

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

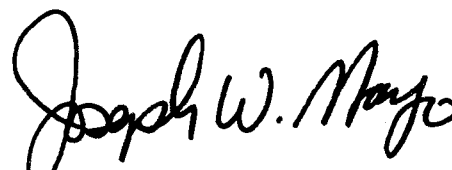
No. 716

H.P. 509

House of Representatives, January 26, 1999

An Act to Amend the Law Relating to School Construction and School Facilities.

Submitted by the Department of Education pursuant to Joint Rule 204.
Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative RICHARD of Madison.
Cosponsored by Senator PENDLETON of Cumberland and
Representatives: BRENNAN of Portland, MURPHY of Kennebunk, Senators: CASSIDY of
Washington, SMALL of Sagadahoc, TREAT of Kennebec.

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

2
3 **Sec. 1. 20-A MRSA §1303, sub-§1, ¶C**, as enacted by PL 1981, c.
4 693, §§5 and 8, is amended to read:

6 C. Include the proposed school budget and other articles
7 the school board chooses to place before the voters,
8 excluding authorization to borrow money for school
9 construction purposes unless the alternate voting procedures
10 of section 1305 are employed;

12 **Sec. 2. 20-A MRSA §4001, sub-§3, ¶A**, as amended by PL 1997, c.
13 787, §2, is further amended to read:

14 A. The term of a lease must be at least equal to the period
15 during which similar property of the unit is used. A lease
16 may not exceed a term of 5 10 years.

18 **Sec. 3. 20-A MRSA §4001, sub-§7**, as enacted by PL 1997, c.
19 787, §3, is amended to read:

22 **7. Maintenance and capital improvement program.** A school
23 administrative unit, including the unorganized territories, shall
24 establish and maintain a maintenance and capital improvement
25 program for all school facilities, utilizing a maintenance
26 template and software provided by the department and shall
27 ~~annually allocate a minimum percentage of the replacement value~~
28 ~~of its real estate to facility maintenance, capital improvement~~
29 ~~or capital reserve accounts~~ commit resources to that program
30 pursuant to established minimum standards. The department and
31 the Department of Administrative and Financial Services, Bureau
32 of General Services shall establish the minimum ~~percentage in~~
33 ~~consultation with the education community~~ standards. The
34 Department of Education and the Bureau of General Services shall
35 adopt rules necessary to implement this subsection. Rules
36 adopted by the Department of Education and the Bureau of General
37 Services to implement this subsection are major substantive rules
38 pursuant to Title 5, chapter 375, subchapter II-A.

40 **Sec. 4. 20-A MRSA §15603, sub-§8, ¶F**, as enacted by PL 1997,
41 c. 787, §9, is amended to read:

42 F. Beginning in school year 2002-03, 1/5 of the aggregate
43 amount of the approved leases defined in ~~paragraphs B and E~~
44 paragraph B and an additional 1/5 for each year thereafter
45 may not be used to determine the debt service millage limit
46 calculated under section 15611, subsection 1, paragraph A.
47 The local share for the 1/5 of the aggregate amount of the
48 approved leases defined in ~~paragraphs B and E~~ paragraph B
49 and an additional 1/5 for each year thereafter must be
50

2 calculated as the same percentage determined under section
15609, subsection 1, paragraph A. The department shall
4 adopt rules necessary to implement this paragraph. Rules
adopted by the department to implement this paragraph are
6 major substantive rules pursuant to Title 5, chapter 375,
subchapter II-A.

8 **Sec. 5. 20-A MRSA §15603, sub-§26-A, ¶C,** as enacted by PL
1993, c. 410, Pt. F, §15, is amended to read:
10

12 C. "Debt service costs" includes the following:

14 (1) Principal and interest on approved school
construction costs as described in subsection 8,
16 paragraph A; excluding payments made with funds from
state and local government accounts established under
the federal Internal Revenue Code and regulations for
18 disposition of excess, unneeded proceeds of bonds
issued for a school project;

20 (2) Approved lease costs as described in subsection 8,
22 paragraphs B and E; and

24 (3) Insured value factor costs as described in
subsection 8, paragraph C.
26

28 **Sec. 6. 20-A MRSA §15901, sub-§4,** as amended by PL 1991, c.
268, §5, is further amended to read:

30 **4. School construction project.** "School construction
project" means:

32 A. On-site additions to existing schools;

34 B. New schools;

36 C. The cost of land acquired in conjunction with projects
38 otherwise defined by this subsection;

40 D. The building of or acquisition of other facilities
related to the operation of school administrative units;

42 E. The complete restoration of existing school buildings in
44 lieu of replacement when in the judgment of the commissioner
the action is in the best interest of the State and local
46 unit; and

48 F. Off-site construction may only be included within the
meaning of this term if, in the judgment of the
50 commissioner, it is economically in the best interests of

2 the State or there is no other practical way to complete a
project.

4 "School construction project" does not mean the purchase,
6 lease-purchase or construction of portable temporary classroom
space, as defined in section 15603, subsection 19-A ~~or~~, the
8 lease-purchase of bus garage and maintenance facilities, as
defined in section 15603, subsection 6-A or a permanent space
10 lease-purchase project as defined in section 15901, subsection
4-B.

12 **Sec. 7. 20-A MRSA §15901, sub-§4-B** is enacted to read:

14 4-B. Permanent space lease-purchase project. "Permanent
space lease-purchase project" means the lease-purchase of
16 permanent administrative space or permanent small
nonadministrative or instructional space whose costs are wholly
18 or partially eligible as debt service costs for subsidy purposes
under section 15603, subsection 8, paragraph B, subparagraph (1)
20 or subparagraph (3). "Permanent space lease-purchase project"
does not mean the purchase, lease-purchase or construction of
22 portable temporary classroom space, as defined in section 15603,
subsection 19-A or the lease-purchase of bus garage and
24 maintenance facilities, as defined in section 15603, subsection
6-A.

26 **Sec. 8. 20-A MRSA §15902, sub-§4**, as enacted by PL 1981, c.
28 693, §§5 and 8, is amended to read:

30 **4. Final report to commissioner.** On the completion of a
school construction project or a permanent space lease-purchase
32 project, the building committee shall certify to the commissioner
that the construction project has been completed in conformity
34 with the approved plans and specifications.

36 **Sec. 9. 20-A MRSA §15903, sub-§1**, as amended by PL 1983, c.
38 35, is further amended to read:

40 **1. Application.** A school construction project, permanent
space lease-purchase project or the minor capital costs of a
project with an estimated cost of more than \$50,000 shall must
42 meet the requirements of this section.

44 **Sec. 10. 20-A MRSA §15903, sub-§5**, as repealed and replaced by
PL 1987, c. 379, is amended to read:

46 **5. Inspection and compliance.** Review and inspection of
48 school construction projects and permanent space lease-purchase
projects for compliance with approved plans and specifications
shall must be provided in accordance with this subsection.
50

2 A. If it appears to the commissioner that the school
4 construction project or permanent space lease-purchase
6 project has not been completed in conformity with the
approved plans and specifications, the commissioner may
cause an inspection of the project to take place.

8 B. Upon receipt by the commissioner of a written petition
10 from one or more residents of the school administrative unit
12 where the school construction project or permanent space
14 lease-purchase project is located claiming that the project
16 has not been completed in conformity with the approved
18 plans and specifications, the commissioner shall cause an
20 inspection of the project to be made or shall issue a
22 written explanation to the petitioner or petitioners
24 explaining his the commissioner's refusal to do so. The
petitioner or petitioners shall certify as part of the
petition that the claim of nonconformance has been brought
to the attention of the superintendent of the school
administrative unit in which the school construction project
or permanent space lease-purchase project is located and
that the superintendent has failed to respond in a
satisfactory manner to that claim.

26 C. If an investigation is held, the commissioner shall
28 notify the building committee, or legislative body of the
30 school administrative unit when no building committee
32 exists, of the findings of the investigation and of any
34 changes required. The building committee or legislative
body of the school administrative unit shall make the
changes within a reasonable period of time. Failure to do
so shall render the school administrative unit liable to the
penalties provided in section 6801-A.

36 **Sec. 11. 20-A MRSA §15904, sub-§2, as amended by PL 1987, c.**
98, §6, is further amended to read:

38 **2. School administrative districts.** In a school
40 administrative district the vote shall must be conducted in
accordance with section 1305 or sections 1351 to 1354.

42 **Sec. 12. 20-A MRSA §15904, sub-§6 is enacted to read:**

44 **6. Permanent space lease-purchase projects.** A permanent
46 space lease-purchase project, as defined in section 15901,
subsection 4-B, whose costs are wholly eligible as debt service
48 costs for subsidy purposes under section 15603, subsection 8,
paragraph B must receive a favorable vote of the legislative body
50 of the school administrative unit. A permanent space
lease-purchase project whose lease-purchase costs are not

2 eligible as debt service costs for subsidy purposes under section
3 15603, subsection 8, paragraph B must receive a favorable vote of
4 the legislative body conducted in accordance with this section,
5 except that subsection 4 does not apply. The vote may authorize
6 the school board or school committee to enter into a mortgage,
7 security interest or other encumbrance on the permanent space
8 lease-purchase project determined to be necessary for the
9 permanent space lease-purchase project.

10 **Sec. 13. 20-A MRSA §15905, sub-§1**, as amended by PL 1997, c.
11 469, §2, is further amended to read:

12
13 **1. Approval authority.** The state board must approve each
14 school construction project, unless it is a small scale school
15 construction project as defined in section 15901, subsection
16 4-A, ~~or~~ a nonstate funded project as defined in section 15905-A
17 or a permanent space lease-purchase project.

18
19 **A.** The state board may approve projects as long as no
20 project approval will cause debt service costs, as defined
21 in section 15603, subsection 8, paragraph A, to exceed the
22 maximum limits specified in Table 1 in subsequent fiscal
23 years.

24
25 **Table 1**

26 Fiscal year	27 Maximum Debt Service Limit
28 1990	\$ 48,000,000
29 1991	\$ 57,000,000
30 1992	\$ 65,000,000
31 1993	\$ 67,000,000
32 1994	\$ 67,000,000
33 1995	\$ 67,000,000
34 1996	\$ 67,000,000
35 1997	\$ 67,000,000
36 1998	\$ 67,000,000
37 1999	\$ 69,000,000
38 2000	\$ 72,000,000
39 2001	\$ 74,000,000

40
41 **A-1.** Beginning with the second regular session of the
42 Legislature in fiscal year 1990 and every other year
43 thereafter, on or before March 1st, the commissioner shall
44 recommend to the Legislature and the Legislature shall
45 establish maximum debt service limits for the next biennium
46 for which debt service limits have not been set.

47
48 **B.** Nonstate funded projects, such as school construction
49 projects or portions of projects financed by proceeds from
50

insured losses, money from federal sources, other noneducational funds or local funds which that are not eligible for inclusion in an administrative unit's state-local allocation, ~~shall-be~~ are outside the total cost limitations set by the Legislature.

Sec. 14. 30-A MRSA §6006-E, as enacted by PL 1997, c. 787, §13, is amended to read:

§6006-E. Maine school facilities finance lease-purchase program

In addition to and in furtherance of any other assistance available to a school administrative unit in this chapter, the bank, in cooperation with the Department of Education, shall establish a ~~lease~~ lease-purchase program for buildings to be used by all school administrative units whose school facility ~~lease~~ lease-purchase payments receive reimbursement, subsidy or other payment from the State. For the purposes of this section, a ~~lease~~ lease-purchase program is a system for awarding leases for a school administrative unit pursuant to a competitive bidding process. ~~All-proceeds-from-leases-administered-by-the-bank-must be-held-and-invested-by-the-bank-and-paid-to-the-school administrative-unit-to-reimburse-incurred-costs-associated-with capital-acquisitions,-leases-or-improvements-approved-by-the Department-of-Education.~~

Sec. 15. 30-A MRSA §6006-F, sub-§3, ¶B, as enacted by PL 1997, c. 787, §13, is amended to read:

B. To make loans to ~~refund-bonds-or-notes-of~~ a school administrative unit ~~issued-for-the-purpose-of-financing-any repair to finance expenditures incurred after June 1, 1998 for repairs or renovations authorized under paragraph A and, certified under subsection 5, if-sold-after-June-1,-1998 and initially approved by a school administrative unit on or after April 30, 1998;~~

SUMMARY

This bill accomplishes the following.

The bill clarifies the allocation of resources a school administrative unit will commit to a maintenance and capital improvement program for all school facilities within the school administrative unit to allow more flexibility in determining local allocation to maintenance and capital improvement plans and programs.

2 The bill clarifies the intent of the original legislation
3 under the Maine school facilities finance lease-purchase program
4 that this program apply to lease-purchase only, not leases in
5 general and allows lease-purchase to remain in the calculation of
6 the circuit breaker.

7 The bill amends the definition of subsidizable debt service
8 on school construction projects to exclude debt service payments
9 made from unused bond principle amounts and interest earned on
10 investment of these unused funds.

11 The bill provides that permanent space lease-purchase school
12 projects whose costs are wholly eligible as debt service costs
13 for purposes of calculating state subsidy must be approved by the
14 legislative body of the school administrative unit. If any
15 portion of the costs of the permanent space lease-purchase
16 project is not eligible for inclusion in debt service costs for
17 the purpose of calculating state subsidy, the permanent space
18 lease-purchase project must be approved at a referendum. The
19 bill also permits school construction projects to be considered
20 at referenda conducted under the alternate voting procedures of
21 the Maine Revised Statutes, Title 20-A, section 1305.
22

23 The bill also qualifies certain projects for the School
24 Revolving Renovation Fund that were undertaken during the summer
25 of 1998 in anticipation of borrowing from that fund.
26