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

Subdivision 1. MS 2013 Supp [Repealed, 2014 c 312 art 18 s 24]

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. MS 2000 [Repealed, 1Sp2001 c 6 art 4 s 28]

Subd. 4. MS 2013 Supp [Repealed, 2014 c 312 art 18 s 24]

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 enter into 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 $2,000,000 per school site if it does not have a capital loan outstanding, prior to review and comment by the commissioner. New construction, expansion, or remodeling of an educational facility funded only with general education revenue, capital facilities bond proceeds, or long-term facilities maintenance revenue is exempt from this provision. A capital project under section 123B.63 addressing only technology is exempt from this provision if the district submits a school board resolution stating that funds approved by the voters will be used only as authorized in section 126C.10, subdivision 14. 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, expand, or remodel a facility that requires a review and comment under 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, the process used to determine the deficiencies, a list of those deficiencies that will and will not be addressed by the proposed project, 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) 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;

(5) a description of the project's plans for gender-neutral single-user restrooms, locker room privacy stalls, or other spaces with privacy features, including single-user shower stalls, changing stalls, or other single-user facilities;

(6) a specification of the source of financing the project, including applicable statutory citations; 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; and

(7) documents obligating the school district and contractors to comply with items (i) to (vii) in planning and executing the project:

(i) section 471.345 governing municipal contracts;

(ii) sustainable design;

(iii) school facility commissioning under section 123B.72 certifying the plans and designs for the heating, ventilating, air conditioning, and air filtration for an extensively renovated or new facility meet or exceed current code standards, including the ASHRAE air filtration standard 52.1;

(iv) American National Standards Institute Acoustical Performance Criteria, Design Requirements and Guidelines for Schools on maximum background noise level and reverberation times;

(v) State Fire Code;

(vi) chapter 326B governing building codes; and

(vii) consultation with affected government units about the impact of the project on utilities, roads, sewers, sidewalks, retention ponds, school bus and automobile traffic, access to mass transit, and safe access for pedestrians and cyclists.

Subd. 10. MS 2000 [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 commissioner must include comments from residents of the school district in the review and comment. 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 48 days but not more than 70 days before a referendum for bonds under chapter 475 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. The school board must hold a public meeting to discuss the commissioner's review and comment before such a referendum for bonds. Supplementary information shall be available to the public. Where no such referendum for bonds is required, the publication and public meeting requirements of this subdivision shall not apply.

(b) The publication requirement in paragraph (a) does not apply to alternative facilities projects approved under section 123B.595.

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; 2014 c 312 art 18 s 8,9; 2016 c 189 art 30 s 15; 1Sp2017 c 5 art 5 s 5,6; 2023 c 55 art 1 s 3; art 8 s 11; 2024 c 115 art 8 s 1,2; 1Sp2025 c 10 art 8 s 13*

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).