

School Construction

Title 53A, Chapter 20

(Text is current through the 2006 General Session)

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53A-20-100.5. Prohibition of school impact fees.

- (1) As used in this section, "school impact fee" means a charge on new development in order to generate revenue for funding or recouping the costs of capital improvements for schools or school facility expansions necessitated by and attributable to the new development.
- (2) Beginning March 21, 1995, there is a moratorium prohibiting a county, city, town, local school board, or any other political subdivision from imposing or collecting a school impact fee unless hereafter authorized by the Legislature by statute.
- (3) Collection of any fees authorized before March 21, 1995, by any ordinance, resolution or rule of any county, city, town, local school board, or other political subdivision shall terminate on May 1, 1996, unless hereafter authorized by the Legislature by statute.

53A-20-101. Construction and alteration of schools and plants -- Advertising for bids -- Payment and performance bonds -- Contracts -- Bidding limitations on local school boards -- Interest of local school board members.

- (1) As used in this section, the word "sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals

manually sealed and submitted.

- (2)
 - (a) Prior to the construction of any school or the alteration of any existing school plant, if the total estimated accumulative building project cost exceeds \$80,000, a local school board shall advertise for bids on the project at least ten days before the bid due date.
 - (b) The board shall have the advertisement published in a newspaper having general circulation throughout the state and in appropriate construction trade publications that offer free listings.
 - (c) A similar advertisement is required in a newspaper published or having general circulation in any city or county that would be affected by the proposed project.
 - (d) The advertisement shall:
 - (i) require sealed proposals for the building project in accordance with plans and specifications furnished by the local school board;
 - (ii) state where and when the proposals will be opened and shall reserve the right of the board to reject any and all proposals; and
 - (iii) require a certified check or bid bond of not less than 5% of the bid to accompany the bid.
- (3)
 - (a) The board shall meet at the time and place specified in the advertisement and publicly open and read all received proposals.
 - (b) If satisfactory bids are received, the board shall award the contract to the lowest responsible bidder.
 - (c) If none of the proposals are satisfactory, all shall be rejected.
 - (d) The board shall again advertise in the manner provided in this section.
 - (e) If, after advertising a second time no satisfactory bid is received, the board may proceed under its own direction with the required project.
- (4)
 - (a) The check or bond required under Subsection (2)(d) shall be drawn in favor of the local school board.
 - (b) If the successful bidder fails or refuses to enter into the contract and furnish the additional bonds required under this section, then the bidder's check or bond is forfeited to the district.
- (5) A local school board shall require payment and performance bonds of the successful bidder as required in Section 63-56-504.
- (6)
 - (a) A local school board may require in the proposed contract that at least 10% of the contract price be withheld until the project is completed and accepted by the board.
 - (b) If money is withheld, the board shall place it in an interest bearing account, and the interest accrues for the benefit of the contractor and subcontractors.

- (c) This money shall be paid upon completion of the project and acceptance by the board.
- (7) (a) A local school board may not bid on projects within the district if the total accumulative estimated cost exceeds \$80,000.
- (b) The board may use its resources if no satisfactory bids are received under this section.
- (8) If the local school board determines in accordance with Section 63-56-501 to use a construction manager/general contractor as its method of construction contracting management on projects where the total estimated accumulative cost exceeds \$80,000, it shall select the construction manager/general contractor using one of the source selection methods provided for in Sections 63-56-401 through 63-56-501.
- (9) A local school board member may not have a direct or indirect financial interest in the construction project contract.

53A-20-101.5. Restrictions on local school district procurement of architect-engineer services.

- (1) As used in this section, "architect-engineer services" means those professional services within the scope of the practice of architecture as defined in Section 58-3a-102, or professional engineering as defined in Section 58-22-102.
- (2) When a local school district elects to obtain architect or engineering services by using a competitive procurement process and has provided public notice of its competitive procurement process:
 - (a) a higher education entity, or any part of one, may not submit a proposal in response to the state agency's competitive procurement process; and
 - (b) the local school district may not award a contract to perform the architect or engineering services solicited in the competitive procurement process to a higher education entity or any part of one.

53A-20-103. School plant capital outlay report.

The State Board of Education shall prepare an annual school plant capital outlay report of all school districts, which includes information on the number and size of building projects completed and under construction.

53A-20-104. Enforcement of chapter by state superintendent -- Employment of personnel -- School districts and charter schools -- Certificate of inspection verification.

- (1) The state superintendent of public instruction shall enforce this chapter.

- (2) The superintendent may employ architects or other qualified personnel, or contract with the State Building Board, the state fire marshal, or a local governmental entity to:
 - (a) examine the plans and specifications of any school building or alteration submitted under this chapter;
 - (b) verify the inspection of any school building during or following construction; and
 - (c) perform other functions necessary to ensure compliance with this chapter.
- (3)
 - (a)
 - (i) If a local school board uses the school district's building inspector under Subsection 10-9a-305(6)(a)(ii) or 17-27a-305(6)(a)(ii) and issues its own certificate authorizing permanent occupancy of the school building, the local school board shall file a certificate of inspection verification with the local governmental entity's building official and the State Office of Education, advising those entities that the school district has complied with the inspection provisions of this chapter.
 - (ii) If a charter school uses a school district building inspector under Subsection 10-9a-305(6)(a)(ii) or 17-27a-305(6)(a)(ii) and the school district issues to the charter school a certificate authorizing permanent occupancy of the school building, the charter school shall file with the State Office of Education a certificate of inspection verification.
 - (iii) If a local school board or charter school uses a local governmental entity's building inspector under Subsection 10-9a-305(6)(a)(i) or 17-27a-305(6)(a)(i) and the local governmental entity issues the local school board or charter school a certificate authorizing permanent occupancy of the school building, the local school board or charter school shall file with the State Office of Education a certificate of inspection verification.
 - (iv)
 - (A) If a local school board or charter school uses an independent, certified building inspector under Subsection 10-9a-305(6)(a)(iii) or 17-27a-305(6)(a)(iii), the local school board or charter school shall, upon completion of all required inspections of the school building, file with the State Office of Education a certificate of inspection verification and a request for the issuance of a certificate authorizing permanent occupancy of the school building.
 - (B) Upon the local school board's or charter school's filing of the certificate and request as provided in Subsection (3)(a)(iv)(A), the school district or charter school shall be entitled to temporary occupancy of the school building that is the subject of the request for a period of 90 days, beginning the date the request is filed, if the school district or charter school has complied with all applicable fire and life safety code

requirements.

- (C) Within 30 days after the local school board or charter school files a request under Subsection (3)(a)(iv)(A) for a certificate authorizing permanent occupancy of the school building, the state superintendent of public instruction shall:
 - (I) (Aa) issue to the local school board or charter school a certificate authorizing permanent occupancy of the school building; or
 - (Bb) deliver to the local school board or charter school a written notice indicating deficiencies in the school district's or charter school's compliance with the inspection provisions of this chapter; and
 - (II) mail a copy of the certificate authorizing permanent occupancy or the notice of deficiency to the building official of the local governmental entity in which the school building is located.
 - (D) Upon the local school board or charter school remedying the deficiencies indicated in the notice under Subsection (3)(a)(iv)(C)(I)(Bb) and notifying the state superintendent of public instruction that the deficiencies have been remedied, the state superintendent of public instruction shall issue a certificate authorizing permanent occupancy of the school building and mail a copy of the certificate to the building official of the local governmental entity in which the school building is located.
 - (E) (I) The state superintendent of public instruction may charge the school district or charter school a fee for an inspection that the superintendent considers necessary to enable the superintendent to issue a certificate authorizing permanent occupancy of the school building.
 - (II) A fee under Subsection (3)(a)(iv)(E)(I) may not exceed the actual cost of performing the inspection.
- (b) For purposes of this Subsection (3):
- (i) "local governmental entity" means either a municipality, for a school building located within a municipality, or a county, for a school building located within an unincorporated area in the county; and
 - (ii) "certificate of inspection verification" means a standard inspection form developed by the state superintendent in consultation with local school boards and charter schools to verify that inspections by qualified inspectors have occurred.

53A-20-104.5. School building construction and inspection manual -- Annual construction and inspection conference -- Verification of school construction inspections.

- (1) (a) The State Board of Education, through the state superintendent of public instruction, shall develop and distribute to each school district a school building construction and inspection resource manual.
- (b) The manual shall be provided to a charter school upon request of the charter school.
- (2) (a) The manual shall include current legal requirements and information on school building construction and inspections.
- (b) The state superintendent shall review and update the manual at least once every three years.
- (3) The board shall provide for an annual school construction conference to allow a representative from each school district and charter school to:
 - (a) receive current information on the design, construction, and inspection of school buildings;
 - (b) receive training on such matters as:
 - (i) using properly certified building inspectors;
 - (ii) filing construction inspection summary reports and the final inspection certification with the local governmental authority's building official;
 - (iii) the roles and relationships between a school district or charter school and the local governmental authority, either a county or municipality, as related to the construction and inspection of school buildings; and
 - (iv) adequate documentation of school building inspections; and
 - (c) provide input on any changes that may be needed to improve the existing school building inspection program.
- (4) The board shall develop a process to verify that inspections by qualified inspectors occur in each school district or charter school.

53A-20-105. Licensed architect to prepare plans.

A licensed architect shall prepare the plans and specifications for the construction or alteration of school buildings.

53A-20-106. Power of board regarding expected federal aid to build schools.

For the purpose of participating in any program of assistance by the government of the United States designed to aid the various states, their political subdivisions and their educational agencies and institutions in providing adequate educational buildings and

facilities, the State Board of Education, with the approval of the governor, may do the following:

- (1) It may develop and implement plans relating to the building of educational buildings for the use and benefit of school districts and educational institutions and agencies of the state. These plans may conform to the requirements of federal legislation to such extent as the board finds necessary to qualify the state and its educational subdivisions, agencies, and institutions for federal educational building grants-in-aid.
- (2) It may enter into agreements on behalf of the state, its school districts, and its educational agencies and institutions with the federal government and its agencies, and with the school districts, educational agencies, and institutions of the state, as necessary to comply with federal legislation and to secure for them rights of participation as necessary to fulfill the educational building needs of the state.
- (3) It may accept, allocate, disburse, and otherwise deal with federal funds or other assets that are available for buildings from any federal legislation or program of assistance among the school districts, public educational agencies, and other public institutions eligible to participate in those programs.

53A-20-108. Notification to local government of intent to purchase school site or construction of school building -- Negotiation of fees -- Confidentiality.

- (1)
 - (a) A school district or charter school shall notify the affected local governmental entity without delay prior to the purchase of a school site or construction of a school building of its intent to purchase or construct.
 - (b) Representatives of the local governmental entity and the school district or charter school shall meet as soon as possible after delivery of the notice under Subsection (1)(a) to:
 - (i) discuss concerns that each may have, including potential community impacts and site safety;
 - (ii) assess the availability of infrastructure for the site; and
 - (iii) discuss any fees that might be charged by the local governmental entity in connection with a building project.
- (2) Representatives of the local governmental entity and the school district or charter school shall meet as soon as possible after the purchase of a school site to discuss concerns that each may have, including potential community impacts, and to negotiate any fees that might be charged by the local governmental entity in connection with a building project.
- (3) A local governmental entity may not increase a previously agreed-upon fee after the district or charter school has signed contracts to begin construction.

- (4) Prior to the filing of a formal application by the affected school district or charter school, a local governmental entity may not disclose information obtained from a school district or charter school regarding the district's or charter school's consideration of, or intent to, purchase a school site or construct a school building, without first obtaining the consent of the district or charter school.