

CERTIFICATION OF ENROLLMENT

SECOND ENGROSSED SUBSTITUTE SENATE BILL 6080

Chapter 41, Laws of 2015

64th Legislature
2015 3rd Special Session

K-12 FACILITIES FINANCING--ALL-DAY KINDERGARTEN--K-3 CLASS SIZE
REDUCTION

EFFECTIVE DATE: 7/14/2015

Passed by the Senate June 30, 2015
Yeas 44 Nays 1

BRAD OWEN

President of the Senate

Passed by the House June 30, 2015
Yeas 98 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Approved July 14, 2015 3:37 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Pablo G. Campos, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND ENGROSSED SUBSTITUTE SENATE BILL 6080** as passed by Senate and the House of Representatives on the dates hereon set forth.

PABLO G. CAMPOS

Deputy Secretary

FILED

July 14, 2015

**Secretary of State
State of Washington**

SECOND ENGROSSED SUBSTITUTE SENATE BILL 6080

Passed Legislature - 2015 3rd Special Session

State of Washington

64th Legislature

2015 Regular Session

By Senate Ways & Means (originally sponsored by Senators Dammeier, Keiser, Honeyford, Conway, and Pedersen)

READ FIRST TIME 04/10/15.

1 AN ACT Relating to financing public school facilities necessary
2 to support state-funded all-day kindergarten and class size reduction
3 in kindergarten through third grade; adding a new section to chapter
4 28A.525 RCW; creating new sections; providing an expiration date; and
5 declaring an emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **PART 1: Findings and Intent**

8 NEW SECTION. **Sec. 101.** (1) The legislature finds that local
9 school districts design, build, own, and manage public school
10 facilities. The Washington state Constitution provides two ways to
11 fund construction of public school facilities. First, the state
12 Constitution provides the means for school districts to finance
13 school construction. Article VII, section 2 of the state Constitution
14 authorizes school districts to collect capital levies to support the
15 construction, remodeling, or modernization of school facilities. In
16 addition, Article VIII, section 6 of the state Constitution
17 authorizes school districts to incur debt up to eleven and one-half
18 percent of the total assessed value of taxable property for school
19 construction and Article VII, section 2 of the state Constitution
20 authorizes school districts to pay for this debt by issuing general

1 obligation bonds for these capital purposes. Second, Article IX,
2 section 3 of the state Constitution establishes the common school
3 construction fund and dedicates revenues derived from school and
4 state trust lands and earnings of the permanent common school fund to
5 funding common school construction. Beyond these constitutional
6 means, the legislature provides further state assistance to school
7 districts through the issuance of general obligation bonds, the
8 proceeds of which the state appropriates to support the state school
9 construction assistance grant program established in chapter 28A.525
10 RCW. This state grant program is not intended to replace the
11 financing provisions established in the state Constitution, but
12 rather to provide state assistance that supplements the
13 constitutional financing provisions. The state grant program helps
14 finance new school capacity to accommodate enrollment growth and to
15 modernize and replace existing schools while respecting local
16 decisions and control by locally elected school boards.

17 (2) The legislature also finds that some school districts may
18 benefit from additional financial assistance to provide school
19 facilities—beyond that which is provided through the school
20 construction assistance grant program—for the purpose of constructing
21 or acquiring additional classrooms to support state-funded all-day
22 kindergarten and class size reduction in kindergarten through third
23 grade.

24 (3) For the 2015-2017 biennium, the legislature intends to
25 provide additional state financial assistance to help school
26 districts in funding public school facilities necessary to support
27 state-funded all-day kindergarten and class size reduction in
28 kindergarten through third grade.

29 **PART 2: K-3 Class Size Reduction Construction Grant Pilot Program**

30 NEW SECTION. **Sec. 201.** A new section is added to chapter
31 28A.525 RCW to read as follows:

32 (1) The K-3 class size reduction construction grant pilot program
33 must be administered by the office of the superintendent of public
34 instruction within the provisions of this section. Grants must be
35 calculated and awarded based on the following four steps:

36 (a) Step 1: A verified count of necessary added classrooms in a
37 district applying for a grant must be completed by the district and
38 verified by the Washington State University extension energy office.

1 The count of necessary added classrooms must be calculated in
2 accordance with the following requirements:

3 (i) An inventory of all classrooms in all elementary schools in
4 the district applying for the grant must be completed.

5 (ii) For purposes of this section, elementary school is any
6 district school facility containing students in kindergarten through
7 fifth grade or sixth grade. All classrooms include any room in an
8 elementary school in a permanent or portable structure that is in use
9 as a classroom or that could be used as a classroom if one of the
10 following conditions are met:

11 (A) A classroom in a permanent building was designed as a
12 classroom at the time the school was constructed or was subsequently
13 added as part of a modernization or renovation.

14 (B) A classroom in a portable building meets the building code
15 requirements for use as a classroom without requiring repairs or
16 renovations that exceed fifty thousand dollars.

17 The count of all district classrooms must also include all
18 planned elementary school classrooms in projects approved at the "D6"
19 stage or later of the school construction assistance program. This
20 inventory of classrooms must be entered in the inventory and
21 condition of school system maintained by the office of the
22 superintendent of public instruction.

23 (iii) A count of available classrooms in each elementary school
24 in a district must be completed. Available classrooms include all
25 classrooms inventoried in (a)(i) of this subsection minus:

26 (A) Classrooms in elementary schools that are regularly used for
27 students in grades seventh or higher;

28 (B) Classrooms in elementary schools that are regularly used for
29 prekindergarten students participating in special education programs;

30 (C) Classrooms in elementary schools that are regularly used for
31 prekindergarten students not participating in special education
32 programs if such use started prior to the effective date of this
33 section;

34 (D) Seventy-five percent of classrooms in elementary schools that
35 are regularly used for kindergarten through sixth grade students
36 participating in special education programs;

37 (E) Fifty percent of classrooms in elementary schools that are
38 regularly used for students in gifted and talented education;

1 (F) Fifty percent of classrooms in elementary schools that are
2 regularly used for laboratory space, music, or art if such regular
3 use exceeds fifty percent of school hours in the average week.

4 (iv) A calculation of needed classrooms must be completed. The
5 number of needed classrooms is calculated by dividing the number of
6 students in each grade in the most recent final October head count by
7 the average class size objectives for the 2017-18 school year
8 enumerated in RCW 28A.150.260 in effect as of October 31, 2014.
9 Students residing outside the school district who are enrolled in
10 alternative learning experience courses under RCW 28A.232.010 must be
11 excluded from the count of total pupils. In lieu of the exclusion in
12 this subsection, a district may submit an alternative calculation for
13 excluding students enrolled in alternative learning experience
14 courses. The alternative calculation must show the student head count
15 use of district classroom facilities on a regular basis for a
16 reasonable duration by out-of-district alternative learning
17 experience students subtracted by the head count of in-district
18 alternative learning experience students not using district classroom
19 facilities on a regular basis for a reasonable duration. The
20 alternative calculation must be submitted in a form approved by the
21 office of the superintendent of public instruction. The office of the
22 superintendent of public instruction must develop rules to define
23 "regular basis" and "reasonable duration." If the calculation of
24 needed classrooms for fourth and fifth grade students using the
25 average class size ratios in RCW 28A.150.260 is less than the actual
26 number of classrooms regularly used for fourth and fifth grade
27 students, the actual number of fourth and fifth grade classrooms may
28 be used to calculate the total needed classrooms.

29 (v) A calculation of necessary added classrooms must be completed
30 for each school district applying for a grant. Necessary added
31 classrooms are calculated by subtracting the available school
32 district classrooms from the school district needed classrooms.

33 (b) Step 2: A determination must be made whether the number of
34 necessary added classrooms is sufficient to justify constructing a
35 new school or modernizing a previously closed school, or whether the
36 number of necessary added classrooms can be provided with the
37 addition of modular classrooms or increasing the number of classrooms
38 in a planned school approved at the "D6" stage of the school
39 construction assistance program.

1 (i) If the number of necessary added classrooms is twelve or
2 greater, the presumption is a new school is required. For this
3 purpose a new school means a newly constructed school, an addition of
4 twelve or more classrooms to an existing school, or modernization of
5 a previously closed school. A school district may choose to locate
6 any necessary added classrooms among existing school facilities.

7 (ii) If the number of necessary added classrooms is less than
8 twelve, the presumption is the added classrooms can be provided with
9 the addition of modular classrooms or by increasing the number of
10 classrooms in a planned school approved at the "D6" stage of the
11 school construction assistance program. A school district may choose
12 to provide necessary added classrooms with modular classrooms or
13 construct new classrooms or modernize existing school buildings to
14 create additional classrooms.

15 (c) Step 3: A calculation of the grant amount a school district
16 is eligible for must be determined.

17 (i) Grants for necessary added classrooms that can be provided
18 with the addition of modular classrooms must not exceed two hundred
19 ten thousand dollars multiplied by the number of necessary added
20 classrooms multiplied by the state matching ratio defined in (c)(iii)
21 of this subsection.

22 (ii) Grants for necessary added classrooms that must be provided
23 with a new school or modernization of an existing school building
24 must not exceed six hundred fifteen thousand eighty-three dollars
25 multiplied by the number of necessary added classrooms multiplied by
26 the state matching ratio defined in (c)(iii) of this subsection.

27 (iii) The state matching ratio for use in this section only is
28 the computed state ratio defined in RCW 28A.525.166 plus twenty
29 percent of the percent of district head count eligible and enrolled
30 in the free and reduced school lunch program.

31 (iv) Grants may not exceed the total project cost for providing
32 the necessary added classrooms multiplied by the state matching ratio
33 defined in (c)(iii) of this subsection.

34 (v) The amounts in (c)(i) and (ii) of this subsection must be
35 increased for the fiscal year of the grant award by the same
36 percentage increase as the school construction assistance program
37 construction cost allocation is increased from fiscal year 2014 as
38 authorized in the omnibus capital appropriations act.

39 (d) Step 4: Grant funds must be awarded and disbursed in
40 accordance with the following requirements:

1 (i) A determination that the school district is ready to begin
2 the project or projects to provide the necessary added classrooms
3 must be made. To be determined ready, a district must:

4 (A) Have had classrooms inventoried in (a)(i) of this subsection;

5 (B) Certify that the required local funds are authorized to
6 complete the project;

7 (C) Have an available site or sites for the project; and

8 (D) Demonstrate that additional classrooms will achieve progress
9 towards the average class size objectives for the 2017-18 school year
10 enumerated in RCW 28A.150.260 in effect as of October 31, 2014, and
11 all-day kindergarten as funded pursuant to RCW 28A.150.315.

12 (ii) The office of financial management must approve allotments
13 prior to issuing grant award letters. The office of the
14 superintendent of public instruction must submit documentation to the
15 office of financial management to justify the project grant award,
16 including steps taken to verify counts and calculations, in
17 requesting allotment approval.

18 (iii) Grant funds may be disbursed only after the required local
19 match has been fully expended.

20 (2) If grant applications for the K-3 class size reduction
21 construction grant pilot program exceed available funding, the office
22 of the superintendent of public instruction must prioritize grant
23 awards based on the following criteria in the following order of
24 importance:

25 (a) Applicants with high necessary added classrooms to available
26 classrooms ratio in kindergarten through third grades;

27 (b) Applicants with high student to teacher ratios in
28 kindergarten through third grades;

29 (c) Applicants with high percentages of students who are eligible
30 and enrolled in the free and reduced-price meals program; and

31 (d) Applicants that have not raised capital funds through levies
32 or bonds in the prior ten-year period.

33 (3) The superintendent of public instruction must report annually
34 on the grants awarded and school district applicants. The report must
35 include (a) grant amounts and the status of all awarded grants by
36 school district; (b) data documenting actual class size reductions
37 and all-day kindergarten achieved in school districts that have
38 received grants provided under this section; (c) a list of school
39 districts that applied for grants during the current and previous
40 fiscal years with estimates of necessary added classrooms; and (d)

1 any other information relevant to the pilot program. Beginning in
2 2015, the report must be submitted to the office of financial
3 management and the appropriate committees of the legislature by
4 December 1st.

5 (4) This section expires July 1, 2017.

6 **PART 3: Development of K-3 Class Size Reduction Construction Grant**
7 **Program**

8 NEW SECTION. **Sec. 301.** (1) The legislature recognizes that the
9 provisions of the K-3 class size reduction construction grant pilot
10 program will need modifications to (a) ensure that the grant program
11 will meet the program's objectives for all school districts needing
12 additional classrooms, and (b) identify changes to the school
13 construction assistance program to improve appropriate coordination
14 between the two grant programs.

15 (2) In consultation with stakeholders, the office of financial
16 management, and the appropriate committees of the legislature, the
17 superintendent of public instruction shall develop (a) an improved
18 method for calculating needed classrooms, and (b) an improved funding
19 formula for calculating grant awards to meet the objectives of this
20 section and section 201 of this act. The classroom counting method
21 and funding formula must be informed by data collected in state
22 studies and surveys or through inventory and condition assessments
23 conducted by the Washington State University extension energy office.
24 The improved classroom counting method and improved funding formula,
25 and any other requirements of this section, must be reported to the
26 office of financial management and the appropriate committees of the
27 legislature by December 1, 2015.

28 (3)(a) The improved classroom counting method must:

29 (i) Demonstrate a lack of sufficient classroom space district-
30 wide to meet K-3 class size ratios as funded pursuant to average
31 class size objectives for the 2017-18 school year enumerated in RCW
32 28A.150.260 in effect as of October 31, 2014, and to provide all-day
33 kindergarten as funded pursuant to RCW 28A.150.315. The determination
34 that there is a lack of sufficient space must be based on data
35 collected in a state study and survey conducted within the preceding
36 six years from the date of grant application or data collected
37 through an inventory and condition assessment validated by the

1 Washington State University extension energy office within the
2 preceding six years from the date of grant application;

3 (ii) For school districts with student headcount enrollments more
4 than forty-eight thousand, the improved classroom counting method
5 must demonstrate a lack of sufficient classroom space within
6 subdistrict areas in order to account for rapid growth in certain
7 areas of a district that should be met with classroom capacity in
8 those certain areas to avoid prolonged bussing of elementary
9 students.

10 (b) The improved classroom counting method must be designed to
11 ensure that additional classrooms will achieve average class size
12 objectives for the 2017-18 school year enumerated in RCW 28A.150.260
13 in effect as of October 31, 2014, and all-day kindergarten as funded
14 pursuant to RCW 28A.150.315.

15 (4)(a) In consultation with stakeholders, the office of financial
16 management, and the appropriate committees of the legislature, the
17 superintendent of public instruction must also recommend a process
18 for prioritizing grant applications. The prioritization process must
19 produce one prioritized list of grant recipients that includes all of
20 the projects requested by school districts, and report the list,
21 including preliminary estimates of necessary added classrooms, to the
22 office of financial management and the appropriate committees of the
23 legislature.

24 (b) The prioritized list must consider the following priorities:

25 (i) Applicants with high student to teacher ratios in
26 kindergarten through third grades;

27 (ii) Applicants with a high percentage of students who are
28 eligible and enrolled in the free and reduced-price meals program;

29 (iii) Applicants that have not raised capital funds through
30 levies or bonds in the prior ten-year period;

31 (iv) Other criteria that relate to the objectives of the grant
32 program.

33 (5) The improved funding formula must consider options for
34 enhanced state funding for school districts that have not raised
35 capital funds through levies or bonds in the prior ten-year period.

36 (6) In consultation with stakeholders, the office of financial
37 management, and the appropriate committees of the legislature, the
38 office of the superintendent of public instruction must recommend
39 statutory and rule changes to ensure appropriate coordination between
40 the K-3 class size reduction construction grant program and the

1 school construction assistance program. The recommendation must
2 include ways to ensure that new square footage funded through this
3 grant program does not impair a school district's eligibility for
4 modernization or replacement grants through the school construction
5 assistance program eligibility under RCW 28A.525.166.

6 (7) In consultation with stakeholders, the office of financial
7 management, and the appropriate committees of the legislature, the
8 superintendent of public instruction must recommend the content and
9 method for reporting annually on the grants awarded during each
10 fiscal year. The report must include, at least, the grant amounts and
11 the status of all awarded grants by school district. The annual
12 report must also include data documenting actual class size
13 reductions and all-day kindergarten achieved in school districts that
14 have received grants provided under this section. Beginning in 2016,
15 the report must be submitted to the office of financial management
16 and the appropriate committees of the legislature by October 1st for
17 the preceding fiscal year and made available to the public on a web
18 site maintained by the superintendent of public instruction.

19 (8) In consultation with stakeholders, the office of financial
20 management, and the appropriate committees of the legislature, the
21 superintendent of public instruction must recommend statutory and
22 rule changes for awarding grants for construction, modernization, or
23 replacement of school facilities with an expected useful life of less
24 than thirty years.

25 **PART 4: Miscellaneous**

26 NEW SECTION. **Sec. 401.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

30 NEW SECTION. **Sec. 402.** If specific funding for the purposes of
31 section 201 of this act, referencing section 201 of this act by bill
32 or chapter number and section number, is not provided by July 15,
33 2015, in the omnibus capital appropriations act, section 201 of this
34 act is null and void.

35 NEW SECTION. **Sec. 403.** This act is necessary for the immediate
36 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes
2 effect immediately.

Passed by the Senate June 30, 2015.

Passed by the House June 30, 2015.

Approved by the Governor July 14, 2015.

Filed in Office of Secretary of State July 14, 2015.