

# HOUSE BILL REPORT

## SHB 1044

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**As Passed House:**  
January 25, 2024

**Title:** An act relating to capital financial assistance to small school districts with demonstrated funding challenges.

**Brief Description:** Providing capital financial assistance to small school districts with demonstrated funding challenges.

**Sponsors:** House Committee on Capital Budget (originally sponsored by Representatives McEntire, Graham, Couture, Sandlin, Walsh, Rude, Caldier and Santos).

**Brief History:**

**Committee Activity:**

Capital Budget: 1/26/23, 2/20/23 [DPS].

**Floor Activity:**

Passed House: 3/8/23, 97-0.

Passed Senate: 4/11/23, 46-3.

**Floor Activity:**

Passed House: 1/25/24, 93-0.

### Brief Summary of Substitute Bill

- Creates a supplementary capital grant program for school districts with enrollments of 1,000 students or fewer for comprehensive instructional facility modernization or replacement.
- Requires that grants be coordinated with the School Construction Assistance Program to the extent that a district has program eligibility.
- Requires school districts awarded a grant to provide a district share equal to 50 percent of a district's remaining debt capacity for capital purposes, capped at an estimated property tax rate increment of \$1.75 per thousand of assessed district value, under various assumptions.

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*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.*

- Establishes various project eligibility criteria, grant prioritization, and administrative processes.

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## HOUSE COMMITTEE ON CAPITAL BUDGET

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 29 members: Representatives Tharinger, Chair; Callan, Vice Chair; Hackney, Vice Chair; Steele, Ranking Minority Member; Abbarno, Assistant Ranking Minority Member; Sandlin, Assistant Ranking Minority Member; Alvarado, Bateman, Cheney, Christian, Couture, Dye, Eslick, Farivar, Fosse, Kloba, Leavitt, Maycumber, McClintock, McEntire, Morgan, Mosbrucker, Orwall, Peterson, Reed, Rule, Shavers, Stearns and Waters.

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

### **Background:**

#### Related Capital Budget Programs.

The capital budget appropriates funding to assist school districts with the costs of school construction and other capital costs through several programs and provisos. In the 2021-23 Capital Budget, the three largest such appropriations are for the: (1) School Construction Assistance Program (SCAP); (2) Small District and Tribal Compact Schools Modernization Program; and (3) School Seismic Safety Grant 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 that are 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 the 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 that are 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.* The School Seismic Safety Grant Program was created under Substitute Senate Bill 5933 in the 2022 Legislative Session. The program provides planning and construction grants for school districts and state-tribal compact schools for remediation of seismic or tsunami hazards in qualifying buildings. A qualifying building must be in a high seismic or tsunami hazard area, as determined by various seismic or tsunami risk standards. A qualifying building must also have been constructed prior to 1998 and cannot have received a seismic retrofit to 2005 seismic standards.

School seismic safety grant applications are evaluated and ranked by an advisory committee of facilities professionals with experience in seismic remediation. The 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. Examples of remediation projects funded through this program could include: (1) seismic retrofit of existing buildings; (2) school relocation and replacement; and (3) tsunami evacuation towers. Grants awarded through this program must equal at least two-thirds of the total project cost.

#### School District General Obligation Bond Authorizations.

Bond authorizations are the primary means that most school districts in Washington use to fund school construction projects. The board of directors of a school district may borrow money and issue bonds for any capital purpose. The amount that may be borrowed is limited by the Washington Constitution (Constitution) and state statutes. The Constitution sets a debt limit for school districts at 1.5 percent of the assessed value of property in the district, but the Constitution permits districts to exceed this limit for construction, up to 5 percent indebtedness, with approval of at least 60 percent of the voters at an election where the total number of voters is at least 40 percent of the total at the last preceding general election. State statute imposes a lower threshold of 0.375 percent indebtedness, but allows

districts to exceed this threshold to a total indebtedness of 2.5 percent for capital outlays with the approval of at least 60 percent of the voters voting.

### **Summary of Substitute Bill:**

A supplementary capital construction and planning grant program is created for the comprehensive modernization and replacement of instructional facilities in small school districts.

#### Advisory Committee.

The existing Small District and Tribal Compact School Advisory Committee (Advisory Committee) must evaluate and prioritize planning and construction grants for this program.

#### Eligibility.

*Applicants.* Applicant eligibility is limited to school districts with headcount enrollments of 1,000 students or less. 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 (OSPI) are not eligible to apply for construction grants through this program but may apply for planning grants. Building inventory and condition information must be provided by an independent consultant certified by the OSPI. A natural hazard assessment completed as part of fulfilling applicant eligibility requirements must be conducted by an engineer licensed as a structural engineer in Washington. School districts applying for a grant under the new grant program must submit separate applications for each individual school.

*Projects.* Projects must comprehensively modernize or replace instructional buildings that are at least 30 years old and that are recorded as in poor or unsatisfactory condition by the OSPI. 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 OSPI. To meet the project eligibility criteria for comprehensive modernization, a project must also correct critical physical deficiencies and essential safety concerns, including seismic vulnerabilities, failing or broken building and site systems, deteriorated exterior conditions, interior classroom deficiencies, and other specified conditions. Project approaches to correct these deficiencies and concerns may include modernizing, repairing, reconfiguring, or replacing existing buildings, constructing new buildings, and upgrading deteriorated and outdated site infrastructure.

*Proposing Eligibility Changes.* 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.

#### Use of Grants.

Program grants may only be used for the following purposes: (1) the collection of building

condition, inventory, and natural hazard information; (2) all predesign and design costs including value engineering and constructability review; and (3) all related costs associated with the project, except school district administration costs as determined by the OSPI.

#### Grants.

*Required Grant List.* The OSPI is required to propose a list of prioritized planning and construction grants for eligible school districts by September 1 of even-numbered years, beginning on September 1, 2024. This grant list must include specified information related to the amount of state funding from this program and the School Construction Assistance Program (SCAP), as well as other information about the project's cost and prioritization score. The OSPI and the Governor may determine the level of funding for the program in their capital budgets requests, but they must follow the prioritized list prepared by the Advisory Committee unless new information determines that a specific project is no longer viable as proposed.

*Planning Grants.* The OSPI is required to assist eligible school districts that are interested in applying for construction grants through the new program by providing technical assistance and planning grants. School districts applying for planning grants must provide a brief statement that includes information about existing school conditions and deficiencies, enrollment, student achievement measures, and financial constraints. If applications for planning grants exceed funds available, the OSPI may prioritize planning grant requests with primary consideration given to school district financial capacity and facility conditions.

*Construction Grants.* School districts applying for construction grants must have received and completed a planning grant 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.

*Construction Grant Prioritization.* The Advisory Committee is required to prioritize construction grant applications using a 100-point scale composed of the following factors: (1) remaining school district debt capacity (not more than 45 points); (2) facility condition (not more than 40 points); and (3) district enrollment (not more than 15 points). The Advisory Committee must use an equation to score applications for remaining debt capacity and enrollment that awards relatively more points to districts that have less remaining debt capacity and lower enrollments, as compared to the respective statewide district averages for each factor. For the remaining debt capacity factor, up to 25 points are awarded according to this equation and an additional 20 points may be awarded based on information provided by school districts regarding their financial constraints. In addition, the Advisory Committee must create a formula for scoring applications for facility condition that prioritizes applications from districts with the most significant facility deficiencies within the application pool.

#### Grant Matching Requirements.

To the extent that a school district awarded a grant under the new program is also eligible for funding under the SCAP, the OSPI must coordinate grant funding between the programs and ensure that total state funding from the new program's grant and a SCAP grant does not exceed total project costs minus the school district's share the new grant program's required school district share. The school district cost share is based on 50 percent of a district's remaining debt capacity for capital purposes and capped at an estimated property tax rate increment of \$1.75 per thousand of assessed district value. This estimated rate per thousand is calculated under an assumed debt amortization schedule of no less than 20 years and recent interest rates for state general obligation bonds. Districts may use federal, other nonstate grant funding, and private donations to reduce the required district cost share.

Administrative Reporting Requirements.

Grants may 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, which must include: (1) updating school inventory and condition data; (2) submitting a final project report; and (3) implementing and maintaining an asset preservation program for the facility receiving grant funding.

**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) There are disparities between school district facilities across Washington and the existing model the state uses does not work for property-poor communities. This legislation will give hope to communities that have tried and failed to pass bonds and will allow those districts with significant facilities issues to do something about their declining facilities. The bill heavily weights school facility condition in the formula that prioritizes projects. Schools have been using short-term fixes to long-term facilities problems. The prioritization process in the bill will help triage these issues.

The School Construction Assistance Program's (SCAP) formula factors underfund schools' capital construction. This program underfunds district's actual costs and leaves school districts to make up the difference with local resources. Because participation in the SCAP generally requires using funding raised through a bond authorization, which many districts struggle to pass, this funding model results in inequities in Washington. The bill acknowledges these problems and will help correct these inequities. Without this bill, students will continue to face health and safety issues associated with occupying older buildings.

Small schools provide students with opportunities to learn and are a local job provider and economic hub as well. More than half of districts in the state have fewer than 1,000 students. These districts are generally property-poor and have a very difficult time passing bonds. As a result, these small districts have trouble improving their aged and poor condition facilities. Even if small districts do pass bonds, they simply do not, in many cases, have the capacity to fund a significant project. While this program will help, it is not a solution for the problems of the SCAP and will not help with the 60 percent bond authorization requirements. Increasing the headcount threshold to 2,000 would assist additional, similar districts that are also facing challenges.

(Opposed) None.

**Persons Testifying:** Representative Joel McEntire, prime sponsor; Tyler Muench, Office of Superintendent of Public Instruction; Marissa Rathbone, Washington State School Directors' Association; and Jim Kowalkowski, Rural Education Center.

**Persons Signed In To Testify But Not Testifying:** None.