

CERTIFICATION OF ENROLLMENT

SENATE BILL 5980

Chapter 129, Laws of 2009

61st Legislature
2009 Regular Session

SCHOOL PLANT FACILITIES FUNDING

EFFECTIVE DATE: 07/26/09

Passed by the Senate March 6, 2009
YEAS 47 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 7, 2009
YEAS 98 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved April 17, 2009, 3:30 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5980** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

April 20, 2009

**Secretary of State
State of Washington**

SENATE BILL 5980

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

By Senators Oemig, Brandland, and Fraser

Read first time 02/11/09. Referred to Committee on Ways & Means.

1 AN ACT Relating to school plant funding; amending RCW 28A.335.230,
2 28A.525.040, 28A.525.090, 28A.525.162, 28A.525.166, and 28A.525.168;
3 and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The intent of this act is to adopt more
6 accurate and descriptive names for the components of the state funding
7 formula for the allotment of appropriations for school plant
8 facilities, as recommended by the joint legislative task force on
9 school construction funding, to promote clarity and transparency in the
10 funding formula. It is not the intent of this act to make substantive
11 changes to the funding formula or policies.

12 **Sec. 2.** RCW 28A.335.230 and 2006 c 263 s 328 are each amended to
13 read as follows:

14 School districts shall be required to lease for a reasonable fee
15 vacant school plant facilities from a contiguous school district
16 wherever possible.

17 No school district with unhoused students may be eligible for

1 ((the)) state ((~~matching — funds~~)) funding assistance for the
2 construction of school plant facilities if:

3 (1) The school district contiguous to the school district applying
4 for the state ((~~matching~~)) funding assistance percentage has vacant
5 school plant facilities;

6 (2) The superintendent of public instruction has determined the
7 vacant school plant facilities available in the contiguous district
8 will fulfill the needs of the applicant district in housing unhoused
9 students. In determining whether the contiguous district school plant
10 facilities meet the needs of the applicant district, consideration
11 shall be given, but not limited to the geographic location of the
12 vacant facilities as they relate to the applicant district; and

13 (3) A lease of the vacant school plant facilities can be
14 negotiated.

15 **Sec. 3.** RCW 28A.525.040 and 1969 ex.s. c 223 s 28A.47.075 are each
16 amended to read as follows:

17 State ((~~matching funds~~)) funding assistance shall not be denied to
18 any school district undertaking any construction, repairs or
19 improvements for school district purposes solely on the ground that
20 said construction, repairs and improvements are in connection with
21 portable buildings or classrooms.

22 **Sec. 4.** RCW 28A.525.090 and 2006 c 263 s 307 are each amended to
23 read as follows:

24 (1) The superintendent of public instruction, considering policy
25 recommendations from the school facilities citizen advisory panel,
26 shall adopt rules for appropriate use of the following construction
27 management techniques: Value engineering, constructibility review,
28 building commissioning, and construction management. Rules adopted
29 under this section shall:

30 (a) Define each technique as it applies to school buildings;

31 (b) Describe the scope of work for each technique;

32 (c) Define the timing for implementing each technique in the
33 construction process;

34 (d) Determine the appropriate size of projects for the use of each
35 technique; and

1 (e) Determine standards for qualification and performance for each
2 technique.

3 (2) Except as provided in rules adopted under subsection (1)(d) of
4 this section, in allocating state moneys provided under this chapter,
5 the superintendent of public instruction shall include in funding for
6 each project, at the state (~~matching~~) funding assistance percentage,
7 the cost of each of the construction management techniques listed in
8 subsection (1) of this section.

9 (3) When assigning priority and allocating state funds for
10 construction of common school facilities, the superintendent shall
11 consider the adequacy of the construction management techniques used by
12 a district and the compliance with the rules adopted under subsection
13 (1) of this section.

14 (4) Except as provided in rules adopted under subsection (1)(d) of
15 this section, the construction management techniques in subsection (1)
16 of this section shall be used on each project submitted for approval by
17 the superintendent.

18 (5)(a) School districts applying for state funding assistance for
19 school facilities shall:

20 (i) Cause value engineering, constructibility review, and building
21 commissioning to be performed by contract with a professional firm
22 specializing in those construction management techniques; and

23 (ii) Contract or employ personnel to perform professional
24 construction management.

25 (b) All recommendations from the value engineering and
26 constructibility review construction techniques for a school project
27 shall be presented to the school district's board of directors for
28 acceptance or rejection. If the board of directors rejects a
29 recommendation it shall provide a statement explaining the reasons for
30 rejecting the recommendation and include the statement in the
31 application for state funding assistance to the superintendent of
32 public instruction.

33 (6) The office of the superintendent of public instruction shall
34 provide:

35 (a) An information and training program for school districts on the
36 use of the construction management techniques; and

37 (b) Consulting services to districts on the benefits and best uses
38 of these construction management techniques.

1 **Sec. 5.** RCW 28A.525.162 and 2006 c 263 s 309 are each amended to
2 read as follows:

3 (1) Funds appropriated to the superintendent of public instruction
4 from the common school construction fund shall be allotted by the
5 superintendent of public instruction in accordance with student
6 enrollment and the provisions of RCW 28A.525.200.

7 (2) No allotment shall be made to a school district until such
8 district has provided (~~(matching)~~) local funds equal to or greater than
9 the difference between the total approved project cost and the amount
10 of state funding assistance to the district for financing the project
11 computed pursuant to RCW 28A.525.166, with the following exceptions:

12 (a) The superintendent of public instruction may waive the
13 (~~(matching)~~) local requirement for state funding assistance for
14 districts which have provided funds for school building construction
15 purposes through the authorization of bonds or through the
16 authorization of excess tax levies or both in an amount equivalent to
17 two and one-half percent of the value of its taxable property, as
18 defined in RCW 39.36.015.

19 (b) No such (~~(matching)~~) local funds shall be required as a
20 condition to the allotment of funds from the state for the purpose of
21 making major or minor structural changes to existing school facilities
22 in order to bring such facilities into compliance with the barrier free
23 access requirements of section 504 of the federal rehabilitation act of
24 1973 (29 U.S.C. Sec. 706) and rules implementing the act.

25 (3) For the purpose of computing the state (~~(matching)~~) funding
26 assistance percentage under RCW 28A.525.166 when a school district is
27 granted authority to enter into contracts, adjusted valuation per pupil
28 shall be calculated using headcount student enrollments from the most
29 recent October enrollment reports submitted by districts to the
30 superintendent of public instruction, adjusted as follows:

31 (a) In the case of projects for which local bonds were approved
32 after May 11, 1989:

33 (i) For districts which have been designated as serving high school
34 districts under RCW 28A.540.110, students residing in the nonhigh
35 district so designating shall be excluded from the enrollment count if
36 the student is enrolled in any grade level not offered by the nonhigh
37 district;

1 (ii) The enrollment of nonhigh school districts shall be increased
2 by the number of students residing within the district who are enrolled
3 in a serving high school district so designated by the nonhigh school
4 district under RCW 28A.540.110, including only students who are
5 enrolled in grade levels not offered by the nonhigh school district;
6 and

7 (iii) The number of preschool students with disabilities included
8 in the enrollment count shall be multiplied by one-half;

9 (b) In the case of construction or modernization of high school
10 facilities in districts serving students from nonhigh school districts,
11 the adjusted valuation per pupil shall be computed using the combined
12 adjusted valuations and enrollments of each district, each weighted by
13 the percentage of the district's resident high school students served
14 by the high school district; and

15 (c) The number of kindergarten students included in the enrollment
16 count shall be multiplied by one-half.

17 (4) The superintendent of public instruction, considering policy
18 recommendations from the school facilities citizen advisory panel,
19 shall prescribe such rules as are necessary to equate insofar as
20 possible the efforts made by school districts to provide capital funds
21 by the means aforesaid.

22 (5) For the purposes of this section, "preschool students with
23 disabilities" means (~~developmentally disabled~~) children of preschool
24 age who have developmental disabilities who are entitled to services
25 under RCW 28A.155.010 through 28A.155.100 and are not included in the
26 kindergarten enrollment count of the district.

27 **Sec. 6.** RCW 28A.525.166 and 2006 c 263 s 311 are each amended to
28 read as follows:

29 Allocations to school districts of state funds provided by RCW
30 28A.525.162 through 28A.525.180 shall be made by the superintendent of
31 public instruction and the amount of state funding assistance to a
32 school district in financing a school plant project shall be determined
33 in the following manner:

34 (1) The boards of directors of the districts shall determine the
35 total cost of the proposed project, which cost may include the cost of
36 acquiring and preparing the site, the cost of constructing the building
37 or of acquiring a building and preparing the same for school use, the

1 cost of necessary equipment, taxes chargeable to the project, necessary
 2 architects' fees, and a reasonable amount for contingencies and for
 3 other necessary incidental expenses: PROVIDED, That the total cost of
 4 the project shall be subject to review and approval by the
 5 superintendent.

6 (2) The state (~~(matching)~~) funding assistance percentage for a
 7 school district shall be computed by the following formula:

8 The ratio of the school district's adjusted valuation per pupil
 9 divided by the ratio of the total state adjusted valuation per pupil
 10 shall be subtracted from three, and then the result of the foregoing
 11 shall be divided by three plus (the ratio of the school district's
 12 adjusted valuation per pupil divided by the ratio of the total state
 13 adjusted valuation per pupil).

		District adjusted	Total state	
		3-valuation	÷ adjusted valuation	State
	Computed	per pupil	per pupil	<u>Funding</u>
	State =	-----		= - % Assistance
	Ratio	District adjusted	Total state	
		3+valuation	÷ adjusted valuation	
		per pupil	per pupil	

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21 PROVIDED, That in the event the state funding assistance percentage
 22 (~~(of state assistance)~~) to any school district based on the above
 23 formula is less than twenty percent and such school district is
 24 otherwise eligible for state funding assistance under RCW 28A.525.162
 25 through 28A.525.180, the superintendent may establish for such district
 26 a state funding assistance percentage (~~(of state assistance)~~) not in
 27 excess of twenty percent of the approved cost of the project, if the
 28 superintendent finds that such additional assistance is necessary to
 29 provide minimum facilities for housing the pupils of the district.

30 (3) In addition to the computed (~~(percent of state assistance)~~)
 31 state funding assistance percentage developed in subsection (2) of this
 32 section, a school district shall be entitled to additional percentage
 33 points determined by the average percentage of growth for the past
 34 three years. One percent shall be added to the computed (~~(percent of~~
 35 ~~state assistance)~~) state funding assistance percentage for each percent
 36 of growth, with a maximum of twenty percent.

37 (4) The approved cost of the project determined in the manner
 38 prescribed in this section multiplied by the state funding assistance
 39 percentage (~~(of state assistance)~~) derived as provided for in this

1 section shall be the amount of state funding assistance to the district
2 for the financing of the project: PROVIDED, That need therefor has
3 been established to the satisfaction of the superintendent: PROVIDED,
4 FURTHER, That additional state funding assistance may be allowed if it
5 is found by the superintendent, considering policy recommendations from
6 the school facilities citizen advisory panel that such assistance is
7 necessary in order to meet (a) a school housing emergency resulting
8 from the destruction of a school building by fire, the condemnation of
9 a school building by properly constituted authorities, a sudden
10 excessive and clearly foreseeable future increase in school population,
11 or other conditions similarly emergent in nature; or (b) a special
12 school housing burden resulting from industrial projects of statewide
13 significance or imposed by virtue of the admission of nonresident
14 students into educational programs established, maintained and operated
15 in conformity with the requirements of law; or (c) a deficiency in the
16 capital funds of the district resulting from financing, subsequent to
17 April 1, 1969, and without benefit of the state funding assistance
18 provided by prior state assistance programs, the construction of a
19 needed school building project or projects approved in conformity with
20 the requirements of such programs, after having first applied for and
21 been denied state funding assistance because of the inadequacy of state
22 funds available for the purpose, or (d) a condition created by the fact
23 that an excessive number of students live in state owned housing, or
24 (e) a need for the construction of a school building to provide for
25 improved school district organization or racial balance, or (f)
26 conditions similar to those defined under (a), (b), (c), (d), and (e)
27 of this subsection, creating a like emergency.

28 **Sec. 7.** RCW 28A.525.168 and 2006 c 263 s 312 are each amended to
29 read as follows:

30 Whenever the voters of a school district authorize the issuance of
31 bonds and/or the levying of excess taxes in an amount sufficient to
32 meet the requirements of RCW 28A.525.162 respecting eligibility for
33 state funding assistance in providing school facilities, the taxable
34 valuation of the district and the state funding assistance percentage
35 (~~(of state assistance)~~) in providing school facilities prevailing at
36 the time of such authorization shall be the valuation and the
37 percentage used for the purpose of determining the eligibility of the

1 district for an allotment of state funds and the amount or amounts of
2 such allotments, respectively, for all projects for which the voters
3 authorize capital funds as aforesaid, unless a higher state funding
4 assistance percentage (~~((of state assistance))~~) prevails on the date that
5 state funds for assistance in financing a project are allotted by the
6 superintendent of public instruction in which case the percentage
7 prevailing on the date of allotment by the superintendent of funds for
8 each project shall govern: PROVIDED, That if the superintendent of
9 public instruction, considering policy recommendations from the school
10 facilities citizen advisory panel, determines at any time that there
11 has been undue or unwarranted delay on the part of school district
12 authorities in advancing a project to the point of readiness for an
13 allotment of state funds, the taxable valuation of the school district
14 and the state funding assistance percentage (~~((of state assistance))~~)
15 prevailing on the date that the allotment is made shall be used for the
16 purposes aforesaid: PROVIDED, FURTHER, That the date specified in this
17 section as applicable in determining the eligibility of an individual
18 school district for state funding assistance and in determining the
19 amount of such assistance shall be applicable also to cases where it is
20 necessary in administering chapter 28A.540 RCW to determine eligibility
21 for and the amount of state funding assistance for a group of school
22 districts considered as a single school administrative unit.

Passed by the Senate March 6, 2009.

Passed by the House April 7, 2009.

Approved by the Governor April 17, 2009.

Filed in Office of Secretary of State April 20, 2009.