state aid for schools provision.

5. Inspect materials, equipment and methods of construction of public improvements during construction, 5 M.R.S.A. § 1742-8 and 9.

Further, the concluding paragraph of 5 M.R.S.A. § 1742 specifically requires that all school units contemplating public improvements for state-aided projects in excess of \$25,000 obtain the approval of the Director of the Bureau of Public Improvements before proceeding with such work.

Thus, within the Bureau of Public Improvements' own statutes, school districts are clearly required to present plans and specifications to the Director of the Bureau of Public Improvements and have them approved prior to construction. However, this authority is limited in its application to state-aided projects of a cost in excess of \$25,000 - the limitation specified in the definition of public improvement.

In addition, the Bureau of Public Improvements has authority until October 24, 1977, regarding school buildings under 20 M.R.S.A. § 3623 [P. L. 1977, c. 447 repeals § 3623 as of October 24, 1977]. Pursuant to § 3623 all plans for reconstruction and remodeling of school buildings must be reviewed and approved by both the Commissioner of the Department of Educational and Cultural Services and the Bureau of Public Improvements if the expense involved is projected to exceed \$10,000 and if plans prepared by the Commissioner are not used.

After October 24, 1977, 20 M.R.S.A. § 3483, enacted by c. 447 requires that where school construction plans are developed by a school building committee, the Bureau of Public Improvements and certain other agencies must approve the original plans. Amendments to such plans, however, need only be approved by the Department of Educational and Cultural Services.

Further, recently enacted legislation, P. L. 1977, c. 563, directs the Bureau of Public Improvements to develop and supervise implementation of regulations relating to energy conservation in public buildings, including school buildings with an area in excess of 5000 square feet. Chapter 563 was enacted as emergency legislation and is now in effect. Under this law, the Department of Educational and Cultural Services and the Bureau of Public Improvements

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are directed not to approve plans and specifications of school projects which do not meet the published energy conservation requirements, 20 M.R.S.A. § 3471-2-I, and the Bureau of Public Improvements, along with several other agencies, is given general authority to approve final plans and specifications.

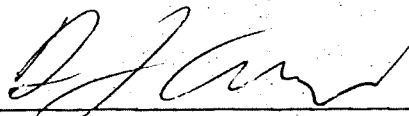
Thus, in brief, the Bureau of Public Improvements has authority over school buildings as follows:

1. School building projects, including both new construction and reconstruction and repairs, involving state aid and projected expenditures in excess of \$25,000 must be submitted to and approved by the Bureau of Public Improvements in advance of construction.

2. Until October 24, 1977, projects involving the remodeling and reconstruction of school buildings which are subject to the approval of the Department of Educational and Cultural Services must also be approved by the Bureau of Public Improvements if the expenditure is more than \$10,000 and the plans have not been prepared by the Commissioner of Educational and Cultural Services. After October 24, 1977, all original construction plans developed by a school building committee must be approved by the Bureau of Public Improvements.

3. All school building projects, except those involving facilities of less than 5000 square feet, are subject to approval of the Bureau of Public Improvements to determine if they meet the criteria established by P. L. 1977, c. 563.

I hope this information is helpful.

  
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DONALD G. ALEXANDER  
Deputy Attorney General

DGA:jg  
cc: W. Buschmann