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**HOUSE BILL 2017**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Representatives McClintock, Callan, Leavitt, Couture, Schmidt, Waters, Barkis, Christian, Ramos, Ramel, Reeves, Santos, and Hackney

AN ACT Relating to school districts with aged facilities and a history of capital bond failure; amending RCW 28A.525.159; adding a new section to chapter 28A.525 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature finds that school districts should modernize or replace schools that are at least 50 years old, as such facilities may not provide a suitable learning environment for students. The legislature further finds that certain school districts in the state fail to pass capital bonds for school construction on a consistent basis because the local property tax burden required to match state grant funding is too large. Therefore, the legislature intends to create the aging schools assistance program through which school districts with aged facilities and a history of capital bond failure will be able to modernize or replace their school buildings.

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

(1) Modernization, new construction, and planning grants for school districts with aged facilities and a history of capital bond failure must be awarded and determined in accordance with this section. The grant program created in this section shall be known as the aging schools assistance program.

(2) Applicant eligibility criteria. Subject to subsection (4) of this section, school districts must meet the following conditions to be eligible for a grant under this section:

(a) In the 20 years preceding the date of application for grants pursuant to this section, the registered voters of the applying school district must have failed to approve at least four consecutive capital bond authorizations pursuant to RCW 84.52.056 and the most recent such bond election prior to the date of application must have failed.

(b) The applying school district's most recent failure to approve a capital bond prior to an application made under this section must have received the approval of a majority of the voters voting on the proposition.

(c) The applying school district must have a student head count enrollment of 1,001 students or more.

(3) Project eligibility criteria.

(a) Projects funded under this section must meet the following conditions: (i) Subject to (d) of this subsection, projects must comprehensively modernize or replace facilities that are at least 50 years old and which have not been modernized in the past 30 years; and (ii) projects must not exceed 110 percent of the statewide average cost per square foot for new construction or modernization, as applicable, and as estimated by the advisory committee and approved by the office of the superintendent of public instruction. If, upon review, the advisory committee determines that districts applying for grants under this section may experience unusual project or bidding conditions, the advisory committee may allow individual exceptions to the cost threshold in this subsection.

(b) Instructional facilities that are otherwise eligible under this section that contain or include additions or annexes that do not meet the age requirements of this section are eligible to the extent that the applying school district determines that it would be most cost-effective to modernize or replace these facilities as part of the larger project for which the application is made.

(c) Noninstructional facilities that are used by students, such as stadia, grandstands, and sports fields, as determined by the office of the superintendent of public instruction, are eligible project types to the extent that they meet the other project eligibility criteria established in this section. Noninstructional space for the general administration and operation of the district is not eligible for a grant under this section. The eligibility of a noninstructional facility under this section shall not qualify other facilities on a school campus for modernization or replacement eligibility under this section.

(d) To meet the project eligibility criteria for comprehensive modernization specified under (a) of this subsection, projects must correct critical physical deficiencies and essential safety concerns, including: (i) Seismic vulnerabilities; (ii) failing or broken building and site systems; (iii) deficiencies of infrastructure and components; (iv) barriers to program accessibility; (v) deteriorated exterior conditions; and (vi) deficiencies in interior classroom spaces. Project approaches may include modernizing, repairing, reconfiguring, or replacing existing buildings, constructing new buildings, and upgrading deteriorated and outdated site infrastructure.

(4) Other eligibility criteria.

(a) School districts with incomplete or outdated building inventories, natural hazard assessments, and condition information as required by the office of the superintendent of public instruction are not eligible to apply for construction grants under this section but may apply for planning grants. Building inventory and condition information must be provided by an independent consultant certified by the office of the superintendent of public instruction. A seismic building assessment must be conducted by an engineer licensed as a structural engineer in Washington state.

(b) If the office of the superintendent of public instruction determines that school districts applying for grants pursuant to this section have met the bond authorization failure criteria under subsection (2) of this section, these districts remain eligible for grants under this section so long as they also meet the other grant program eligibility requirements of this section.

(c) Except as provided for in (d) of this subsection, the amount of instructional space per enrolled student at each school funded by the state through a grant under this section must not exceed the student space allocations for instructional space established by the office of the superintendent of public instruction for the school construction assistance program provided by RCW 28A.525.162 through 28A.525.180. The noninstructional space funded by the state through a grant under this section must not exceed space standards established by the advisory committee based on their review of applicable industry standards.

(d) School districts awarded a grant in this section may receive grant funding for space that exceeds the limitations under (c) of this subsection only for the replacement or modernization of existing school district space that otherwise meets the project eligibility criteria of this section.

(e) The space limitations established under (c) and (d) of this subsection are not intended to prevent school districts from constructing additional facility space at their own cost, using local or other nonstate funding. Therefore, school districts participating in a project funded under this section may use local, nonstate funding for construction of additional space that exceeds these limitations. However, any costs associated with additional space shall not count toward the district share of project costs under subsection (10) of this section.

(5) Eligible use of grants. A grant awarded pursuant to this section may only be used for the following purposes: (a) The collection of the required information in subsection (4)(a) of this section; (b) all predesign and design costs including value engineering and constructability reviews; and (c) all related costs associated with the project, except for any school district costs that are associated with the general administration and operation of the district, as determined by the office of the superintendent of public instruction.

(6) Required grant list.

(a) The superintendent of public instruction must propose a list of prioritized planning and construction grants pursuant to this section for school districts meeting the eligibility requirements established in this section to the governor by September 1st of even-numbered years, beginning September 1, 2024. This list must include: (i) A description of the proposed project; (ii) the proposed planning grant amount, when applicable; (iii) the proposed construction grant amount, when applicable; (iv) the anticipated district share of project costs; (v) the estimated total project cost; and (vi) the project score in total and by category.

(b) The superintendent of public instruction and the governor may determine the level of funding in their omnibus capital appropriations act requests to support grants under this section, but their funding requests must follow the prioritized list prepared by the advisory committee unless new information determines that a specific project is no longer viable as proposed.

(c) The office of the superintendent of public instruction may only award grants in this section after the legislature approves the list of funded grants and appropriates funding specifically for this purpose.

(7) Planning grant requirements and prioritization. Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction must assist eligible school districts that are interested in applying for a construction grant under this section by providing technical assistance and planning grants. School districts seeking planning grants under this section must provide a brief statement describing existing school conditions, building system and site deficiencies, the office of the superintendent of public instruction's current and five-year projected student head count enrollment, financial constraints, and evidence of school district bond failures that meet the grant eligibility criteria established under this section. If applications for planning grants exceed funds available, the office of the superintendent of public instruction may prioritize planning grant requests with primary consideration given to school district financial capacity and facility conditions.

(8) Construction grant requirements and prioritization.

(a) School districts applying for a construction grant under this section must have received and completed a planning grant under subsection (7) of this section or have completed construction documents including drawings, specifications, total project cost estimates, contract and procurement requirements, and other materials required by the advisory committee, as part of the construction grant application process.

(b) Subject to the availability of amounts appropriated for this specific purpose, the advisory committee must evaluate final applications from eligible school districts. The advisory committee must submit a prioritized list of grants to the superintendent of public instruction. The list must prioritize applications to achieve the greatest improvement of school facilities with the poorest conditions, in the school districts with the most limited financial capacity, for projects that are likely to improve student health and safety for the amount of state grant support. The advisory committee must develop specific criteria to achieve the prioritization. The submitted prioritized list must describe the project, the proposed state funding level, and the estimated total project cost including other funding and in-kind resources.

(c) At least one representative from the advisory committee and at least one representative from the office of the superintendent of public instruction must visit each project site for which an application is received as part of the project prioritization process under this subsection.

(9) Advisory committee.

(a) The superintendent of public instruction must use the existing advisory committee under RCW 28A.525.159 to prioritize construction grant applications from school districts pursuant to this section. However, the superintendent may appoint supplementary members with additional expertise as needed to evaluate project applications pursuant to this section.

(b) The advisory committee may propose changes to the eligibility threshold and grant application scoring procedures to the legislature as they learn more about the characteristics of school districts that are unable to replace or modernize their aging school facilities.

(10) Share of project costs.

(a) To receive a grant under this section, a school district must provide, for each grant awarded, a district share of project costs equal to 25 percent of the total project cost.

(b) A school district may use federal funding, other nonstate grant funding, and private donations to pay for its share under this subsection. When calculating a district's share requirement under (a) of this subsection, the superintendent of public instruction must reduce the district's required share in a manner directly proportionate to the amount of nonstate and nonschool district funding provided to support the state grant.

(11) School construction assistance program eligibility. The office of the superintendent of public instruction may not also provide school construction assistance program funding pursuant to RCW 28A.525.162 through 28A.525.180 for projects funded with grants under this section.

(12) Disbursement of grant funds and reporting requirements.

(a) The office of the superintendent of public instruction must award grants under this section to school districts. The grants must not be awarded until the recipient has identified available local and other resources sufficient to complete the approved project considering the amount of state grant funding. The grant must specify reporting requirements for the district and must include:

(i) Updating all school inventory and condition data considered necessary by the office of the superintendent of public instruction;

(ii) Submitting a final project report as specified by the office of the superintendent of public instruction in consultation with the advisory committee and approved by the school facilities citizen advisory panel created under RCW 28A.525.025; and

(iii) Implementing and maintaining an asset preservation program for the facility receiving grant funding as required by the office of the superintendent of public instruction's asset preservation program.

(b) School districts with legislatively approved projects listed under subsection (6) of this section shall secure the district share of project costs required under subsection (10) of this section within the fiscal biennium for which the associated grant funding is appropriated. If a district will not secure the district share of project costs pursuant to this requirement, it must notify the office of the superintendent of public instruction, according to a schedule determined by that office, and declare whether the district intends to pursue nonstate funding for the project in the subsequent biennium. The office of the superintendent of public instruction must request reappropriation of the legislatively approved grant funding listed under subsection (6) of this section for any district with legislatively approved projects that declare a plan to pursue the district share of project cost in the subsequent biennium, pursuant to this subsection. The office of the superintendent of public instruction must also retain the relative ranking from prior application periods for school districts' projects that are not legislatively approved under subsection (6)(c) of this section unless new information determines that a specific project is no longer viable as proposed.

**Sec.**  RCW 28A.525.159 and 2020 c 299 s 1 are each amended to read as follows:

(1) School construction assistance program grants for small school districts and state-tribal education compact schools must be determined in accordance with this section.

(2) Eligibility. School districts and state-tribal education compact schools with enrollments that are less than or equal to one thousand students are eligible for small school district modernization grants. The advisory committee specified in subsection (4)(a) of this section may recommend amendments to the eligibility threshold as they learn more about the characteristics of school districts and state-tribal education compact schools that are unable to modernize their aging school facilities. Districts with incomplete information in the inventory and condition of schools data system are not eligible to apply for construction grants but may apply for planning grants.

(3) The office of the superintendent of public instruction must assist eligible school districts and state-tribal education compact schools that are interested in applying for a small school district modernization grant under this section by providing technical assistance and planning grants within appropriations for this purpose. Districts and state-tribal education compact schools seeking planning grants must provide a brief statement of the school condition, its deficiencies, student enrollment, student achievement measures, and financial limitations of the district or state-tribal education compact school. If applications for planning grants exceed funds available, the office of the superintendent of public instruction may prioritize the recipients of planning grants in order to help districts and state-tribal education compact schools with the most serious apparent building deficiencies, and the most limited financial capacity.

(4) Prioritized construction grants and advisory committee.

(a) The superintendent of public instruction must propose a list of prioritized grants to the governor by September 1st of even-numbered years. The superintendent of public instruction must appoint an advisory committee to separately prioritize applications from small school districts and state-tribal education compact schools and from school districts with aged facilities and a history of capital bond failure for grants under section 2 of this act. Committee members must have experience in financing, managing, repairing, and improving school facilities in small school districts or state-tribal education compact schools but must not be involved in a ((~~small school district modernization program~~)) grant request under this section or section 2 of this act for the biennium under consideration. The office of the superintendent of public instruction must provide administrative and staff support to the ((~~[advisory]~~)) advisory committee and coordinate activities to minimize costs to the extent practicable. The office of the superintendent of public instruction in consultation with the advisory committee must design a grant application process with specific criteria for prioritizing grant requests under this section or section 2 of this act.

(b) The advisory committee created in (a) of this subsection must evaluate final applications from eligible school districts and state-tribal education compact schools. The advisory committee must submit a prioritized list of grants to the superintendent of public instruction. The list must prioritize applications to achieve the greatest improvement of school facilities, in the districts and state-tribal education compact schools with the most limited financial capacity, for projects that are likely to improve student health, safety, and academic performance for the largest number of students for the amount of state grant support. The advisory committee must develop specific criteria to achieve the prioritization. The submitted prioritized list must describe the project, the proposed state funding level, and the estimated total project cost including other funding and in-kind resources. The list must also indicate student achievement measures that will be used to evaluate the benefits of the project. The superintendent of public instruction and the governor may determine the level of funding in their omnibus capital appropriations act requests to support small school district modernization grants, but their funding requests must follow the prioritized list prepared by the advisory committee unless new information determines that a specific project is no longer viable as proposed.

(5) Coordination with the school construction assistance program.

(a) The full administrative and procedural process of school construction assistance program funding under RCW 28A.525.162 through 28A.525.180 may be streamlined by the office of the superintendent of public instruction in order to coordinate eligible school construction assistance program funding with the small school district modernization grants. Such coordination must ensure that total state funding from both grants does not exceed total project costs minus available local resources.

(b) Projects seeking small school district modernization grants must meet the requirements for a school construction assistance program grant except for the following: (i) The estimated cost of the project may be less than forty percent of the estimated replacement value of the facility, and (ii) local funding assistance percentage requirements of the school construction assistance program do not apply. However, available district and state-tribal education compact school resources are considered in prioritizing small school district modernization grants.

(6) Disbursement of grant funds and reporting requirements. The office of the superintendent of public instruction must award grants to school districts and state-tribal education compact schools. The grant must not be awarded until the district or state-tribal education compact school has identified available local and other resources sufficient to complete the approved project considering the amount of the state grant. The grant must specify reporting requirements from the district or state-tribal education compact school, which must include updating all pertinent information in the inventory and condition of schools data system and submitting a final project report as specified by the office of the superintendent of public instruction in consultation with the school facilities ((~~citizens [citizen]~~)) citizen advisory panel specified in RCW 28A.525.025.

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