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# SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

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**Bill No:** AB 203 **Hearing Date:** June 21, 2017  
**Author:** O'Donnell  
**Version:** April 17, 2017  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Ian Johnson

**Subject:** School facilities: design and construction

## SUMMARY

This bill requires the California Department of Education (CDE) to (1) ensure its standards for designing and constructing school facilities provide district flexibility, (2) work with the Office of Public School Construction (OPSC) to ensure regulations adopted by the State Allocation Board (SAB) provide district flexibility, and (3) develop strategies to assist small school districts with their school facilities projects. Further, the bill requires CDE, the Division of the State Architect (DSA), and OPSC to report on how to streamline the school facility funding application process.

## BACKGROUND

Existing law:

- 1) Requires, under the Leroy F. Greene School Facilities Act of 1998, the SAB to allocate to applicant school districts, prescribed per-unhoused-pupil state funding for construction and modernization of school facilities, including hardship funding, and supplemental funding for site development and acquisition.
- 2) Prohibits the SAB from apportioning funds to any school district unless the applicant school district has certified to the SAB that it has obtained the written approval of the CDE that the site selection, and the building plans and specifications, comply with the standards adopted by CDE.
- 3) Requires CDE to establish standards for use by a school district in the selection of schoolsites and standards to ensure that the design and construction of school facilities are educationally appropriate and promote school safety.
- 4) Prohibits the SAB from apportioning funds to any school district that has not received approval from DSA that the project meets Field Act requirements.
- 5) Requires DSA, 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 existing law and Title 24 regulations.

## ANALYSIS

This bill:

- 1) Requires the California Department of Education (CDE) to establish standards for use by school districts to ensure that the design and construction of school facilities provide school districts with flexibility in designing instructional facilities and requires CDE to work with the Office of Public School Construction (OPSC) to ensure that regulations adopted by the State Allocation Board (SAB) allow for the funding of flexible instructional facilities.
- 2) Requires CDE to develop strategies to assist small school districts, those with fewer than 2,501 units of average daily attendance, with technical assistance relating to school construction and the funding of school facilities. Specifies that the strategies may include informing the districts of how to receive the approval required for school construction, including the requirements of the Division of the State Architect (DSA) and how to secure state funding, including from the state bond funds made available through the School Facility Program.
- 3) Requires, on or before July 1, 2018, CDE, DSA, and OPSC to submit to the appropriate fiscal and policy committees of the Legislature a report that addresses the following relating to the construction of school facilities:
  - a) The feasibility of using one application, or using a common application number, for all three entities. If those entities determine that neither is feasible, how to otherwise reduce duplicative information being required for their applications.
  - b) The feasibility of using common software for the submission of multiple applications and architectural plans.

## STAFF COMMENTS

- 1) ***Need for the bill.*** In February 2017, the Assembly Education Committee held an informational hearing on how the school construction and school facilities funding processes could be streamlined. According to the author, “The hearing highlighted several common themes. Speakers talked about the need to provide technical assistance to small school districts, and expressed frustrations over how long it takes to receive state agency approvals and the amount of duplicative information required by each agency.”
- 2) ***The School Facility Program.*** The state created the School Facility Program (SFP) in 1998 in response to concerns about the complexity of the Lease-Purchase Program, its immediate predecessor. The SFP has two core programs: new construction and modernization. For both programs, the state provides per-student grants to participating school districts, with school districts required to provide local matching funds. The state also has created a number of smaller facilities programs to fund other state priorities, including charter schools, seismic upgrades, reducing overcrowding, and energy-efficient schools. The SFP is administered by OPSC, with bond funds being overseen by the SAB, a ten member body. The OPSC processes applications for the program, subject to approval by the SAB, on a first-come, first-served basis. School districts are required to submit specific projects for approval by several state agencies to receive state funding, including the California Department of Education (CDE),

the Division of the State Architect (DSA), the Office of Public School Construction (OPSC), and local agencies, which can take several years.

Since 1998, voters have approved approximately \$42 billion in statewide general obligation bonds—including \$7 billion approved by Proposition 51 in November 2016—to construct or renovate public school classrooms used by the state's roughly six million elementary, middle and high school students. In addition to general obligation bonds, school districts may use developer fees, local bonds, certificates of participation, and Mello-Roos bonds to construct additional classrooms or renovate existing classrooms.

- 3) ***Governor has been calling for program reform since 2013.*** Beginning with his 2013-14 proposed budget, the Governor has been critical of the state's school facilities program, stating "...now is an appropriate time to engage in a dialogue on the future of school facilities funding." Along with rising debt service costs supported by the state's general fund, the budget summary cited that "The current School Facilities Program is overly complex and administered by multiple control agencies with fragmented responsibilities. The current program is also largely state-driven, restricting local flexibility and control."

Each of the 2014-15 through 2016-17 proposed budgets continued to cite concerns and request that stakeholders come together to design significant reforms addressing each of the Governor's concerns. However, in November 2016, before the Governor and the Legislature could come to an agreement on a new program, Proposition 51 was passed by the voters. The measure authorizes \$7 billion of new general obligation bonds for the state's existing program as its statutes read on January 1, 2015.

- 4) ***Small school district facilities challenges.*** Small school districts face additional challenges compared to medium or large-sized districts in navigating the school construction and facility funding processes. The state's school facilities program funds projects on a first-come, first-served basis, which tends to favor large school districts with dedicated facilities personnel. In many small school districts, facilities may be handled by the district superintendent, who may also be the principal of a school. Additionally, when passing local bonds for the state program's required matching funds, smaller school districts tend to pay more in bond issuance costs.
- 5) ***Charter schools also face unique facilities challenges.*** Within the state's facilities funding system, charter schools can face unique challenges, because: (1) unlike school districts, they cannot independently issue local general obligation bonds to finance their facility needs, (2) many are start-ups lacking access to public school facilities, resulting in the charter school leasing space in office buildings and other commercial sites, and (3) lending institutions tend to view charter schools as high-risk investments, making it difficult to obtain the loans necessary to finance school facilities. While a number of statutory measures have aimed to address these challenges, charter advocates claim that an inadequate supply of school facilities may be the single largest stumbling block to the growth of charter schools. Would charter schools also benefit from strategies being developed by the State to assist with obtaining school facilities

funding and pursuing school construction projects? If so, should these strategies be developed by the California Department of Education (CDE), or a separate agency involved with charter school facilities, such as the Office of Public School Construction (OPSC) or the California School Finance Authority?

- 6) ***Flexibility in the design and construction standards for school districts.*** This bill requires CDE to “work with” OPSC to ensure that regulations adopted by the State Allocation Board (SAB) allow for the funding of flexible instructional facilities. As currently drafted, it is unclear what specific role is envisioned for CDE in the regulatory process and whether this bill requires new regulations to be adopted by the State Allocation Board related to district flexibility. In its January 2014 report, the SAB’s Program Review Subcommittee expressed concern that the current program model does not allow for flexibility in designing different types of learning areas. If it is the desire of the Committee to pass this measure, ***staff recommends*** that the bill be amended to delete the requirement of CDE to work with OPSC and, instead, require: (1) CDE to develop and adopt regulations allowing for the funding of flexible instructional facilities, and (2) CDE to collaborate with OPSC on the development of regulations for consideration by the SAB to align the School Facility Program regulations to those developed by CDE.
- 7) ***Fiscal impact.*** According to the Assembly Appropriations Committee, this bill will create the following state costs:
- a) Approximately \$50,000 in on-going costs to CDE to provide technical support to small school districts, and one-time costs of \$62,000 to complete and submit a report to the Legislature.
  - b) OPSC estimates \$31,000 to draft regulation amendments and \$14,000 to contribute to the report to the Legislature. The OPSC believes these cost can be absorbed in the current year.
  - c) Division of the State Architect (DSA), anticipates \$10,000 in costs to participate in discussions and contribute to the Legislature’s report. DSA believes these costs are absorbable within the current year.

## **SUPPORT**

California Association of School Business Officials  
 California Association of Suburban School Districts  
 California School Boards Association  
 Central Valley Education Coalition  
 Coalition for Adequate School Housing  
 Los Angeles Unified School District  
 Riverside County Superintendent of Schools  
 Small School Districts’ Association

## **OPPOSITION**

None received

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