

WAYLAND HIGH SCHOOL PRELIMINARY DESIGN REPORT

SCHOOL FUNDING AND PUBLIC CONSTRUCTION REFORM

PUBLIC CONSTRUCTION REFORM

Since 2003 the landscape of public school state regulations and funding in Massachusetts has changed dramatically. In 2003 a moratorium was placed on additional approval of K – 12 school projects. At this time there was a backlog of over 400 schools that had received approval but for which funding was not authorized. Towns were receiving approval and funding commitment that, even if they went ahead with construction, might not be received for over 10 years. Likewise, projects submitted and approved under the Major Repairs category, such as roof or HVAC system replacement, (several of which were completed in Wayland on various elementary schools) had not been funded at all for many years.

In response, the Special Commission on Public Construction Reform was authorized pursuant to Section 138 of Chapter 46 of the Acts of 2003. The charge to the Special Commission was “to investigate, study and make legislative recommendations on the adequacy and efficiency of laws and regulations governing public construction projects.” The Special Commission commenced its work in December 2003 and finished in April 2004. The themes of reform include:

1. INCREASED ACCOUNTABILITY

- Requirement of an Owner’s Project Manager for projects over \$1.5 million
- Mandatory Prequalification of General Contractors and Subcontractors
- Required Certification of Subcontractors
- Uniform Designer Selection at Municipal Level
- Enhanced Access to Contractor Evaluations (and Subcontractor)
- Enhanced Enforcement of Contractors (debarment & classification of employees)

2. INCREASED FLEXIBILITY

- Statutorily permitted use of CM (Construction Manager) @ Risk delivery method on building projects
- Statutorily permitted use of Design Build delivery method on public works projects
- Elimination of Mandatory Designer Peer Review at municipal level

3. INCREASED INCLUSION AND COMPETITION

- Codification of Affirmative Marketing Program under DCAM
- Establishment of Affirmative Marketing Program for municipalities on “state assisted building projects.”
- Overall improvement to process to encourage greater participation on the part of general contractors and subcontractors.

SCHOOL BUILDING ASSISTANCE

During the last sessions three pieces of legislation were proposed by the legislature and signed by the Governor dealing with School Building Assistance.

MGL CHAPTER 201 (FORMERLY HOUSE BILL 1000)

Directs the state treasurer to issue and sell bonds in the aggregate amount of one billion dollars, for the purpose of funding initial deposits to the school modernization and reconstruction trust fund; regulates the issuance of said bonds. This money in this bond will clear the existing 420 project waiting list.

MGL CHAPTER 210 (FORMERLY HOUSE BILL 4977) -1 PENNY OF THE SALES TAX DEDICATED TO SCHOOL CONSTRUCTION

Amends various provisions relative to the school building assistance program; establishes and regulates the use of the school modernization and reconstruction trust fund; mandates the deposit of all proceeds from one cent of the sales tax to said fund; mandates the use of said fund for any lawful purpose undertaken by the Massachusetts school building authority (MSBA); regulates the issuance of bonds by said authority; directs said authority to provide financial assistance to cities, towns and regional school districts for school project related activities; amends the duties of said authority; appropriates the articulated sums to said trust fund.

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MGL CHAPTER 208, AMENDING CHAPTER 70B (FORMERLY HOUSE BILL 4978) - NEW SBA STRUCTURE

Amends various provisions relative to the school building assistance program; establishes and regulates the operation of the Massachusetts School Building Authority; replaces the Board of Education with said authority for the purpose of implementing the School Building Assistance program; articulates additional duties of said authority; establishes and regulates the membership of a School Building Advisory Board; directs said Board to assist said authority in development of general policy regarding school building construction, renovation, maintenance and facility space, and to provide technical assistance regarding same; authorizes and regulates the issuance of bonds by said board of trustees; amends various provisions relative to the school building assistance program application process; amends various provisions relative to the approval of applications for grants under said program; regulates the status of previously approved school building projects.

STRUCTURE OF THE NEW MASSACHUSETTS SCHOOL BUILDING AUTHORITY

BOARD

State Treasurer, (Chair) Secretary of A&F, Commissioner of Education, and 4 additional members appointed by the state treasurer, two of whom shall have practical experience in educational facilities planning, school building construction, or architecture and school design, and two of whom shall be persons in the field of education with demonstrated knowledge of Massachusetts curriculum frameworks and other relevant federal and state educational standards.

ADVISORY BOARD

state auditor, the inspector general, and the executive director of the authority, who shall serve as the secretary to the advisory board, the Massachusetts Municipal Association, the Massachusetts Association of School Committees, the Massachusetts Mayors Association, the Massachusetts Association of School Superintendents, the Massachusetts Association of Regional Schools, the Massachusetts Building Trades Council, the Massachusetts chapter of the Associated Builders and Contractors, the Massachusetts Alliance of Small Contractors, the American Council of Engineering Companies of Massachusetts, the Associated Subcontractors of Massachusetts, the American Institute of Architects-Massachusetts, the Massachusetts Smart Growth Alliance, the Massachusetts Taxpayers Foundation, Associated General Contractors of Massachusetts and acting jointly, the Massachusetts Teachers Association and Massachusetts Federation of Teachers

CRITERIA FOR PROJECT APPROVAL

- 1) The school project is in the best interests of the commonwealth and the eligible applicant, with respect to its site, type of construction, sufficiency of accommodations, open space preservation, urban development, urban sprawl, energy efficiency, and otherwise.
- 2) The school project is necessary to meet educational standards of the curriculum frameworks established by the board of education pursuant to section 1E of chapter 69 for anticipated enrollment levels;
- 3) The school project has a value over its useful life commensurate with the lifecycle cost of building, operating, and maintaining the project.
- 4) The school project is not at a school that has been the site of an approved school project pursuant to this chapter or to chapter 645 of the acts of 1948 within the 10 years prior to the project application date, or the approved school project is unrelated to such previously approved project in the same school.
- 5) The school project is within the capacity of the authority to finance within revenues projected to be available to the Trust established pursuant to section 35Y of chapter 10.
- 6) The commissioner of education has certified that adequate provisions have been made in such school project for children with disabilities, as defined in section 1 of chapter 71B, and, in the case of elementary facilities, that adequate provisions consistent with local policy have been made for all-day kindergarten, pre-kindergarten classes and for extended day programs, provided, however, that no district shall be required to adopt the classes or programs.

SCHEDULE FOR FUNDING PREVIOUSLY APPROVED PROJECTS

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For projects that are already receiving payment as well as current waiting list projects, the SBA will meet its obligation in full before the end of the moratorium in July of 2007. This will clear the backlog and make funding available in July 2007 for any new projects submitted and approved, such as WHS. In each year (FY 2005, 2006, and 2007) approximately a third of the outstanding 420 previously approved projects will be funded. This funding will be provided through a one time transfer of \$150 million from the fiscal 2004 year-end surplus, proceeds from \$1 billion in state borrowing (HB 1000), and long term borrowing by the new MSBA supported by the dedicated 1 cent of the state sales tax. Projects on the current 420 school waiting list will receive up-front payments for the state share of principal and interest on temporary borrowing. Cities and towns would only need to borrow long term for the local share of the project.

POST MORATORIUM REGULATIONS

For post moratorium projects (WHS) the state's share minimum reimbursement is projected to be reduced from 50% to 40%. The legislation forbids issuance of the new school building cost and size standards or approving any new regulations before January 1, 2006. The new authority is required to have the new regulations in place by July 1, 2006 and draft regulations by January 1, 2006. However, the authority is slated to file a progress report with the governor's office and the legislature by December 31, 2004, as well as a final report with any proposed changes to statutes and regulations by April 1, 2005. This would fall in the beginning of the Design Development phase for the Wayland High School project, allowing changes to be made if necessary. Thirty days after the final report is filed, or approximately May 1, 2005, the administration is required to file recommendations with the legislature on the calculation of reimbursement rates. If no changes are filed by that time, then reimbursement rates will drop 10% from previous rates by default as described in the original bill.

For the Wayland High School as a post-moratorium project, the maximum term for borrowing under the new regulations is 25 to 30 years including both short and long term borrowing. The reimbursement rate for the high school project is expected to be 40 – 46% of approvable costs. The base reimbursement rate is 31% and is then increased by the following various percentage adders, always to at least a minimum final reimbursement rate of 40%: excellent maintenance (+8%), incorporating reconstruction (+4%), innovative community use (+3%), energy efficient construction (+3%), finding non-state funding (+0.5% for each 1% raised). The requirements to receive these additive incentives have not yet been defined. Doug Sacra of HMFH serves on the Department of Education Green Schools Task Force which has been developing the guidelines that will be issued with for the energy efficiency incentive points in January 2006. The taskforce will have these guidelines largely complete and a draft version available for comment by February 2005. We will plan on using them as part of the system and materials selection and payback analysis process in the next design phase since meeting these standards may increase state funding by up to 3%. See Section 9 of this report for reimbursement estimates for this project.