

2023 -- H 6111

LC002300

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO EDUCATION -- FOUNDATION LEVEL SCHOOL SUPPORT

Introduced By: Representatives Cortvriend, McEntee, Finkelman, and Shallcross Smith

Date Introduced: March 03, 2023

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 16-7-39, 16-7-40 and 16-7-41.1 of the General Laws in Chapter 16-  
2 7 entitled "Foundation Level School Support [See Title 16 Chapter 97 — The Rhode Island Board  
3 of Education Act]" are hereby amended to read as follows:

4 **16-7-39. Computation of school housing-aid ratio.**

5 For each community, the percent of state aid for school housing costs shall be computed in  
6 the following manner:

7 (1) The adjusted equalized weighted assessed valuation for the district is divided by the  
8 resident average daily membership for the district (grades twelve (12) and below); (2) The adjusted  
9 equalized weighted assessed valuation for the state is divided by the resident average daily  
10 membership for the state (grades twelve (12) and below); (1) is then divided by (2) and the resultant  
11 ratio is multiplied by a factor currently set at sixty-two percent (62%) which represents the  
12 approximate average district share of school support; the resulting product is then subtracted from  
13 one hundred percent (100%) to yield the housing aid share ratio, provided that in no case shall the  
14 ratio be less than thirty percent (30%). Provided, that effective July 1, 2010, and annually at the  
15 start of each fiscal year thereafter, the thirty percent (30%) floor on said housing-aid share shall be  
16 increased by five percent (5%) increments each year until said floor on the housing-aid share ratio  
17 reaches a minimum of not less than forty percent (40%). This provision shall apply only to school  
18 housing projects completed after June 30, 2010, that received approval from the board of regents  
19 prior to June 30, 2012. Provided further, for the fiscal year beginning July 1, 2012, and for

1 subsequent fiscal years, the minimum housing aid share shall be thirty-five percent (35%) for all  
2 projects receiving council on elementary and secondary education approval after June 30, 2012.  
3 The resident average daily membership shall be determined in accordance with § 16-7-22(1).

4 (2) No district shall receive a combined total of more than twenty (20) incentive percentage  
5 points for projects that commence construction by ~~December 30, 2023~~ June 30, 2024, and five (5)  
6 incentive points for projects that commence construction thereafter; provided further, these caps  
7 shall be in addition to amounts received under §§ 16-7-40(a)(1), ~~and~~ 16-7-40(a)(2), and 16-7-40(b).  
8 Furthermore, a district's share shall not be decreased by more than half of its regular share  
9 irrespective of the number of incentive points received nor shall a district's state share increase by  
10 more than half of its regular share, including amounts received under §§ 16-7-40(a)(1) and 16-7-  
11 40(a)(2), irrespective of the number of incentive points received.

12 **16-7-40. Increased school housing ratio.**

13 (a)(1) In the case of regional school districts, the school housing aid ratio shall be increased  
14 by two percent (2%) for each grade so consolidated.

15 (2) Regional school districts undertaking renovation project(s) shall receive an increased  
16 share ratio of four percent (4%) for those specific project(s) only, in addition to the combined share  
17 ratio calculated in § 16-7-39 and this subsection.

18 (b) In the case of projects undertaken by districts specifically for the purposes of high-  
19 performance school design school and/or safety and security, the school housing aid share ratio  
20 shall be increased by five percent (5%) for these specific projects only, in the calculation of school  
21 housing aid. The increased share ratio shall continue to be applied for as long as the project(s)  
22 receives state housing aid. In order to qualify for the increased share ratio, seventy-five percent  
23 (75%) of the project costs must be specifically directed to school safety and security measures. The  
24 council on elementary and secondary education shall promulgate rules and regulations for the  
25 administration and operation of this section.

26 (c) For purposes of addressing health and safety deficiencies as defined by the school  
27 building authority, including the remediation of hazardous materials, the school housing aid ratio  
28 shall be increased by five percent (5%) so long as the construction of the project commences by  
29 December 30, 2023, is completed by December 30, 2028, and a two hundred fifty million dollar  
30 (\$250,000,000) general obligation bond is approved on the November 2018 ballot. In order to  
31 qualify for the increased share ratio, twenty-five percent (25%) of the project costs or a minimum  
32 of five hundred thousand dollars (\$500,000) must be specifically directed to this purpose.

33 (d) For purposes of educational enhancement, including projects devoted to the  
34 enhancement of early childhood education and career and technical education, the school housing

1 aid ratio shall be increased by five percent (5%) so long as construction of the project commences  
2 by December 30, 2023, is completed by December 30, 2028, and a two hundred fifty million dollar  
3 (\$250,000,000) general obligation bond is approved on the November 2018 ballot. In order to  
4 qualify for the increased share ratio, twenty-five percent (25%) of the project costs or a minimum  
5 of five hundred thousand dollars (\$500,000) must be specifically directed to these purposes.

6 (e) For replacement of a facility that has a facilities condition index of sixty-five percent  
7 (65%) or higher, the school housing ratio shall be increased by five percent (5%) so long as  
8 construction of the project commences by December 30, 2023, is completed by December 30, 2028,  
9 does not receive a bonus pursuant to subsection (f) or subsection (g), and a two hundred fifty million  
10 dollar (\$250,000,000) general obligation bond is approved on the November 2018 ballot. In order  
11 to qualify for the increased share ratio, twenty-five percent (25%) of the project costs or a minimum  
12 of five hundred thousand dollars (\$500,000) must be specifically directed to this purpose.

13 (f) For any new construction or renovation that increases the functional utilization of any  
14 facility from less than sixty percent (60%) to more than eighty percent (80%), including the  
15 consolidation of school buildings within or across districts, the school housing aid ratio shall be  
16 increased by five percent (5%) so long as construction of the project commences by December 30,  
17 2023, is completed by December 30, 2028, and a two hundred fifty million dollar (\$250,000,000)  
18 general obligation bond is approved on the November 2018 ballot. In order to qualify for the  
19 increased share ratio, twenty-five percent (25%) of the project costs or a minimum of five hundred  
20 thousand dollars (\$500,000) must be specifically directed to this purpose.

21 (g) For any new construction or renovation that decreases the functional utilization of any  
22 facility from more than one hundred twenty percent (120%) to between eighty-five percent (85%)  
23 to one hundred five percent (105%), the school housing ratio shall be increased by five percent  
24 (5%) so long as construction of the project commences by December 30, 2023, is completed by  
25 December 30, 2028, and a two hundred fifty million dollar (\$250,000,000) general obligation bond  
26 is approved on the November 2018 ballot. In order to qualify for the increased share ratio, twenty-  
27 five percent (25%) of the project costs or a minimum of five hundred thousand dollars (\$500,000)  
28 must be specifically directed to this purpose.

29 (h) For consolidation of two (2) or more school buildings, within or across districts into  
30 one school building, the school housing aid ratio shall be increased by five percent (5%) so long as  
31 construction of the project commences by December 30, 2023, is completed by December 30, 2028,  
32 a two hundred fifty million dollar (\$250,000,000) general obligation bond is approved on the  
33 November 2018 ballot, and does not receive a bonus pursuant to subsection (f) or subsection (g).  
34 In order to qualify for the increased share ratio, twenty-five percent (25%) of the project costs or a

1 minimum of five hundred thousand dollars (\$500,000) must be specifically directed to this purpose.

2 (i) Any regionalized and/or non-regionalized school district receiving an increased share  
3 ratio for a project approved prior to July 1, 2018, shall continue to receive the increased share ratio  
4 for as long as the project receives state housing aid.

5 **16-7-41.1. Eligibility for reimbursement.**

6 (a) School districts, not municipalities, may apply for and obtain approval for a project  
7 under the necessity of school construction process set forth in the regulations of the council on  
8 elementary and secondary education, provided, however, in the case of a municipality that issues  
9 bonds through the Rhode Island health and educational building corporation to finance or refinance  
10 school facilities for a school district that is not part of the municipality, the municipality may apply  
11 for and obtain approval for a project. Such approval will remain valid until June 30 of the third  
12 fiscal year following the fiscal year in which the council on elementary and secondary education's  
13 approval is granted. Only those projects undertaken at school facilities under the care and control  
14 of the school committee and located on school property may qualify for reimbursement under §§  
15 16-7-35 — 16-7-47. Facilities with combined school and municipal uses or facilities that are  
16 operated jointly with any other profit or nonprofit agency do not qualify for reimbursement under  
17 §§ 16-7-35 — 16-7-47. Projects completed by June 30 of a fiscal year are eligible for  
18 reimbursement in the following fiscal year. [Interest payments are eligible for reimbursement the](#)  
19 [year the bond is issued.](#) A project for new school housing or additional housing shall be deemed to  
20 be completed when the work has been officially accepted by the school committee or when the  
21 housing is occupied for its intended use by the school committee, whichever is earlier.

22 (b) Notwithstanding the provisions of this section, the board of regents shall not grant final  
23 approval for any project between June 30, 2011, and May 1, 2015, except for projects that are  
24 necessitated by immediate health and safety reasons. In the event that a project is requested during  
25 the moratorium because of immediate health and safety reasons, those proposals shall be reported  
26 to the chairs of the house and senate finance committees.

27 (c) Any project approval granted prior to the adoption of the school construction  
28 regulations in 2007, and which are currently inactive; and any project approval granted prior to the  
29 adoption of the school construction regulations in 2007 which did not receive voter approval or  
30 which has not been previously financed, are no longer eligible for reimbursement under this  
31 chapter. The department of elementary and secondary education shall develop recommendations  
32 for further cost containment strategies in the school housing aid program.

33 (d) Beginning July 1, 2015, the council on elementary and secondary education shall  
34 approve new necessity of school construction applications on an annual basis. The department of

1 elementary and secondary education shall develop an annual application timeline for local  
2 education agencies seeking new necessity of school construction approvals.

3 (e) Beginning July 1, 2019, no state funding shall be provided for projects in excess of ten  
4 million dollars (\$10,000,000) unless the prime contractor for the project has received  
5 prequalification from the school building authority.

6 (f) Beginning July 1, 2019, the necessity of school construction process set forth in the  
7 regulations of the council on elementary and secondary education shall include a single statewide  
8 process, developed with the consultation of the department of environmental management, that will  
9 ensure community involvement throughout the investigation and remediation of contaminated  
10 building sites for possible reuse as the location of a school. That process will fulfill all provisions  
11 of § 23-19.14-5 related to the investigation of reuse of such sites for schools.

12 (g) Beginning July 1, 2019, school housing projects exceeding one million five hundred  
13 thousand dollars (\$1,500,000) subject to inflation shall include an owner's program manager and a  
14 commissioning agent. The cost of the program manager and commissioning agent shall be  
15 considered a project cost eligible for aid pursuant to §§ 16-7-41 and 16-105-5.

16 (h) Temporary housing, or swing space, for students shall be a reimbursable expense so  
17 long as a district can demonstrate that no other viable option to temporarily house students exists  
18 and provided that use of the temporary space is time limited for a period not to exceed twenty-four  
19 (24) months and tied to a specific construction project.

20 (i) Environmental site remediation, as defined by the school building authority, shall be a  
21 reimbursable expense up to one million dollars (\$1,000,000) per project.

22 (j) If, within thirty (30) years of construction, a newly constructed school is sold to a private  
23 entity, the state shall receive a portion of the sale proceeds equal to that project's housing aid  
24 reimbursement rate at the time of project completion.

25 (k) All projects must comply with § 37-13-6, ensuring that prevailing wage laws are being  
26 followed, and § 37-14.1-6, ensuring that minority business enterprises reach a minimum of ten  
27 percent (10%) of the dollar value of the bid, and § 37-13-3.1, ensuring apprenticeship program  
28 utilization.

29 (l) Using reviewable criteria, all projects seeking school housing aid shall complete an  
30 independent, objective, reasoned study on all projects over ten million dollars (\$10,000,000) to  
31 determine whether adoption of a project labor agreement on the proposed project or projects will  
32 help achieve the goals of the state purchases act.

33 SECTION 2. Section 16-105-3 of the General Laws in Chapter 16-105 entitled "School  
34 Building Authority" is hereby amended to read as follows:

1           **16-105-3. Roles and responsibilities.**

2           The school building authority roles and responsibilities shall include:

3           (1) Management of a system with the goal of ensuring equitable and adequate school  
4 housing for all public school children in the state;

5           (2) Prevention of the cost of school housing from interfering with the effective operation  
6 of the schools;

7           (3) Management of school housing aid in accordance with statute;

8           (4) Reviewing and making recommendations to the council on elementary and secondary  
9 education on necessity of school construction applications for state school housing aid and the  
10 school building authority capital fund, based on the recommendations of the school building  
11 authority advisory board;

12           (5) Promulgating, managing, and maintaining school construction regulations, standards,  
13 and guidelines applicable to the school housing program, based on the recommendations of the  
14 school building authority advisory board, created in § 16-105-8. Said regulations shall require  
15 conformance with the minority business enterprise requirements set forth in § 37-14.1-6;

16           (6) Developing a prequalification and review process for prime contractors, architects, and  
17 engineers seeking to bid on projects in excess of ten million dollars (\$10,000,000) in total costs  
18 subject to inflation. Notwithstanding any general laws to the contrary, a prequalification shall be  
19 valid for a maximum of two (2) years from the date of issuance. Factors to be considered by the  
20 school building authority in granting a prequalification to prime contractors shall include, but not  
21 be limited to, the contractor's history of completing complex projects on time and on budget, track  
22 record of compliance with applicable environmental and safety regulations, evidence that  
23 completed prior projects prioritized the facility's future maintainability, and compliance with  
24 applicable requirements for the use of women and minority owned subcontractors;

25           (i) At least annually, a list of prequalified contractors, architects, and engineers shall be  
26 publicly posted with all other program information;

27           (7) Providing technical assistance and guidance to school districts on the necessity of  
28 school construction application process;

29           (8) Providing technical advice and assistance, training, and education to cities, towns,  
30 and/or local education agencies and to general contractors, subcontractors, construction or project  
31 managers, designers and others in planning, maintenance, and establishment of school facility  
32 space;

33           (9) Developing a project priority system, based on the recommendations of the school  
34 building authority advisory board, in accordance with school construction regulations for the school

1 building authority capital fund, subject to review and, if necessary, to be revised on intervals not to  
2 exceed five (5) years. Project priorities shall include, but not be limited to, the following order of  
3 priorities:

4 (i) Projects to replace or renovate a building that is structurally unsound or otherwise in a  
5 condition seriously jeopardizing the health and safety of school children where no alternative exists;

6 (ii) Projects needed to prevent loss of accreditation;

7 (iii) Projects needed for the replacement, renovation, or modernization of the HVAC  
8 system in any schoolhouse to increase energy conservation and decrease energy-related costs in  
9 said schoolhouse;

10 (iv) Projects needed to replace or add to obsolete buildings in order to provide for a full  
11 range of programs consistent with state and approved local requirements; and

12 (v) Projects needed to comply with mandatory, instructional programs;

13 (10) Maintaining a current list of requested school projects and the priority given them;

14 (11) Collecting and maintaining readily available data on all the public school facilities in  
15 the state;

16 (12) Collecting, maintaining, and making publicly available quarterly progress reports of  
17 all ongoing school construction projects that shall include, at a minimum, the costs of the project  
18 and the time schedule of the project;

19 (13) Recommending policies and procedures designed to reduce borrowing for school  
20 construction programs at both state and local levels;

21 (14) At least every five (5) years, conducting a needs survey to ascertain the capital  
22 construction, reconstruction, maintenance, and other capital needs for schools in each district of the  
23 state, including public charter schools;

24 (15) Developing a formal enrollment projection model or using projection models already  
25 available;

26 (16) Encouraging local education agencies to investigate opportunities for the maximum  
27 utilization of space in and around the district;

28 (17) Collecting and maintaining a clearinghouse of prototypical school plans that may be  
29 consulted by eligible applicants;

30 (18) Retaining the services of consultants, as necessary, to effectuate the roles and  
31 responsibilities listed within this section;

32 (19) No district shall receive a combined total of more than twenty (20) incentive  
33 percentage points for projects that commence construction by December 30, 2023, and five (5)  
34 incentive points for projects that commence construction thereafter; provided further, these caps

1 shall be in addition to amounts received under §§ 16-7-40(a)(1), ~~and~~ 16-7-40(a)(2), and 16-7-40(b).  
2 Furthermore, a district's share shall not be decreased by more than half of its regular share  
3 irrespective of the number of incentive points received, nor shall a district's state share increase by  
4 more than half of its regular share, including amounts received under §§ 16-7-40(a)(1) and 16-7-  
5 40(a)(2), irrespective of the number of incentive points received. Notwithstanding any provision of  
6 the general laws to the contrary, the reimbursement or aid received under this chapter or chapter  
7 38.2 of title 45 shall not exceed one hundred percent (100%) of the sum of the total project costs  
8 plus interest costs. If a two hundred and fifty million dollar (\$250,000,000) general obligation bond  
9 is approved on the November 2018 ballot, projects approved between May 1, 2015, and January 1,  
10 2018, are eligible to receive incentive points (above and beyond what the project was awarded at  
11 the time of approval) pursuant to § 16-7-39 and § 16-7-40. Provided, however, any project approved  
12 during this time period with a project cost in excess of one million five hundred thousand dollars  
13 (\$1,500,000), which does not include an owner's program manager and a commissioning agent,  
14 shall only be eligible to receive five (5) incentive points. Incentive points awarded pursuant to the  
15 provisions of this subsection shall only be applied to reimbursements occurring on or after July 1,  
16 2018. Any project approved between May 1, 2015, and January 1, 2018, that is withdrawn and/or  
17 resubmitted for approval shall not be eligible for any incentive points.

18 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO EDUCATION -- FOUNDATION LEVEL SCHOOL SUPPORT

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1           This act would require that all projects seeking school housing aid shall complete an  
2 independent, objective, reasoned study on all projects over ten million dollars (\$10,000,000) to  
3 determine whether adoption of a project labor agreement on the proposed project(s) will help  
4 achieve the goals of the state purchases act.

5           This act would take effect upon passage.

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