OLR Bill Analysis
SB 1210

Emergency Certification

AN ACT CONCERNING AUTHORIZATION OF STATE GRANT COMMITMENTS FOR SCHOOL BUILDING PROJECTS.

SUMMARY

Under the state school construction grant program, the state reimburses towns and local districts for a percentage of eligible school construction costs (with less wealthy towns receiving a higher reimbursement percentage). The towns pay the remaining costs.

This bill authorizes eight school construction grants totaling $160.5 million toward total project costs of $229 million. It also exempts certain school construction projects from various statutory and regulatory requirements to allow them to, among other things, qualify for (1) state reimbursement grants or (2) a higher level of reimbursement grant. These exemptions are referred to as “notwith standings.”

Additionally, the bill makes (1) changes in school construction laws concerning school building committee membership, reimbursement rates for diversity schools, and school construction project contracting rules and (2) various technical and conforming changes.

EFFECTIVE DATE: Upon passage, except that the provisions concerning contracting rules are effective July 1, 2020.

§ 1 — SCHOOL CONSTRUCTION GRANT COMMITMENTS

Table 1 shows the district, school, project, estimated cost and grant, and reimbursement rate for each of the eight new projects.
### Table 1: New School Construction Grant Commitments

<table>
<thead>
<tr>
<th>District</th>
<th>School</th>
<th>Project</th>
<th>Estimated Project Costs</th>
<th>Estimated Grant</th>
<th>Reimbursement Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bridgeport</td>
<td>Bassick High School</td>
<td>New construction</td>
<td>$115,000,000</td>
<td>$90,769,500</td>
<td>78.93%</td>
</tr>
<tr>
<td>Enfield</td>
<td>John F. Kennedy Middle School</td>
<td>Renovation</td>
<td>$84,373,294</td>
<td>$59,365,050</td>
<td>70.36%</td>
</tr>
<tr>
<td>Norwalk</td>
<td>Norwalk High School</td>
<td>Combined alteration</td>
<td>$4,228,203</td>
<td>$1,404,186</td>
<td>33.21%</td>
</tr>
<tr>
<td>Simsbury</td>
<td>Henry James Memorial School</td>
<td>Combined alteration</td>
<td>$23,965,620</td>
<td>$8,301,691</td>
<td>34.64%</td>
</tr>
<tr>
<td>Fairfield</td>
<td>Fairfield Ludlow High School</td>
<td>Alteration</td>
<td>$122,764</td>
<td>$31,133</td>
<td>25.36%</td>
</tr>
<tr>
<td>Fairfield</td>
<td>Fairfield Warde High School</td>
<td>Alteration</td>
<td>$222,486</td>
<td>$56,422</td>
<td>25.36%</td>
</tr>
<tr>
<td>Middletown</td>
<td>Middletown High School Vo-Ag Center</td>
<td>Vo-ag equipment</td>
<td>$123,690</td>
<td>$98,952</td>
<td>80.00%</td>
</tr>
<tr>
<td>Newington</td>
<td>Transition Academy at Town Hall</td>
<td>New construction</td>
<td>$1,001,341</td>
<td>$472,032</td>
<td>47.14%</td>
</tr>
<tr>
<td>Totals</td>
<td></td>
<td></td>
<td>$229,037,398</td>
<td>$160,498,966</td>
<td></td>
</tr>
</tbody>
</table>

### §§ 2-6 — CHANGES TO SCHOOL CONSTRUCTION LAWS

**OPM Comments on Proposed School Building Projects (§ 2)**

Under current law, the Office of Policy and Management (OPM) secretary must submit comments and recommendations on the annual list of proposed school building projects (i.e., the “priority list”) to the General Assembly’s school construction committee after the Department of Administrative Services (DAS) commissioner submits the list to the governor, the General Assembly, and OPM. The bill allows, rather than requires, the secretary to submit the comments and recommendations to the committee.

**Project Categories (§ 2)**

The bill conforms the law to current practice by requiring the DAS commissioner, rather than the education commissioner, to assign each school building project a category based on its primary purpose. (Legislation in 2011 and 2014 transferred the primary responsibility for school construction grants from the State Department of Education to
School Building Committee Membership (§ 3)

The bill requires that any town- or regional school district-established school building committee include at least one member with experience in the construction industry, if such committee will receive state reimbursement for a school building project.

Diversity School Project Reimbursement Rate (§§ 4 & 5)

The bill changes the state grant reimbursement rate for diversity school construction projects from 80% of reasonable project costs to the town’s standard reimbursement rate (anywhere from 10% to 70% for new construction, depending upon the town’s wealth) plus an additional 10 percentage points. By law, diversity school projects are intended to address an existing student enrollment racial disparity in the school district by creating a new school that is open to enrollment from all students across the district (see BACKGROUND).

School Construction Contracting (§ 6)

The bill makes several changes to the law addressing how school construction contracts are awarded for construction management services, architectural services, and other consultant services.

By law, most contracts and orders for school building construction receiving state assistance must be awarded to the lowest responsible qualified bidder following a public bidding invitation. The law provides exceptions for contracts for construction management and architectural services, which instead must be awarded from a pool of up to the four most responsible qualified proposers after a public selection process.

Construction Management Services. The bill allows awarding authorities (e.g., boards of education), upon the written approval of the DAS commissioner, to permit a construction manager to self-perform part of the construction work if the authority and the commissioner determine that the manager’s self-performance will be more cost-effective than using a subcontractor. It expands the evaluation criteria
awarding authorities must use to select construction managers to include whether the proposer intends to self-perform any project element and the benefit to the awarding authority that will result from the self-performance.

Under the bill, all work not performed by the construction manager must be performed by trade subcontractors selected by a process the awarding authority and the commissioner approve. The bill requires that the construction manager’s contract include a guaranteed maximum price for the cost of construction, which must be determined within 90 days after the selection of the trade subcontractors. It prohibits construction from beginning before this determination, except for work relating to site preparation and demolition.

**Architectural Services.** The bill modifies the evaluation criteria that must be used to determine the most responsible and qualified proposers for architectural services. Under existing law, the criteria include consideration of, among other things, the proposer’s organizational and team structure. The bill requires that the criteria used to evaluate this structure include consideration of any subcontractors to be used by the proposer.

**Other Consultant Services.** The bill subjects orders and contracts for other consultant services to the same requirements as those for architectural services (e.g., that they be awarded from a pool of up to the four most responsible qualified proposers after a public selection process). Other consultant services include those rendered by an owner’s representatives, construction administrators, program managers, environmental professionals, planners, and financial specialists.

Under the bill, costs associated with an order or contract for these consultant services are ineligible for state financial assistance unless the order or contract receives prior approval from the DAS commissioner.
§ 7 — EMERGENCY CONSTRUCTION GRANTS

The bill expands the types of projects eligible for emergency construction grants. (Unlike priority list projects, these do not require legislative approval.) By law, emergency grants can be made for certain reasons, such as correcting safety, health, and other code violations; replacing roofs; and making repairs due to fire or other catastrophe. The bill additionally allows these grants for school security projects, including improvements to existing security infrastructure or installing new security infrastructure.

§§ 8-12 — PROJECT EXEMPTIONS, WAIVERS, AND MODIFICATIONS

Table 2 describes the notwithstandings (i.e., exemptions and waivers from state law) that the bill grants to two towns, Hartford and Tolland.

Table 2: School Construction Project Exemptions, Waivers, and Other Modifications

<table>
<thead>
<tr>
<th>Section</th>
<th>Town</th>
<th>School and Project</th>
<th>Exemption, Waiver, or Other Change</th>
</tr>
</thead>
</table>
| 8       | Hartford | Martin Luther King, Jr. Elementary School, magnet school renovation | Increases the project reimbursement rate from 80% to 95% to implement the District Model for Excellence approved by the Hartford Board of Education on January 23, 2018  
Allow reimbursement for certain costs that are otherwise ineligible for reimbursement, provided the ineligible costs do not exceed $2 million and the project meets all other requirements of school construction projects |
| 9       | Hartford | Burns Latino Studies Academy, renovation | Converts the existing project from “code violation” to “renovation”  
Waives the requirement to submit an application for the $47.7 million project before June 30, 2018, in order to be considered for the 2019 priority list, as long as Hartford (1) files an application before October 1, 2019, and (2) meets all other requirements of school construction projects |
<table>
<thead>
<tr>
<th>#</th>
<th>Location</th>
<th>Description</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>Hartford</td>
<td>Bulkeley High School, renovation</td>
<td>Waives the requirement to submit an application for the $149 million project before June 30, 2018, in order to be considered for the 2019 priority list, as long as Hartford (1) files an application before October 1, 2019, and (2) meets all other requirements of school construction projects. Increases the project reimbursement rate from 80% to 95% to implement the District Model for Excellence approved by the Hartford Board of Education on January 23, 2018.</td>
</tr>
<tr>
<td>11</td>
<td>Hartford</td>
<td>Various (unspecified)</td>
<td>Authorizes a reimbursement rate of 95% for any school building project related to implementing the District Model for Excellence, as long as Hartford (1) files an application for such projects before June 30, 2022, and (2) meets all other requirements of school construction projects.</td>
</tr>
<tr>
<td>12</td>
<td>Tolland</td>
<td>Birch Grove Primary School, renovation and portable classrooms</td>
<td>Authorizes a reimbursement rate of 89% for the renovation project to address the emergency situation regarding the presence of pyrrhotite in the school’s foundation. Authorizes a reimbursement rate of 100% for the portable classroom project to address the above situation.</td>
</tr>
</tbody>
</table>

**BACKGROUND**

*Diversity School Project Grants*

A local or regional board of education has a qualifying racial disparity when one or more of its schools has a minority enrollment that exceeds the district-wide average percentage of minority enrollment for the same grades by more than 25% (i.e., schools that have a disproportionately high minority population) (CGS § 10-286h(a)).
In order to be eligible for grant funds, the school board must show that it has made a good faith effort to correct the disparity, as determined by the education commissioner. The board must also (1) develop policies to inform district residents that diversity school enrollment is open to all resident students and (2) have a plan to correct the disparity in the proportion of pupils of racial minorities in the district (CGS § 10-286h(b)).