# STATE ROLE IN FACILITY PROJECT APPROVAL

## SCHOOL FACILITIES FINANCING WORK GROUP September 18, 2013

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#### **TOPICS**

#### 1. Current Facility Project Approvals

- a) Review and Comment M.S. 123B.71
- b) Commissioner Consultation M.S. 123B.71
- c) Health and Safety M.S. 123B.57
- d) Alternative Facilities M.S. 123B.59, Subd. 1 (a) and (b)

#### 2. Analysis

- a) What are the advantages and disadvantages to school districts and taxpayers of review and comment or approval of facility projects?
- b) What kinds of projects should be subject to the review and comment process?
- c) What are appropriate components of commissioner's review?
- d) What should the role of the commissioner be in approval of facility projects funded by various sources of money?



- Required for a project greater than \$1.4 million at a site
- Election, bid solicitation, or contracting may not occur prior to receipt of review and comment
- Waiver may be requested for projects funded by general education revenue, alternative facilities revenue, or health and safety revenue
- Project may not be separated into components to avoid review and comment
- 60-day period for MDE review
- Positive, negative, or unfavorable review and comment based on the educational and economic advisability (MS 123B.70)
- "Substantial changes" to project after R&C receipt must be submitted for approval

- Positive review and comment allows district to proceed with project
- Unfavorable review and comment requires the board to reconsider construction, and if the project is to proceed and is funded by voter-approved bonds, must be approved by 60% of voters
- A proposed negative review and comment requires:
  - The commissioner hold a public meeting on the project
  - The board to appoint an advisory task force to review the project
  - If a negative review and comment is given, the board may appeal under Chapter 14 (Administrative Law Judge Hearing)
  - District may not proceed if appeal is not successful



#### Subd. 9.Information required.

- (1) the geographic area and population to be served, preschool through grade 12 student enrollments for the past five years, and student enrollment projections for the next five years;
- (2) a list of existing facilities by year constructed, their uses, and an assessment of the extent to which alternate facilities are available within the school district boundaries and in adjacent school districts;
- (3) a list of the specific deficiencies of the facility that demonstrate the need for a new or renovated facility to be provided, and a list of the specific benefits that the new or renovated facility will provide to the students, teachers, and community users served by the facility;
- (4) the relationship of the project to any priorities established by the school district, educational cooperatives that provide support services, or other public bodies in the service area;



- (5) a description of the pedestrian, bicycle, and transit connections between the school and nearby residential areas that make it easier for children, teachers, and parents to get to the school by walking, bicycling, and taking transit;
- (6) a specification of how the project maximizes the opportunity for cooperative use of existing park, recreation, and other public facilities and whether and how the project will increase collaboration with other governmental or nonprofit entities;
- (7) a description of the project, including the specification of site and outdoor space acreage and square footage allocations for classrooms, laboratories, and support spaces; estimated expenditures for the major portions of the project; and the dates the project will begin and be completed;
- (8) a specification of the source of financing the project; the scheduled date for a bond issue or school board action; a schedule of payments, including debt service equalization aid; and the effect of a bond issue on local property taxes by the property class and valuation;



- (9) an analysis of how the proposed new or remodeled facility will affect school district operational or administrative staffing costs, and how the district's operating budget will cover any increased operational or administrative staffing costs;
- (10) a description of the consultation with local or state transportation officials on multimodal school site access and safety issues, and the ways that the project will address those issues;
- (11) a description of how indoor air quality issues have been considered and a certification that the architects and engineers designing the facility will have professional liability insurance;
- (12) as required under section <a href="123B.72">123B.72</a>, for buildings coming into service after July 1, 2002, a certification that the plans and designs for the extensively renovated or new facility's heating, ventilation, and air conditioning systems will meet or exceed code standards; will provide for the monitoring of outdoor airflow and total airflow of ventilation systems; and will provide an indoor air quality filtration system that meets ASHRAE standard 52.1;



- (13) a specification of any desegregation requirements that cannot be met by any other reasonable means;
- (14) a specification of how the facility will utilize environmentally sustainable school facility design concepts;
- (15) a description of how the architects and engineers have considered the American National Standards Institute Acoustical Performance Criteria, Design Requirements and Guidelines for Schools of the maximum background noise level and reverberation times; and
- (16) any existing information from the relevant local unit of government about the cumulative costs to provide infrastructure to serve the school, such as utilities, sewer, roads, and sidewalks.



### Commissioner's Consultation M.S. 123B.71

- Required for projects greater than \$500,000, but less than \$1.4 million prior to developing plans or specifications
- Documented by letter to the commissioner describing scope of project
- Commissioner may require preliminary and final plans



## Health and Safety Projects M.S. 123B.57

- Projects submitted to MDE through Health and Safety Data Submission System
- Review based on MS 123B.57, subd. 6 and 8, approved uses and restrictions on use of revenue with additional guidance in annual health and safety letter
- Fire code citation, Health Department citation, or documentation of indoor air deficiencies required for some projects
- Approval status "Yes", "No", "NMI" (need more information) or "PPA" (preliminary approval for levy purposes, pending receipt of documentation)



# Alternative Facilities Projects M.S. 123B.59, Subd. 1 (a)

- 10-year plan for deferred maintenance, health and safety, and disabled accessibility projects submitted via spreadsheet
- Projects within levy funding timeframe require additional information and approval for funding through annual levy or bonding
- Approval for "deferred maintenance" with concept of restoring to original state or replacing like with like
- Approval for health and safety based on MS 123B.57
- Approval for disabled accessibility based on Americans with Disabilities Act (ADA) standards



# Alternative Facilities Projects M.S. 123B.59, Subd. 1 (a)

- Additional guidance in "Alternative Facility Bonding and Levy Program Reference Manual" developed in cooperation with eligible districts
- May require review and comment if greater than \$1.4 million and waiver not requested or granted
- May require review and comment if project is funded by a combination of funding sources



## Alternative Facilities Projects M.S. 123B.59, **Subd. 1 (b)**

- Projects are submitted on Health and Safety Data **Submission System**
- Used for a project of \$500,000 or greater, qualifying for health and safety funding
- Approval or denial based on MS 123B.57 with additional guidance in annual health and safety letter
- Review and comment is required for projects in excess of \$1.4 million, unless a waiver is requested and granted
- Review and comment is required if total project cost is in excess \$1.4 million and multiple sources of funding are used for a project encompassing components not eligible for health and safety



What are the advantages and disadvantages to school districts and taxpayers of review and comment or approval of facility projects?

#### Advantages:

- State review of facility construction plan provides assurance to school board and voters
- Review of financing plan with single or multiple funding sources assures school district and taxpayers that identified sources of funding are eligible for identified uses.

#### Disadvantages:

- Most districts incur costs to develop review and comment using contracted professionals
- Timelines for submission and review may delay some projects
- Health and safety and alternative facilities approval process is labor intensive – both at MDE and districts



What kinds of projects should be subject to the review and comment process?

- Should dollar limits be revised to a higher level?
- Should some kinds of projects be eliminated from review and comment requirement?
- Should projects requiring approval under alternative facilities be either eliminated from review and comment or from alternative facilities approval?
- Should ability to request waiver be expanded?
- Others?



What are appropriate components of commissioner's review?

- Can the review and comment process be restructured to provide more value to MDE, school districts, and taxpayers?
- Can some of the 16 required components be eliminated from review and comment submission?
- Others?



What should be the role of the commissioner in approval of health and safety and alternative facilities projects?

- Can current approval processes to revised to place less administrative burden on MDE and school districts?
- Is MDE project approval necessary at the front end, or should districts be able to define what projects qualify under statutory restrictions, with potential state audit after expenditures are made?
- Other?

