

KENTUCKY DEPARTMENT OF EDUCATION STAFF NOTE

Topic: Waiver Requests from Knox County School District Request related to the Kentucky School Facilities Planning Manual incorporated by reference in 702 KAR 4:180.

Date: February 2021

Action Requested: ☐ Review ☒ Action/Consent ☐ Action/Discussion

Held In: ☒ Full Board ☐ Curriculum, Instruction and Assessment ☐ Operations

SUMMARY OF ISSUE BEFORE THE BOARD:

To approve the waiver requests by the Knox County School District to allow the district to utilize the proceeds from the sale of restricted bonds for the replacement of a failing packaged waste water treatment plant at the Flat Lick Elementary School.

COMMISSIONER'S RECOMMENDATION:

The Commissioner recommends that the Kentucky Board of Education (KBE) approve the waiver requests from the Knox County School District.

APPLICABLE STATUTE OR REGULATION:

KRS 157.440, 702 KAR 4:180

BACKGROUND:

Existing Policy: The Kentucky School Facilities Planning Manual defines major renovation as follows:

MAJOR RENOVATION means a renovation project at a permanent center, including three (3) or more building systems and an estimated cost of twenty percent (20%) of the current replacement cost of the building, or portion thereof. The building shall be a minimum of thirty (30) years old or thirty (30) years shall have passed since its last major renovation with the exception of restructuring an open space school for conventional classrooms. The building may be the entire permanent center or a clearly definable portion (i.e., 1973 addition, senior high wing, physical education facility, etc.).

- As an exception to the definition, the following building systems may be included for replacement as a single system within 15 years of their original installation or if required by a change in regulation or code;
 - Heating, Ventilation and Air Conditioning Systems and Controls
 - Systems to provide full use of a facility by the physically handicapped and to bring a facility into compliance with the Americans with Disabilities Act
 - Life Safety and Security Systems
 - Roofing Systems, Flashings and Accessories

202.5 Priority 5 – Discretionary Construction Projects includes the following:

- 202.5.1 This Priority shall be used to list projects by school or building that do not qualify for inclusion in the DFP in the first four (4) priorities. These shall include;
2. Renovation of spaces and buildings that are too new or minor in nature [(less than 3 systems to be replaced, except those systems specifically noted as exceptions to the definition of Major Renovation(HVAC, roofing, life safety and ADA compliance)] to meet the definition for Major Renovation.

202.5.3 Restricted construction funding shall not be used for projects noted in this Priority unless all projects noted in Priorities 1 through 4 have been completed and the district shows no need that qualifies under the terms of this regulation.

Summary of the Issue:

The existing packaged waste water treatment plant is failing and is subject to a Corrective Action Plan with the Energy and Environment Cabinet, Division of Water. Although a replacement plant is identified on the current District Facility Plan, the replacement plant is listed as part of a major renovation. The district lacks funding to complete the major renovation; therefore, the district desires to perform the renovation as a single system. This single system renovation does not classify as an excepted system identified in the definition of a major renovation. It is a “health and sanitation” issue, not a “life safety” issue, as this term is commonly used within this regulation and other facility regulations; therefore, this project is considered a Priority 5 (Discretionary) project. The Kentucky School Facilities Planning Manual prohibits the use of restricted funds on Priority 5 projects, unless the district has no remaining needs. The district has other need remaining on the current District Facility Plan. The district has reported that only Facility Support Program of Kentucky (FSPK) bond funds, a restricted fund source, are available for the proposed replacement project.

In order for the Kentucky Department of Education (KDE) to approve the project with the restricted funds that the district reports are available, the following waivers to the requirements of the Kentucky School Facilities Planning Manual are needed:

1. Definition of major renovation requiring three (3) or more building systems and the exception to the definition for a single system being limited to HVAC, roofing, life safety and ADA compliance and as restated in 202.5.1; and
2. 202.5.3 regarding the use of restricted funds with need remaining in Priorities 1 through 4.

Budget Impact: Approval of these waivers has no budget impact on state funds.

GROUPS CONSULTED AND BRIEF SUMMARY OF RESPONSES:

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Commissioner of Education

Category:	<input type="checkbox"/> Educator Workforce Diversity Commitment	<input type="checkbox"/> Portrait of a Graduate Partnerships	<input type="checkbox"/> Racial Equity
	<input type="checkbox"/> Student-Centered Accountability System	<input type="checkbox"/> Early Childhood	<input checked="" type="checkbox"/> District Support