

FIRST REGULAR SESSION

SENATE BILL NO. 242

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR KENNEY.

Read 1st time January 8, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0766S.011

AN ACT

To repeal section 166.300, RSMo 2000, relating to capital improvement funds for elementary and secondary schools, and to enact in lieu thereof eight new sections relating to the same subject.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 166.300, RSMo 2000, is repealed and eight new sections enacted in lieu thereof, to be known as sections 166.300, 166.305, 166.310, 166.315, 166.320, 166.325, 166.330 and 166.335, to read as follows:

166.300. 1. As used in [this section] **sections 166.300 to 166.335**, the following [words and phrases] **terms** shall mean:

(1) ["Capital improvement projects", expenditures for lands or existing buildings, improvements of grounds, construction of buildings, additions to buildings, remodeling of buildings and initial equipment purchases;

(2) **"New Construction", either the construction of a new building or the addition of a newly constructed area to an existing building, including expenditures for lands or existing buildings, architectural and engineering services, tests and inspections of lands or buildings, construction of buildings, additions to buildings and technology connectivity;**

(2) **"Renovation", involves the modernization or modification of any existing building that will enhance the ability of such building to achieve its educational purposes, excluding routine maintenance and repair, and including renovation expenditures for health and safety issues, educational purposes, architectural and**

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

engineering services, tests and inspections of lands or buildings, renovation of existing buildings and technology connectivity;

(3) "School [facility] building", a structure dedicated primarily to housing teachers and students in the instructional process, but shall not include [buildings] **facilities** dedicated primarily to administrative and support functions within the school **or the school district.**

2. There is hereby created a [revolving] fund to be known as the "School Building [Revolving] **Construction and Renovation Fund**". **All moneys in the school building revolving fund on August 28, 2001, shall be transferred on that date to the credit of the school building construction and renovation fund.** All forfeitures of assets transferred pursuant to section 166.131, all gifts and bequests to such fund, and such moneys as may be appropriated to the fund shall be deposited into the school building [revolving] **construction and renovation** fund[; except that no more than four hundred forty million dollars, in the aggregate, shall be transferred to the fund]. **The fund shall be administered by the department of elementary and secondary education in the manner described in, and for the purposes described in, sections 166.300 to 166.335. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not be transferred to general revenue at the end of the biennium. All interest and moneys of any kind earned on the fund shall be credited to the fund.**

3. After a fund balance has been established by prior years' deposits and interest, school districts may submit applications for [lease purchases] **matching grants** from the [revolving] fund for [specific] **allowed capital improvement** projects consistent with rules and regulations of the state board of education and [subsection 3 of] this section[, except that]. **The department shall divide its annual disbursements of matching grant moneys from the fund in equal, fifty percent portions to new construction projects and to renovation projects, and shall approve and prioritize applications accordingly, pursuant to this section. School districts may apply for both new construction and renovation grants in the same application, provided that new construction costs and renovation costs are separately itemized on such district's application, so that each may be separately approved or denied by the department. If, at the conclusion of the matching grant application period, there are funds available for either new construction or renovation that will not be used, and if there is a greater need for funds for the other category, then the department may transfer funds to the category with greater need at that time.**

4. No school district may be permitted to [enter into a lease purchase] **receive matching funds** from the school building [revolving] **construction and renovation** fund without first submitting a long-range capital improvements plan. **Such plan shall include a detailed proposal of the specific allowed capital improvement projects to which grant moneys will be put, and shall include the specific manner in which the school district will**

provide for its matching portion, as such matching portion is calculated pursuant to section 166.305. Such plan shall also calculate the estimated amount of the state's portion of the matching funds, provided that the department shall not provide a match of funds for any costs of a project in excess of the maximum per-pupil amounts described in section 166.310. Anticipated district expenditures on projects may exceed the maximum per-pupil amount, but in such cases the state portion of matching funds shall be calculated solely on the maximum per-pupil amount stated in section 166.310. The department shall review and approve such plans prior to issuing matching grants.

[3.] 5. To be eligible for [a lease purchase authorized by this section] matching funds pursuant to sections 166.300 to 166.335:

(1) A school district shall meet the minimum criteria for state aid and for increases in state aid established pursuant to section 163.021, RSMo;

(2) A school district shall provide a program which is accredited by the state board of education for grades kindergarten through twelve or for grades kindergarten through eight; and

(3) [A school district shall have an equalized, assessed valuation per eligible pupil for the preceding year which is less than the statewide average equalized, assessed valuation per eligible pupil for the preceding year; and

(4) A school district shall have a bonded indebtedness which is no less than ninety percent of the constitutional limitation on indebtedness pursuant to section 26(b) of article VI of the Constitution of Missouri.] **A school district shall not be experiencing financial stress pursuant to section 161.520, RSMo.**

6. The department shall develop minimum state school building standards that may be used as criteria to determine if a district qualifies for a new construction project. The minimum state school building standards shall be met by any new construction project in order to qualify for matching grant approval by the department.

[4. Lease purchase] 7. Matching grant applications for new construction shall be funded, as funds allow, first for all applications pursuant to subdivision (1) of this subsection [and], then for applications pursuant to subdivision (2) of this subsection and then for applications pursuant to **each successive** subdivision [(3)] of this subsection **thereafter**, and for funding of applications pursuant to a particular subdivision, applications shall be funded in the order that the applications are received by the department. If two or more applications are received on the same day, the district with the lowest [appraised] **assessed** valuation per pupil shall be given priority. Ranking of the applications for offering of [lease purchases] **matching grants for new construction** shall be done in the following order:

(1) Districts with [capital replacement] **new construction** costs in excess of insurance proceeds due to [facility] **school building** destruction caused by [fire or] natural **or man-made** disaster [shall be ranked on the basis of percentage of bonding capacity];

(2) Districts with a cumulative percentage growth in fall membership for the [third through the fifth] **three** preceding years in excess of twelve percent [and which have a bonded indebtedness which is no less than ninety percent of the constitutional limitation on indebtedness pursuant to section 26(b) of article VI of the Constitution of Missouri; and];

(3) [Districts with an equalized assessed valuation per pupil which is less than the statewide average equalized assessed valuation per pupil and which have a bonded indebtedness which is no less than ninety percent of the constitutional limitation on indebtedness pursuant to section 26(b) of article VI of the Constitution of Missouri.] **Districts with a cumulative percentage growth in fall membership for the three preceding years in excess of nine percent;**

(4) **Districts with a cumulative percentage growth in fall membership for the three preceding years in excess of six percent;**

(5) **Districts that are experiencing overcrowding but do not have the percentages of required new growth described in subdivisions (1) to (4) of this subsection shall qualify pursuant to subdivisions (1) to (4) of this subsection based on the same percentage of need as do districts with new growth based on the method of calculation developed by the department to determine this percentage of need for districts with overcrowding; and**

(6) **Districts for which new school buildings, or additions to existing school buildings, are needed in order to provide for:**

- (a) **All-day kindergarten;**
- (b) **Educational technology;**
- (c) **Inter-district reorganization;**
- (d) **Intra-district reorganization; or**
- (e) **Increased student safety or student health.**

8. The department shall develop minimum state school building standards that may be used as criteria to determine if a district qualifies for a renovation project. The minimum state school building standards shall be met by any renovation project in order to qualify for matching grant approval by the department.

9. Matching grant applications for renovations shall be funded, as funds allow, first for all applications pursuant to subdivision (1) of this subsection, then, with the remaining renovation funds, eighty percent of the funds shall be used on applications pursuant to subdivision (2) of this subsection and twenty percent of the funds shall be used on applications pursuant to subdivision (3) of this subsection. If, at the conclusion of the application period, there are funds available from either the allocation to subdivision (2) or to subdivision (3), and if there is a greater need that can be met by transferring the remainder of the unused allocation to the allocation of the other

subdivision, then the department may transfer funds to the allocation of the subdivision with the greater need.

10. For purposes of this subsection, the age of the original building for which the renovation grant is being sought shall be considered the age of the entire school building in question, regardless of subsequent renovations prior to the grant application. Ranking of the applications for offering of matching grants for renovation shall be done in the following order:

(1) Districts with renovation costs in excess of insurance proceeds due to school building destruction caused by natural or man-made disaster. Applications in this subdivision shall be funded in the order that the applications are received by the department. If two or more applications are received on the same day, the district with the lowest assessed valuation per pupil shall be given priority;

(2) School facilities that are thirty-five years old or older, ranked from oldest to newest. If two or more buildings are the same age, the applications shall be funded in the order that the applications are received by the department. If two or more applications are received on the same day, the district with the lowest assessed valuation per pupil shall be given priority; and

(3) Buildings that are less than thirty-five years of age shall be ranked according to need, with the criteria for need developed by the department.

If a school district can demonstrate that a building that is fifty years old or older should be replaced instead of renovated, the replacement may be approved by the department with funding from renovation projects for buildings thirty-five years of age or older pursuant to subdivision (2) of this subsection. In order to approve a building replacement in lieu of renovation, the department may consider health and safety issues, a comparison of replacement or renovation costs, future energy savings or other criteria developed by the department. It shall be the school district's responsibility to present information to the department, on department developed forms or format, to demonstrate the need for the building replacement.

11. Each district that:

(1) Receives approval of its grant application pursuant to subsections 3 and 4 of this section;

(2) Is eligible pursuant to subsection 5 of this section; and

(3) Qualifies, pursuant to the funding priorities and availabilities of subsections 6 to 10 of this section, for funding;

shall receive notification from the department within thirty days of its approval, and the district shall obtain its portion of the matching funds mandated by section 166.305 within one year of the date of its receipt of the notification. Upon obtaining the

required matching funds, the district shall submit notification to the department, for approval by the department on forms created by the department. Such notification shall be given within thirty days of obtaining the funds, or as soon as possible prior to the end of the one-year period, whichever occurs first. In the event that the district fails to obtain all of its portion of the matching funds within the one-year period, the district shall forfeit its right to any state matching funds for the school year immediately following such failure, but the district shall not be prohibited from resubmitting its application for the school year next following such occurrence. Any district receiving a renovation matching grant shall not be eligible for another matching grant in any year unless all applications qualifying pursuant to this section for that year from districts which have not yet received a grant pursuant to this section are funded.

[5.] **12.** When **school** building replacement **or renovation** is caused by [fire or] natural **or man-made** disaster, the requirement for a school district to have a long-range capital improvements plan, **as required by subsection 4 of this section**, may be waived by the [state board of education] **department**.

[6. Each school district participating in a lease purchase from the school building revolving fund shall repay such lease purchase in no more than ten annual payments made on or before June thirtieth of each year. The first such payment shall be due and payable on June thirtieth of the first full fiscal year following receipt of lease purchase proceeds. Lease purchase repayments shall be immediately deposited to the school building revolving fund by the department. Interest charged to the school district shall not exceed three percent.

7. Any school district which fails to obligate the full amount of a loan from the school building revolving fund for the allowable lease purchase must return the unobligated amount plus interest earned to the department no later than June thirtieth of the second full fiscal year after receipt of loan proceeds.

8. If a school district fails to make an annual payment to the school building revolving fund after notice of nonpayment by the department, members of the board of education and the school district's superintendent shall have violated section 162.091, RSMo, and the attorney general of the state of Missouri shall be notified by the state board of education to begin prosecution procedures.

9. All property purchased pursuant to a lease purchase from the school building revolving fund shall remain the property of the state until such time as the lease purchase has been fully repaid pursuant to this section. If a school district does not make an annual payment to the school building revolving fund after notice of nonpayment by the department, the state board of education may, if the delinquency exceeds one hundred eighty days, take possession of the property. As a part of the lease purchase agreement, the school district shall agree to assume all costs, obligations and liabilities for or arising out of establishment, operation and maintenance of the lease purchase

property. Other provisions of law to the contrary notwithstanding, neither the state nor any state agency shall have any obligation for such costs, obligations or liabilities unless and until the state board of education takes possession of the property pursuant to this subsection upon a school district's failure to make annual payments as required in the lease purchase agreement.

10. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the school building revolving fund shall not be transferred to the credit of the general revenue fund at the end of the biennium. All yield, interest, income, increment or gain received from time deposit of moneys in the state treasury to the credit of the fund shall be credited by the state treasurer to the fund.]

13. The department shall be responsible for the publication of grant applications that incorporate the criteria of this section and any additional criteria in accordance with this section that the department deems appropriate. Such applications shall be first published on or before January 1, 2002, so that the initial applications for such grants may be acted upon for the 2002-2003 school year.

14. State funds provided pursuant to this section shall not be used for lease purchases.

166.305. For the purpose of calculating the matching portion for which a school district is responsible pursuant to section 166.300, each school district in this state shall be assigned a local matching percentage pursuant to this section. All school districts in the state shall be rank ordered from lowest to highest based upon the district's equalized, assessed valuation per eligible pupil for the second preceding school year. Each district will be assigned a unique percentage on a sliding scale which assigns a local match percentage of fifty percent to the lowest ranked district and a local match percentage of seventy-five percent to the highest ranked district and assigns a unique percentage to all remaining districts by assigning to districts percentages which are uniformly spaced across the interval from fifty percent to seventy-five percent and based upon the rank ordering.

166.310. 1. For new construction project grant applications pursuant to section 166.300, the department shall match funds with the applicant district up to the following maximum per-pupil match amounts for new construction cost:

(1) Eight thousand dollars per high school student that the project is designed to house;

(2) Seven thousand dollars per middle school student that the project is designed to house; and

(3) Six thousand dollars per elementary school student that the project is designed to house.

2. For renovation project grant applications pursuant to section 166.300, the

department shall match funds with the applicant district up to the following maximum per-pupil match amounts for total renovation cost:

(1) Five thousand six hundred dollars per high school student to be housed in the renovated school facility or facilities; and

(2) Four thousand nine hundred dollars per middle school student to be housed in the renovated school facility or facilities; and

(3) Four thousand two hundred dollars per elementary school student to be housed in the renovated school facility or facilities.

3. The department shall annually adjust the per-pupil apportionment in this section to reflect construction cost changes. For this purpose, the department may adopt the use of the Consumer Price Index for all Urban Consumers for the United States or its successor index, as defined and officially recorded by the United States Department of Labor or its successor entity or may adopt any other schedule of annual adjustment to accurately reflect such cost changes.

166.315. Moneys in the school building construction and renovation fund shall be distributed between the first and fifteenth day of July most immediately following the date on which the department receives notification from an approved school district that such district has obtained its portion of the required matching funds pursuant to section 166.300. The state board of education shall certify the amounts to be distributed to the several school districts to the commissioner of administration who shall issue the warrants therefor. The funds shall be placed to the credit of the capital projects fund by the receiving school district in the amount approved pursuant to sections 166.300 to 166.310. Such moneys shall be used by such district solely for the capital construction or renovation project for which grant approval was awarded and shall not be used to retire debt.

166.320. 1. If any completed allowed project costs more than the estimated final cost submitted to the department by the district, then the district shall be responsible for all of such additional cost.

2. If any completed allowed project costs less than the estimated final cost submitted to the department by the district, then the district shall return the department's percentage of such excess funds, and the department shall deposit such funds in the school building construction and renovation fund established in section 166.300.

3. Upon completion of any project for which funds were granted pursuant to sections 166.300 to 166.335, the school district shall submit a final report to the department. The department may require an audit of these reports or other district records to ensure that all funds received pursuant to sections 166.300 to 166.335 are

expended in accordance with program requirements.

4. If the department, after the review of expenditures or audit has been conducted pursuant to this section, determines that a school district failed to expend funds in accordance with this chapter, the department shall notify the school district of the amount that must be repaid to the department within sixty days. If the school district fails to make the required payment within sixty days, the department shall notify the school board and the school district in writing that an amount equal to the unused amount received by the school district shall be withdrawn from such school district's total amount of state aid calculated pursuant to chapter 163, RSMo, for certain subsequent school years, according to a withholding schedule developed by the department for such district.

166.325. The use of state matching grant moneys by a school district shall not make the department or this state liable for any tort, breach of contract or any other action for damages caused by a school district arising from an approved new construction or renovation project by the district, including, but not limited to, contracts between the school district and its construction contractors, construction managers, architects or engineers. The school district shall be liable for all torts, breaches of contract or any other actions for damages caused by the school district.

166.330. 1. All title to all property acquired, constructed or improved with grant moneys pursuant to sections 166.300 to 166.335 shall be held by the school district to which the department grants such moneys.

2. The applicant school district shall comply with all laws and rules pertaining to the construction, reconstruction or alteration of, or addition to, school buildings.

166.335. The department of elementary and secondary education shall promulgate such rules and forms as are necessary for the operation of sections 166.300 to 166.335. No rule or portion of a rule promulgated pursuant to sections 166.300 to 166.335 shall take effect unless such rule has been promulgated pursuant to chapter 536, RSMo.