CHAPTER 35
HB 452 - FINAL VERSION

22Mar2023... 1017h

2023 SESSION

23-0419
10/08

HOUSE BILL ***452***

AN ACT relative to the department of education procedures for school building aid applications.

SPONSORS: Rep. Ladd, Graf. 5; Rep. Cordelli, Carr. 7; Sen. Watters, Dist 4

COMMITTEE: Education

ANALYSIS

This bill revises the timelines and procedure for the department of education to review and approve applications for school building aid grants.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to the department of education procedures for school building aid applications.

Be it Enacted by the Senate and House of Representatives in General Court convened:

35:1 School Building Aid; Amount of Grant; Approval of Plans. RSA 198:15-b and RSA 198:15-c are repealed and reenacted to read as follows:

198:15-b Amount of Grant.

I.(a) For construction authorized by a school district on or before July 1, 2013, the amount of the annual grant to any school district shall be the grant amount approved by the department of education at the time of final approval of the project.

(b)(1) For construction authorized by a school district after July 1, 2013, the amount of grant to the school district shall be calculated based on the criteria set forth in RSA 198:15-u through RSA 198:15-w.

(2) The state board of education shall approve the disbursement of 80 percent of the eligible grant amount upon approval of the application for school building aid grants by the state board of education, and shall disburse the balance of the grant amount upon completion of the construction and verification of the final cost of construction by the department of education.

(3) The amount of the grant to any chartered public school established in accordance with RSA 194-B:3-a shall be 30 percent of the eligible cost of construction.

(4) Funds received from federal grants or grants from other state programs shall be subtracted from total project costs when computing grants under this paragraph.

II. For the purposes of this subdivision, "eligible school construction projects" shall mean a project designed to be energy efficient and include any one or more of the following for the construction of instructional facilities:

(a) Construction of a new school building, including land acquisition and development of a site.

(b) Construction of an addition to an existing building, including land acquisition and development of a site.

(c) Substantial renovations approved by the commissioner of education.

(d) Purchase and renovation of existing buildings, including land acquisition and development of a site.

(e) Purchase or lease-purchase of mechanical, structural, or electrical equipment, including the cost of installation of such equipment, which is designed to improve energy efficiency or indoor air quality in school buildings. All grant amounts awarded under this subparagraph shall be returned to the state if such equipment is removed from the school building by the vendor due to the school district's

failure to comply with the terms of the lease-purchase agreement. Lease-purchase agreements shall be subject to the requirements of RSA 33:7-e.

III. The provisions of this paragraph shall apply to any school building aid grants made pursuant to RSA 198:15-a through RSA 198:15-w.

(a) The department of education shall issue annually maximum eligible cost standards for the eligible school construction projects, qualifying for a school building aid grant. These standards shall take into account the type, size, and location of the school and shall be based on an appropriate construction cost index developed or adopted by the department which shall reflect cost differences in the several regions of the state. Maximum cost standards shall be computed and published annually and expressed as a maximum cost per square foot.

(b) The state board of education shall adopt rules pursuant to RSA 541-A relative to the maximum eligible size standards for the construction of school buildings qualifying for a school building aid grant. These standards shall take into account the type and size of the school and shall be based on the minimum size appropriate for the construction of a school. Maximum size standards shall be expressed as a maximum gross square footage per pupil. Space determined by the department to be excessive or unnecessary to fulfill educational needs shall not be eligible for state building aid grants.

(c) The state board of education shall adopt rules pursuant to RSA 541-A relative to the maximum usable site size for land purchases qualifying for a school building aid grant. These standards shall take into account the type and size of the school and shall be based on the minimum site size appropriate for the construction of a school. Maximum size standards shall be expressed as a maximum acreage per pupil.

(d) For the purpose of calculating the total school building aid grants made under RSA 198:15-a through RSA 198:15-w, the final approved cost for an eligible school construction project shall not exceed the cost that would result if the project conformed to the maximum cost and size standards. The provisions of this section shall not preclude an eligible applicant from exceeding the maximum standards provided, however, the cost of the portion of the facilities which exceed the maximum standards shall not be eligible for school building aid grants.

(e) The commissioner of the department of education shall have the authority to waive eligible cost and size standards for an eligible school construction project for good reason shown.

198:15-c Approval of Plans; Specifications, and Costs of Construction or Purchase.

I.(a) A school district maintaining approved schools, desiring to avail itself of the grants herein provided shall submit schematic design plans, cost estimates, and other items determined by the department of education for an eligible school construction project prior to the start of the construction. Projects with approval from the school district's legislative body to construct, not subject to receiving building aid, are not eligible.

(b) Beginning January 1, 2025 and each year thereafter, to be considered for a school building aid grant, the complete building aid application shall be submitted no later than April 1 of the fiscal year that immediately precedes the fiscal year in which the school desires to seek the district's legislative body's approval for construction. The application shall include at a minimum, schematic design

plans, cost estimates, educational needs assessment, existing facility conditions assessment including, but not limited to a review of the mechanical, electrical, plumbing, and structural components of the building, proof of an annual school budget to support good maintenance, and other documentation as required by the department and identified in the department's school building construction rules.

(c) As deemed appropriate, emergency projects that are recommended by the commissioner of education shall be addressed on a case-by-case basis by the state board of education at any time during the school year. A school construction project requiring the replacement of all or a significant portion of a school facility which is declared uninhabitable or is identified as an imminent danger or substantial risk by the state fire marshal or a state or federal agency, and which results from an unanticipated and sudden natural or human disaster, shall qualify as an emergency project.

II.(a) The commissioner shall accept school building aid grant applications based upon completeness and submit a preliminary school building aid grant list, with applications ranked in accordance with subparagraph II(b) and rules of the department, to the school building authority established pursuant to RSA 195-C by August 1 each year. The school building authority shall verify the ranking submitted by the commissioner and submit a list in descending rank order to the state board of education for approval. If the ranking submitted to the school building authority differs from the preliminary school building aid grant list, the school building authority shall justify the new ranking using the same criteria in subparagraph II(b) and in rules of the department. The school building authority shall submit the school building aid rank order listing with written report of findings to the state board no later than October 15, each year. The state board of education shall verify the ranking submitted by the school building authority. If the ranking submitted to the state board of education differs from the preliminary school building aid grant list submitted by the commissioner, the state board of education shall justify the new ranking using the same criteria in subparagraph II(b) and rules of the department. The state board of education shall approve and publish the descending rank order list of approved eligible school construction projects by November 15 each year. School districts which have projects approved for funding shall be notified by the department of education of the projected amount to be funded within 10 days of approval. The project rating system and criteria used to rate project applications which shall include an administrative review process for appeal of a school district's project point rating, shall be developed by the department of education and approved by the state board of education.

(b) The commissioner of the department of education shall accept school building construction proposals based upon completeness. The department of education shall consider and score each proposal based on the following criteria:

(1) Unsafe conditions.

(2) Facilities not in compliance with the Americans With Disabilities Act, or obsolete, inefficient, or unsuitable facilities or mechanical and building systems.

(3) Overcrowding and associated influences to instructional areas and programming.

(4) Enrollment projections and population shifts.

(5) A school district's fiscal capacity based on measurable criteria such as the percentage of pupils eligible for free and reduced price meals.

(6) School security design and integration of security systems.

(7) The project contributes to operational cost efficiencies, consolidation, or reduced property taxes.

(8) High performance of design that provides environments that are energy and resource efficient. Energy and resource efficient designs are those that improve indoor air quality, air temperature, or water quality; reduce heating costs; provide better lighting; and increase average attendance.

(9) Any other criteria that the state board of education may determine are necessary.

(c) Except as provided in subparagraph (d), applications on the approved ranked list the previous fiscal year, including the school construction projects on the descending rank order list approved by the state board of education on November 10, 2022, but did not receive a grant due to insufficient funds in the previous fiscal year, shall be ranked ahead of any application that was not on the list in the previous fiscal year provided that construction of the project has not started.

(d) Applications with critical needs pursuant to subparagraph II(b) and substantial deficiencies, as defined by the department of education's school construction rules, may be ranked ahead of applications received in the prior fiscal year.

(e) Projects that did not receive approval from the school district's legislative body may resubmit those projects to the department for future consideration.

III. A school district that accepts school building aid for construction shall engage the services of a project manager for construction or reconstruction projects of $1,000,000 or more, unless the commissioner waives such requirement as unnecessary. The school district's project manager shall have his or her own comprehensive liability and auto insurance, worker's compensation coverage, and professional liability coverage. The state board of education shall adopt rules pursuant to RSA 541-A relative to the required services, responsibilities, and qualifications for the school district's project manager.

35:2 New Paragraph; School Building Aid; Definition Added. Amend RSA 198:15-a by inserting after paragraph I the following new paragraph:

I-a. For purposes of this subdivision, "school district" means any school district duly organized, any city maintaining a school department within its corporate organization, any cooperative school district as defined in RSA 195:1, any receiving district operating an area school as defined in RSA 195-A:1, or any receiving district providing an education to pupils from one or more sending districts under a contract entered into pursuant to RSA 194:21-a or RSA 194:22.

35:3 Reference Removed; School Building Authority. Amend RSA 195-C:1, IV(a) to read as follows:

IV.(a) The authority shall advise the state board of education by investigating matters concerning school facilities referred to them by the state board of education. Such matters shall include, but shall not be limited to, standards for school building construction pursuant to RSA 21-N:9, II(c), safety standards related to school buildings, financing of school construction projects, award of high performance school construction grants [~~under RSA 198:15-b, I-b~~], and any other specific concerns about particular school buildings that have been brought to the attention of the state board of education.

35:4 New Paragraph; Annual Grant for Leased Space. Amend RSA 198:15-hh by inserting after paragraph III the following new paragraph:

IV. Any state aid for leased space pursuant to this section shall require a separate appropriation, and shall not be included in the state appropriation for school building aid.

35:5 Repeal; Use of Existing Buildings. RSA 198:15-h, relative to certain construction funds of a receiving district operating an area school, is repealed.

35:6 Effective Date. This act shall take effect July 1, 2023.

Approved: May 17, 2023
Effective Date: July 01, 2023