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FISCAL IMPACT REPORT

ORIGINAL DATE 02/19/09
LAST UPDATED 03/19/09 **HB** 464/aHEC

SPONSOR Giannini

SHORT TITLE School Capital Outlay Administrative Limits **SB** _____

ANALYST Aguilar

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Indeterminate See Fiscal Implications			Recurring	School District HB-33 Levy Revenues

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB-463

SOURCES OF INFORMATION

LFC Files

Responses Received From

- Public Education Department (PED)
- Public School Facilities Authority (PSFA)
- Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HEC amendment

The House Education Committee amendment to House Bill 464 increases the 5 percent cap on the use of Public School Buildings Act (HB-33) tax revenues that can be expended for administrative costs to 10 percent for projects funded from HB-33 revenues and expands the uses of these funds to pay for the administrative costs of projects funded from the Public School Capital Improvements Act (SB-9) and school districts' general obligation bonds.

FISCAL IMPLICATIONS

Current statute relating to the use of SB-9 funding does not provide for the use of those funds to pay for salaries of school district personnel and the statute relating to general obligation bonds for school districts is silent on the use of general obligation bond proceeds for administrative employee salaries although some governmental agencies have determined that this is an appropriate use of these proceeds for a limited number of administrative oversight staff.

The provisions contained in the HEC amendment will allow school districts to use more of their HB-33 for project administrative purposes, including administration of projects funded with SB-9 and school district general obligation bonds. It appears that by allowing these uses the amount of HB-33 funding available for actual projects could be reduced by the amount school districts choose to pay for the administrative costs of the portion of projects funded with local general obligation bond proceeds.

SIGNIFICANT ISSUES

PED notes that HB-464 as amended provides for an expansion of the uses for funds generated from an HB-33 election including uses other than HB-33. It is unclear if the uses of a tax levy approved by voters for specific uses can be changed without the approval of the voters.

Currently funds from the Public School Buildings Act may only be expended for school district administrative costs for those personnel specifically related to a project funded from the Act and is capped at 5 percent of the total project cost. It appears that enacting this bill will allow a school district with an approved HB-33 to use up to 10 percent of the tax proceeds for administrative costs for all projects related to funds generated through local general obligation bonds, capital improvement funds and HB-33 funds. It is important to note that salaries of district personnel are recurring costs paid from non-recurring revenues unless approved by the voters in the future.

PED notes that funds generated from an HB-33 election are collected through ad valorem taxes. There are no state matching funds for school districts imposing an HB-33. Therefore, all the funds generated are local funds. Below is a list of all the schools with a current HB-33 election:

DISTRICTS	SUCCESSFUL ELECTION DATE	MILLS
Public School Buildings Act (HB-33)		
ALBUQUERQUE *	2/1/2005	3.874
ALBUQUERQUE *		4.344
ARTESIA **	2/1/2005	5.000
CARLSBAD	2/1/2005	2.000
CIMARRON	4/11/2006	3.000
DULCE	3/25/2008	4.000
EUNICE	2/1/2005	2.000
HOBBS	2/3/2004	4.000
LAS CRUCES	4/1/2008	3.000
LOS ALAMOS	6/17/2005	3.246
LOS LUNAS	2/6/2007	3.000
LOVINGTON	2/1/2005	2.000
SANTA FE	2/3/2004	1.500

Synopsis of Original Bill

House Bill 464 amends the Public School Buildings Act (HB-33) clarifying the definition of allowable administrative expenditures for projects funded in whole or in part by HB-33 funds, the Public School Capital Improvements Act (SB-9), or by school district general obligation bonds. The administering of projects would mean any activity necessary or appropriate to the management, oversight, or direction of such projects on behalf of the school district, regardless of whether the activity can be attributed to any specific project.

The bill also eliminates the five percent cap on project administrative expenses.

FISCAL IMPLICATIONS

According to the February 2009 revenue estimate, FY10 recurring revenue will only support a base expenditure level that is \$575 million less than the FY09 appropriations before the 2009 solvency reductions. All appropriations outside of the general appropriation act will be viewed in this declining revenue context.

SIGNIFICANT ISSUES

Many districts claim to be struggling with meeting operational costs and are looking for ways to tap other sources of revenue. It would probably be unwise to divert funding away from the actual maintenance of building since deferring maintenance has been identified in a number of studies and by PSFA as the most critical factor behind the atrocious condition of school buildings statewide prior to beginning of the PSCOC standards based awards and construction process.

Currently funds from the Public School Buildings Act may only be expended for school district administrative costs for those personnel specifically related to a project funded from the Act and is capped at 5 percent of the total project cost. Essentially, enacting this bill will allow a school district with an approved HB-33 to use an unlimited amount of the tax proceeds for administrative costs for all projects related to funds generated through local general obligation bonds, capital improvement funds SB-9 and HB-33 funds. It is important to note that salaries of district personnel are recurring costs paid from non-recurring revenues unless approved by the voters in the future.

This could have significant ramifications to districts that choose to prioritize personnel funding over implementing good maintenance practices. This could lead to premature deterioration of school buildings increasing the total need for constructions, renovation and replacement statewide.

Larger districts typically have a centralized staff to conduct and oversee the administration of their construction and major repair and renovation projects. For example, Albuquerque Public Schools has a staff dedicated to overseeing facility project construction using HB-33, SB-9 and GO bond funds. They have historically paid the salaries of project administration staff via HB-33 funds, but have recently been subject to audit findings that challenged this procedure. It is unreasonable for Albuquerque or any other district to track centralized administrative expenditures by individual project funds.

TECHNICAL ISSUES

Inclusion of “the Public School Capital Improvements Act or by school district general obligation bonds” to the sources of funds allowed to be charged project administrative expenses could be inappropriate and will probably require similar provisions to be made to those specific sections of statute.

PA/mc:mt:svb