

SENATE BILL REPORT

SHB 1044

As Reported by Senate Committee On:
Early Learning & K-12 Education, March 27, 2023
Ways & Means, April 4, 2023

Title: An act relating to capital financial assistance to small school districts with demonstrated funding challenges.

Brief Description: Providing capital financial assistance to small school districts with demonstrated funding challenges.

Sponsors: House Committee on Capital Budget (originally sponsored by Representatives McEntire, Graham, Couture, Sandlin, Walsh, Rude, Caldier and Santos).

Brief History: Passed House: 3/8/23, 97-0.

Committee Activity: Early Learning & K-12 Education: 3/23/23, 3/27/23 [DPA-WM, w/oRec].

Ways & Means: 3/31/23, 4/04/23 [DPA, w/oRec].

Brief Summary of Amended Bill

- Creates a new capital construction and planning grant program for the modernization and replacement of instructional facilities in financially distressed school districts that meet certain enrollment and eligibility criteria.
- Requires a school district to provide a district share equal to 50 percent of its remaining debt capacity for capital purposes, capped at an estimated property tax rate of \$1.75 per \$1,000 of assessed value.
- Makes the prioritized project list of the Small School District Modernization Grant Program the first priority of the Common School Construction Fund after payment of principal and interest for skill center bonds.
- Starting in 2025-27, no less than \$60 million in new appropriations in the

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capital budget must be used to fund the small school district prioritized list, and any remaining amounts in the common school construction fund may be appropriated for other common school construction purposes. This amount increases to \$70 million in 2027-29 and increases to \$80 million in 2029-31 and every biennium thereafter.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Wellman, Chair; Nobles, Vice Chair; Wilson, C., Vice Chair; Mullet and Pedersen.

Minority Report: That it be referred without recommendation.

Signed by Senators Hawkins, Ranking Member; Dozier, Hunt and McCune.

Staff: Alexandra Fairfortune (786-7416)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Rolfes, Chair; Robinson, Vice Chair, Operating & Revenue; Mullet, Vice Chair, Capital; Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Rivers, Assistant Ranking Member, Capital; Warnick, Assistant Ranking Member, Capital; Billig, Boehnke, Braun, Conway, Dhingra, Hasegawa, Keiser, Muzzall, Nguyen, Pedersen, Saldaña, Torres, Wagoner and Wellman.

Minority Report: That it be referred without recommendation.

Signed by Senators Hunt and Van De Wege.

Staff: Michael Bezanson (786-7449)

Background: State School Construction Programs. The capital budget appropriates funding to assist school districts with the costs of school construction and other capital costs through several programs and provisos. In the 2021-23 Capital Budget, the three largest such appropriations were for (1) the School Construction Assistance Program (SCAP), (2) the Small School District Modernization Grant Program, and (3) the School Seismic Safety Grant Program.

School Construction Assistance Program. SCAP, administered by the Office of the Superintendent of Public Instruction (OSPI), provides school districts with financial assistance to construct new schools and modernize existing facilities. Through SCAP, the

state contributes funding, as well as technical assistance, for facility planning, construction, and contracting. State funding assistance is determined using a funding formula based on three main factors—eligible area, construction cost allocation, and the funding assistance percentage.

To receive state funding assistance under SCAP, school districts must raise local revenue to demonstrate local support for the proposed project. Districts may obtain local funds to finance capital improvements through a variety of methods, including bonds, levies, investment proceeds, and mitigation and impact fees. The most common method used to finance the local portion of large capital projects is through the sale of bonds. The amount that may be borrowed is limited by the Washington Constitution (Constitution) and state statutes. The Constitution sets a debt limit for school districts at 1.5 percent of the assessed value of property in the district, but the Constitution permits districts to exceed this limit for construction, up to 5 percent indebtedness, with approval of at least 60 percent of the voters at an election where the total number of voters is at least 40 percent of the total at the last preceding general election. State statute imposes a lower threshold of 0.375 percent indebtedness, but allows districts to exceed this threshold to a total indebtedness of 2.5 percent for capital outlays with the approval of at least 60 percent of the voters voting.

Small School District Modernization Grant Program. This grant program provides planning and construction grants for small school districts and tribal compact schools with significant building deficiencies. Projects are evaluated and ranked by an advisory committee of facilities professionals. This prioritization process must 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.

Participation is limited to school districts and tribal compact schools with total enrollments of 1000 students or less. No local cost share is required of districts, but grants may be coordinated with SCAP funding. Although the related statutes do not limit the scope of modernization projects funded through this program, the work funded has generally modernized parts of school facilities. Examples of typical projects include heating, ventilation, air conditioning, electrical, and roofing improvements. The 2021-23 Capital Budget contains provisions that limit program participation for the 2023-25 biennium to projects with a state funding level of \$5 million or less.

School Seismic Safety Retrofit Program. The School Seismic Safety Grant Program was created under SSB 5933 in the 2022 legislative session. This program provides planning and construction grants for school districts and state-tribal compact schools for remediation of seismic or tsunami hazards in qualifying buildings. A qualifying building must be in a high seismic or tsunami hazard area, as determined by various seismic or tsunami risk standards. A qualifying building must also have been constructed prior to 1998, and cannot have received a seismic retrofit to 2005 seismic standards.

School seismic safety grant applications are evaluated and ranked by an advisory committee of facilities professionals with experience in seismic remediation. The prioritization process must achieve the greatest improvement of school facilities in the districts and state-tribal education compact schools with the most limited financial capacity for projects likely to improve student health, safety, and academic performance for the largest number of students for the amount of state grant support. Examples of remediation projects funded through this program could include (1) seismic retrofit of existing buildings, (2) school relocation and replacement, and (3) tsunami evacuation towers. Grants awarded through this program must equal at least two-thirds of the total project cost.

Common School Construction Fund. The Common School Construction Fund may be used exclusively for financing construction of facilities for common schools. The revenue sources for the fund include:

- sale or appropriation of timber and other crops from school and state land;
- rentals and other revenue derived from land and other property devoted to the fund;
- federal grants; and
- investment earnings.

Summary of Amended Bill: A new capital construction and planning grant program (program) is created for the comprehensive modernization and replacement of instructional facilities in small, financially distressed school districts.

Advisory Committee. The existing Small School District Modernization Grant Advisory Committee (Advisory Committee) must evaluate and prioritize planning and construction grants for the program.

Eligibility. Applicants. Applicant eligibility is limited to the following school districts:

- school districts with headcount enrollments of 1000 or fewer students; and
- school districts with headcount enrollments of 3000 or fewer students that meet the following additional criteria:
 1. the school district is located in an educational service district with rural communities that experience prohibitive access to skill centers or other workforce development facilities or programs;
 2. the school district has been unable to secure voter approval to issue bonds for capital purposes in the prior 25 years and has had at least three bond measures rejected by voters in consecutive years during that 25-year period; and
 3. the school district has instructional buildings that do not meet structural, capacity, environmental, or emergency requirements.

School districts with incomplete or outdated building inventories, natural hazard assessments, and condition information as required by OSPI are not eligible to apply for construction grants through the program but may apply for planning grants. Building inventory and condition information must be provided by an independent consultant

certified by OSPI. A seismic building assessment completed as part of fulfilling applicant eligibility requirements must be conducted by an engineer licensed as a structural engineer in Washington. School districts applying for a grant under the new grant program must submit separate applications for each individual school.

Projects. Projects must comprehensively modernize or replace instructional buildings that are at least 30 years old and recorded as in poor or unsatisfactory condition by OSPI. 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 OSPI. To meet the project eligibility criteria for comprehensive modernization, a project must also correct critical physical deficiencies and essential safety concerns, including seismic vulnerabilities, failing or broken building and site systems, deteriorated exterior conditions, infrastructure or interior deficiencies, and barriers to program accessibility. Project approaches to correct these deficiencies and concerns may include modernizing, repairing, reconfiguring, or replacing existing buildings, constructing new buildings, and upgrading deteriorated and outdated site infrastructure.

Proposing Eligibility Changes. 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 unable to replace or modernize their aging school facilities.

Use of Grants. Program grants may only be used for the following purposes (1) the collection of building condition, inventory, and natural hazard information, (2) all predesign and design costs including value engineering and constructability review, and (3) all related costs associated with the project, except school district administration costs as determined by OSPI.

Grants. Required Grant List. OSPI must propose a list of prioritized planning and construction grants for eligible school districts to the Governor beginning September 1, 2024, and by September 1st of each even-numbered year thereafter. This grant list must include a description of the proposed project, the planning or construction grant amount, the anticipated SCAP amount, the anticipated local share, the estimated total project cost, and the project score in total and by category. OSPI and the Governor may determine the level of funding for the program in their capital budgets requests, but they must follow the prioritized list prepared by the Advisory Committee unless new information determines that a specific project is no longer viable as proposed.

Planning Grants. Subject to amounts appropriated, OSPI is required to assist eligible school districts interested in applying for construction grants through the new program by providing technical assistance and planning grants. School districts applying for planning grants must provide a brief statement that includes information about existing school conditions and deficiencies, enrollment, student achievement measures, and financial constraints. If applications for planning grants exceed funds available, OSPI may prioritize

planning grant requests with primary consideration given to school district financial capacity and facility conditions.

Construction Grants. School districts applying for construction grants must have received and completed a planning grant 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.

Construction Grant Prioritization. The Advisory Committee is required to prioritize construction grant applications to those school districts with the lowest remaining debt capacity, most significant building deficiencies, and lowest headcount enrollment. The Advisory Committee may weigh such factors as appropriate given the pool of applicants and the extent each factor deviates from the statewide average.

Grant Matching Requirements. School districts receiving a grant must provide a district share of project costs equal to at least 50 percent of the district's remaining debt capacity, not to exceed an estimated property tax rate of \$1.75 per \$1,000 of assessed value. If the estimated property tax rate exceeds this threshold, OSPI must reduce the district share of project costs. This estimated rate per thousand is calculated under an assumed debt amortization schedule of no less than 20 years and recent interest rates for state general obligation bonds. Districts may use federal funding, other nonstate grant funding, and private donations to reduce the required district cost share.

To the extent that a school district awarded a grant under the new program is also eligible for funding under SCAP, OSPI must coordinate grant funding between the programs and ensure that total grant funds do not exceed total project costs, less the school district's share as calculated under the new grant program. School districts may use grants from the program to fulfill the local funding requirement under SCAP, so long as they contribute the district share of project costs under the grant program.

Administrative Reporting Requirements. Grants may 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, which must include (1) updating school inventory and condition data, (2) submitting a final project report, and (3) implementing and maintaining an asset preservation program for the facility receiving grant funding.

Small School District Modernization Grant Program. The prioritized project list of the Small School District Modernization Grant Program receives first priority of appropriations from the Common School Construction Fund, after payment of principal and interest on bonds.

Appropriations from the Common School Construction Fund must be prioritized as follows:

- beginning in 2025-27, no less than \$60 million dollars of new appropriations in the biennial capital budget must be used to fund the small schools project prioritized list;
- in 2027-29, no less than \$70 million dollars of new appropriations in the biennial capital budget must be used to fund the small schools project prioritized list;
- in 2029-31 and every biennium thereafter, no less than \$80 million dollars of new appropriations in the biennial capital budget must be used to fund the small schools project prioritized list; and
- any remaining amounts in the Common School Construction Fund in excess of those amounts listed above may be appropriated for other common school construction purposes.

EFFECT OF WAYS & MEANS COMMITTEE AMENDMENT(S):

- Eliminates the 100-point scoring scale used by the advisory committee to prioritize construction grant applications, including the related equations used to assign points based on certain criteria and removes references to the scoring system throughout the bill.
- Directs the advisory committee to prioritize those school districts with the lowest remaining debt capacity, most significant building deficiencies, and lowest head count enrollment.
- Allows the advisory committee to weigh such factors as appropriate given the pool of applicants and the extent each factor deviates from the statewide average.
- Makes the prioritized project list of the Small School District Modernization Grant Program the first priority of the Common School Construction Fund after payment of principal and interest for skill center bonds.
- Starting in 2025-27, no less than \$60 million in new appropriations in the capital budget must be used to fund the small school district prioritized list, and any remaining amounts in the common school construction fund may be appropriated for other common school construction purposes. This amount increases to \$70 million in 2027-29 and increases to \$80 million in 2029-31 and every biennium thereafter.

EFFECT OF EARLY LEARNING & K-12 EDUCATION COMMITTEE AMENDMENT(S):

- Expands eligibility to participate in the grant program to include school districts with a student headcount enrollment of 3000 or fewer students that meet the following additional criteria:
 1. the school district is located in an educational service district with rural communities that experience prohibitive access to skill centers or other workforce development facilities or programs;
 2. the school district has been unable to secure voter approval to issue bonds for capital purposes in the prior 25 years and has had at least three bond measures rejected by voters in consecutive years during that 25-year period; and
 3. the school district has instructional buildings that do not meet structural,

capacity, environmental, or emergency requirements.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Substitute House Bill (Early Learning & K-12 Education): *The committee recommended a different version of the bill than what was heard.* PRO: Small districts often have a harder time passing bonds than big districts. This bill uses a formula to prioritize buildings based on their condition. School districts have the option to apply, get scored, and be added to the prioritized list. The Legislature isn't obligated to fund every project, but it can see which districts are in the most dire need of funds. This bill is narrow enough that the Legislature won't be breaking the bank, but it can still show that this concept can work. Then we can raise the number of school districts that can participate.

SCAP funding drivers significantly underfund the actual costs of school construction. This perpetuates inequities leaving small school districts frozen in time and unable to modernize facilities. This program acknowledges SCAP underfunding by increasing state contributions towards school construction. Without funding students will continue attending classes in classrooms that expose them to hazards.

Persons Testifying (Early Learning & K-12 Education): PRO: Representative Joel McEntire, Prime Sponsor; Tyler Muench, Office of Superintendent of Public Instruction; Logan Endres, Washington State School Directors' Association (WSSDA); Jim Stoffer, Public School Advocate.

Persons Signed In To Testify But Not Testifying (Early Learning & K-12 Education): No one.

Staff Summary of Public Testimony on Bill as Amended by Early Learning & K-12 Education (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: This bill is a positive step forward for small and rural schools who have been unable to get voter approval. The Senate Early Learning and K-12 Education Committee amendment is also a big help for rural midsize schools. In February this year, eight school districts held capital construction bond votes and only one passed. The House capital budget includes funding for this bill, and we encourage you to do so as well.

Persons Testifying (Ways & Means): PRO: Jim Stoffer, Public School Advocate of

Sequim; Jim Kowalkowski, Rural Education Center; Mitch Denning, WA Assn of Maintenance & Operation Administrators.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.