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**SUBSTITUTE SENATE BILL 5753**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Zeiger, Rolfes, Billig, Braun, Warnick, Hunt, and Walsh)

AN ACT Relating to financing early learning facilities to support the needed expansion of early learning classrooms across Washington; amending RCW 43.185.050; adding new sections to chapter 43.31 RCW; and a creating new section.

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

NEW SECTION. **Sec.**  The legislature finds that there is a significant and critical need for additional early learning facilities to meet the state's commitment to providing high quality early learning opportunities to low-income children, including the legal mandate to provide preschool opportunities through the early childhood education and assistance program to all eligible children by 2021.

The legislature further finds that private and public partnerships and investments are critical to meeting the need for increased classrooms necessary to deliver high quality early learning opportunities to low-income children across Washington.

The legislature intends to provide state financial assistance to leverage local and private resources to enable early childhood education and assistance program contractors and child care providers to expand, remodel, or construct early learning facilities and classrooms necessary to support state-funded early learning opportunities for low-income children.

NEW SECTION. **Sec.**  The department of early learning, in consultation with stakeholders, shall review existing licensing standards related to facility requirements to eliminate potential barriers to licensing while ensuring the health and safety of children in early learning programs. The department must create a process by which projects for eligible organizations and school districts receiving grants or loans from the early learning facilities revolving account created in section 4 of this act can be preapproved under existing licensing standards related to facility requirements. The licensing standards accepted in the preapproval are the licensing standards that must be met upon project completion.

NEW SECTION. **Sec.**  Unless the context clearly requires otherwise, the definitions in this section apply throughout this act:

(1) "Department" means the department of commerce.

(2) "Director" means the director of commerce.

(3) "Early learning facility" means a facility providing regularly scheduled care for a group of children one month of age through twelve years of age for periods of less than twenty-four hours.

NEW SECTION. **Sec.**  (1) The early learning facilities revolving account is created in the state treasury. Revenues to the account shall consist of appropriations by the legislature, early learning facilities grant and loan repayments, and all other sources deposited in the account.

(2)(a) Expenditures from the account shall be used, in combination with other private and public funding, for state matching funds for the planning, renovation, and construction of early learning facilities as established in sections 5 through 9 of this act.

(b) The department, in consultation with the department of early learning, shall oversee the early learning facilities revolving account and is the lead state agency for early learning facilities grant and loan program development.

(c) It is the intent of the legislature that state funds invested in the account be matched by private or local government funding. Every effort shall be made to maximize funding available for early learning facilities from public schools, community colleges, education service districts, local governments, and private funders.

(d) Amounts used for program administration by the department may not exceed an average of four percent of expenditures in any two consecutive fiscal years.

(e) Commitment of state funds may be given only after private match funds are committed. Private match funds may consist of cash, equipment, land, buildings, or like-kind. In determining the level of match required, the department shall take into consideration the financial need of the applicant and the economic conditions of the location of the proposed facility.

(3) Expenditures from the account are subject to appropriation and the allotment provisions of chapter 43.88 RCW.

NEW SECTION. **Sec.**  (1) The department must expend moneys from the early learning facilities revolving account to provide state matching funds for early learning facilities grants or loans to provide classrooms necessary for children to participate in the early childhood education and assistance program and working connections child care. Grants or loans expended from the early learning facilities revolving account may fund projects only for:

(a) Eligible organizations identified in section 6 of this act; and

(b) School districts.

(2)(a) Beginning August 1, 2017, the department shall implement and administer grants or loans funded through the early learning facilities revolving account for school districts.

(b) Beginning August 1, 2017, the department may contract with one or more nongovernmental private-public partnerships that are certified by the community development financial institutions fund to implement and administer grants funded through the early learning facilities revolving account for eligible organizations. The department may allow the application of an eligible organization for a grant or loan from the early learning facilities revolving account created in section 4 of this act to be considered without the involvement of the nongovernmental private-public partnership that is certified by the community development financial institutions fund if a nongovernmental private-public partnership certified by the community development financial institutions fund is not reasonably available to the location of the proposed facility or if the eligible organization has sufficient ability and capacity to proceed with a project absent the involvement of a nongovernmental private-public partnership that is certified by the community development financial institutions fund, however the department must prioritize these projects according to the methodology described in section 9 of this act. Any nongovernmental private-public partnership that is certified by the community development financial institutions fund that is seeking early learning fund resources must demonstrate an ability to raise funding from private and other public entities for early learning facilities construction projects.

(3) The department shall monitor performance of the early learning facilities grant and loan program. Any nongovernmental private-public partnership that is certified by the community development financial institutions fund receiving state funds for purposes of this act shall provide annual reports, beginning July 1, 2018, to the department. The reports must include, but are not limited to, the following:

(a) A list of projects funded through the early learning facilities grant or loan program for eligible organizations to include:

(i) Name;

(ii) Location;

(iii) Grant or loan amount;

(iv) Private match amount;

(v) Public match amount;

(vi) Number of early learners served; and

(vii) Other elements as required by the department;

(b) A demonstration of sufficient investment of private match funds; and

(c) A description of how the projects met the criteria described in section 9 of this act.

NEW SECTION. **Sec.**  (1) Organizations eligible to receive early learning facilities grants or loans include:

(a) Early childhood education and assistance program providers;

(b) Working connections child care providers who are eligible to receive state subsidies;

(c) Licensed early learning centers not currently participating in the early childhood education and assistance program, but intending to do so;

(d) Developers of housing and community facilities;

(e) Community and technical colleges;

(f) Educational service districts; and

(g) Federally recognized tribes in the state.

(2) To be eligible to receive funds from awarded grants or loans for activities described in section 7(1) (b) and (c) and (2) of this act, eligible organizations and school districts must:

(a) Commit to being an active participant in good standing with the early achievers program as defined by chapter 43.215 RCW;

(b) Projects receiving construction or renovation grants or loans less than two hundred thousand dollars must demonstrate that the project site is under the applicant's control for a minimum of ten years, either through ownership or a long-term lease;

(c) Projects receiving construction or renovation grants or loans less than two hundred thousand dollars must commit to using the facility funded by the grant or loan for the purposes of providing preschool or child care for a minimum of ten years;

(d) Projects receiving construction or renovation grants or loans of two hundred thousand dollars or more must demonstrate that the project site is under the applicant's control for a minimum of twenty years, either through ownership or a long-term lease; and

(e) Projects receiving construction or renovation grants or loans of two hundred thousand dollars or more must commit to using the facility funded by the grant or loan for the purposes of providing preschool or child care for a minimum of twenty years.

(3)(a) Upon receiving a grant or loan guarantee, the grantee must continue to be an active participant and in good standing with the early achievers program.

(b) If the grantee ceases to be an active participant and in good standing with the early achievers program, the grants or loans shall be repaid to the early learning facilities revolving account. So long as an eligible organization continues to provide an early learning program in the facility and is an active participant and in good standing with the early achievers program, the grant or loan repayment is waived.

(c) The department, in consultation with the department of early learning, is authorized to adopt rules related to this subsection (3).

NEW SECTION. **Sec.**  (1) Activities eligible for funding through the early learning facilities revolving account for eligible organizations include:

(a) Facility predesign grants or loans of no more than ten thousand dollars to allow eligible organizations to secure professional services or consult with organizations certified by the community development financial institutions fund to plan for and assess the feasibility of early learning facilities projects or receive other technical assistance to design and develop projects for construction funding;

(b) Grants or loans of no more than one hundred thousand dollars for minor renovations or repairs of existing early learning facilities; and

(c) Major construction and renovation grants or loans of no more than eight hundred thousand dollars to create or expand early learning facilities.

(2) Activities eligible for funding through the early learning facilities revolving account for school districts include major construction and renovation grants or loans of no more than eight hundred thousand dollars to create or expand early learning facilities that received priority and ranking as described in section 9 of this act.

(3) Beginning July 1, 2018, amounts in this section must be increased annually by the United States implicit price deflator for state and local government construction provided by the office of financial management.

NEW SECTION. **Sec.**  (1) In the administration of the early learning facilities grant and loan program for eligible organizations, any nongovernmental private-public partnership that is certified by the community development financial institutions fund contracted with the department shall:

(a) Award grants or loans as described in section 7 of this act, that meet the criteria described in section 9 of this act, through an application process or in compliance with the regulations of the funding source.

(b) It is the intent of the legislature that state funds invested in the early learning facilities revolving account be matched by private or local government funding each biennium. Every effort shall be made to maximize funding available for early learning facilities from public schools, community colleges, education service districts, local governments, and private funders.

(2) In the administration of the early learning facilities grant program for school districts, the department shall submit a ranked and prioritized list of major construction or renovation of early learning facilities projects for school districts subject to the prioritization methodology described in section 9 of this act to the office of financial management and the relevant legislative committees by September 15, 2017.

NEW SECTION. **Sec.**  (1) The department shall convene a committee of early learning facilities experts including no less than one representative each from the department of early learning, the Washington state housing finance commission, an organization certified by the community development financial institutions fund, and the office of superintendent of public instruction to advise the department regarding the prioritization methodology of grant applications for projects described in section 7(2) of this act.

(2) When developing a prioritization methodology under this section, the committee shall consider, but is not limited to:

(a) Projects that add part-day, full-day, or extended day early childhood education assistance program slots in areas with the highest unmet need;

(b) Projects benefiting low-income children;

(c) Projects located in low-income neighborhoods;

(d) Projects that provide more access to the early childhood education and assistance program as a ratio of the children eligible to participate in the program;

(e) Projects that are geographically disbursed relative to statewide need;

(f) Projects that balance mixed-use development and rural locations; and

(g) Projects that maximize resources available from the state with funding from other public and private organizations, including the use of state lands or facilities.

(3) Committee members shall serve without compensation, but may request reimbursement for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(4) Committee members are not liable to the state, the early learning facilities revolving account, or to any other person as a result of their activities, whether ministerial or discretionary, as members except for willful dishonesty or intentional violation of the law.

(5) The department may purchase liability insurance for members and may indemnify these persons against the claims of others.

**Sec.**  RCW 43.185.050 and 2013 c 145 s 2 are each amended to read as follows:

(1) The department must use moneys from the housing trust fund and other legislative appropriations to finance in whole or in part any loans or grant projects that will provide housing for persons and families with special housing needs and with incomes at or below fifty percent of the median family income for the county or standard metropolitan statistical area where the project is located. At least thirty percent of these moneys used in any given funding cycle shall be for the benefit of projects located in rural areas of the state as defined by the department. If the department determines that it has not received an adequate number of suitable applications for rural projects during any given funding cycle, the department may allocate unused moneys for projects in nonrural areas of the state.

(2) Activities eligible for assistance from the housing trust fund and other legislative appropriations include, but are not limited to:

(a) New construction, rehabilitation, or acquisition of low and very low-income housing units;

(b) Rent subsidies;

(c) Matching funds for social services directly related to providing housing for special-need tenants in assisted projects;

(d) Technical assistance, design and finance services and consultation, and administrative costs for eligible nonprofit community or neighborhood-based organizations;

(e) Administrative costs for housing assistance groups or organizations when such grant or loan will substantially increase the recipient's access to housing funds other than those available under this chapter;

(f) Shelters and related services for the homeless, including emergency shelters and overnight youth shelters;

(g) Mortgage subsidies, including temporary rental and mortgage payment subsidies to prevent homelessness;

(h) Mortgage insurance guarantee or payments for eligible projects;

(i) Down payment or closing cost assistance for eligible first-time home buyers;

(j) Acquisition of housing units for the purpose of preservation as low-income or very low-income housing; and

(k) Projects making housing more accessible to families with members who have disabilities.

(3) Preference shall be given for projects that include an early learning facility.

(4) Legislative appropriations from capital bond proceeds may be used only for the costs of projects authorized under subsection (2)(a), (i), and (j) of this section, and not for the administrative costs of the department.

((~~(4)~~)) (5) Moneys from repayment of loans from appropriations from capital bond proceeds may be used for all activities necessary for the proper functioning of the housing assistance program except for activities authorized under subsection (2)(b) and (c) of this section.

((~~(5)~~)) (6) Administrative costs associated with application, distribution, and project development activities of the department may not exceed three percent of the annual funds available for the housing assistance program. Reappropriations must not be included in the calculation of the annual funds available for determining the administrative costs.

((~~(6)~~)) (7) Administrative costs associated with compliance and monitoring activities of the department may not exceed one-quarter of one percent annually of the contracted amount of state investment in the housing assistance program.

NEW SECTION. **Sec.**  Sections 2 through 9 of this act are each added to chapter 43.31 RCW.

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