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**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; adding a new chapter to Title 43 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 finance public school facilities. 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. 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 the permanent common school fund to financing public school construction. The legislature provides further assistance to school districts through the issuance of general obligation bonds that are appropriated in support of the school construction assistance grant program specified in chapter 28A.525 RCW. This grant program is not intended to replace the financing provisions established in the state Constitution, but rather to supplement those financing provisions. The 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. Based on preliminary estimates over two thousand additional classrooms may be required, with about eighty percent of those classrooms provided through the construction of new elementary schools or major additions to existing elementary schools.

(3) The legislature intends to authorize bonds and appropriate the bond proceeds over the next several fiscal biennia to assist school districts construct or acquire additional classrooms to support state-funded all-day kindergarten and class size reduction in kindergarten through third grade.

**PART 2: Bond Authorization**

NEW SECTION. **Sec.**  For the purpose of providing funds for financial assistance to local school districts for capital facilities necessary to provide all-day kindergarten and reduce class size in kindergarten through third grade the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of two hundred eighty million dollars, or as much thereof as may be required, to finance the projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

NEW SECTION. **Sec.**  The proceeds from the sale of the bonds authorized in section 201 of this act must be deposited in the K-3 class size reduction account hereby created in the state treasury. Moneys in the account may be spent only after appropriation. The proceeds must be used exclusively for the purposes specified in section 201 of this act and for the payment of expenses incurred in the issuance and sale of the bonds. The office of financial management shall administer these proceeds, subject to legislative appropriation.

NEW SECTION. **Sec.**  (1) The debt-limit general fund bond retirement account must be used for the payment of the principal of and interest on the bonds authorized in section 201 of this act.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. On each date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date.

NEW SECTION. **Sec.**  (1) Bonds issued under section 201 of this act must state that they are a general obligation of the state of Washington, must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and must contain an unconditional promise to pay the principal and interest as the same becomes due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in section 203 of this act.

NEW SECTION. **Sec.**  The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in section 201 of this act, and section 203 of this act shall not be deemed to provide an exclusive method for the payment.

NEW SECTION. **Sec.**  The bonds authorized in section 201 of this act are a legal investment for all state funds or funds under state control and for all funds of any other public body.

**PART 3: K-3 Class Size Grant 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 grant 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 must be completed by the district and verified by the office of the superintendent of public instruction in accordance with the following requirements:

(i) An inventory of all district classrooms in all elementary schools must be completed. For purposes of this section, elementary school is any district school facility containing students in kindergarten through fifth grade or sixth grade if the sixth grade students are in schools with younger students. 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.

(ii) 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.

(iii) 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.

(iv) 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 portable or 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 portable or 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 portable or modular classrooms or construct new classrooms or modernize existing school buildings to create additional classrooms. Portable classrooms obtained through this grant program must be of a quality and durability such that the expected useful life of the portable exceeds fifteen years.

(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 portable or 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: 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 certify that the required local funds are authorized to complete the project and the district has an available site or sites for the project. Grant award letters may not be issued for any project prior to the office of financial management approving allotments for the project award. 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. Grant funds may only be disbursed after the required local match has been fully expended.

(2)(a) The office of the superintendent of public instruction shall provide block grants of sixteen million five hundred thousand dollars in the 2015-17 biennium and sixteen million five hundred thousand dollars in the 2017-19 biennium in lieu of the grants provided in subsection (1) of this section to school districts meeting the following criteria:

(i) Headcount enrollment of more than forty-nine thousand students;

(ii) Higher than average enrollment growth in the primary grades within the past three years; and

(iii) Limited school site capacity that prohibits schools containing kindergarten through third grade classrooms from either adding additional constructed classrooms, modular classrooms, or portable classrooms.

(b) School districts meeting the criteria to receive the block grant provided in subsection (2)(a) of this section that would have received additional state funds in excess of the block grant provided through the grant calculated in subsection (1) of this section may receive the amount provided by the calculated grant in subsection (1) of this section in excess of the block grants.

(3) The superintendent of public instruction must compile an annual report of grants awarded during each fiscal year. The report must show how each grant award was calculated and the status of all awarded grants. The annual report must also include a report on actual class size reductions achieved in school districts which have received grants provided under this section. The report must be submitted to the appropriate committees of the legislature by October 1st for the preceding fiscal year.

(4) The office of the superintendent of public instruction must write rules to ensure new permanent instructional square feet or portable structural square feet added with funding provided by grants awarded through this section is included in the school construction assistance program instructional space inventory for determining eligibility for funding assistance through the school construction assistance program, provided that new space provided with portable classrooms must only be counted in the inventory for fifteen years after installation. Classroom capacity funded through this grant program is not also eligible for funding under the school construction assistance program. Grant funds provided under this section and the local match required by this program must not be considered as local match under the school construction assistance program.

(5) This section expires July 1, 2023.

**PART 4: Appropriation**

NEW SECTION. **Sec.**  Two hundred eighty million dollars of the K-3 class size reduction account—state are appropriated to the office of the superintendent of public instruction solely for the purposes of section 301 of this act. Up to one and one-half million dollars of the appropriation may be expended for the costs of administering the K-3 class size reduction program, including for the cost of on-site verification. The office of the superintendent of public instruction must develop a schedule for calculating and awarding grants from this appropriation in one or more rounds based on consultation with stakeholders and the office of financial management. The office of the superintendent of public instruction must compile a list of school districts that may be interested in applying for grants during the 2015-2017 biennium and report that list with preliminary estimates of necessary added classrooms to the office of financial management and the appropriate committees of the legislature by December 1, 2015.

**PART 5: Miscellaneous**

NEW SECTION. **Sec.**  Sections 201 through 206 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. **Sec.**  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.**  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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