

HOUSE BILL REPORT

HB 1914

As Reported by House Committee On:
Education Appropriations
Ways & Means

Title: An act relating to the use of certificates of participation to finance maintenance and operations of institutions of higher education.

Brief Description: Regarding eligibility for higher education institutions' maintenance and operations funding.

Sponsors: Representatives Sullivan, Kenney, Simpson and Nelson.

Brief History:

Committee Activity:

Education Appropriations: 2/11/09, 2/26/09 [DPS];

Ways & Means: 3/2/09 [DPS(APPE)].

Brief Summary of Substitute Bill

- Allows instructional facilities at community and technical colleges financed through Certificates of Participation to be eligible for state maintenance and operations funding.

HOUSE COMMITTEE ON EDUCATION APPROPRIATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Haigh, Chair; Sullivan, Vice Chair; Priest, Ranking Minority Member; Hope, Assistant Ranking Minority Member; Anderson, Carlyle, Cox, Haler, Hunter, Kagi, Probst, Quall, Rolfes and Wallace.

Staff: Debbie Driver (786-7143)

Background:

Certificates of Participation.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Institutions of higher education can finance the acquisition, construction and renovation of facilities using state bonds. Bond proceeds for these projects are appropriated in the capital budget. In addition to financing through state bonds, higher education institutions are authorized to enter into financing contracts, such as Certificates of Participation (COPs), which are a type of security sold for a particular purpose and backed by any component of fees and revenues the university derives from its ownership and operation of its facilities. The COPs must be authorized in the Capital Budget and, once authorized, the institution is allowed to begin the construction or purchase process.

Certificates of Participation are not subject to appropriation by the Legislature and do not obligate State General Fund revenues to be used for their completion. Nor do these contracts count towards state debt limit.

Maintenance and Operations Funding.

Higher education institutions typically receive maintenance and operations (M&O) funding in the operating budget for instructional space financed through state bonds. Funding M&O for buildings financed through other mechanisms, such as COPs, typically is not included in the operating budget unless the Legislature makes an exception for a particular facility.

Summary of Substitute Bill:

Current, past, and future higher educational instructional space at community and technical colleges financed through COPs are eligible to receive M&O funding to the same extent funding would be provided if the space were financed using state bonds.

Substitute Bill Compared to Original Bill:

The substitute bill changes from the original bill in three ways:

- It removes the four-year institutions from eligibility for state maintenance and operations for instructional space financed by certificates of participation (COPs).
- It changes the eligibility for state M&O funds from instructional space financed after the effective date of the bill to allow all past and future space at community and technical colleges financed by COPs.
- To be eligible for state M&O funding, the instructional space financed through COPs must be approved by the Legislature.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Currently, there is no policy for dealing with how the state funds maintenance and operations (M&O) on facilities funded by Certificates of Participation. The COPs must go through the Capital Budget process and the Legislature must approve and authorize COPs. This process allows colleges the ability to build buildings without tying up state bond capacity yet, upon completion, the state owns the buildings. Given the lack of a clear policy, each year the colleges and institutions must request M&O funding from the Legislature for these buildings. Other buildings financed with state bonds receive M&O funding at the maintenance level of the budget. Maintenance and operations funding is important as it is used to ensure the state's assets are protected. The lack of a clear policy results in challenges at the college and institution level as they develop their budgets each year. Providing M&O funding for instructional space financed by COPs will help ensure the state's buildings are maintained and preserved adequately.

(Opposed) None.

Persons Testifying: Representative Sullivan, prime sponsor; Larry Brown, Green River Community College; Jane Vroman, Western Washington University; and Denise Graham, State Board for Community and Technical Colleges.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON WAYS & MEANS

Majority Report: The substitute bill by Committee on Education Appropriations be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Linville, Chair; Ericks, Vice Chair; Cody, Conway, Darneille, Haigh, Hunt, Hunter, Kagi, Kenney, Kessler, Pettigrew, Seaquist and Sullivan.

Minority Report: Do not pass. Signed by 8 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Chandler, Hinkle, Priest, Ross and Schmick.

Staff: Debbie Driver (786-7143)

Summary of Recommendation of Committee On Ways & Means Compared to Recommendation of Committee On Education Appropriations:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) There has been confusion in the past with regards to the state's funding of maintenance and operations (M&O) at the two-year community and technical colleges. This bill provides a clear policy for the state that funds M&O for instructional space on both state financed and Certificate of Participation (COPs) financed projects. The COPs represent a partnership between a college and the state. The college enters into a financing agreement and the debt service is paid by the college. The debt is not counted against the state bond limit and the state owns the building once the debt is paid off. Although there has been no guarantee of state M&O funds for COP financed instructional space, the state has often provided funding for such space upon request. Yet, when and if the state does not provide this funding, the local college must find funds to support M&O which can be difficult. From a teaching perspective, it is difficult to teach in facilities that are not adequately maintained. Therefore, whatever can be done to provide for more adequate maintenance of existing and future buildings is welcome.

(With concerns) The original bill included the four-year institutions and reinstating them back in the bill would be an improvement. Recently, a bill was passed in the Capital Budget Committee which allows the four-year institutions to use either COPs or university-backed bonds for facilities that would otherwise be funded in the Capital Budget using state bonds. This frees up capacity in the state bond limit for other uses of Capital Budget funds. If the four-year universities are going to fund buildings with COPs or university-backed bonds, they would like to be eligible for M&O funding. Furthermore, as institutions consider alternative financing approaches for future buildings and acquisitions, including them in the bill would be beneficial.

(Opposed) None.

Persons Testifying: (In support) Representative Sullivan, prime sponsor; and Tom Henderson, State Board for Community and Technical Colleges.

(With concerns) Randy Hodgins and J. W. Harrington, University of Washington; Jane Vroman, Western Washington University; and Larry Ganders, Washington State University.

Persons Signed In To Testify But Not Testifying: None.