

SCHOOL BUILDING ACT WAIVER REQUESTS

Code **DDB**

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Revised:

Constitutional and Statutory Provisions:

S.C. Code Ann. § 59-21-420 (2004):

(a) Beginning with state Fiscal Year 1984-85, the State shall remit an amount on a per-pupil basis to each school district of the State in the manner and under the conditions that the General Assembly provides for the School Building Aid program of the Education Improvement Program in the annual general appropriation act. These funds must be used (i) for the renovation, capital improvement, or repair of school classrooms, libraries, laboratories, and other instructional facilities, including music rooms, or (ii) to reduce the millage required to pay principal and interest on bonds issued for such purposes if the district qualifies for the exception provided for in subsection (b) hereof.

(b) If a school district has issued bonds or otherwise undertaken any capital improvement programs during any of the most recent five fiscal years, at least fifty percent of the funds provided in subsection (a) must be used to reduce the millage required to pay debt service on such outstanding bonds.

Provided however, in the event that a school district sold bonds or secured a loan at an interest rate less than prevailing rates and has an identified need for funds in excess of fifty percent of funds provided in subsection (a) or anticipates a significant increase in need for additional classroom space, that district may request a waiver from this requirement by the State Board of Education. After consultation with the State Treasurer on prevailing interest rates and review of the evidence accompanying the waiver request from the school district, and upon certification by the State Treasurer that rates are beneficial to local school district, the State Board of Education may grant a waiver if the evidence is substantiated. . . .

State Board Rule:

A. Waiver Request

School district may request a waiver of the requirement to use at least 50 percent of the funds available pursuant to this section to reduce the millage required to pay debt service on outstanding bonds as identified in S.C. Code Ann. § 59-21-420 (2004) under the following circumstances: the school district has sold bonds or secured a loan at an interest rate of less than the prevailing rates, and it has identified a need for the funds in excess of 50 percent of the funds provided, or it anticipates a significant increase in need for classroom space. The waiver request must be submitted in writing to the South Carolina Department of Education's Office of School Facilities for placement on the State Board of Education Finance and Operations Committee agenda.

(see next page)

B. Information Required

The waiver request should include certain information before it is placed on the agenda. The minimum information that should be submitted with the request includes

1. An identified need in the school district that exceeds 50 percent of the funds provided or evidence of a significant increase in the need for additional classroom space.
 - a. Be specific in identifying the need and the amount needed.
 - b. Indicate how this need was otherwise going to be addressed or why the district had not already planned to meet this need.
 - c. What circumstances exist that weigh in favor of the request, as opposed to using funds appropriated through the regular budget process or bond referendum.
 - d. If the request is because of anticipated significant need of classroom space, you should provide
 - i. statistically valid enrollment projection numbers,
 - ii. number of relocatable classrooms that exist or will be needed if funds are not freed up for this purpose, and
 - iii. evidence and explanation of unexpected influxes of students, if applicable.
2. A certification from the State Treasurer that the current bond rates are beneficial to the local school district.
 - a. Submit the total amount of the current bonded indebtedness to the Board.
 - b. Submit the interest rates on the current bonded indebtedness to the Board.
3. A letter from County Legislative delegation stating whether or not they approve of the waiver. Each member should sign the letter in favor or opposition of the waiver.
4. A five-year history of the district's budget, millage increases or decreases, and debt service.
5. Indicate the past bond referenda and results, and indicate what plans there are for future referenda.

(see next page)

6. Proof that the request for a waiver was discussed at an open meeting of the local board of trustees and that it was on the agenda of the meeting.
 - a. Include copies of the meeting notice.
 - b. Evidence of where notice was published (newspaper vs. posted on board).
 - c. Copy of agenda.
 - d. Copy of minutes of the meeting in which it was discussed.
7. Information regarding the fiscal status (autonomy) of the local board of trustees and whether the board is elected or appointed.
8. Information regarding the cost of holding a bond referendum.
9. Information about whether the administration or local board authorized the capital improvement, including information on authorized levels.
10. If capital improvement is listed in the district's approved budget for the fiscal year, attach a copy of the budget and sufficient information so that the State Board can determine that it was included.

C. Review by State Board

Once the information is submitted to the Office of School Facilities, the item will be placed on the Finance and Operations Committee agenda. Representatives from the school district may speak on behalf of their request at the meeting. The Finance and Operations Committee will determine if the information is complete and make a recommendation to the State Board of Education.