

OFFICE OF LEGISLATIVE RESEARCH  
PUBLIC ACT SUMMARY



**PA 20-8, September 2020 Special Session—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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**[§ 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*

**§ 1 — SCHOOL CONSTRUCTION GRANT COMMITMENTS**

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

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

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

EFFECTIVE DATE: Upon passage

**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 School	Renovation	32,800,000	21,789,040	66.43%
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	Renovation	17,425,000	12,509,408	71.79%

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<b>District</b>	<b>School</b>	<b>Project</b>	<b>Estimated Project Costs</b>	<b>Estimated Grant</b>	<b>Reimbursement Rate</b>
	School				
<b>Total</b>			<b>501,267,946</b>	<b>209,152,199</b>	

§§ 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 act exempts a 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.” The table below describes the notwithstandings that the act grants.

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**Notwithstandings for School Construction Projects**

<b>Act Section</b>	<b>Town</b>	<b>School and Project</b>	<b>Exemption, Waiver, or Other Change</b>
2	New Britain	Chamberlain Elementary School, renovation	Increases the project reimbursement rate from 79.64% to 95% if New Britain is an educational reform district when the act passes
3	New Britain	Pulaski Middle School, roof replacement	Increases the project reimbursement rate to 95% if New Britain is an educational reform district when the act passes (FY 2020 reimbursement rate is 79.64%*)
4	New Britain	Slade Middle School, roof replacement	Increases the project reimbursement rate to 95% if New Britain is an educational reform district when the act passes (FY 2020 reimbursement rate is 79.64%*)
5	Norwalk	Norwalk High School, new construction	<p>Waives the requirement to apply 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, which includes giving priority to Stamford</p>

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Act Section	Town	School and Project	Exemption, Waiver, or Other Change
			<p>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 increasing the reimbursement rate to 80%: the act only increases the reimbursement rate to 50% for (1) 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) 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 apply before June 30, 2019, in order to be on the 2020 priority list for the project with a maximum cost of \$93 million, provided 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 purchasing a facility to be used as a high school (FY 2020 reimbursement rate is 53.93%*)</p> <p>Requires the Department of Administrative Services' (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</p>

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Act Section	Town	School and Project	Exemption, Waiver, or Other Change
			ensure code compliance
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 related to public school operations, including those on state aid and grant eligibility, to certain interdistrict magnet school operators*

The act specifies that all state laws and regulations applicable to public school operations, including those about state aid and grant eligibility, apply to certain interdistrict magnet school operators. (The act does not amend any specific state grant or aid programs to make these operators eligible for them.) Under the act, 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 act, requires all interdistrict magnet schools to operate under the same laws and regulations applicable to public schools (CGS § 10-264(a)).

The act 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 act specifies that any applicable 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 (CGS, 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."

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§ 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 act allows public school districts to exclude from their minimum budget requirement (MBR) calculation for the next fiscal year certain

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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 act, 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 act also applies to federal funds received under the CARES Act (Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136).

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

Under existing law and unchanged by the act, most contracts and orders for school 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 prior law, an awarding authority (e.g., board of education) had to evaluate certain elements of a construction manager proposal, including whether the construction manager intends to self-perform any element of the project. The act 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.

It similarly suspends provisions that:

1. allow awarding authorities, upon the written approval of the 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 (and must consider whether there is any other benefit to the awarding authority);

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2. require all work not performed by the construction manager to be performed by trade subcontractors selected by a process the awarding authority and the commissioner approve;
3. require the construction manager's contract to include a guaranteed maximum price for the cost of construction, which must be determined within 90 days after the selection of the trade subcontractors; and
4. prohibit construction from beginning before this determination, except for work relating to site preparation and demolition.

The act suspends all the above provisions, including the specifics related to subcontractors, until July 1, 2021, when they will again take effect.

Under existing law, unchanged by the act, 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.

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### BACKGROUND

#### *Magnet School Operators*

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