

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill No: FL/SB 146

48th Legislature, 2nd Session, 2008

Short Title: Public School Capital Outlay Omnibus Bill

Sponsor(s): Senators Cynthia Nava and Mary Jane M. García

Analyst: Peter van Moorsel

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SENATE FLOOR SUBSTITUTE FOR SENATE BILL 146

Bill Summary:

FL/SB 146 contains some of the recommendations of the Public School Capital Outlay Oversight Task Force (PSCOOTF) resulting from their annual review of the standards-based process for making grants to public schools for capital improvements; and the task force's oversight of the efforts of the Public School Capital Outlay Council (PSCOC) to bring public school facilities throughout the state up to an acceptable level. Substantive provisions are detailed in the following sections:

FL/SB 146 amends the *Public School Capital Outlay Act* to:

- allow the Public School Facilities Authority (PSFA) to make payments to agencies such as the Construction Industries Division and the State Fire Marshall's Office or the appropriate local authorities for the costs associated with permitting and inspecting projects funded in whole or in part by the PSCOC to be made before such inspections take place (**Section 1**);
- provide for a reduction of the offset to a PSCOC grant award resulting from a direct legislative capital outlay appropriation if the direct appropriation has been made after January 1, 2008 for a capital project that will be jointly used by the school district and another governmental entity. The PSCOC may reduce the total amount subject to the offset based upon the proportionate use of the facility by the other governmental entity (**Section 2**). (Current law requires the PSCOC to reduce any grant amounts awarded to a school district by a percentage (equal to each school district's local match percentage for PSCOC award funding) of all direct non-operational legislative appropriations for schools in that district that have been accepted, including educational technology and reauthorizations of previous appropriations);
- authorize the PSCOC to increase the amount of a grant award by 5.0 percent, after required reductions, if the council finds that the district has been exemplary in implementing and maintaining a preventative maintenance program (**Section 2**); and
- remove the "State Investment Officer or the State Investment Officer's designee" from the list of members of the PSCOOTF (**Section 5**).

FL/SB 146 also creates a new section of the *Public School Capital Outlay Act* to require that districts that receive a grant award from the Public School Capital Outlay Fund and meet certain criteria receive an additional grant that is intended for school districts that are otherwise unable to generate the funds needed to fund a facility above adequacy (**Section 4**). Before awarding the additional grants, the PSCOC must determine that the districts meet the following criteria:

- the school district has a demonstrated history of providing support to its schools with all available resources;
- the state share for existing grants is 70 percent or greater;
- the school district has a total aggregate residential (property) tax rate of at least nine mills, when averaged over the previous four property tax years;
- at least 70 percent of the students in the district are eligible for free or reduced-fee lunch;
- the school district does not have sufficient resources to expend on the project so it is unlikely that the school district will be able to provide its students with more than the bare minimum;
- the political subdivision in which the school district is located does not have adequate infrastructure to compensate for the school district's lack of resources; and
- the planned use of the additional grant will enhance public school education within the district, will further the school district's educational plan for student success, and is considered a prudent use of state money.

The amount of the additional grant will be the total project cost multiplied by the lesser of:

- the state share for public school capital outlay projects minus six-tenths; or
- 25 percent. (Pursuant to the eligibility criteria for additional grants, the amount of the additional awards can range between 10 percent and 25 percent of total project cost.)

According to the Legislative Council Service (LCS), under the current eligibility criteria, the following 10 school districts would qualify for the additional grants:

- Cuba Independent Schools;
- Gadsden Independent Schools;
- Gallup-McKinley County Public Schools;
- Grants-Cibola County Schools;
- Hagerman Municipal Schools;
- Hatch Valley Public Schools;
- Tucumcari Public Schools;
- Tularosa Municipal Schools;
- West Las Vegas Public Schools; and
- Zuni Public Schools.

Fiscal Impact:

FL/SB 146 reauthorizes the expenditure of the FY 07 appropriation of \$2.5 million from the Public School Capital Outlay Fund to the PSFA through FY 09. The appropriation is to continue to develop and implement the Facilities Information Management System (FIMS) in public school districts (**Section 6**).

FL/SB 146 also appropriates \$3.0 million from the Public School Capital Outlay Fund to the New School Development Fund for expenditure in FY 09 and subsequent fiscal years for the purpose of making distributions to school districts to pay for equipment and other costs unique to

the first year of operation of new schools (**Section 7**). (The appropriation from the Public School Capital Outlay Fund to the New School Development Fund would reduce the funds available for standards-based awards for capital outlay projects statewide.)

Issues:

Preventative Maintenance Program (Section 3)

- The PSCOOTF, the PSCOC, and the PSFA have discussed the importance of district master planning and maintenance as a means of safeguarding the state's capital investment, and of increasing the life-span of the facilities that the Legislature has funded. A major tool in improving facility maintenance is the FIMS, which allows school districts to track utility usage and schedule preventative maintenance.
- The PSFA ranks all public schools in the state based on the condition of these schools' facilities; and the PSCOC makes standards-based awards for capital projects based on these rankings. According to the PSFA, many districts have improved their maintenance programs, thus extending the service life of their building systems and equipment through the use of school facility preventive maintenance; and in some cases, district investment in the improvement of the district's facilities has resulted in a lower New Mexico Conditions Index (NMCI) ranking for those facilities, which would delay their eligibility for standards-based capital outlay funding.
- PSFA reports that to promote continued district maintenance program improvements, districts that significantly extend the service life of their building systems, as measured in the state's Facility Assessment Database (FAD) and verified through facility inspections, would earn a larger state match when their school buildings eventually become eligible for standards-based capital funding. The amount of the adjustment, not to exceed 5.0 percent, would be based on the number of years that the life of the combined building systems had been extended.

Joint Use of Public School Facilities (Section 3)

- During the 2007 interim, the PSCOOTF discussed the benefit of joint use of public school facilities by the school district and municipal and county governments. The PSFA states that by agreeing to share playing fields, libraries, classrooms, community centers, many of the social and recreational needs of the community can be met without duplication. The PSFA also notes the potential economies of scale faced by both the district and its community by combining resources. According to the PSFA, the joint use of public facilities can be particularly beneficial to smaller and rural communities, where local governments do not have the resources to construct separate community centers. The PSFA analysis of FL/SB 146 identifies several school districts that have partnered with others to maintain, construct, or share spaces, including the following examples:
 - Floyd Municipal Schools, Grady Municipal Schools, and San Jon Municipal Schools all allow public use of their school gyms;
 - Zuni Public Schools allow public use of their school swimming pool;
 - Santa Fe Public School opens school gyms to city recreational basketball leagues; and
 - Hagerman Municipal Schools has a joint-use agreement with the town of Hagerman for the public to use classroom space, gym, and sports fields.

Related Bills:

HB 19 *Insurance for Private Use of Public Schools*

HB 117 *Charter School Authority Transfers*

HB 173 *Public Works Subcontractor Bonding*