

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 583

H. P. 477

House of Representatives, February 23, 1977

On motion of Mr. Lynch of Livermore Falls, referred to Committee on Education. Sent up for concurrence and 2,000 ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Mitchell of Vassalboro.

Cosponsors: Messrs Kerry of Old Orchard Beach, Wyman of Pittsfield.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

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. 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. 2. 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. 3. 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. 4. 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. 5. 20 MRSA c. 502 is enacted to read:

CHAPTER 502

SCHOOL CONSTRUCTION PROJECTS

§ 3471. 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. State funded projects shall not be approved by the State Board of Education if the state's share would be in excess of the amount authorized by the Legislature for school construction projects.

B. Nonstate funded projects, such as school construction projects or portions of projects financed by proceeds from insured losses, money from federal sources, other non-education 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.

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.

§ 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. The total cost of construction projects shall be apportioned among the member municipalities of a multiple municipality district in the same ratio as the average number of resident pupils of the member municipalities bears to the total average number of resident pupils in the district and each member municipality shall have its portion of the total construction cost subsidized based upon its per pupil valuation. The aid thus com-

puted for the member municipalities shall be added together and shall be paid to the district.

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 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. 6. 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. 7. 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 3747.

Sec. 8. 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. 9. 20 MRSA § 3747, sub-§ 3, 1st sentence, 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. 10. 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. 11. 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. 12. 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, this Act shall take effect July 1, 1977.

STATEMENT OF FACT

Enactment of this bill as printed will :

1. Require all school construction projects to be approved by the State Board of Education;
2. Allow resumption of school construction approvals subsequent to July 1, 1977;
3. Authorize units to raise the local share in any way they wish;
4. Disallow the local share of projects to be counted as education costs for purposes of reimbursement under the School Finance Act;
5. Eliminate the need for the State Board of Education to approve emergency major capital outlay projects because local units would be given authority to finance those projects by either establishing a capital reserve fund or by borrowing on a short term basis or any combination of the 2 methods;
6. Require local units to make an extra fiscal commitment to each school construction project in addition to the amount contributed through the uniform property tax;
7. Continue to distribute the cost of school facilities on all communities equally;
8. Cause closer local voter scrutiny in the approval process;
9. Will tend to encourage replacement of facilities most in need of replacement;
10. Require local units to sell long term bonds to finance the projects; and
11. Maintain reimbursement in the year of allocation to local units.