

**123B.71 REVIEW AND COMMENT FOR SCHOOL DISTRICT CONSTRUCTION.**

Subdivision 1. **Consultation.** A school district shall consult with the commissioner of education before developing any plans and specifications to construct, remodel, or improve the building or site of an educational facility for which the estimated cost exceeds \$500,000. This consultation shall occur before a referendum for bonds, solicitation for bids, or use of capital expenditure facilities revenue according to section 126C.10, subdivision 14, clause (2). The commissioner may require the district to participate in a management assistance plan before conducting a review and comment on the project.

Subd. 2. **Project.** The construction, remodeling, or improvement of a building or site of an educational facility at an estimated cost exceeding \$100,000 is a project under section 177.42, subdivision 2.

*[See Note.]*

Subd. 3. [Repealed, 1Sp2001 c 6 art 4 s 28]

Subd. 4. **Plan submittal.** For a project for which consultation is required under subdivision 1, the commissioner, after the consultation required in subdivision 1, may require a school district to submit preliminary and final plans for approval. The commissioner shall approve or disapprove the plans within 90 days after submission.

Final plans shall meet all applicable state laws, rules, and codes concerning public buildings, including sections 326B.101 to 326B.151.

Subd. 5. **Final plans.** If a construction contract has not been awarded within two years of approval, the approval shall not be valid. After approval, final plans and the approval shall be made available, if requested, to the commissioner of education. If substantial changes are made to the initial approved plans, documents reflecting the changes shall be submitted to the commissioner for approval. Upon completing a project, the school board shall certify to the commissioner that the project was completed according to the approved plans.

Subd. 6. **Condemnation of school buildings.** The commissioner may condemn school buildings and sites determined to be unfit or unsafe for that use.

Subd. 7. **Rulemaking.** The commissioner of education may adopt rules for public school buildings.

Subd. 8. **Review and comment.** A school district, a special education cooperative, or a cooperative unit of government, as defined in section 123A.24, subdivision 2, must not initiate an installment contract for purchase or a lease agreement, hold a referendum for bonds, nor solicit bids for new construction, expansion, or remodeling of an educational facility that requires an expenditure in excess of \$500,000 per school site if it has a capital loan outstanding, or \$1,400,000 per school site if it does not have a capital loan outstanding, prior to review and comment by the commissioner. The commissioner may exempt a facility maintenance project funded with general education aid and levy, alternative facilities bonding and levy program, or health and safety revenue from this provision after reviewing a written request from a school district describing the scope of work. A school board shall not separate portions of a single project into components to avoid the requirements of this subdivision.

Subd. 9. **Information required.** A school board proposing to construct a facility described in subdivision 8 shall submit to the commissioner a proposal containing information including at least the following:

(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 123B.72, 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.

Subd. 10. [Repealed, 1Sp2001 c 6 art 4 s 28]

Subd. 11. **Review of proposals.** In reviewing each proposal, the commissioner shall submit to the school board, within 60 days of receiving the proposal, the review and comment about the educational and economic advisability of the project. The review and comment shall be based on information submitted with the proposal and other information the commissioner determines is necessary. If the commissioner submits a negative review and comment for a portion of a proposal, the review and comment shall clearly specify which portion of the proposal received a negative review and comment and which portion of the proposal received a positive review and comment.

Subd. 12. **Publication.** (a) At least 20 days but not more than 60 days before a referendum for bonds or solicitation of bids for a project that has received a positive or unfavorable review and comment under section 123B.70, the school board shall publish a summary of the commissioner's review and comment of that project in the legal newspaper of the district. Supplementary information shall be available to the public.

(b) The publication requirement in paragraph (a) does not apply to alternative facilities projects approved under section 123B.59.

**History:** *Ex1959 c 71 art 2 s 15; 1969 c 532 s 1; 1977 c 305 s 45; 1983 c 314 art 7 s 6; 1984 c 463 art 7 s 1; 1Sp1986 c 3 art 1 s 16; 1987 c 258 s 12; 1988 c 718 art 8 s 2; 1989 c 246 s 2; 1989 c 329 art 5 s 2; 1990 c 562 art 5 s 2-4; 1991 c 265 art 5 s 2,3; 1993 c 224 art 13 s 4; 1Sp1995 c 3 art 1 s 2; art 16 s 13; 1996 c 412 art 13 s 5; 1997 c 7 art 1 s 47; 1997 c 231 art 16 s 4; 1Sp1997 c 4 art 4 s 4-7; 1998 c 397 art 4 s 51; art 11 s 3; 1998 c 398 art 4 s 1; art 5 s 55; 2000 c 489 art 5 s 6; 1Sp2001 c 6 art 4 s 7-10; 2003 c 130 s 12; 1Sp2005 c 5 art 4 s 9-11; 2007 c 140 art 4 s 61; art 13 s 4; 2009 c 96 art 4 s 7-10; 1Sp2011 c 11 art 4 s 4*

**NOTE:** Subdivision 2 was held unconstitutional because its enactment violated the single subject and title requirements of the Minnesota Constitution in *Associated Builders and Contractors v. Ventura*, 610 N.W.2d 293 (Minn. 2000).