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**HOUSE BILL 2161**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Representatives Pollet, Kagi, Tarleton, Ryu, and Farrell

AN ACT Relating to the school construction assistance program; amending RCW 28A.525.162 and 28A.525.166; creating a new section; providing an effective date; and declaring an emergency.

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

**Sec.**  RCW 28A.525.162 and 2013 2nd sp.s. c 18 s 513 are each amended to read as follows:

(1) Funds appropriated to the superintendent of public instruction from the common school construction fund shall be allotted by the superintendent of public instruction in accordance with this chapter.

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

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

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

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

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

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

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

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

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

(c) The number of kindergarten students included in the enrollment count shall be counted as one headcount student; and

(d) The number of students residing outside the school district who are enrolled in alternative learning experience courses under RCW 28A.232.010 shall be excluded from the total.

(4) In lieu of the exclusion in subsection (3)(d) of this section, a district may submit an alternative calculation for excluding students enrolled in alternative learning experience courses. The alternative calculation must show the student headcount use of district classroom facilities on a regular basis for a regular duration by out-of-district alternative learning experience students subtracted by the headcount 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."

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

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

(7)(a) School districts with student headcount enrollments of more than forty-eight thousand, or with one or more geographic areas in which enrollment growth in the prior five years, projected in the next seven years, or a combination thereof, has resulted in, or will result in, growth in enrollment which will exceed the student capacity of more than four schools by greater than ten percent, may be divided by geographic areas within the school district when calculating eligible space for state funding assistance. School districts shall not have more than four geographic areas.

(b) The office of the superintendent of public instruction shall create rules for the implementation of (a) of this subsection.

**Sec.**  RCW 28A.525.166 and 2013 2nd sp.s. c 18 s 514 are each amended to read as follows:

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

(1) The boards of directors of the districts shall determine the total cost of the proposed project, which cost may include the cost of acquiring and preparing the site, the cost of constructing the building or of acquiring a building and preparing the same for school use, the cost of necessary equipment, taxes chargeable to the project, necessary architects' fees, and a reasonable amount for contingencies and for other necessary incidental expenses: PROVIDED, That the total cost of the project shall be subject to review and approval by the superintendent.

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

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

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| --- | --- | --- | --- | --- | --- | --- | --- |
|  |  | District adjusted | | | Total state |  |  |
|  |  | 3-valuation | | ÷ | adjusted valuation | |  |
| Computed |  | per pupil | |  | per pupil |  | State |
| State | = |  | | | | = - % | Funding |
| Ratio |  | District adjusted | | | Total state |  | Assistance |
|  |  | 3+valuation | | ÷ | adjusted valuation | |  |
|  |  | per pupil | |  | per pupil |  |  |

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

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

(4) In computing the state funding assistance percentage in subsection (2) of this section and adjusting the percentage under subsection (3) of this section, students residing outside the school district who are enrolled in alternative learning experience courses under RCW 28A.232.010 shall 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 headcount use of district classroom facilities on a regular basis for a reasonable duration by out-of-district alternative learning experience students subtracted by the headcount 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."

(5) The approved cost of the project determined in the manner prescribed in this section multiplied by the state funding assistance percentage derived as provided for in this section shall be the amount of state funding assistance to the district for the financing of the project: PROVIDED, That need therefor has been established to the satisfaction of the superintendent: PROVIDED, FURTHER, That additional state funding assistance may be allowed if it is found by the superintendent, considering policy recommendations from the school facilities citizen advisory panel that such assistance is necessary in order to meet (a) a school housing emergency resulting from the destruction of a school building by fire, the condemnation of a school building by properly constituted authorities, a sudden excessive and clearly foreseeable future increase in school population, ((~~or~~)) other conditions similarly emergent in nature, or a combination of increases in student enrollment in the prior five-year period and projected enrollments over the next seven years which has resulted in, or will result in, four or more schools in the geographic area or entire district exceeding capacity; or (b) a special school housing burden resulting from projects of statewide significance or imposed by virtue of the admission of nonresident students into educational programs established, maintained and operated in conformity with the requirements of law; or (c) a deficiency in the capital funds of the district resulting from financing, subsequent to April 1, 1969, and without benefit of the state funding assistance provided by prior state assistance programs, the construction of a needed school building project or projects approved in conformity with the requirements of such programs, after having first applied for and been denied state funding assistance because of the inadequacy of state funds available for the purpose, or (d) a condition created by the fact that an excessive number of students live in state owned housing, or (e) a need for the construction of a school building to provide for improved school district organization or racial balance, or (f) conditions similar to those defined under (a), (b), (c), (d), and (e) of this subsection, creating a like emergency.

(6) The omnibus appropriations act shall identify the state construction cost allowance for school districts. The minimum construction cost allowance shall be calculated based on a three-year rolling average of actual new public K-12 school construction and renovation costs per square foot, when the purpose of the renovations are to increase capacity due to significant increases in enrollment which have resulted in the schools in a geographic subarea of a district exceeding capacity, or to meet class size reduction and full-day kindergarten goals established by the legislature pursuant to chapter 236, Laws of 2010 (Substitute House Bill No. 2776) and as ordered by the supreme court of Washington in *McCleary v. State*, No. 84362-7 (Wash. Jan. 9, 2014).

(7) The minimum state student space allocations shall be provided as follows:

(a) One hundred forty square feet for students in kindergarten through grade six;

(b) One hundred fifty-five square feet for students in grades seven through eight;

(c) One hundred sixty-five square feet for students in grades nine through twelve; and

(d) One hundred sixty-five square feet for students with disabilities in any grade.

NEW SECTION. **Sec.**  The overcrowded schools and class size reduction fund is created in the state treasury. Moneys in the fund may be spent only after appropriation. Expenditures from the fund may only be used for grants to provide needed construction assistance to support statewide implementation of full-day kindergarten and early elementary class size reduction in districts, or a geographic portion of a district pursuant to RCW 28A.525.162, where a combination of increases in student enrollment in the prior five-year period and projected enrollments over the next seven years which has resulted in, or will result in, four or more schools in the geographic area or entire district exceeding capacity of the school buildings.

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 July 1, 2015.

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