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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
56th Legislature, 2nd Session, 2024

Bill Number	<u>SB76</u>	Sponsor	<u>Stewart</u>	
Tracking Number	<u>.226854.1</u>	Committee Referrals	<u>SCC/SEC/SFC; HEC/HAFC</u>	
Short Title	<u>School Local Share Adjustment Waiver</u>			
Analyst	<u>Bedeaux</u>	Original Date	<u>1/19/2024</u>	
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FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

BILL SUMMARY

Synopsis of Bill

Senate Bill 76 (SB76) clarifies that a school district’s eligibility for a waiver of the local match of a public school capital outlay project shall be based on its local match calculated by the phase two state and local match calculation, prior to a temporary 33 or 50 percent local match reduction.

FISCAL IMPACT

The bill does not contain an appropriation.

SUBSTANTIVE ISSUES

SB76 would adjust the waiver criteria in the Public School Capital Outlay Act, correcting a technical issue introduced by [Laws 2023, Chapter 98 \(Senate Bill 131\)](#) from the 2023 legislative session. Laws 2023, Chapter 98 established a temporary 33 percent reduction to school districts’ local match amounts for most school districts, and a 50 percent reduction for micro-districts with fewer than 200 MEM, through FY26.

Statute allows school districts to apply to the Public School Capital Outlay Council (PSCOC) to waive the required local match under any of three circumstances. These circumstances, known as “waiver criteria,” are enumerated in Paragraph 9 of Subsection B of [Section 22-24-5-NMSA 1978](#):

- A. The school district cannot afford its local match using all of its resources, with an insufficient bonding capacity over the next four years to provide the local match necessary to complete the project and a residential tax rate of 10 mills;
- B. The school district is a small, high poverty district, with fewer than 800 MEM, a free and reduced-fee lunch rate of 70 percent or greater, and a local match rate greater than 50 percent, and a residential tax rate of at least 7 mills; or

- C. The school district is experiencing rapid growth, with an enrollment growth greater than 2.5 percent, a facility master plan that shows the need for a new school in the next two years, and a residential tax rate of at least 10 mills.

When Laws 2023, Chapter 98 was enacted, many school districts eligible for a waiver under criterion B lost eligibility as their local match was temporarily reduced beneath the 50 percent threshold. The Legislature did not intend to make school districts ineligible for waivers; SB76 adjusts the waiver criteria to correctly refer to a school district’s local match amount prior to the temporary reduction.

OTHER SIGNIFICANT ISSUES

[Laws 2018, Chapter 66 \(Senate Bill 30\)](#) created the “phase two state and local match calculation,” a formula based on recommendations from the University of New Mexico’s Bureau of Business and Economic Research. The phase two formula was designed to better account for school district tax revenues and the cost of construction. As the state transitioned to the phase two formula, the PSCOC experienced decreased demand for awards from the standards- and systems-based award programs. Analysis from LESC, the Legislative Finance Committee (LFC), and the Public School Facilities Authority (PSFA) attributed the diminished demand primarily to rising local match amounts in the phase two formula.

Rather than making changes to the already complicated state and local match formula, the Legislature established a simple, temporary reduction to the local match amounts, providing legislative staff time to undertake a comprehensive study of the formula. By the 2026 legislative session, LESC, LFC, and PSFA are expected to make broader recommendations toward a new state and local match formula aligned with the state’s long-term facility goals.

The complicated state and local match formula is just one element of the complex Public School Capital Outlay Act. The Public School Capital Outlay Act was originally enacted in 2001 and has been subject to various piecemeal amendments over the past two decades, creating a complicated system difficult for schools to navigate. As the state begins to consider changes to the state and local match formula, it may be prudent for the Legislature to revisit the entirety of the Public School Capital Outlay Act; clarifying the statute can improve the transparency of the PSCOC process and prevent future technical issues.

During the 2023 legislative interim, the phase two state and local match calculation and the waiver criteria were examined by the Public School Capital Outlay Oversight Task Force (PSCOOTF). [A joint presentation by LESC and LFC staff to PSCOOTF](#) pointed out problematic assumptions in the phase two calculation. In particular, staff explained that even after the transition to the phase two calculation, the formula still does not accurately reflect the amount of revenue school districts are able to generate for their local match, nor does it reflect the actual cost of construction in New Mexico. A recent increase in waiver requests may further suggest that the formula is not working as intended. Staff urged PSCOOTF to envision what the “ideal system” for school facility funding should look like, then adjust the formula to reflect that ideal system.

SOURCES OF INFORMATION

- LESC Files