



# Senate

General Assembly

**File No. 642**

*January Session, 2003*

Substitute Senate Bill No. 1142

*Senate, May 6, 2003*

The Committee on Finance, Revenue and Bonding reported through SEN. DAILY of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING SCHOOL CONSTRUCTION AND CONCERNING THE EFFECT OF THE SHEFF V. O'NEILL SETTLEMENT ON THE BONDING CAP.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsections (d) and (e) of section 10-283 of the general  
2 statutes are repealed and the following is substituted in lieu thereof  
3 (*Effective July 1, 2003*):

4 (d) No application for a school building project shall be accepted by  
5 the commissioner on or after July 1, 2002, unless the applicant has  
6 secured funding authorization for the local share of the project costs  
7 prior to application or notifies the commissioner that such  
8 authorization will be secured prior to the November fifteenth  
9 following the June thirtieth application deadline. If the applicant does  
10 not notify the commissioner by said November fifteenth that it has  
11 secured such authorization, such application shall not be included in  
12 the list of projects submitted to the Governor and General Assembly in

13 December of that year. The reimbursement percentage for a project  
14 covered by this subsection shall reflect the rates in effect during the  
15 fiscal year in which such local funding authorization is secured.

16 (e) (1) For each such list submitted in December, 2003, and  
17 December, 2004, the total amount requested by the commissioner for  
18 grant commitments shall not exceed one billion dollars. In each such  
19 list, the commissioner shall list the categories described in subdivision  
20 (2) of subsection (a) of this section in order of priority and shall list the  
21 projects within each category in order of priority. The commissioner  
22 shall comply with the limitation on grant commitments provided for  
23 under this subsection according to such priorities. All projects  
24 submitted pursuant to section 10-264h, those for regional vocational-  
25 technical schools and those necessary to preserve accreditation of a  
26 facility that has been placed on probation by the New England  
27 Association of Schools and Colleges shall be included on the list.  
28 Remaining projects shall be prioritized within each category based on  
29 the applicant's average school construction project costs authorized for  
30 state grant commitments pursuant to this section per enrolled pupil for  
31 the five-year period immediately preceding the fiscal year of the  
32 current application with the applicant with the lowest such average  
33 being assigned the first priority. In determining such average, projects  
34 that are authorized pursuant to section 10-264h and are for interdistrict  
35 magnet schools that are operated by a regional educational center shall  
36 not be included in project costs or enrollment. Eligible projects that  
37 cannot be included on the list due to such prioritization shall be  
38 included first on the list submitted the next following year.

39 (2) The provisions of subdivision (1) of this subsection shall not  
40 apply to any grant commitment for a school building project required  
41 to fulfill the provisions of the settlement agreement in the action Milo  
42 Sheff, et al. v. William A. O'Neill, et al., dated January 22, 2003, as  
43 determined by the commissioner.

44 Sec. 2. Subsection (a) of section 10-285f of the general statutes is  
45 repealed and the following is substituted in lieu thereof (*Effective July*

46 1, 2003):

47 (a) Notwithstanding any provision of this chapter or any regulation  
48 adopted by the State Board of Education pursuant to this chapter, the  
49 State Board of Education may establish a pilot program for a period of  
50 three years that authorizes up to two school construction projects per  
51 year using a design-build contract and with the approval of the [State  
52 Board] Commissioner of Education a town or regional school district  
53 may enter into a design-build contract for new school construction and  
54 shall be eligible to be considered for a grant commitment and progress  
55 payments from the state provided each design phase shall be reviewed  
56 and approved for compliance with all applicable codes by local  
57 authorities having jurisdiction over such codes. The provisions of  
58 section 10-287 relative to bidding all orders and contracts for school  
59 building construction shall not apply to any such project.

60 Sec. 3. Subsection (d) of section 10-285a of the general statutes is  
61 repealed and the following is substituted in lieu thereof (*Effective July*  
62 *1, 2003*):

63 (d) The percentage of school building project grant money a  
64 cooperative arrangement pursuant to section 10-158a, may be eligible  
65 to receive shall be determined by its ranking. Such ranking shall be  
66 determined by (1) multiplying the total population, as defined in  
67 section 10-261, of each town in the cooperative arrangement by such  
68 town's ranking, as determined in subsection (a) of this section, as  
69 amended by this act, (2) adding the products determined under  
70 subdivision (1) of this subsection, and (3) dividing the total computed  
71 under subdivision (2) of this subsection by the total population of all  
72 towns in the cooperative arrangement. The ranking of each  
73 cooperative arrangement shall be rounded to the next higher whole  
74 number and each such cooperative arrangement shall receive the same  
75 reimbursement percentage as would a town with the same rank plus  
76 ten percentage points, except that no such percentage shall exceed  
77 eighty-five per cent. On and after October 1, 2003, any cooperative  
78 arrangement shall include at least ninety per cent of the eligible

79 students of all towns in the cooperative arrangement, unless such an  
 80 arrangement includes a town that (A) has provided enrollment options  
 81 at an incorporated or endowed high school or academy approved  
 82 pursuant to section 10-34 for ten consecutive years immediately prior  
 83 to the time of application to be considered part of a cooperative  
 84 arrangement, and (B) has an agreement current at the time of such  
 85 application to provide enrollment options at such high school or  
 86 academy for nine years following such application, in which case such  
 87 arrangement shall be considered a cooperative arrangement if at least  
 88 fifty per cent of the eligible students from such town attend the  
 89 cooperatively constructed school.

90       Sec. 4. (NEW) (*Effective July 1, 2003*) For any school building project  
 91 authorized by the General Assembly on and after July 1, 2004, or any  
 92 other alteration of a classroom or other space where students learn,  
 93 such classrooms and such spaces shall be constructed or altered in  
 94 accordance with American Nations Standard: Acoustical Performance  
 95 Criteria, Design Requirements and Guidelines for Schools, ANSI  
 96 S12.60-2002. For purposes of this section, "alteration" means a change  
 97 to any feature of a classroom that has a measurable effect on (1)  
 98 background noise level, as defined in Section 3.2.2 of ANSI S12.60-  
 99 2002, or (2) reverberation time, as defined in Section 3.2.3.1 of ANSI  
 100 S12.60-2002. The provisions of this section shall not apply to  
 101 classrooms or other spaces where students learn where adequate  
 102 acoustical modifications cannot be made without compromising health  
 103 and safety, or the purpose or function of a specific classroom or other  
 104 space where students learn.

This act shall take effect as follows:	
Section 1	<i>July 1, 2003</i>
Sec. 2	<i>July 1, 2003</i>
Sec. 3	<i>July 1, 2003</i>
Sec. 4	<i>July 1, 2003</i>

**ED**

*Joint Favorable Subst. C/R*

FIN

**FIN**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Education, Dept.	Various – Cost, Savings	See Below	See Below

**Municipal Impact:**

Municipalities	Effect	FY 04 \$	FY 05 \$
Local and Regional School Districts	Cost, Revenue Loss	See Below	See Below

**Explanation**

Section 1(d) would allow an additional four and a half months for a town to secure local funding authorization (June 30<sup>th</sup> to November 15<sup>th</sup>) for school construction projects and thus be eligible for inclusion on the school construction priority list submitted to the General Assembly by December 15<sup>th</sup> each year. This change would thus enable more school districts to be eligible for state aid sooner than if the original deadline were maintained.

Section 1(e)(1) establishes a method of prioritization for school construction projects. To the degree that a low priority project is delayed because the total amount of submissions exceeds the cap of \$1 billion in total projects there is the potential that a school district could incur higher costs of construction that in turn would also be reflected in the state’s share. The prioritization methodology provides that school districts that have had many projects, in terms of cost, in the preceding five years receive a lower prioritization.

Section 1(e)(2) exempts Sheff related projects from the school construction bonding cap. By exempting these projects the state may

incur higher costs of bonding until FY 07, as a larger amount of projects will be eligible for funding. There are eight magnet schools required in the Sheff settlement. It is anticipated that many of the projects will be renovations of existing facilities and thus cost \$15 million on average. New magnet school buildings however will likely cost an average of \$50.0 million. The state share of Sheff projects is 95% with 5% being paid by the local district.

Section 2 is technical and has no fiscal impact. At this point no school district has asked to construct a project on a design-build basis.

Section 3 places limitations on cooperative arrangements with regard to the school construction bonus of 10%. Placing the limitation on no more than a maximum state share of 85% and a limitation on a minimum school population makeup results in a future state savings (local revenue loss) which would be dependent upon the cost of any projects that might involve cooperative arrangements.

Section 4 places acoustical standards on school construction projects authorized after July 1, 2004 and may result in increased costs to local and regional school districts and the state. However since many districts would construct projects using these standards regardless of this section the total cost is not expected to be significant in the scope of total school construction costs.

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**OLR Bill Analysis**

sSB 1142

**AN ACT CONCERNING SCHOOL CONSTRUCTION AND CONCERNING THE EFFECT OF THE SHEFF V. O'NEILL SETTLEMENT ON THE BONDING CAP****SUMMARY:**

This bill:

1. exempts school construction projects required under the *Sheff v. O'Neill* settlement from the \$1 billion school construction grant limit applicable to the 2004 and 2005 project priority lists,
2. establishes a method for prioritizing school construction projects on lists subject to the \$1 billion limit,
3. extends the deadline for school districts to secure authorization for the local share of a school construction project's funding,
4. imposes additional restrictions on districts qualifying for school construction reimbursement bonuses for projects built by cooperative arrangement and limits the total reimbursement for such projects to 85%,
5. establishes acoustical standards for new school construction projects, and
6. requires the education commissioner rather than the State Board of Education (SBE) to approve design-build contracts for new school construction eligible for state reimbursement.

EFFECTIVE DATE: July 1, 2003

**SHEFF V. O'NEILL PROJECTS (§1(E)(2))**

The bill exempts school construction projects the education commissioner determines are required under the settlement of the *Sheff v. O'Neill* school desegregation case from the \$1 billion school

construction grant commitment limit. The *Sheff* settlement agreement requires the state to create eight new interdistrict magnet schools in Hartford at the rate of two schools per year between 2003 and 2007.

### **CRITERIA FOR PRIORITIZING PROJECTS FOR THE SCHOOL CONSTRUCTION BONDING CAP (§1(E)(1))**

The bill establishes a method for the education commissioner to prioritize school construction projects on the 2004 and 2005 school construction project lists. By law, the commissioner can request no more than \$1 billion in total state school construction grant commitments for each of those lists.

The bill requires the commissioner, in compiling the two lists, to include the following: (1) interdistrict magnet school projects, (2) regional vocational-technical school projects, and (3) projects needed to preserve accreditation for facilities placed on probation by the New England Association of Schools and Colleges.

He must then prioritize remaining projects according to the project applicant's average per-pupil costs for state-reimbursed projects over the preceding five fiscal years. The applicant with the lowest average receives first priority for its projects. In computing the averages, the commissioner must exclude construction costs for, and students enrolled in, interdistrict magnet schools operated by regional educational service centers.

Current law requires eligible projects left off a list because of the limit to be listed first in the following year. This bill specifies that the delayed projects are those that are not included on a list based on the bill's prioritization requirements.

### **DEADLINE EXTENSION FOR LOCAL FUNDING APPROVAL (§ 1(D))**

The bill extends the deadline for a local school district to secure authorization for the local share of a school construction project's funding by four and a half months, from June 30 to November 14. Under current law, starting with applications submitted on or after July 1, 2002, a district must submit its local project funding authorization with its state grant application for the project. The annual deadline for districts to submit school construction project grant applications is June 30.

The bill allows a district to notify the education commissioner when it submits its project application that it will secure local funding before November 15 of the same year. If the district fails to do so, the commissioner must leave the project off the priority list he submits to the governor and General Assembly by December 15 annually.

#### **COOPERATIVE ARRANGEMENT CONSTRUCTION BONUS (§ 4)**

By law, two or more school districts that build a school under a cooperative arrangement receive a 10-percentage-point bonus in their combined school construction reimbursement rates for the project. This bill limits the maximum reimbursement rate for such a project to 85%.

The bill also requires that, starting October 1, 2003, to be eligible for the bonus, a cooperative arrangement include at least 90% of the eligible students in all participating towns. But the bill establishes a 50% minimum attendance requirement for any town that (1) has, for at least the 10 consecutive years before the arrangement's school construction application, allowed its students to enroll at a state-approved endowed or incorporated high school or academy and (2) has an agreement in effect at the time of the application to continue allowing such enrollments for the next nine years.

#### **ACOUSTICAL STANDARDS FOR SCHOOL CONSTRUCTION (§ 5)**

The bill requires that any school building project the General Assembly authorizes after July 1, 2004 or any alteration of a classroom or other student learning space comply with national school acoustical performance standards the bill specifies. The requirement applies to any change in a classroom feature that has a measurable effect on background noise levels or reverberation time, as defined in the standards, unless adequate acoustical modifications are impossible without compromising either health and safety or the purpose or function of the classroom or other learning space.

#### **DESIGN-BUILD PILOT PROJECT APPROVAL (§ 2)**

The bill requires the education commissioner rather than the SBE to give a town or regional school district permission to enter into a design-build contract for new school construction eligible for state reimbursement. The law allows the SBE to establish a three-year pilot program to allow a maximum of two school construction projects per

year to use such contracts.

## **BACKGROUND**

### ***Endowed and Incorporated High Schools***

The state-approved endowed and incorporated high schools are Gilbert School, Woodstock Academy, and Norwich Free Academy.

### ***Cooperative Arrangements***

The law allows two or more boards of education to make a written agreement to jointly provide school accommodations, programs, or services. Such arrangements may include a committee authorized to apply for and receive state or federal grants; receive and disburse appropriations; hold title to property; employ personnel; enter into contracts; and otherwise provide school programs, services, and activities (CGS § 10-158a)

### ***Related Bill***

HB 5295 (File 467), reported favorably by the Environment Committee, requires any new facility, including schools, built with at least 50% state funding to comply with energy conservation and environmental design regulations adopted by the Office of Policy and Management.

## **COMMITTEE ACTION**

Education Committee

Joint Favorable Substitute Change of Reference

Yea 16      Nay 11

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 37      Nay 6