

MAINE STATE LEGISLATURE

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(EMERGENCY)
FIRST SPECIAL SESSION

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 1912

H. P. 1469 House of Representatives, January 24, 1972
The Committee on Education suggested. BERTHA W. JOHNSON, Clerk
Presented by Mr. Smith of Dover-Foxcroft.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-TWO

AN ACT Relating to School Construction Aid Payments.

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

Whereas, it is essential that the resources of the State be conserved to the maximum possible degree; and

Whereas, the alternate method of paying school construction aid as prescribed in the Revised Statutes, Title 20, section 3460 requires the payment to eligible units of $\frac{1}{2}$ the estimated school construction aid due on approved projects as soon as evidence is submitted that the appropriate local officials have contracted or arranged for the construction of school facilities accepted for aid; and

Whereas, such payments may involve sums greatly in excess of the units' immediate cash need for construction of approved projects; and

Whereas, the State is obliged to borrow under authorized bond issues to provide funds with which to make these payments, thereby incurring excessive charges for interest and accelerating the requirements for debt redemption to a date earlier than is necessary; and

Whereas, the legislation contained herein would reduce the state's advance payments for construction aid under the alternate method without compromising the principle of the so-called lump sum basis of payment provided by the alternate method, thereby decelerating the rate of state borrowing and saving substantial sums otherwise required to be appropriated from the General Fund for bond interest and redemption; and

Whereas, unless enacted as emergency legislation, the revised method of payment cannot be placed into effect until after 90 days following the adjournment of the Legislature, during which period additional payments of aid under the alternate method are expected to be made in amounts greatly in excess of the local units' immediate need for funds for meeting costs of construction of approved projects; 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:

R. S., T. 20, § 3460, repealed and replaced. Section 3460 of Title 20 of the Revised Statutes, as enacted by section 2 of chapter 373 of the public laws of 1969 and as amended, is repealed and the following enacted in place thereof:

§ 3460. Alternate method of payment of school construction aid

The State Board of Education may authorize the following method of paying school construction aid but shall authorize such method only when funds then have been appropriated in an amount sufficient to meet the total estimated amount of state aid payable on account of the capital project for which such state aid is approved and, if the said board authorizes the alternate method, the certificate of approval of the project issued pursuant to section 3458 shall so state. In the absence of such statement on a certificate, state aid on the project shall be deemed as not authorized under the alternate method.

Advance payments on projects for which the State Board of Education authorized the alternate method of payment under section 3460, as then in effect, are ratified and the local administrative units which have received such payments shall invest that portion of the proceeds of such advances which is not required for immediate disbursement for project expenditures. An amount equal to any interest earned on such investment of the proceeds of an advance payment shall be deducted from any balance of construction aid payable to the unit on the project.

On eligible projects for which the State Board of Education has authorized the alternate method and on which the local administrative unit, subsequent to the effective date of this Act, submits evidence that the appropriate local officials have contracted or arranged for the construction of the approved facility or facilities, the financial assistance due the eligible unit shall be paid according to the following schedule:

An amount equal to 10% of the estimated state aid shall be paid immediately upon the submission of evidence that a contract for the construction of the project has been executed.

The eligible unit shall submit to the Commissioner of Education a schedule showing estimates of monthly cash disbursements to be made by the unit

for project expenditures. Based upon the estimate of cash requirements, the commissioner, on or about the first of each month, shall pay an amount equal to the state's participation in the estimated project expenditures for that month, which monthly payments shall be continued until the total of all assistance paid equals 95% of the estimated state aid in the project.

Upon completion of the project and the submission to the commissioner of a full report of the capital outlay expenditures on the project, together with proof that the project was completed in accordance with plans approved by the commissioner and the Bureau of Public Improvements, and upon issuance by the Bureau of Public Improvements of its certificate of acceptance of the completed project, the eligible unit shall be paid the difference between the total amount of aid finally determined to be due under the project and the accumulated amount of all prior payments.

Notwithstanding the provisions of section 3460 in effect at the time, eligible units which have received an advance payment equal to $\frac{1}{2}$ the estimated state aid, shall report to the commissioner at what date the proceeds of the advance payment shall be estimated to have been fully expended and also shall submit a schedule showing estimated monthly cash disbursements for project costs for the period following the date on which the advance payment shall have been fully expended. Based upon the estimate, the commissioner shall make monthly payments thereafter, and the final payment in accordance with the procedure prescribed above for projects on which evidence of contract execution was submitted after the effective date of this Act.

The State Board of Education by regulation may prescribe the minimum total state aid on a project which will be subject to monthly payment. On projects in which the estimated state aid is less than such minimum amount, the board may specify that all state assistance shall be paid only upon the completion of the projects and the filing of reports as herein provided. In such case, the certificate issued by the board pursuant to section 3458 shall so state.

Financing costs incurred by the local administrative unit on any project for which the alternate method has been authorized shall not be included as part of the capital outlay expenditures of the project; provided that any interest paid by a local administrative unit in borrowing on temporary loans in anticipation of state aid shall be reimbursed by the State upon application of the unit to the commissioner following the receipt of final payment of state assistance on the project, which application shall include evidence that all indebtedness incurred by the local unit in borrowing in anticipation of state aid has been liquidated through payment by the unit.

In accordance with the provision of law that the alternate method may not be authorized by the State Board of Education unless funds then have been appropriated in an amount sufficient to meet the total estimated amount of state aid estimated to be payable on the project, no local unit, without re-submission of the project application to the board, may increase by more

than 10% the estimated project costs as submitted to the State Board of Education in the original application for approval of the project. In the absence of such resubmittal and the supplemental approval of the additional project costs, the State shall not be liable for construction aid on that part of the project cost which exceeds by more than 10% the original approved project cost.

It is the intent of the Legislature that such advance payments by the State on school construction aid, as heretofore have been made under section 3460 as then in effect, shall have been, and shall continue to be, expended by the local unit for necessary project costs concurrently with the funds of the local unit in the respective ratios of participation of the State and local unit in project costs, and that the advancement by the State of $\frac{1}{2}$ the estimated state aid shall not be used to defer the date on which the local unit shall contribute or disburse its portion of the project funds. In the determination of the final payment of state aid to which the local unit is entitled under the alternate method, the commissioner is directed to insure that funds of the local unit have been made available and used concurrently with funds advanced by the State and shall make appropriate adjustments in the determination of the balance of state aid whenever he finds that the local unit has used funds advanced by the State to defer the provision of local financing of the project costs, has failed to invest amounts advanced by the State which are in excess of the immediate need for the State's portion of project expenditures, or in any way has used the funds advanced for purposes other than meeting the State's proportion of project costs as they became payable.

Whenever a project submitted by a local municipality has been approved by the State Board of Education for assistance and the municipality for which the project was approved, subsequently, but prior to the completion of the project, becomes a member of a School Administrative District, any balance of funds advanced to the municipality under section 3460 as then in effect shall be transferred to the School Administrative District together with interest which has been earned by the municipality in the investment of funds advanced by the State and any temporary investments of excess advanced fund then held by the municipality. The balance of state aid payable on the project shall be paid directly to the School Administrative District. Indebtedness incurred by the municipality in anticipation of the balance of state construction aid shall be assumed by the School Administrative District, which shall become responsible for the final report of project costs and for any application for reimbursement of interest costs incurred in anticipation of state aid throughout the course of construction of the project. The School Administrative District shall reimburse the municipality for any expenditures made by the municipality on loans in anticipation of state aid prior to the date of organization of the district and the municipality thereupon shall have no further claim on the State for reimbursement of such interest charges.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

The purpose of this bill is to conserve the bond proceeds from the \$50,000,000 bond issue authorized for state aid on school construction by eliminating the requirement that a full one-half of the estimated aid on any project be paid to the local unit upon presentation to the Department of Education of evidence of the signing of the contract, while retaining the principle of immediate payment of state aid leaving the local units responsible only for the funding of their portions of project costs.

Advance payments on projects of any size usually are in the middle to high hundreds of thousands of dollars and in one case have exceeded \$1,200,000. Local units have no possible use for construction funds of these dimensions at that stage of construction and the payment of these grants depletes the proceeds of bonds already sold which otherwise might be used for additional projects.

The amount of bonds that can be sold in any biennium is limited by the general fund appropriations for interest on and redemption of outstanding bonds. Consequently, it is essential that proceeds of those sold be conserved for the widest possible use without financial hardship to those units actually constructing projects.

The monthly payments authorized by this bill will provide state construction assistance as fast as the local units need it, but it would prevent the accumulation of massive amounts of state funds in local hands far in advance of the date when they are needed—funds on which the State is paying interest and on which it faces redemption requirements earlier than should be necessary.

The bill also would spell out local obligations in financing these projects—an area which is vague under the present law. Nothing in existing law prevents the local unit from using the state advance for all projects costs while delaying the borrowing of its own funds until the state advance is exhausted, or if local funds have been secured through borrowing, from investing them with the interest income accruing to the local units while state funds are being expended for construction costs. Since the State reimburses the local units in full for all interest costs in borrowing in anticipation of the remainder of state aid, there is no incentive for the local units to defer such borrowing and they could, legally, expend all of the estimated state aid before committing any local funds to the project. This is contrary to the State's interest and is not in accordance with the intent of the lump sum method of payment of construction aid.

The bill also eliminates certain redundancies in existing law, which were written as contingencies, but which now cannot take place because of the passage of time.