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**ENGROSSED SUBSTITUTE SENATE BILL 5853**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Pedersen, Warnick, Frockt, Bailey, Carlyle, Zeiger, Dhingra, Becker, Wellman, Walsh, King, Liias, Wagoner, Palumbo, Hobbs, Rivers, Keiser, Hunt, Darneille, Rolfes, Hasegawa, Conway, Braun, Billig, Kuderer, Salomon, Cleveland, McCoy, Nguyen, Short, Das, Hawkins, Takko, Saldaña, Randall, O'Ban, Wilson, C., Van De Wege, and Wilson, L.)

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

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

NEW SECTION. **Sec.**  The legislature finds that the 2017-2019 omnibus capital appropriations act established a joint legislative task force on improving state support for school construction. The task force, through multiple public hearings and visits to schools around the state, developed recommendations for improvements to the school construction assistance program. This act implements consensus recommendations of the task force that relate directly to the school construction assistance program, including: (1) Adjusting the square footage per student allocation to reflect what is actually getting built; and (2) increasing the state match floor from twenty percent to thirty percent. It also implements a majority recommendation of the task force to remove policy disadvantages to preservation of historic buildings. This act also calls for the development of methods to project the need for state financing of school construction and ways to reduce the school construction costs to state and local taxpayers before fully implementing state funding improvements.

**Sec.**  RCW 28A.525.166 and 2015 3rd sp.s. c 3 s 7018 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:

(a) Except as provided in (b) of this subsection, 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).

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  |  | 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~~)) (b) 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~~)) must 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 five additional percentage points if the project renovates a school building that has been listed on the national register of historic places, the Washington heritage register consistent with chapter 27.34 RCW, or listed on a local register of historic places.

(4) 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)~~)) (5) In computing the state funding assistance percentage in subsection (2) of this section and adjusting the percentage under subsection ((~~(3)~~)) (4) 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)~~)) (6) 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 (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) For the 2015-2017 biennium, schools determined to have a lack of sufficient space to provide science classrooms or labs, to meet the requirements of law, have a special housing burden condition similar to those defined under subsection (5)(b) of this section, creating a like emergency. For the 2015-2017 biennium, school districts are entitled to additional percentage points for school construction projects that have a special housing burden condition only and have received private donations in the form of cash, in-kind, or equipment of more than one hundred thousand dollars. The additional percentage points are determined by (a) school district student enrollments in the free and reduced-price meals program, (b) school district class as defined by RCW 28A.300.065, and (c) the funding assistance percentage as calculated in subsection (2) of this section. The additional percentage points under (a) of this subsection are twenty percent of the percent of student enrollments eligible and enrolled in the free and reduced-price meals program. The additional percentage points under (b) of this subsection are ten for second class school districts. The additional percentage points under (c) of this subsection are ten for school districts with funding assistance percentages of more than fifty percent.~~)) (7) If the estimated total state general obligation bond appropriation for the school construction assistance program exceeds thirty percent of the total state general obligation bond appropriations, the state construction cost allocation used in calculating state funding assistance in the construction of school facilities shall be reduced in the omnibus capital appropriations act so that the total state general obligation bond appropriation for the school construction assistance program does not exceed thirty percent of the total state general obligation bond appropriations.

(8) State funding assistance in the construction of school facilities for grade kindergarten through grade twelve and classrooms planned for the exclusive use of students with disabilities shall be based on a space allocation per enrolled student and shall be provided as follows:

(a) For the fiscal year ending June 30, 2022:

(i) One hundred ten square feet maximum per student in kindergarten through grade six;

(ii) One hundred seventeen square feet maximum per student in grades seven and eight;

(iii) One hundred thirty square feet maximum per student in grades nine through twelve; and

(iv) One hundred forty-four square feet maximum per student in any grade for classrooms for students with developmental disabilities;

(b) For the fiscal year ending June 30, 2023:

(i) One hundred twenty square feet maximum per student in kindergarten through grade six;

(ii) One hundred seventeen square feet maximum per student in grades seven and eight;

(iii) One hundred thirty square feet maximum per student in grades nine through twelve; and

(iv) One hundred forty-four square feet maximum per student in any grade for classrooms for students with developmental disabilities; and

(c) For fiscal year ending June 30, 2024, and thereafter:

(i) One hundred thirty square feet maximum per student in kindergarten through grade six;

(ii) One hundred thirty square feet maximum per student in grades seven and eight;

(iii) One hundred forty square feet maximum per student in grades nine through twelve; and

(iv) One hundred forty-six square feet maximum per student in any grade for classrooms for students with developmental disabilities.

(9) Space allocations for state funding assistance purposes for districts with fewer than four hundred students in kindergarten through grade eight or fewer than four hundred students in senior or four-year high schools shall be provided as follows:

|  |  |
| --- | --- |
| Number of HeadcountStudents—Grades Kindergarten – 8 | Maximum Space AllocationPer Facility |
| 1-200 | 42,000 square feet |
| 201-300 | 48,000 square feet |
| 301-399 | 52,000 square feet |

|  |  |
| --- | --- |
| Number of HeadcountStudents—Grades 9-12 | Maximum Space AllocationPer Facility |
| 1-200 | 42,000 square feet |
| 201-300 | 48,000 square feet |
| 301-399 | 52,000 square feet |

NEW SECTION. **Sec.**  (1) The office of the superintendent of public instruction must develop a plan to implement further improvements in funding school construction. The plan must build upon improvements enacted in this act, and recommendations of the joint legislative task force on improving state funding for school construction established in section 7009, chapter 298, Laws of 2018. The plan must be developed in consultation with the school facilities technical advisory committee, and other technical experts. The plan must be submitted to the governor and appropriate committees of the legislature by June 30, 2022.

(2) The plan must include a program to preserve and renew school facilities constructed or modernized and accepted as complete by school boards of directors after January 1, 1994. The program must include provisions for school districts to nominate school facilities built and accepted before January 1, 1994, for eligibility for the preservation and renewal program, provided the facility meets specified criteria for inclusion in the program. The program is intended to reduce the costs for school facility preservation and renewal, compared to the existing modernization program for older school facilities. School facilities that receive funding under the preservation and renewal program are no longer eligible for modernization funding unless the school facility has suffered catastrophic loss from a natural or other disaster. The preservation and renewal program is intended to replace or renew school facility major building systems that have reached their expected life. The plan must include definitions of major building systems and their expected lives. The plan must: (a) Provide incentives to school districts to provide effective building system preventative maintenance programs; and (b) maximize long-term value from state and local investment in school facilities.

(3) The plan must include:

(a) A projection of the amount of space and expected costs necessary to meet the projected student enrollment growth over a ten-year period;

(b) A projection of the cost to modernize school facilities built before 1994 that are likely to require comprehensive modernization or replacement over a ten-year period;

(c) A projection of the cost for the school facility preservation and renewal program specified in subsection (2) of this section over a ten-year period;

(d) A projection of the cost to modernize school facilities eligible for small schools preservation funding under Substitute Senate Bill No. 5572 (2019) over a ten-year period;

(e) A projection of required state funds based on the existing financial assistance percentage for the projections in (a) through (d) of this subsection. To the extent that the sum total of required and necessary state funds exceeds the ten-year projection of common school construction account revenue plus thirty-five percent of projected state bond capacity, the plan must present options for closing the shortfall.

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, 2019.

**--- END ---**