
OLR Bill Analysis

HB 7010

Emergency Certification

AN ACT CONCERNING THE AUTHORIZATION OF STATE GRANT COMMITMENTS FOR SCHOOL BUILDING PROJECTS, THE RECOGNITION OF GOODWIN UNIVERSITY AS A LOCAL EDUCATION AGENCY FOR PURPOSES OF FEDERAL LAW, CERTAIN EXCLUSIONS TO THE CALCULATION OF A SCHOOL DISTRICT'S MINIMUM BUDGET REQUIREMENT, AND DELAYING CERTAIN REVISIONS TO THE LAW REGARDING THE PROVISION OF CONSTRUCTION MANAGEMENT SERVICES.

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Suspends, until July 1, 2021, recent changes to the law addressing the awarding of contracts for construction management services and instead reverts to selection criteria that were required by law prior to July 1, 2020

§ 1 — SCHOOL CONSTRUCTION GRANT COMMITMENTS

Authorizes 12 school construction grants totaling \$209.2 million to reimburse towns and local districts for a percentage of eligible school construction costs

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 and more wealthy towns receiving a lower reimbursement). The towns pay the remaining costs.

This bill authorizes 12 school construction grants totaling \$209.2 million toward total project costs of \$501.3 million. Table 1 shows the districts, schools, projects, estimated costs and grants, and reimbursement rates for each of the 12 authorized projects.

EFFECTIVE DATE: Upon passage

Table 1: New School Construction Grant Commitments

| <i>District</i> | <i>School</i> | <i>Project</i> | <i>Estimated Project Costs</i> | <i>Estimated Grant</i> | <i>Reimbursement Rate</i> |
|------------------------|-------------------------------------|-----------------------|---------------------------------------|-------------------------------|----------------------------------|
| Brookfield | New Elementary School | New | \$78,141,446 | \$16,745,712 | 21.43% |
| Darien | Ox Ridge Elementary School | New | 63,000,000 | 6,747,300 | 10.71% |
| Mansfield | New Mansfield Elementary School | New | 50,512,000 | 33,014,643 | 65.36% |
| New Britain | Chamberlain Elementary School | Renovation | 50,000,000 | 39,820,000 | 79.64% |
| New Fairfield | New Fairfield High School | New | 84,220,000 | 23,766,884 | 28.22% |
| New Fairfield | Consolidated Early Learning Academy | Extension/Alteration | 29,190,000 | 11,156,418 | 38.22% |
| Fairfield | Mill Hill Elementary School | Extension/Alteration | 22,000,600 | 5,735,556 | 26.07% |
| Hamden | Hamden Middle School | Extension/Alteration | 11,223,900 | 7,496,443 | 66.79% |
| Manchester | Bowers Elementary | Renovation | 32,800,000 | 21,789,040 | 66.43% |

| | | | | | |
|---------------|-----------------------------|------------|--------------------|--------------------|--------|
| | School | | | | |
| Manchester | Buckley Elementary School | Renovation | 29,400,000 | 19,530,420 | 66.43% |
| Norwalk | Jefferson Elementary School | Renovation | 33,355,000 | 10,840,375 | 32.50% |
| Winchester | Mary P. Hinsdale School | Renovation | 17,425,000 | 12,509,408 | 71.79% |
| Totals | | | 501,267,946 | 209,152,199 | |

§§ 2-7 — PROJECT EXEMPTIONS, WAIVERS, AND MODIFICATIONS

Exempts six school construction projects from statutory and regulatory requirements to allow them to, among other things, qualify for state reimbursement grants or higher reimbursement percentages for these grants

The bill exempts another group of six school construction projects from various statutory and regulatory requirements to allow them to, among other things, qualify for (1) state reimbursement grants or (2) higher reimbursement percentages for these grants. These exemptions are referred to as “notwithstandings.” Table 2 describes the notwithstandings that the bill grants.

EFFECTIVE DATE: Upon passage

Table 2: Notwithstandings for School Construction Projects

| Bill Section | Town | School and Project | Exemption, Waiver, or Other Change |
|---------------------|-------------|---|---|
| 2 | New Britain | Chamberlain Elementary School, renovation | Increases the project reimbursement rate from 79.64% to 95%, provided New Britain is an educational reform district on the bill's effective date, which is upon passage |
| 3 | New Britain | Pulaski Middle School, roof replacement | Increases the project reimbursement rate to 95%, provided New Britain is an educational reform district on the bill's effective date, which is upon passage (FY 2020 reimbursement rate is 79.64%)* |
| 4 | New Britain | Slade Middle School, roof replacement | Increases the project reimbursement rate to 95%, provided New Britain is an educational reform district on the bill's effective date, which is upon passage (FY 2020 reimbursement rate |

| | | | |
|---|---------|---------------------------------------|--|
| | | | is 79.64%)* |
| 5 | Norwalk | Norwalk High School, new construction | <p>Waives the requirement to submit an application before June 30, 2019, in order to be on the 2020 priority list for the project with a maximum cost of \$189 million, provided that Norwalk files an application before December 31, 2020, and meets all other requirements for school construction projects</p> <p>Increases, with certain exceptions (see below), the project reimbursement rate to 80% (FY 2020 new construction reimbursement rate is 22.5%*) provided the Norwalk Board of Education: (1) establishes a pathways in technology early college high school program at the new high school that enrolls students from surrounding towns, including giving priority to Stamford and Bridgeport students, and (2) allows students who are not enrolled in an arts pathway program to join or participate in any arts or music program offered as part of the regular school curriculum or extracurricular arts or music-related program</p> <p>Exceptions to the reimbursement rate increase to 80%: the bill (1) increases the reimbursement rate to 50% for the natatorium (i.e., indoor swimming pool) portion of the high school project (by law natatorium construction receives 50% of that town's regular reimbursement rate) and (2) increases the reimbursement rate to 50% for site acquisition costs of any parcels of land adjacent to the new construction project (FY 2020 reimbursement rate is 22.5%)*</p> |
| 6 | Danbury | High school project | <p>Waives the requirement to submit an application before June 30, 2019 in order to be on the 2020 priority list for the project with a maximum cost of \$93 million, provided that Danbury files an application before October 1, 2021, and meets all other requirements for school construction projects</p> <p>Increases the project reimbursement rate to 80% for the purchase of a facility to be used as a high school (FY 2020 reimbursement rate is 53.93%)*</p> <p>Requires the Department of Administrative</p> |

| | | | |
|---|---------|--|---|
| | | | <p>Service's (DAS) Office of School Construction Grants and Review (OSCGR) to establish a pilot program to approve the use of commercial space to be renovated as new for a Danbury high school</p> <p>Allows the design-build, renovate-as-new method to be used for converting commercial space into a school under the above pilot program, and waives statutory requirements for bidding on all the project's orders and contracts</p> <p>Requires (1) Danbury school district representatives to consult with OSCGR before executing a design-build construction contract for the project and (2) OSCGR to give the district all code checklists and review materials to use in obtaining plan approval from local officials</p> <p>Requires each design phase of the pilot program projects to be reviewed and approved by local authorities for applicable code compliance, and explicitly places responsibility on the district to ensure code compliance</p> |
| 7 | Tolland | Birch Grove Primary School, code violation project | Increases the project reimbursement rate to 100% (FY 2020 reimbursement rate is 50.36%)* |
| *FY 2020 reimbursement rates are shown for reference; actual rates depend upon the year the application is submitted and the final determination of the project type (new or renovation). | | | |

§ 8 — NONPROFIT, INDEPENDENT MAGNET SCHOOL OPERATORS

Applies state laws and regulations applicable to public school operations, including those on state aid and grant eligibility, to certain interdistrict magnet school operators

The bill specifies that all state laws and regulations applicable to public school operations, including those on state aid and grant eligibility, apply to certain interdistrict magnet school operators. (The bill does not amend any specific state grant or aid programs to make these operators eligible for them.) Under the bill, this applies to any interdistrict magnet school operator that is (1) the board of governors for a nonprofit, independent higher education institution; (2) the

equivalent of such a board, on behalf of the independent higher education institution; or (3) any other third-party nonprofit corporation approved by the education commissioner. Goodwin University in East Hartford appears to be the only magnet school operator that meets this definition (see BACKGROUND).

Existing law, unchanged by the bill, requires all interdistrict magnet schools to be operated under the same laws and regulations applicable to public schools (CGS § 10-264(a)).

The bill also requires these interdistrict magnet school operators to receive, as allowed under federal law and regulations, any federal funds available for public school students' education.

Lastly, the bill specifies that any such interdistrict magnet school operator must be recognized and considered a local educational agency (LEA), to the extent authorized under federal law and for purposes of state education law (Connecticut General Statutes, Title 10). Federal law generally defines an LEA as a public board of education or other public institution or agency that has administrative control and direction of a public elementary or secondary school (20 USC 7801 (30)). State statutes do not define the term LEA.

EFFECTIVE DATE: Upon passage

§ 9 — MINIMUM BUDGET REQUIREMENT AND COVID-19 EXPENDITURES

Allows school districts to exclude certain local or federal supplemental funds received for COVID-19-related expenditures from their MBR calculations in the fiscal years after FYs 20 and 21

For FYs 20 and 21, the bill allows public school districts to exclude from their minimum budget requirement (MBR) calculation for the next fiscal year certain local supplemental appropriations or federal funds they received to cover costs associated with COVID-19. It explicitly allows alliance districts to exclude these expenditures from their calculation, as well. The MBR, which the legislature reestablishes on a biennial basis, requires towns to budget at least a minimum amount for education in each fiscal year.

Under the bill, local supplemental appropriations include those from the town's (1) board of finance, (2) board of selectmen for a town having no board of finance, or (3) authority making appropriations for the school district. Districts must use these local supplemental appropriations for COVID-19 expenditures that the school district's budgeted education appropriation for that fiscal year could not cover. The bill also applies to federal funds received under the CARES Act (Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136).

EFFECTIVE DATE: Upon passage

§ 10 — AWARDING SCHOOL CONSTRUCTION CONTRACTS FOR CONSTRUCTION MANAGEMENT SERVICES

Suspends, until July 1, 2021, recent changes to the law addressing the awarding of contracts for construction management services and instead reverts to selection criteria that were required by law prior to July 1, 2020

The bill suspends, until July 1, 2021, recent changes made under PA 19-1, July Special Session, to the law addressing how school construction contracts are awarded for construction management services. It instead reverts to selection criteria that were required by law prior to July 1, 2020.

Under existing law and unchanged by the bill, 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 a few other professional services, which instead must be awarded from a pool of up to the four most responsible qualified proposers after a public selection process.

Construction Managers

Under current law, an awarding authority (e.g., board of education) must evaluate a construction manager proposal for a school construction project on certain items, including whether the construction manager intends to self-perform any element of the project. The bill suspends the requirement to consider whether the manager intends to self-perform elements of the project, and related requirements, until July 1, 2021, when it resumes as effective law.

Current law also allows awarding authorities, upon the written approval of the Department of Administrative Services (DAS) commissioner, to permit a construction manager to self-perform part of the work if the authority and the commissioner determine that the manager's self-performance will be more cost-effective than using a subcontractor. In addition to considering whether a project manager intends to self-perform any project element, the evaluation criteria includes consideration of any benefit to the awarding authority resulting from the self-performance.

Additionally, under current law 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. Furthermore, the construction manager's contract must include a guaranteed maximum price for the cost of construction, which must be determined within 90 days after the selection of the trade subcontractors. Current law also prohibits construction from beginning before this determination, except for work relating to site preparation and demolition. Under the bill, all of the above provisions, including the specifics related to subcontractors, are suspended until July 1, 2021, when they are again in effect.

Under existing law and unchanged by the bill, the following additional items must also be considered when selecting a construction services manager:

1. the proposer's project price;
2. experience with work of similar size and scope;
3. organizational and team structure;
4. past performance data, including adherence to project schedules and budgets and the number of change orders;
5. the approach to the work required for the contract;
6. documented contract oversight capabilities; and

7. any project-specific criteria.

EFFECTIVE DATE: Upon passage

BACKGROUND

Magnet School Operators

Almost all magnet schools are operated by a local board of education or regional educational service center (RESC). Goodwin University is a nonprofit higher education institution that, in collaboration with LEARN, the RESC based in New London, operates two public magnet schools in East Hartford at the Goodwin campus. Goodwin University, through Goodwin College Educational Services, Inc., is the only such magnet school operator in the state.