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**SENATE BILL 5680**

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

**By** Senators Schoesler, Braun, Dozier, Keiser, Kuderer, Mullet, Nobles, Rivers, Rolfes, Saldaña, Short, Torres, J. Wilson, and L. Wilson

AN ACT Relating to seismic safety in Washington public schools; amending RCW 28A.525.159 and 28A.525.320; adding a new section to chapter 28A.630 RCW; and providing an expiration date.

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

NEW SECTION. **Sec.**  A new section is added to chapter 28A.630 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction must, in consultation with the state board of education, contract with a third party to develop a seismic risk assessment that includes seismic safety surveys of public facilities that are subject to high seismic risk as a consequence of high earthquake hazard and soils that amplify that hazard. The seismic safety surveys must be conducted for the following types of public facilities:

(a) Public school facilities located west of the crest of the Cascade mountains that were not surveyed in either phase one of the school seismic safety project completed in June 2019 or phase two of the school seismic safety project completed in June 2021;

(b) Fire stations located within a one-mile radius of a facility described in (a) of this subsection.

(2) The third-party contractor selected by the office of the superintendent of public instruction must coordinate and maximize survey efforts made under subsection (1) of this section whenever possible.

(3) The seismic needs assessment of the facilities specified in subsection (1)(a) of this section must include, at a minimum, the following:

(a) An on-site assessment, under the supervision of licensed geologists, of the seismic site class of the soils at the facilities;

(b) An on-site inspection of the facility buildings, including structural systems using structural plans where available, condition, maintenance, and nonstructural seismic hazards following standardized methods by licensed structural engineers;

(c) An estimate of costs to retrofit a prioritized subset of the facilities specified in subsection (1)(a) of this section to life safety standards as defined by the American society of civil engineers; and

(d) An estimate of costs to retrofit a prioritized subset of facilities specified in subsection (1)(b) of this section to immediate occupancy standards as defined by the American society of civil engineers.

(4) The third-party contractor must collect and submit survey data to the superintendent of public instruction in a format compatible with the inventory and condition of schools database.

(5) The office of the superintendent of public instruction must share that data with the school districts where the surveys were conducted, the schools where the surveys were conducted, the governor, and the appropriate legislative committees no later than July 1, 2027.

(6) The office of the superintendent of public instruction must provide technical assistance to the school facilities to incorporate survey information into their school safety plans.

(7) This section expires January 1, 2028.

**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, including planning grants that address the remediation of seismic safety risks for buildings that do not meet the qualifying criteria for school seismic planning grants under RCW 28A.525.320. 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 prioritize applications from small school districts and state-tribal education compact schools. 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 for the biennium under consideration. The office of the superintendent of public instruction must provide administrative and staff support to the ((~~[advisory]~~)) advisory committee. 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 list must also prioritize applications for remediation projects that address seismic safety risks for buildings that do not meet the qualifying criteria for school seismic safety and planning grants under RCW 28A.525.320. 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.

**Sec.**  RCW 28A.525.320 and 2022 c 113 s 2 are each amended to read as follows:

(1) School seismic safety grants and school seismic planning grants must be awarded and determined in accordance with this section.

(2) ELIGIBILITY. A school district or state tribal education compact school is eligible to receive a school seismic safety grant for remediation of seismic or tsunami hazards in qualifying buildings that meet the following criteria:

(a) The building is located within a high seismic hazard area as defined in subsection (3) of this section; and

(b) The building was constructed before 1998 and has not received a seismic retrofit to 2005 seismic standards.

(3) DEFINITIONS. For the purposes of this section:

(a) "High seismic hazard area" means:

(i) Any location identified by the United States geological survey national seismic hazard map with a two percent probability of exceedance in 50 years and a national earthquake hazards reduction program site class D that are 0.3 peak horizontal acceleration or greater peak ground acceleration areas; or

(ii) Any area located within a Washington tsunami design zone map or, where a Washington tsunami design zone map is not available, an American society of civil engineers tsunami design zone map, that requires structures in risk category three or four to be designed for tsunamis.

(b) "Remediation" means solutions that mitigate or eliminate site specific seismic or tsunami hazards, including deployment of earthquake early warning systems, and may include building relocation or vertical evacuation towers if related to a tsunami hazard.

(c) "Total project cost" means direct and associated indirect costs for the remediation solution as approved by the advisory committee. Associated indirect costs can include site acquisition and development costs for approved building relocations. The combined direct and associated indirect costs cannot exceed the equivalent combined direct and associated indirect costs for building projects participating in the school construction assistance program for that same year.

(4) ADVISORY COMMITTEE. (a) The superintendent of public instruction must appoint an advisory committee to evaluate and prioritize grant applications from school districts and state-tribal education compact schools. Advisory committee members must have experience in financing, managing, or planning seismic remediation projects at school facilities but must not be involved in a school seismic safety grant request for the biennium under consideration. The office of the superintendent of public instruction must provide administrative and staff support to the advisory committee and consult with the advisory committee to design a grant application process with specific criteria for prioritizing grant requests.

(b) 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 school 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 also consider the efficiency and viability of each project, and may prioritize small-scale remediation projects that, cumulatively, will reduce risk for the largest number of buildings and school districts.

(5) REQUIRED GRANT LIST. (a) The superintendent of public instruction must propose a list of prioritized school seismic safety grants to the governor by September 1st of each year, beginning September 1, 2022. This list must include:

(i) A description of the proposed project;

(ii) The proposed school seismic safety grant amount, equal to at least two-thirds of the estimated total project cost;

(iii) The anticipated school construction assistance program amount;

(iv) The anticipated local share of project cost; and

(v) The estimated total project cost.

(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.

(6) SCHOOL CONSTRUCTION ASSISTANCE PROGRAM AND SMALL SCHOOL DISTRICT MODERNIZATION GRANT PROGRAM. (a) The full administrative and procedural process of school construction assistance program funding under RCW 28A.525.162 through 28A.525.180 and the small school district modernization grant program funding under RCW 28A.525.159 may be streamlined by the office of the superintendent of public instruction in order to coordinate eligible school construction assistance program funding and small school district modernization grant program funding with the school seismic safety grants. Such coordination must ensure that total state funding from all three grants does not exceed total project costs minus available local resources.

(b) Projects seeking school seismic safety 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 40 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 school district and state-tribal education compact school resources are considered in prioritizing school seismic safety grants.

(7) DISBURSEMENT OF FUNDS. The superintendent of public instruction must award state and federal grants under this section to eligible school districts and state tribal education compact schools in an amount equal to at least two-thirds of the total project cost. The grant must not be awarded until the school 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 school 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 advisory panel specified in RCW 28A.525.025.

(8) PLANNING GRANTS. Subject to the availability of amounts appropriated for this specific purpose, 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 school seismic safety grant under this section by providing technical assistance and planning grants. School districts and state-tribal education compact schools 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, financial constraints, and any information required by the advisory committee established in subsection (4) of this section. 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.

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