



Senate Bill 428 and Senate Bill 429

Testimony of Commissioner Michelle Gilman

Joint Committee on Education

March 21, 2022

Good morning Senator McCrory, Representative Sanchez, Senator Berthel, Representative McCarty and distinguished members of the Education Committee. My name is Michelle Gilman, and I am the Commissioner of the Department of Administrative Services ("DAS"). I want to thank the Committee for raising our bill, **Senate Bill 428**, *An Act Implementing the Recommendations of the Department of Administrative Services Relating to School Construction*.

In addition, I would like to provide testimony on one other bill on the agenda today - **Senate Bill 429**, *An Act Concerning Authorization of State Grant Commitments for School Building Projects and Revisions to the School Building Projects Statutes*.

1. DAS supports **Senate Bill 428**, *An Act Implementing the Recommendations of the Department of Administrative Services Relating to School Construction*. This bill would increase transparency for all priority list and non-priority list projects, and align municipally administered school construction projects with state construction projects by removing the ability to "self-perform".

I urge the Committee to support this bill.

Increases Transparency in School Construction

DAS is committed to increasing transparency and maintaining proper checks and balances. Along those lines, we recently moved the Office of School Construction Grant Review back to DAS and returned the audit team to the Business Office to ensure their autonomy. This proposal is squarely aimed at furthering this commitment to transparency.

Central administration projects were a part of the priority list until 2017 when they were removed. The cost of central administration projects has grown in recent years; therefore, it is appropriate for the legislature to review them. **Section 3** returns central administration projects to the priority list, ensuring that the Governor and General Assembly can review them and approve the grant commitments. Further, **Section 2** requires that the non-priority list projects also be shared, ensuring that the Governor and General Assembly are aware of all approved grant projects outside of the priority list, as well.

Eliminates the Ability to “Self-Perform” on School Construction Projects

Certain constituencies (trade contractors, various industry groups and trade unions) have raised concerns that the existing statute allowing for “self-performance” in school construction does not provide appropriate parameters for the instances where self-performance is appropriate. In response to these concerns, **Section 7** eliminates the ability to “self-perform” on school construction contracts and requires the invitation of bids through the State Contracting Portal instead of local newspapers. This change responds to those concerns and aligns municipally administered school construction projects with state construction projects, where self-performance is also prohibited.

Updates Various Outdated School Construction Statutory Provisions

Section 1 expands the allowable building age eligible for an automatic 25% percent increase in the allowable space standards for school building projects to those built before 1959. Currently, any school building project at a building built before 1950 gets an automatic 25% percent increase in the allowable space standards to help address the issue of older, oversized buildings and cut down on needed waivers for such situations. This proposal seeks to expand the allowable building age to those built before 1959. As we have moved on in years, expanding this "exemption" makes sense to accommodate for aging buildings.

Section 3 removes outdated language regarding discovery of an emergency. Current law requires that grant applications for certain projects be submitted within six months of the “discovery” of an emergency that was the reason for the grant. While originally this section only applied to emergency projects, it now applies to a broader list of projects (like roof projects and solar panels) and makes the “discovery” no longer relevant. This is a corresponding change that should have been made when the statutes were amended in 2017.

Section 3 also removes a project category labeled “school security projects” from the non-priority list. Put simply, these project categories do not exist. Instead, they are classified as alteration projects and already covered under existing programs. There will be no effect on projects, eligibility, or reimbursement with the removal of this language, and for clarity DAS recommends its removal.

Section 4 requires school districts to file the required notice of project completion within three years of receiving a Certificate of Occupancy and allows DAS to deem closed any project for which a school has not filed such report within the three years. This will reduce the number of projects in the stages between completion and audit.

Sections 5 and 6 consolidate the School Safety Infrastructure Council (SSIC) with the School Building Projects Advisory Council (SBPAC) and require the SBPAC to periodically review and update, if necessary, school safety infrastructure criteria. The SSIC was established in the wake of the Sandy Hook shootings to develop school safety infrastructure criteria to be incorporated into every school construction project that receives state grant money. The SSIC met that charge, however the statutes contain an ongoing meeting requirement that is not necessary. The SBPAC

(which has a member with experience in school safety) can periodically review the criteria and update them, as necessary.

2. DAS supports **Senate Bill 429, *An Act Concerning Authorization of State Grant Commitments for School Building Projects and Revisions to the School Building Projects Statutes***. Among other things, **Section 5** of this bill directs the Capitol Region Education Council to adopt a long-range plan of capital improvement and school building project priorities and goals for interdistrict magnet school facilities. DAS encourages the development of this plan because it will ensure a more streamlined process for budget-planning purposes and cost determinations.

Additionally, DAS offers the following informational testimony on **Sections 2 and 3**. Section 2 mandates that the School Safety Infrastructure Council (SSIC) include a requirement that at least one window in each classroom be capable of being opened and used as a means of escape during an emergency as part of the school safety infrastructure criteria for school building projects. Instead, DAS requests that the School Building Projects Advisory Council (SBPAC) review a requirement that at least one window be mandated in classrooms in terms of compliance with building and fire codes and other safety issues. Section 3 directs DAS to reject school building project plans for any project for new construction, extension, major alteration, renovation, or replacement if the plans do not include the same window requirement.

For the Committee's reference, DAS would like to highlight some additional considerations: (1) openable windows will present a day-to-day risk that will have to be managed by the schools, likely resulting in the windows being locked; (2) not every classroom is located on a floor which permits a safe means of escape; and (3) should a student try to escape through a window from higher than the second floor, it might lead to serious injury or death.

Notably, to the extent that Sections 2 and 3 direct the SSIC to perform certain functions, DAS requests that instead those functions be performed by the School Building Projects Advisory Council. As outlined in our testimony above, Senate Bill 428 consolidated the SSIC with the SBPAC.

Heating, Ventilation, and Air Conditioning Systems

As a final note, DAS recognizes that numerous Committees have introduced bills this session involving heating, ventilation, and air conditioning (HVAC) systems. DAS looks forward to the additional dialogue with members of this Committee and the General Assembly to further develop this policy.

Once again, thank you for the opportunity to submit testimony. We look forward to working with the Committee to address these issues.