

Date of Hearing: March 20, 2024

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
AB 2831 (Hoover) – As Introduced February 15, 2024

SUBJECT: School facilities: Office of Small School Facilities and Construction

SUMMARY: Requires the California Department of Education (CDE) to establish the Office of Small School Facilities and Construction (Office) to provide assistance and guidance to small school districts for the construction and development of school facilities. Specifically, **this bill:**

- 1) Requires the CDE to establish the Office of Small School Facilities and Construction to provide assistance and guidance to small school districts in the identification, application, and acquisition of state school facilities funding for the construction and development of school facilities.
- 2) Requires, upon the request of a small school district, the CDE to provide assistance in the evaluation and utilization of existing school facilities and the justification of the need of schoolsites, new facilities, and the rehabilitation or replacement of existing facilities, in accordance with board regulations.
- 3) Requires the assistance provided by the CDE to include, but not be limited to, all of the following:
 - a) Annually informing small school districts of the availability of state school facilities funding for which they may qualify;
 - b) Responding to requests for assistance in identifying and determining state requirements to become eligible and apply for state facilities funding;
 - c) Informing small school districts of laws and regulations that apply to small school districts;
 - d) Providing assistance in the assessment of school facility conditions; and
 - e) Providing technical assistance and supportive services.
- 4) Requires the CDE to assign requisite staff to the Office to provide direct assistance and support to small school districts.
- 5) Defines “small school district” to mean a school district or county office of education (COE) with an average daily attendance of 2,500 pupils or fewer.

EXISTING LAW:

- 1) Requires, under the Leroy F. Greene School Facilities Act of 1998, the State Allocation Board (SAB) to allocate to applicant school districts prescribed per-unhoused-pupil state funding for school facilities. Establishes the School Facility Program (SFP) under which the

state provides general obligation bond or other funding for various school construction projects including new construction, modernization, hardship funding, supplemental funding for site development and acquisition, and programs to specifically address the construction needs of charter schools, and career technical education facilities. (Education Code (EC 17070.10)

- 2) Provides that a school district's ongoing eligibility for new construction funding is determined by making calculations related to certain factors, including, but not limited to, enrollment projections by utilizing a cohort survival enrollment projection system, the number of students that may be adequately housed in the existing school building capacity of the district.
- 3) Requires the CDE to establish standards for use by school districts to ensure that the design and construction of school facilities is educationally appropriate, promotes school safety, and provides school districts with flexibility in designing instructional facilities. (EC 17251(c))
- 4) Requires, the Department of General Services (DGS), under the police power of the state, to supervise the design and construction of any school building or the reconstruction or alteration of or addition to any school building to ensure that plans and specifications comply with the specified rules and regulations, and to ensure that the work of construction has been performed in accordance with the approved plans and specifications, for the protection of life and property. (EC 17280)
- 5) Provides that a school district is eligible to receive an apportionment for the modernization of a permanent school building that is more than 25 years old or a portable classroom that is at least 20 years old. A school district is eligible to receive an additional apportionment for modernization of a permanent school building every 25 years after the date of the previous apportionment or a portable classroom every 20 years after the previous apportionment.
- 6) Establishes specified per pupil grants for new construction and modernization and requires an annual inflation adjustment based on a construction cost index.
- 7) Establishes fees for residential development projects to enable school districts to build schools to house new students in the district.

FISCAL EFFECT: Unknown

COMMENTS:

Need for the bill. According to the author, “With small school districts making up the vast majority of school districts (60%) in California, adequate state resources are needed to provide guidance and technical assistance to small school districts in navigating the application process for state school facilities funding to better meet the needs of their students, staff, and school boards.”

School construction. School construction is neither an easy process nor a quick one to complete. Building a new school can take several years. School districts planning to construct or modernize existing schools require the assistance of several local, state, and federal agencies. The primary agencies school districts will work with on a facilities project include:

- The SAB is responsible for determining the allocation of state resources including proceeds from general obligation bonds and other designated state funds used for the new construction and modernization of public school facilities. The SAB is composed of a ten member body including the Department of Finance, the Director of the DGS, the State Superintendent of Public Instruction (SPI), three Senators, three Assemblymembers, and a Governor's appointee.
- The Office of Public School Construction (OPSC) is responsible for verifying that all applicant school districts meet specific criteria based on the type of eligibility or funding which is being requested and facilitating the application process. OPSC ensures that funds are appropriately allocated per the law and the actions taken by the SAB. OPSC serves as staff to the SAB.
- The Division of the State Architect (DSA), within the DGS is responsible for reviewing plans and specifications to ensure that they comply with California's building codes. The review commences when the school district's architect submits plans to DSA. DSA reviews the plans to ensure that the proposed structures meet codes and requirements for access compliance, structural safety (seismic), fire and life safety, and universal design compliance. DSA approval of all plans and specifications is required before a construction contract is signed for new construction, modernization, or alteration of any school building for which a district is seeking State funding.
- The CDE, School Facilities and Transportation Services Division (SFTSD) reviews and approves school district sites and construction plans. The SFTSD review begins when a school district plans to acquire a new school site. Before approving a site for school purposes, the SFTSD reviews many factors including, but not limited to, environmental hazards and proximity to airports, freeways, and power transmission lines. The review of construction plans by the SFTSD focuses mainly on the educational adequacy of the proposed facility and whether the needs of students and faculty will be met.
- The Department of Toxic Substances Control (DTSC) is responsible for the site approval process. DTSC assists the school district with an assessment of any possible contaminants and, if necessary, with the development and implementation of a mitigation plan.
- The Department of Industrial Relations (DIR) is responsible for ensuring labor compliance with the current prevailing wage laws.

Background on the School Facilities Program. The construction and rehabilitation of public K-12 facilities are historically funded by a combination of state and local general obligation (GO) bonds, developer's fees, and local assessments such as Mello-Roos community facilities districts.

State bond funds are allocated pursuant to the SFP and administered by the OPSC under the direction of the SAB. Under the SFP, the New Construction program requires a 50% match from school districts, unless the LEA qualifies for financial hardship, which pays up to 100% of project costs. Modernization funds are awarded at 60% with a 40% match. Since the inception of the SFP in 1998, voters have approved \$54 billion in state GO bonds for K-12 schools.

Ballot	Measure	Amount	% Support
November 1998	Proposition 1A	\$ 9.2 billion (\$6.7 billion K-12 + \$2.5 billion Higher Ed)	62.5
November 2002	Proposition 47	\$13.05 billion (\$11.4 billion K-12 + \$1.65 billion Higher Ed)	59.1
March 2004	Proposition 55	\$12.3 billion (\$10 billion K-12 + \$2.3 billion Higher Ed)	50.9
November 2006	Proposition 1D	\$10.416 billion (\$7.329 K-12 + \$3.087 billion Higher Ed)	56.9
November 2016	Proposition 51	\$9 billion (\$7 billion K-12 + \$2 billion California Community Colleges (CCC))	55.2
March 2020	Proposition 13	\$15 billion (\$9 billion K-12 + \$6 billion Higher Ed)	47.0

The last bond passed by voters, Proposition 51 on the November 2016 statewide ballot, provided \$9 billion for K-12 and California Community College (CCC) facilities through the following allocations:

- 1) \$7 billion for K-12 facilities allocated as follows:
 - a) \$3 billion for new construction projects;
 - b) \$3 billion for modernization projects;
 - c) \$500 million for career technical education (CTE) facilities; and
 - d) \$500 million for charter school facilities.
- 2) \$2 billion for CCC facilities.

All Proposition 51 funds have been committed, and due to the failed passage of Proposition 13 in 2020, there are no new state school facility bond funds. Therefore, the SFP was recently infused with state General Fund resources. AB 181 (Committee on Budget), Chapter 52, Statutes of 2022, allocated the remaining Proposition 51 bond funds (approximately \$1.4 billion) to support school construction projects and provided \$1.3 billion one-time General Fund with 2021-22 funds. SB 114 (Committee on Budget and Fiscal Review), Chapter 28, Statutes of 2023, approved an appropriation of \$1.96 billion from the General Fund for SFP new construction and modernization projects for the 2023-24 fiscal year. The bill also declared intent to provide \$875,000,000 from the General Fund to the SAB in the 2024-25 fiscal year. The Governor's proposed 2024-25 Budget will reduce the planned investment for the SFP from \$875 million to \$375 million in one-time General Fund moneys.

Small school districts assistance. Small school districts, defined as those with an enrollment of less than 2,501 pupils, face additional challenges in navigating the school construction and facility funding processes. Small school districts may not have dedicated facility staff. In many districts, facilities may be handled by the district superintendent, who may also be the principal

of a school. Over the last several years, the SAB has seen a number of school districts appealing denial of funds due to various errors and challenges.

AB 247 (Muratsuchi) and SB 28 (Glazer) of the 2023-24 Session propose to assist small school districts by providing advance funding for design and providing small school districts with an opportunity to reserve eligible funds and extra time (up to five years) to develop the project, including receiving necessary approvals from various agencies. This is similar to the extended time given to charter schools. Small school districts may request a construction management grant equal to 5% of the state share of the estimated (preliminary) apportionment that can be used for technical assistance provided by another local educational agency with expertise in school construction or a state agency. In addition, of the amount to be allocated to new construction and modernization, up to 10% would be set aside for small school districts.

Facilities need. The CDE estimates that approximately 30% of the state’s K-12 classrooms are at least 50 years old and 10% are 70 years old. In addition to health and safety and normal wear and tear, schools need to be updated to meet 21st century educational needs and environmental efficiencies.

Researchers from the Public Policy Institute of California (PPIC) estimate that California public schools have over \$100 billion in K-12 new construction and modernization facilities needs while the Community Colleges Chancellor’s Office projects a \$41.4 billion capital facilities need over five years. While the full amount of bonds authorized by Proposition 51 has still not been sold, K-12 allocations for new construction funds have been depleted since September 2018 while modernization funds were fully allocated in February 2019. According to the OPSC, as of January, \$1.022 billion in new construction applications and \$1.760 billion in modernization applications have been submitted beyond Proposition 51 funding availability.

Financial hardship. Many small school districts and districts located in lower wealth areas are eligible for financial hardship assistance, which provides up to 100% of funding to school districts that are unable to provide their local match. Eligibility is based on a number of factors, including if the school district’s debt level is at 60% of bonding capacity or the district’s total bonding capacity is less than \$5 million. These factors have not been adjusted for 20 years. AB 247 (Muratsuchi) of the 2023-24 Session proposes to increase total bonding capacity from \$5 million to \$15 million and provides an annual inflation adjustment, which would expand the number of LEAs eligible for financial hardship assistance.

Utilization of the SFP. California does not require a school facility inventory, so the state lacks an accurate count of the number, condition, and age of existing school facilities, and it is challenging to anticipate the true facilities needs of California public schools. According to the January 2024, SAB agenda, the SFP Bond Authority from Proposition 51, and General Fund, small school districts have received approximately 11% of the SFP grants.

	New Construction	Modernization
Small School Districts ADA <2,500 pupils	154 projects \$429.2 million (11% of all projects)	311 projects \$475.5 million (11% of all projects)
Medium School Districts ADA <2,500 pupils <10,000 pupils	169 projects \$828.2 million (22% of all projects)	528 projects \$1.015 billion (25% of all projects)

Large School Districts ADA >10,000 pupils	391 projects \$2.499 billion (67% of all projects)	985 projects \$2.630 billion (64% of all projects)
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Impact of school facilities on student learning. Studies have found a positive relationship between the condition of school facilities and student achievement. A 2017 report by the California Policy Lab analyzing the impact of newly constructed schools on student achievement in the Los Angeles Unified School District found significant student improvements in standardized test scores, attendance rates, and student effort following attendance at a new school facility.

According to the CDE, facility condition, design, and utilization affect student and staff attendance, retention of teachers, student disruptions, time teachers and students spend on instruction/learning activities, curriculum offerings, teacher and student time in school (school calendar), participation by staff and students in extra-curricular activities, parent visits, and extent of local school program innovations.

Recommended Committee Amendments. *Staff recommends that the bill be amended* to align the responsibilities of notification of facilities funding opportunities and financial support with the appropriate state agency. Understandably, many school districts default to reaching out to the CDE first for information and technical assistance. As noted earlier, there are many state agencies school districts are required to work with when completing a school facilities project. School facilities funding is a function of the SAB, which is staffed by the OPSC. **Committee amendments** would require the CDE to work in collaboration with the OPSC to provide assistance and guidance to small school districts in the identification, application, and acquisition of state school facilities funding for the construction and development of school facilities.

This bill requires the CDE to assign dedicated staff to the Office of Small School Facilities and Construction to provide direct assistance and support to small school districts. **The Committee may wish to consider that**, if no additional funding is provided to the CDE for this purpose, the CDE will need to reassign staff to cover the work of the new office thus taking staff away from other responsibilities and duties.

Related legislation. AB 247 (Muratsuchi) of the 2023-24 Session would authorize a bond measure of \$14 billion for the construction and modernization of Transitional Kindergarten through community colleges public education facilities on an unspecified 2024 statewide ballot.

SB 28 (Glazer) of the 2023-24 Session authorizes a \$15 billion bond measure for the construction and modernization of public preschool, K-12, CCC, University of California (UC), and California State University (CSU) facilities to be placed on the ballot for the March 2024 statewide primary election.

AB 75 (O'Donnell) of the 2021-22 Session would have placed the Kindergarten-Community Colleges Public Education Facilities Bond Act of 2022 on the 2022 statewide ballot, to be operative only if approved by voters at the election. This bill was held in the Senate Education Committee.

SB 22 (Glazer) of the 2021-22 Session would have placed the \$15 billion Public Preschool, K-12, and College Health and Safety Bond Act of 2022 on an unspecified statewide election in 2022. This bill was held in the Assembly Education Committee.

AB 48 (O'Donnell and Glazer), Chapter 530, Statutes of 2019, placed the \$15 billion Public Preschool, K-12, and College Health and Safety Bond Act of 2020 on the March 2020 statewide ballot.

AB 203 (O'Donnell), Chapter 837, Statutes of 2017, requires the CDE to develop strategies to assist small school districts with technical assistance relating to school construction and the funding of school facilities.

AB 1841 (Coto) of the 2007-08 Session would have made available up to \$200,000,000 from the Kindergarten-University Public Education Facilities Bond Act of 2006 for purposes of constructing new small schools and reconfiguring existing schools into multiple small schools. This bill was held in the Assembly Appropriations Committee.

AB 1114 (Frommer) of the 2003-04 Session would have stated the intent of the Legislature to enact legislation to encourage the construction of small schools, where feasible, by establishing a system of incentives that address the high per capita costs of running a small school. This bill was held at the Assembly Desk.

Arguments in support. The California School Boards Association writes, “Due to statutory limits on the ability of small school districts to hire school administrators, many have Superintendents who must play the role of the Facilities Manager, Chief Fiscal Officer, Human Resources Director, Special Education Director, Principal, Student Services Manager; serve as primary staff to the school board; and handle all personnel and student disciplinary matters. As a result, many small school district have limited opportunity to search, apply for and navigate the process to draw down state facilities funding critical to addressing the maintenance and modernization of their school facilities. By establishing an Office of Small School District Facilities and Construction at the state level, small school districts can be provided the critical support and technical assistance they need to help provide for a safe and productive learning environment through the acquisition of important school facilities funding. This will help small districts better meet the needs of their students, teachers, staff, and the greater school community.”

REGISTERED SUPPORT / OPPOSITION:

Support

California School Boards Association
Charter Schools Development Center

Opposition

None on file

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