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**HOUSE BILL 1044**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Representatives McEntire, Graham, Couture, Sandlin, Walsh, Rude, Caldier, and Santos

AN ACT Relating to capital financial assistance to small school districts with demonstrated funding challenges; amending RCW 28A.525.159; adding a new section to chapter 28A.525 RCW; creating a new section; and declaring an emergency.

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

NEW SECTION. **Sec.**  The legislature finds that many school districts in the state are unable to access state funding for school construction, whether due to a lack of bond capacity or because the property tax increase of a bond measure would be a difficult burden. Often, the buildings operated by these school districts are the district's only elementary school, middle school, or high school, putting greater pressure on the need for a safe, up-to-date, long-lasting school building in which students can thrive. The legislature further finds that the state must do more to fund school buildings that are adequate to provide an equitable learning environment for all students in Washington, regardless of where they live. Therefore, the legislature intends to create a new grant program through which small school districts that are generally unable to participate in the current school construction funding program will be able to get the necessary funds to modernize or rebuild their school buildings.

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

(1) Supplementary modernization and new construction grants and planning grants for financially distressed school districts must be awarded and determined in accordance with this section.

(2) Applicant eligibility criteria. Subject to subsection (4) of this section, only school districts that have a student headcount enrollment of 1,000 students or fewer are eligible for grants under this section.

(3) Project eligibility criteria.

(a) Projects funded under this section must meet the following conditions: (i) Projects must comprehensively modernize or replace instructional buildings that are at least 30 years old and that are recorded as poor or unsatisfactory condition by the office of the superintendent of public instruction; 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.

(b) 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. 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 natural hazard assessment must be conducted by an engineer licensed as a structural engineer in Washington state.

(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) of this section; (b) all predesign and design costs including value engineering and constructability review; and (c) all related costs associated with the project except school district administration costs 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 subsection (2) of this section to the governor by September 1st of even-numbered years, beginning on 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 school construction assistance program amount; (v) the anticipated local share of project cost; (vi) the estimated total project cost; and (vii) 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.

(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, current and five-year projected student headcount enrollment, student achievement measures, and financial constraints. 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 prioritize applications from school districts based on the total number of points awarded under this subsection. The total number of points awarded to an application may not exceed 100 points and must be awarded according to the following criteria:

(i) Remaining school district debt capacity. For the purposes of grant prioritization under this section, remaining school district debt capacity must be determined pursuant to RCW 39.36.020. Applications must be awarded no more than 45 points related to debt capacity under this subsection (8)(b)(i) and the number of points awarded related to remaining debt capacity must be calculated as follows:

(A) Twenty-five points must be multiplied by the quotient of the applying school district's remaining debt capacity divided by the average remaining debt capacity of school districts statewide subtracted from .49, and then the result of the foregoing must be divided by .49 plus the applying school district's remaining debt capacity divided by the average remaining debt capacity of school districts statewide. A school district may not receive a score of less than zero under this subsection (8)(b)(i)(A).

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| --- | --- |
|  | Debt Capacity Scoring Percentage |
|  | (.49 - School district's remaining debt capacity  | ÷ | Average remaining debt capacity of school districts statewide)  |
| 25 Points | X --- |  |  |
|  | (.49 + School district's remaining debt capacity | ÷ | Average remaining debt capacity of school districts statewide)  |

(B) The advisory committee may award no more than 20 additional points to an application for a construction grant based on the severity of the applying school district's financial constraints. Applying school districts shall submit brief statements describing financial constraints as part of the construction grant application process.

(ii) Facility condition. Applications must be awarded no more than 40 points related to facility conditions under this subsection (8)(b)(ii). The advisory committee, in consultation with the office of the superintendent of public instruction, shall create and apply a formula for awarding points under this subsection (8)(b)(ii) related to facility condition. This formula must prioritize grant applications from school districts with the most significant building deficiencies within the application pool. The office of the superintendent of public instruction shall provide facility condition data to the advisory committee related to each application.

(iii) District enrollment. Applications shall be awarded no more than 15 points related to district enrollment under this subsection (8)(b)(iii) and the number of points awarded must be calculated as follows: 15 points must be multiplied by the quotient of the applying school district's headcount enrollment divided by the average school district headcount enrollment statewide subtracted from .32, and then the result of the foregoing must be divided by .32 plus the applying school district's headcount enrollment divided by the average school district headcount enrollment statewide. A school district may not receive a score of less than zero under this subsection (8)(b)(iii).

|  |  |
| --- | --- |
|  | Enrollment Scoring Percentage |
|  | (.32 - School district's enrollment | ÷ | Average school district enrollment statewide)  |
| 15 Points | X --- |  |  |
|  | (.32 + School district's enrollment | ÷ | Average school district enrollment statewide)  |

(9) Eligibility and scoring criteria recommendations. 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) Coordination with the school construction assistance program and local cost share. A grant awarded under this section must be coordinated with the school construction assistance program provided by RCW 28A.525.162 through 28A.525.180. In awarding a grant under this section, the office of the superintendent of public instruction must ensure that total state funding from a grant under this section and a school construction assistance program grant does not exceed total project costs minus available local resources. School districts that receive grants under this section may use the grant to fund the required local funding equal to or greater than the difference between the total approved project cost and the amount of state funding assistance computed provided by RCW 28A.525.162 through 28A.525.180. School districts coordinating grants provided in this section with school construction assistance program funding are required to contribute not less than 30 percent of a project's total cost from local resources.

(11) Disbursement of grant funds and reporting requirements. 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:

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

(b) 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

(c) 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.

(12) For the purposes of this section, "advisory committee" means the advisory committee created under RCW 28A.525.159.

**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 financially distressed school districts 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.

(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.

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 immediately.

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