

Memo To: Superintendents, Business Managers

From: Vermont Department of Education
Cathy Hilgendorf, School Construction Coordinator

Date: May 9, 2011

Topics: 1. School construction status report
2. School facility improvements proceeding without state school construction aid and department oversight
3. State requirements for all school construction projects
4. Legislative actions related to school renovations

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1. As you know, state school construction aid has been “suspended” since March 2007, with most new projects ineligible for any state reimbursement. Since then, the legislature has appropriated an annual sum in the capital appropriations bill toward the state’s list of aid owed to school districts for eligible projects which took place prior to the suspension. The backlog of unpaid aid will be down to approximately \$21 million after the fy12 appropriation. The suspension of state aid for school construction projects beyond emergencies and eligible consolidations remains in place through fy12.

Despite the absence of school construction aid, a number of sizable facility improvement projects have been completed. In addition to modest “summer projects” done throughout the state, South Royalton, Brownington, Craftsbury, St. Albans, Burlington and many others have completed large projects without state assistance. Several more will be moving ahead. School boards are doing their best to maintain school buildings and meet infrastructure needs.

2. Because Department of Education involvement in school district facility renovations and construction is tied to school construction aid (Title 16 V.S.A. §3448), some quality control mechanisms may now be missing, possibly to the detriment of project outcomes. Some aid-linked department requirements are no longer happening consistently. For example, not all districts hire a clerk-of-the-works to provide project oversight. Sometimes districts do not protect themselves by requiring contractors to carry a performance bond equal to the value of the contract. Approval is not consistently sought from other entities and state agencies with bona fide interests in the projects, such as the Division For Historic Preservation, Efficiency Vermont, the Department of Health, the Agency of Transportation, the Department of Environmental Conservation, and most importantly the Department of Public Safety, Fire Safety Division, which administers several important safety codes and issues permits. When state school construction aid is involved, the Department of Education serves as a liaison between school districts and these entities, reviews project budgets for adequacy, and assures that projects have necessary protections in place prior to groundbreaking. While I believe that most,

hopefully all, of the dozens of recent school facility improvements have been of good quality, I am concerned that safeguards could deteriorate and corners could be cut.

3. Many **state requirements** have no ties to state school construction aid. Whether your board anticipates state aid reimbursement for its renovations/improvements **or not**, it is unlawful to proceed with facility improvements on public school buildings without following pertinent statutes and regulations.

Regardless of source of funding, school construction and renovation projects must secure:

- **Voter approval for the expenditure and financing**
- **Bidding in accordance with 16 VSA §559**
- **Code compliance**
- **Permits from state agencies - there may be several depending upon the project.**

4. There were several legislative actions this session which involve school facilities. A new approach to voter approval for energy efficiency projects was authorized. The Dept. of Public Safety must prepare a study on the issue of carbon monoxide detectors in school buildings. The Dept. of Education must prepare a report with recommendations on state school construction aid, the sunset on 50% aid for eligible consolidation projects was extended until June of 2013, and the legislature appropriated \$7.425 million in 2012 (and promised the same amount in 2013) toward the backlog of aid owed to school districts for completed projects.

- An amendment to 16 VSA §562 authorizes districts choosing to do cost effective energy-related improvements to ask district voters for approval to incur a limited amount of debt over a five year period for energy-related building improvements which meet specific requirements and are financed under certain conditions. Nothing in the new legislation prevents a district from continuing to secure voter approval for specific projects as has been the case all along. Moving forward, however, school district voters have the option to authorize limited borrowing over the succeeding five years for non-specific projects related to energy savings. For details and limitations, please refer to S. 100 Section 32 for the new 16 VSA §562 (11), which will be available online soon. When reviewing §562 (powers of the electorate) in its entirety, please note (7) regarding voter approval required for capital leases and lease-purchases. For further information about the new subsection (11) of 16 VSA §562, please contact me or Norman Etkind, Director of the School Energy Management Program at the Vermont Superintendents Association (802) 229-1017.
- Fy12 state school construction aid payments will be allocated in a few months as per H. 446, the Capital Bill (section 8). Estimated FY12 payments for impacted districts are shown on the spreadsheet attached.
- Mandating the use of “green” cleaning products in schools received much testimony over the past four months. In the end, the senate and house did not agree on final bill language, so the legislation will not be completed until next year’s session. If you are curious, see bill S. 92.

End.