

State of Maine
STATE BOARD OF EDUCATION

Testimony of Fern Desjardins, Chair of the Maine State Board of Education

In Support of: L.D. 2181

Resolve, Regarding Legislative Review of Portions of Chapter 61: State Board of Education Rules for Major Capital School Construction Projects, a Major Substantive Rule of the Department of Education, State Board of Education (Emergency)

Before the Joint Standing Committee on Education and Cultural Affairs

Sponsored by: Representative Brennan

Date: February 13, 2024

Senator Rafferty, Representative Brennan, and Honorable Members of the Joint Standing Committee on Education and Cultural Affairs:

My name is Fern Desjardins, Chair of the Maine State Board of Education. I am here to speak in support of L.D. 2181, Resolve, Regarding Legislative Review of Portions of Chapter 61: State Board of Education Rules for Major Capital School Construction Projects, a Major Substantive Rule of the Department of Education, State Board of Education.

As a result of the First Special Session of the 131st Maine Legislature, the State Board of Education is engaging in rulemaking in response to Public Law 2023, Chapter 462, “An Act to Expand Access to School Construction Funding” effective October 25, 2023 which directs the State Board to amend their rule regarding administering funding for integrated, consolidated 9-16 educational facilities.

As part of this update, the State Board of Education is opening Rule Chapter 61: State Board Of Education Rules For Major Capital School Construction Projects to complete the legislative changes required by law and is proposing several other changes to enhance clarity.

- The definition of “Emergency Project” has been updated to provide greater clarity in the determination of project approval.
- Guidance for the Major Capital School Construction Project “Application Form” section has been updated to include integrated, consolidated 9-16 educational facilities.
- The school construction eligibility section has been updated to remove specifically identified school years from the graduation rate criteria.
- The movable equipment cost has been updated, using a phased approach, to 4% instead of the identified 9% listed in the rule. This reflects State Board practice and takes into account the increasing cost of major capital school construction projects. The Board reserves the right to review the percentage for potential increases on a case-by-case basis.
- Project management authority and contracted representatives have been updated in the “Final Funding Approval” section as a result of State Board practice.

- The Bureau of General Services has been removed from most of the language in the rule as they no longer provide those services to school projects.

The proposal you have before you was subject to a public hearing as outlined in Title 5 §8052 Rulemaking. The public comment period was open from November 1 through 5 pm on December 1, 2023 and included a virtual and in-person opportunity for the public to participate on November 21. Notice of the public comment period was filed with the Secretary of State's Office on October 24, 2023.

Now, as part of this review process for major substantive rules, the State Board of Education has submitted the revisions in compliance with Title 5 §8071.

For the reasons above, the State Board of Education is in support of L.D. 2181.

Thank you for this opportunity to comment. I would be happy to answer any questions the Committee may have. The State Board will be available for work sessions on this bill.