

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

SECOND REGULAR SESSION-2010

Legislative Document

No. 1686

H.P. 1187

House of Representatives, January 6, 2010

An Act To Allow Minor Capital School Improvement Projects To Be Permitted Costs under Essential Programs and Services

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative ROTUNDO of Lewiston.
Cosponsored by Representative WAGNER of Lyman, Senator DAMON of Hancock and Representatives: BICKFORD of Auburn, CAIN of Orono, CAREY of Lewiston, MacDONALD of Boothbay, SYKES of Harrison, WAGNER of Lewiston, Senators: CRAVEN of Androscoggin, SHERMAN of Aroostook.

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 Whereas, many school administrative units have an immediate need to submit
4 proposals for approval for reimbursement of costs incurred for minor capital school
5 improvement projects; and

6 Whereas, it is necessary to change the law to allow reimbursement for these
7 projects; and

8 Whereas, in the judgment of the Legislature, these facts create an emergency within
9 the meaning of the Constitution of Maine and require the following legislation as
10 immediately necessary for the preservation of the public peace, health and safety; now,
11 therefore,

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

13 **Sec. 1. 20-A MRSA §15672, sub-§2-A, ¶B,** as amended by PL 2007, c. 111, §3,
14 is further amended to read:

15 B. Lease costs for school buildings when the leases, including leases under which the
16 school administrative unit may apply the lease payments to the purchase of portable,
17 temporary classroom space, have been approved by the commissioner for the year
18 prior to the allocation year. Lease costs include costs for leasing:

19 (1) Administrative space. A school administrative unit engaged in a state-
20 approved lease-purchase agreement for administrative space is eligible for state
21 support until July 1, 2008;

22 (2) Temporary and interim instructional space. Temporary space is instructional
23 space consisting of one or more mobile or modular buildings that are portable,
24 that are constructed on- or off-site and that can be disassembled and moved
25 economically to a new location. Interim instructional space is fixed instructional
26 space that a school administrative unit rents for a defined period of time and then
27 vacates at the end of the lease.

28 (a) A school administrative unit with state-approved need for instructional
29 space may lease temporary or interim space, with state support, for a
30 maximum of 5 years. A school administrative unit may appeal to the
31 commissioner if this limitation presents an undue burden. When making a
32 determination on a school administrative unit's request for relief based on
33 undue burden, the commissioner may consider, but is not limited to
34 considering, the following:

35 (i) Fiscal capacity;

36 (ii) Enrollment demographics; and

37 (iii) Unforeseen circumstances not within the control of the appealing
38 school administrative unit.

1 An extension granted by the commissioner beyond the 5-year maximum for
2 state support is limited to a period of one year. Any additional request for
3 extensions must be submitted and reviewed on an annual basis. The
4 commissioner's decision is final.

5 (b) A school administrative unit with state-approved need for instructional
6 space may engage in a lease-purchase agreement for temporary or interim
7 instructional space with state support for a maximum of 5 years; and

8 (3) Permanent small instructional space that replaces existing approved leased
9 temporary or interim instructional space. Permanent small instructional space
10 consists of new buildings or additions to existing buildings that are secured to a
11 permanent foundation. Once an existing leased temporary or interim
12 instructional space has been replaced by a permanent small instructional space
13 through an approved financing agreement, that space is eligible for state support
14 for a maximum of 10 years.

15 The department shall adopt rules necessary to implement this paragraph. Rules
16 adopted by the department to implement this paragraph are major substantive rules
17 pursuant to Title 5, chapter 375, subchapter 2-A; and

18 **Sec. 2. 20-A MRSA §15672, sub-§2-A, ¶C**, as amended by PL 2007, c. 111, §4,
19 is further amended to read:

20 C. The portion of the tuition costs applicable to the insured value factor for the base
21 year computed under section 5806; and

22 **Sec. 3. 20-A MRSA §15672, sub-§2-A, ¶E** is enacted to read:

23 E. Principal and interest costs for minor capital school improvement projects,
24 including, but not limited to, the replacement of windows, a boiler or a roof, when the
25 school administrative unit has received prior state approval for the minor capital
26 school improvement project. The department shall adopt rules necessary to
27 implement this paragraph. Rules adopted by the department to implement this
28 paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

29 **Emergency clause.** In view of the emergency cited in the preamble, this
30 legislation takes effect when approved.

31 SUMMARY

32 This bill allows the cost of minor capital school improvement projects, including, but
33 not limited to, the replacement of windows, a boiler or a roof, to be permitted costs under
34 the essential programs and services funding formula.