

HOUSE BILL REPORT

SSB 5933

As Passed House:

March 3, 2022

Title: An act relating to establishing a school seismic safety grant program.

Brief Description: Establishing a school seismic safety grant program.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Frockt, Schoesler, Conway, Honeyford, Keiser, Lovelett, Mullet, Pedersen, Rolfes and Wilson, J.).

Brief History:

Committee Activity:

Capital Budget: 2/25/22, 2/28/22 [DP].

Floor Activity:

Passed House: 3/3/22, 98-0.

Brief Summary of Substitute Bill

- Establishes a school seismic safety grant program for school districts and state-tribal compact schools for remediation of seismic or tsunami hazards in qualifying buildings.
- Requires qualifying buildings to be located in high seismic hazard areas and must have been built prior to 1998 and has not received a seismic retrofit to 2005 seismic standards.

HOUSE COMMITTEE ON CAPITAL BUDGET

Majority Report: Do pass. Signed by 23 members: Representatives Tharinger, Chair; Callan, Vice Chair; Hackney, Vice Chair; Steele, Ranking Minority Member; Abbarno, Assistant Ranking Minority Member; McEntire, Assistant Ranking Minority Member; Bateman, Dye, Eslick, Gilday, Kloba, Kraft, Leavitt, MacEwen, Maycumber, Mosbrucker, Peterson, Riccelli, Rule, Santos, Sells, Shewmake and Volz.

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

Staff: John Wilson-Tepeli (786-7115).

Background:

State Funding Programs for School Construction.

The capital budget provides funding to assist school districts with the costs of school construction, seismic retrofits, and other capital costs through several programs. The three largest programs related to seismic or tsunami construction are the School Construction Assistance Program (SCAP), the Small District and Tribal Compact Schools Modernization Program, and the School Seismic Safety Retrofit Program.

School Construction Assistance Program. The SCAP provides state financial assistance on a formula basis to school districts for constructing new, and remodeling existing, school buildings. Only districts' permanent instructional space is eligible for state funding through the program. The Office of the Superintendent of Public Instruction (OSPI) administers the program and works with school districts on project approval and reimbursement.

The state allocates SCAP funding to districts based on a set of space and cost standards determined by the OSPI and adopted by the Legislature, as well as a statutory funding assistance percentage based on the relative property wealth of districts. Capital construction costs for instructional space that exceed the state financial assistance provided by SCAP are generally borne by school districts. A school district must first secure local funding before it may become eligible for SCAP funding. Although voter-approved capital bonds are the most common form of local project financing, examples of other local funding include voter-approved capital levies, impact fees, mitigation payments, and interest income from a school district's capital projects fund.

Small District and Tribal Compact Schools Modernization Program. This program provides planning and construction grants for small school districts and tribal compact schools with significant building deficiencies. Projects are evaluated and ranked by an advisory committee of facilities professionals. This prioritization process must achieve the greatest improvement of school facilities in the districts and state-tribal education compact schools with the most limited financial capacity for projects likely to improve student health, safety, and academic performance for the largest number of students for the amount of state grant support.

Participation is limited to school districts and tribal compact schools with total enrollments of 1,000 students or less. No local cost share is required of districts, but grants may be coordinated with SCAP funding. Although the related statutes do not limit the scope of modernization projects funded through this program, the work funded has generally modernized parts of school facilities. Examples of typical projects include heating, ventilation, air conditioning, electrical, and roofing improvements. The 2021-23 Capital Budget contains provisions that limit program participation for the 2023-25 biennium to projects with a state funding level of \$5 million or less.

School Seismic Safety Retrofit Program. This program provides seismic retrofit planning and construction grants to school districts for the improvement of school buildings used for the instruction of students. Under the related 2021-23 Capital Budget proviso, the OSPI must prioritize school districts with the most significant building deficiencies and the greatest seismic risks as determined by the most recent geological data and building engineering assessments, beginning with facilities classified as very high risk. In the project development process, the OSPI is also required to consider:

- prioritizing student instructional spaces and facilities that improve communities' emergency response capacity, including school gymnasiums and school facilities capable of providing space for emergency shelter and response coordination;
- the financial capacity of low property value school districts in determining the size of grant awards;
- facilities' seismic needs considering the useful life of the facilities; and
- the extent to which the cost of the proposed seismic improvements is less than the estimated cost of facility replacement or new construction.

Seismic and Tsunami Hazards.

The United States Geological Survey (USGS) produces a seismic hazard long-term model that defines the potential for earthquake ground shaking under various scenarios across the United States. The model is applied in seismic provisions of building codes, insurance rate structures, risk assessments, and other public policies. The most recent model is from 2018 and has been updated every four years since 1996.

Washington adopted 2018 International Building Code amendments that direct designers, engineers, and architects to use the Washington Tsunami Design Zone Maps to determine whether structures, which can include school buildings, of certain risk types need to be designed for tsunamis.

Summary of Bill:

A school seismic safety grant program is established for school districts and state-tribal compact schools for remediation of seismic or tsunami hazards in qualifying buildings.

Eligibility.

A qualifying building must be located within a high seismic hazard area and must have been constructed before 1998 and not received a seismic retrofit to 2005 seismic standards.

A high seismic hazard area means:

- any location identified by a USGS national seismic map with a 2 percent probability of exceedance in 50 years and a National Earthquake Hazards Reduction Program site class D that are 0.3 peak horizontal acceleration or greater; or
- any area located within the Washington Tsunami Design Zone Map that requires structures in risk category three or four to be designed for tsunamis.

Eligible projects are remediation solutions that mitigate or eliminate site-specific seismic or tsunami hazards and may include building relocation or vertical evacuation towers if related to a tsunami hazard.

Grant Awards.

The Superintendent of Public Instruction must award state and federal grants to eligible school districts and state education tribal compact schools an amount equal to at least two-thirds of the total project cost. The total project cost is the direct and associated indirect costs for the remediation solution as recommended by the advisory committee. The combined direct and associated indirect costs cannot exceed an equivalent project participating in SCAP.

If funds are appropriated, the OSPI must provide technical assistance and planning grants to assist schools interested in applying for a school seismic safety grant.

Process.

The OSPI must appoint an advisory committee with experience in financing, managing, or planning seismic remediation projects at school facilities. The advisory committee must prioritize applications that achieve the greatest improvement in school facilities in school districts and state-tribal education compact schools with the most limited financial capacity for projects likely to improve student health, safety, and academic performance for the largest number of students for the amount of state grant support.

The Superintendent of Public Instruction must propose a list of prioritized school seismic safety grants to the Governor by September 1 of each year, beginning September 1, 2022. The Superintendent of Public Instruction and the Governor may determine the level of funding in their funding requests to the Legislature, but their funding requests must follow the prioritized list unless new information determines a specific project is no longer viable as proposed.

The OSPI may streamline the administrative and procedural process of the school seismic safety program, Small School District Modernization Grant Program, and SCAP. Funding from all three programs may not exceed the total project cost.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This program needs to be formalized in statute to ensure that it is prioritized in the future. Washington is behind California and Oregon and creating a statutory program with a prioritized list will help the Legislature continue to focus and work on this issue. Although the original bill would have funded the program outside the constitutional debt limit, there were concerns about whether going outside the debt limit would have affected the state's credit rating and whether voters would ultimately approve the bonds. For these reasons, the substitute bill removed the debt referendum components from the bill.

Seismic-related funding provided over the past biennia has provided the information and funding needed to develop the school seismic safety program. Students and teachers are worth this investment. Thousands of students attend school in seismically dangerous areas and in schools that are seismically unsafe. Teachers and students assume that they will have a school to go into each day. It is not fair to mandate that kids go to school when some schools are seismically unsafe. Earthquakes and tsunamis will cause substantial damage to schools in numerous coastal and other, seismically vulnerable locations in the state. Many school buildings in these areas are in danger of partial or complete collapse. Buildings are also emergency shelters for communities. It is critical that they have additional funding. Polling shows that voters believe that upgrading school buildings for seismic safety is primarily a state responsibility. Project costs are often large and unpredictable. Some districts with older, seismically vulnerable buildings have trouble passing bonds to make the needed improvements.

(Opposed) None.

Persons Testifying: Senator David Frockt, prime sponsor; Tyler Muench, Office of Superintendent of Public Instruction; Andrew Villeneuve, Northwest Progressive Institute; DaleAnn Baker, Washington State Parent Teacher Association; Corina Allen, Department of Natural Resources; Andrew Kelly, North Beach School District; and Mitch Denning, Alliance of Educational Associations.

Persons Signed In To Testify But Not Testifying: None.