
SENATE COMMITTEE ON EDUCATION

Senator Liu, Chair
2015 - 2016 Regular

Bill No: SB 121
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Consultant: Kathleen Chavira
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Fiscal: Yes

Subject: School facilities: schoolsites on military bases

SUMMARY

This bill requires that school construction projects on military installations that are eligible for specified federal grants be given priority for funding under the State School Facility program.

BACKGROUND

Current law establishes the School Facility Program (SFP) under which the state provides general obligation bond funding for various school construction projects. AB 127 (Nunez and Perata), the Kindergarten-University Public Education Facilities Bond Act of 2006, authorized Proposition 1D a statewide general obligation bond proposal for \$10.4 billion. Proposition 1D, approved, by the voters in November 2006, provided \$7.3 billion for K-12 education facilities and allocated specified amounts from the sale of these bonds for modernization, new construction, charter schools, Career Technical Education Facilities, joint use projects, new construction on severely overcrowded school sites, and high performance incentive grants to promote energy efficient design and materials. In addition, portions of the amounts allocated for new construction and modernization were authorized for purposes of funding smaller learning communities and small high schools and for seismic retrofit projects. (Education Code § 17078.70-17078.72)

ANALYSIS

This bill:

1. Establishes priority for funding under the School Facility Program for construction projects that are:
 - A. On or near military installations.
 - B. Eligible for United States Department of Defense, Office of Economic Adjustment school construction grants.

STAFF COMMENTS

1. ***Need for the bill.*** According to the author, California has 11 schools in six districts that are on a priority list for funds from the federal government to address the "serious condition or capacity deficiencies" of public schools on military installations. These schools are eligible to receive funds for this purpose through the Public Schools on Military Installations Program (PSMI). The program requires a 20 percent non-federal match in order to receive federal funding.

The intent of this bill is to grant these schools priority for funding through the State School Facility Program (SFP) in order to provide the matching funds necessary for these schools to participate in the federal grant program and leverage approximately \$240 million federal funds for the renovation, repair, or reconstruction of these schools.

2. ***Public Schools on Military Installations Program (PSMI).*** According to the Office of Economic Adjustment (OEA), in 2010 the Department of Defense (DOD) evaluated and reviewed the physical condition of the 160 public schools on military installations in the United States. Based on the findings of this assessment, the DOD developed a "Priority List" of public schools on military installations with the most serious condition and/or capacity deficiencies. The OEA was tasked with administering the PSMI program to provide funds to these schools to address these deficiencies.

Between 2011 and 2015, Congress has provided \$945 million to the OEA for the purposes of the PSMI. The last increase in funding for the PSMI (\$175 million) was provided in 2015 by House Resolution 83 (H.R. 83 Section 8017). In addition to the funding increase, H.R. 83 established the 20 percent match as a congressionally mandated requirement and stipulated that the non-federal match was the responsibility of the local education authority (LEA) and the State. The DOD has interpreted the new language to mean that the matching share must be provided by the local education authority (LEA) and or the State in which the school is located and that the OEA may skip eligible school projects on the Priority List if the match is not provided. According to the OEA, once a project on the list has been skipped it will no longer be considered for funding.

According to the OEA, there is approximately \$464 million remaining in the PSMI. The OEA estimates that as many as 33 schools on the list could be assisted.

3. ***Which school districts?*** According to information provided by the OEA, California has 11 schools in six districts that are within the top 33 on the Priority List. These include:
 - A. Murray Middle School at China Lake Naval Air Weapons Station, Sierra Sands Unified School District.
 - B. Forbes Elementary (Currently Branch Elementary) at Edwards Air Force Base, Muroc Joint Unified School District.

- C. Sherman E. Burroughs High School at China Lake Naval Air Weapons Station, Sierra Sands Unified School District.
- D. Mary Fay Pendleton Elementary at Marine Corp Base Camp Pendleton, Fallbrook Union Elementary School District.
- E. San Onofre Elementary School at Marine Corp Base Camp Pendleton, Fallbrook Union Elementary School District.
- F. Miller Elementary School at Naval Base San Diego, San Diego Unified School District.
- G. Scandia Elementary at Travis Air Force Base, Travis School District.
- H. Akers Elementary School at Naval Air Station Lemoore, Central Union High School.
- I. Hancock Elementary School at Naval Base San Diego, San Diego Unified School District.
- J. Desert Junior-Senior High School at Edwards Air Force Base, Muroc Joint Unified School District.
- K. Irving L. Branch Elementary School at Edwards Air Force Base, Muroc Joint Unified School District.

According to the Office of Public School Construction (OPSC):

- A. One of the 11 schools currently has an application pending under the School Facility Program (SFP) (Burroughs High School). That project is currently on the Unfunded List (i.e. no bond authority currently exists to fund the project).
 - B. Four of the schools currently have modernization eligibility but have not submitted an application for funding.
 - C. Between 2002 and 2006, six of the schools previously applied for and received modernization funding through the SFP.
4. ***Related State Allocation Board activity.*** After an April 2012 briefing on this topic, the SAB took action to establish the Department of Defense Sub-Committee, convened in June 2012, to explore alternatives for assisting districts with providing the required 20 percent local match for projects on the Department of Defense (DOD) Priority List.

Among other things, the sub-committee found that:

- A. Program funding from the federal government is based on a cost estimate of the actual work, whereas the SFP provides funding in the form of per pupil grants, with some supplemental grants.

- B. Based on the method of calculation, the 20 percent required is based upon a higher amount than the School Facility Program (SFP) calculations.

Options considered by the sub-committee included reservation of bond authority, transfer of bond authority, loans for the matching share, waiver of the local matching share requirement, and facility hardship funding. Each of these was determined not to be viable.

In August 2012, the State Allocation Board (SAB) considered the recommendations of the sub-committee. The SAB elected to recommend to the Legislature that funding be provided for military base schools in California in the next bond proposal in order to cover the total need for these types of projects.

5. ***Current status of the SFP.*** According to the OPSC, as of February 2015, approximately \$200.7 million remained in bond authority in the SFP. The majority of this bond authority exists for the Seismic Mitigation and Charter School programs (about \$171 million). Bond authority for new construction and modernizations programs has essentially been depleted, respectively, since July 2012 and May 2012.

Since 2009, the SAB has been making “unfunded approvals” which represented approved projects waiting to convert to funding apportionments when bonds are sold and cash becomes available. In addition, since November 1, 2012, the SAB has maintained an "Applications Received Beyond Bond Authority" list. This list is presented to SAB for acknowledgement, but not approval. Because the applications are not fully processed for final grant determination, the project funding amounts on the list are only estimates. As of January 2015, the list indicated 116 new construction applications totaling \$571 million and 200 modernizations applications of about \$330 million.

If this bill is enacted, school construction projects on military bases would be prioritized over other projects currently awaiting funding.

6. ***Related Governor's budget activity.*** In his 2015-16 Budget Summary, the Governor notes concerns about the complexity and structure of the current School Facility Program and the state's increasing debt service obligations. The Governor has proposed significant changes to the way school facilities are funded with the intent that districts be better able to meet their facilities needs at the local level. The Governor proposes to expand local revenue generation tools by increasing caps on local bond indebtedness, restructuring developer fees, and expanding the allowable uses of Routine Restricted Maintenance Funding. The Governor has also indicated interest in a future state program focused on districts with the greatest need, including communities with low property values and few borrowing options, as well as overcrowded schools.

It is unclear whether the administration anticipates additional state general obligation bonds as the funding source for the future school facility program envisioned.

7. **Priority funding.** Currently, the School Facility Program (SFP) operates on a first-come, first-serve basis, considering projects for funding in the order received. The SAB recently adopted a new “priorities in funding” process which gives priority for funding to construction-ready projects, allowing these projects, in essence, to move to the front of the line. Projects on the “lack of authority” and “beyond authority” lists advance as bond funds become available and projects on the unfunded approval list elect non-participation in the priorities in funding rounds. The State Allocation Board (SAB) also prioritizes the processing and funding of facility hardship projects, which are projects in which there is a health and safety concern.

This bill would authorize certain projects to be prioritized for funding over all other projects on the basis of their eligibility for federal funds. The committee may wish to consider:

- A. Should funding for these projects be prioritized over facility hardship projects in which there is an imminent threat to the health and safety of pupils?
 - B. Should projects be prioritized on the basis that federal funds are available for state matching requirements over projects in which locally authorized bonds will be provided for the match?
 - C. Should a federal determination of priority facility condition or capacity needs, which may differ from SFP determinations, be the basis for prioritizing access to state school construction funds?
 - D. Should districts that have failed to submit an application be allowed to move to the front of the line?
 - E. Should districts that already received modernization funding under the SFP be granted another opportunity to access bond funds for the same project, while other districts must wait 25 years for another opportunity to access state modernization funds?
 - F. In light of the excessive demand for limited bond funds, and the uncertainty regarding the future availability of bond funds, is eligibility for federal funding the basis upon which projects should be prioritized?
8. **Notwithstanding?** As currently drafted this bill would “notwithstanding” specified statutes to accomplish its objectives. Staff notes that these statutes specify that title to property constructed or improved with bond funds must be held by the district, that the district must comply with state laws pertaining to the construction or modernization of school buildings, and outline criteria to be met if the construction activity is on property leased from a governmental entity. It is unclear why these projects should be exempted from these requirements.

If it is the desire of the committee to advance this legislation, **staff recommends** the bill be amended to strike line 3 on page 1, and “and Section 17070.7”¹ in line 4 page 1.

9. ***Related and prior legislation.***

RELATED LEGISLATION

SB 111 (Fuller) also on the committee's agenda today, appropriates \$61 million from the General Fund to the California Department of Education (CDE) for apportionment to school districts to meet the matching share requirements of a specified federal school construction grant program.

PRIOR LEGISLATION

This bill is almost identical to SB 1421 (Fuller, 2014) which was heard and passed by this Committee in April 2014, by a vote of 6-0. SB 1421 was subsequently amended in the Senate Appropriations Committee to limit priority eligibility to districts which have already applied for School Facility Program (SFP) funding and that agree to refrain from applying for funding for three subsequent years. SB 1421 was ultimately held under submission in the Assembly Appropriations Committee.

SUPPORT

Brigadier General, Marine Corps Base Camp Pendleton
Muroc Joint Unified School District
Sierra Sands Unified School District
Travis Unified School District
Numerous individual letters

OPPOSITION

None received.

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