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**SECOND ENGROSSED SUBSTITUTE SENATE BILL 6080**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Dammeier, Keiser, Honeyford, Conway, and Pedersen)

AN ACT Relating to financing public school facilities necessary to support state-funded all-day kindergarten and class size reduction in kindergarten through third grade; adding a new section to chapter 28A.525 RCW; creating new sections; providing an expiration date; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**PART 1: Findings and Intent**

NEW SECTION. **Sec.**  (1) The legislature finds that local school districts design, build, own, and manage public school facilities. The Washington state Constitution provides two ways to fund construction of public school facilities. First, the state Constitution provides the means for school districts to finance school construction. Article VII, section 2 of the state Constitution authorizes school districts to collect capital levies to support the construction, remodeling, or modernization of school facilities. In addition, Article VIII, section 6 of the state Constitution authorizes school districts to incur debt up to eleven and one-half percent of the total assessed value of taxable property for school construction and Article VII, section 2 of the state Constitution authorizes school districts to pay for this debt by issuing general obligation bonds for these capital purposes. Second, Article IX, section 3 of the state Constitution establishes the common school construction fund and dedicates revenues derived from school and state trust lands and earnings of the permanent common school fund to funding common school construction. Beyond these constitutional means, the legislature provides further state assistance to school districts through the issuance of general obligation bonds, the proceeds of which the state appropriates to support the state school construction assistance grant program established in chapter 28A.525 RCW. This state grant program is not intended to replace the financing provisions established in the state Constitution, but rather to provide state assistance that supplements the constitutional financing provisions. The state grant program helps finance new school capacity to accommodate enrollment growth and to modernize and replace existing schools while respecting local decisions and control by locally elected school boards.

(2) The legislature also finds that some school districts may benefit from additional financial assistance to provide school facilities—beyond that which is provided through the school construction assistance grant program—for the purpose of constructing or acquiring additional classrooms to support state-funded all-day kindergarten and class size reduction in kindergarten through third grade.

(3) For the 2015-2017 biennium, the legislature intends to provide additional state financial assistance to help school districts in funding public school facilities necessary to support state-funded all-day kindergarten and class size reduction in kindergarten through third grade.

**PART 2: K-3 Class Size Reduction Construction Grant Pilot Program**

NEW SECTION. **Sec.**  A new section is added to chapter 28A.525 RCW to read as follows:

(1) The K-3 class size reduction construction grant pilot program must be administered by the office of the superintendent of public instruction within the provisions of this section. Grants must be calculated and awarded based on the following four steps:

(a) Step 1: A verified count of necessary added classrooms in a district applying for a grant must be completed by the district and verified by the Washington State University extension energy office. The count of necessary added classrooms must be calculated in accordance with the following requirements:

(i) An inventory of all classrooms in all elementary schools in the district applying for the grant must be completed.

(ii) For purposes of this section, elementary school is any district school facility containing students in kindergarten through fifth grade or sixth grade. All classrooms include any room in an elementary school in a permanent or portable structure that is in use as a classroom or that could be used as a classroom if one of the following conditions are met:

(A) A classroom in a permanent building was designed as a classroom at the time the school was constructed or was subsequently added as part of a modernization or renovation.

(B) A classroom in a portable building meets the building code requirements for use as a classroom without requiring repairs or renovations that exceed fifty thousand dollars.

The count of all district classrooms must also include all planned elementary school classrooms in projects approved at the "D6" stage or later of the school construction assistance program. This inventory of classrooms must be entered in the inventory and condition of school system maintained by the office of the superintendent of public instruction.

(iii) A count of available classrooms in each elementary school in a district must be completed. Available classrooms include all classrooms inventoried in (a)(i) of this subsection minus:

(A) Classrooms in elementary schools that are regularly used for students in grades seventh or higher;

(B) Classrooms in elementary schools that are regularly used for prekindergarten students participating in special education programs;

(C) Classrooms in elementary schools that are regularly used for prekindergarten students not participating in special education programs if such use started prior to the effective date of this section;

(D) Seventy-five percent of classrooms in elementary schools that are regularly used for kindergarten through sixth grade students participating in special education programs;

(E) Fifty percent of classrooms in elementary schools that are regularly used for students in gifted and talented education;

(F) Fifty percent of classrooms in elementary schools that are regularly used for laboratory space, music, or art if such regular use exceeds fifty percent of school hours in the average week.

(iv) A calculation of needed classrooms must be completed. The number of needed classrooms is calculated by dividing the number of students in each grade in the most recent final October head count by the average class size objectives for the 2017-18 school year enumerated in RCW 28A.150.260 in effect as of October 31, 2014. Students residing outside the school district who are enrolled in alternative learning experience courses under RCW 28A.232.010 must be excluded from the count of total pupils. In lieu of the exclusion in this subsection, a district may submit an alternative calculation for excluding students enrolled in alternative learning experience courses. The alternative calculation must show the student head count use of district classroom facilities on a regular basis for a reasonable duration by out-of-district alternative learning experience students subtracted by the head count of in-district alternative learning experience students not using district classroom facilities on a regular basis for a reasonable duration. The alternative calculation must be submitted in a form approved by the office of the superintendent of public instruction. The office of the superintendent of public instruction must develop rules to define "regular basis" and "reasonable duration." If the calculation of needed classrooms for fourth and fifth grade students using the average class size ratios in RCW 28A.150.260 is less than the actual number of classrooms regularly used for fourth and fifth grade students, the actual number of fourth and fifth grade classrooms may be used to calculate the total needed classrooms.

(v) A calculation of necessary added classrooms must be completed for each school district applying for a grant. Necessary added classrooms are calculated by subtracting the available school district classrooms from the school district needed classrooms.

(b) Step 2: A determination must be made whether the number of necessary added classrooms is sufficient to justify constructing a new school or modernizing a previously closed school, or whether the number of necessary added classrooms can be provided with the addition of modular classrooms or increasing the number of classrooms in a planned school approved at the "D6" stage of the school construction assistance program.

(i) If the number of necessary added classrooms is twelve or greater, the presumption is a new school is required. For this purpose a new school means a newly constructed school, an addition of twelve or more classrooms to an existing school, or modernization of a previously closed school. A school district may choose to locate any necessary added classrooms among existing school facilities.

(ii) If the number of necessary added classrooms is less than twelve, the presumption is the added classrooms can be provided with the addition of modular classrooms or by increasing the number of classrooms in a planned school approved at the "D6" stage of the school construction assistance program. A school district may choose to provide necessary added classrooms with modular classrooms or construct new classrooms or modernize existing school buildings to create additional classrooms.

(c) Step 3: A calculation of the grant amount a school district is eligible for must be determined.

(i) Grants for necessary added classrooms that can be provided with the addition of modular classrooms must not exceed two hundred ten thousand dollars multiplied by the number of necessary added classrooms multiplied by the state matching ratio defined in (c)(iii) of this subsection.

(ii) Grants for necessary added classrooms that must be provided with a new school or modernization of an existing school building must not exceed six hundred fifteen thousand eighty-three dollars multiplied by the number of necessary added classrooms multiplied by the state matching ratio defined in (c)(iii) of this subsection.

(iii) The state matching ratio for use in this section only is the computed state ratio defined in RCW 28A.525.166 plus twenty percent of the percent of district head count eligible and enrolled in the free and reduced school lunch program.

(iv) Grants may not exceed the total project cost for providing the necessary added classrooms multiplied by the state matching ratio defined in (c)(iii) of this subsection.

(v) The amounts in (c)(i) and (ii) of this subsection must be increased for the fiscal year of the grant award by the same percentage increase as the school construction assistance program construction cost allocation is increased from fiscal year 2014 as authorized in the omnibus capital appropriations act.

(d) Step 4: Grant funds must be awarded and disbursed in accordance with the following requirements:

(i) A determination that the school district is ready to begin the project or projects to provide the necessary added classrooms must be made. To be determined ready, a district must:

(A) Have had classrooms inventoried in (a)(i) of this subsection;

(B) Certify that the required local funds are authorized to complete the project;

(C) Have an available site or sites for the project; and

(D) Demonstrate that additional classrooms will achieve progress towards the average class size objectives for the 2017-18 school year enumerated in RCW 28A.150.260 in effect as of October 31, 2014, and all-day kindergarten as funded pursuant to RCW 28A.150.315.

(ii) The office of financial management must approve allotments prior to issuing grant award letters. The office of the superintendent of public instruction must submit documentation to the office of financial management to justify the project grant award, including steps taken to verify counts and calculations, in requesting allotment approval.

(iii) Grant funds may be disbursed only after the required local match has been fully expended.

(2) If grant applications for the K-3 class size reduction construction grant pilot program exceed available funding, the office of the superintendent of public instruction must prioritize grant awards based on the following criteria in the following order of importance:

(a) Applicants with high necessary added classrooms to available classrooms ratio in kindergarten through third grades;

(b) Applicants with high student to teacher ratios in kindergarten through third grades;

(c) Applicants with high percentages of students who are eligible and enrolled in the free and reduced-price meals program; and

(d) Applicants that have not raised capital funds through levies or bonds in the prior ten-year period.

(3) The superintendent of public instruction must report annually on the grants awarded and school district applicants. The report must include (a) grant amounts and the status of all awarded grants by school district; (b) data documenting actual class size reductions and all-day kindergarten achieved in school districts that have received grants provided under this section; (c) a list of school districts that applied for grants during the current and previous fiscal years with estimates of necessary added classrooms; and (d) any other information relevant to the pilot program. Beginning in 2015, the report must be submitted to the office of financial management and the appropriate committees of the legislature by December 1st.

(4) This section expires July 1, 2017.

**PART 3: Development of K-3 Class Size Reduction Construction Grant Program**

NEW SECTION. **Sec. 01.** (1) The legislature recognizes that the provisions of the K-3 class size reduction construction grant pilot program will need modifications to (a) ensure that the grant program will meet the program's objectives for all school districts needing additional classrooms, and (b) identify changes to the school construction assistance program to improve appropriate coordination between the two grant programs.

(2) In consultation with stakeholders, the office of financial management, and the appropriate committees of the legislature, the superintendent of public instruction shall develop (a) an improved method for calculating needed classrooms, and (b) an improved funding formula for calculating grant awards to meet the objectives of this section and section 201 of this act. The classroom counting method and funding formula must be informed by data collected in state studies and surveys or through inventory and condition assessments conducted by the Washington State University extension energy office. The improved classroom counting method and improved funding formula, and any other requirements of this section, must be reported to the office of financial management and the appropriate committees of the legislature by December 1, 2015.

(3)(a) The improved classroom counting method must:

(i) Demonstrate a lack of sufficient classroom space district-wide to meet K-3 class size ratios as funded pursuant to average class size objectives for the 2017-18 school year enumerated in RCW 28A.150.260 in effect as of October 31, 2014, and to provide all-day kindergarten as funded pursuant to RCW 28A.150.315. The determination that there is a lack of sufficient space must be based on data collected in a state study and survey conducted within the preceding six years from the date of grant application or data collected through an inventory and condition assessment validated by the Washington State University extension energy office within the preceding six years from the date of grant application;

(ii) For school districts with student headcount enrollments more than forty-eight thousand, the improved classroom counting method must demonstrate a lack of sufficient classroom space within subdistrict areas in order to account for rapid growth in certain areas of a district that should be met with classroom capacity in those certain areas to avoid prolonged bussing of elementary students.

(b) The improved classroom counting method must be designed to ensure that additional classrooms will achieve average class size objectives for the 2017-18 school year enumerated in RCW 28A.150.260 in effect as of October 31, 2014, and all-day kindergarten as funded pursuant to RCW 28A.150.315.

(4)(a) In consultation with stakeholders, the office of financial management, and the appropriate committees of the legislature, the superintendent of public instruction must also recommend a process for prioritizing grant applications. The prioritization process must produce one prioritized list of grant recipients that includes all of the projects requested by school districts, and report the list, including preliminary estimates of necessary added classrooms, to the office of financial management and the appropriate committees of the legislature.

(b) The prioritized list must consider the following priorities:

(i) Applicants with high student to teacher ratios in kindergarten through third grades;

(ii) Applicants with a high percentage of students who are eligible and enrolled in the free and reduced-price meals program;

(iii) Applicants that have not raised capital funds through levies or bonds in the prior ten-year period;

(iv) Other criteria that relate to the objectives of the grant program.

(5) The improved funding formula must consider options for enhanced state funding for school districts that have not raised capital funds through levies or bonds in the prior ten-year period.

(6) In consultation with stakeholders, the office of financial management, and the appropriate committees of the legislature, the office of the superintendent of public instruction must recommend statutory and rule changes to ensure appropriate coordination between the K-3 class size reduction construction grant program and the school construction assistance program. The recommendation must include ways to ensure that new square footage funded through this grant program does not impair a school district's eligibility for modernization or replacement grants through the school construction assistance program eligibility under RCW 28A.525.166.

(7) In consultation with stakeholders, the office of financial management, and the appropriate committees of the legislature, the superintendent of public instruction must recommend the content and method for reporting annually on the grants awarded during each fiscal year. The report must include, at least, the grant amounts and the status of all awarded grants by school district. The annual report must also include data documenting actual class size reductions and all-day kindergarten achieved in school districts that have received grants provided under this section. Beginning in 2016, the report must be submitted to the office of financial management and the appropriate committees of the legislature by October 1st for the preceding fiscal year and made available to the public on a web site maintained by the superintendent of public instruction.

(8) In consultation with stakeholders, the office of financial management, and the appropriate committees of the legislature, the superintendent of public instruction must recommend statutory and rule changes for awarding grants for construction, modernization, or replacement of school facilities with an expected useful life of less than thirty years.

**PART 4: Miscellaneous**

NEW SECTION. **Sec. 01.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec.**  If specific funding for the purposes of section 201 of this act, referencing section 201 of this act by bill or chapter number and section number, is not provided by July 15, 2015, in the omnibus capital appropriations act, section 201 of this act is null and void.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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