



John Rau

Bill Analysis

Legislative Service Commission

H.B. 631*

123rd General Assembly
(As Introduced)

Reps. Carey, Hoops

BILL SUMMARY

- Permits any school district that is not expected to receive assistance under the Classroom Facilities Assistance Program within two years to participate in the School Building Assistance Expedited Local Partnership Program.
- Makes various procedural changes and clarifications to the School Building Assistance Expedited Local Partnership Program.
- Codifies the Exceptional Needs School Facilities Assistance Program and authorizes the Ohio School Facilities Commission to set aside up to 20% of classroom facilities assistance moneys for that purpose.
- Creates a program to provide classroom facilities assistance moneys to joint vocational school districts.
- Creates a program to provide classroom facilities assistance moneys to school districts that have suffered natural disasters.
- Creates a program to provide accelerated service to Big-Eight school districts under the Classroom Facilities Assistance Program.
- Permits Big-Eight school districts receiving accelerated classroom facilities assistance to segment their projects and to seek voter approval for each segment separately.

* *This analysis was prepared before introduction of the bill appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

- Authorizes school districts to choose to use additional sources of money in raising their respective shares of classroom facilities assistance projects in order to reduce the amount of bonds they otherwise must issue.
- Lengthens from ten years to 20 years the waiting period for previously served school districts to re-qualify for state classroom facilities assistance, but makes exceptions for (1) districts with "exceptional" enrollment growth "significantly" beyond the design capacity of the district's previous project and (2) districts served before May 20, 1997, whose percentile ranks later became eligible for state assistance.
- Makes other changes to the Classroom Facilities Assistance Program.

TABLE OF CONTENTS

Background	3
Overview of Classroom Facilities Assistance Program	3
Calculation of the wealth of a district	4
District share	4
Elimination of the requirement that school districts with adjusted valuations per pupil above the statewide median make payments to the state.....	5
Maximum school district share.....	6
Options for raising the school district share.....	6
Use of existing taxes to leverage bonds in lieu of bond issue and taxes otherwise required	6
Donated local contribution	6
Waiting period for additional classroom facilities assistance	7
Exception for school districts served under former law whose percentile ranks become eligible to be served under current program.....	7
Exception for growing districts.....	8
Changes in the Expedited Local Partnership Program.....	8
Background	8
The bill.....	9
Accelerated Urban School Building Assistance Program	10
School Building Emergency Assistance Program.....	11
Codification of the Exceptional Needs School Facilities Assistance Program	12
Joint Vocational School District Facilities Assistance Program	13

CONTENT AND OPERATION

Background

Overview of Classroom Facilities Assistance Program

Under the Classroom Facilities Assistance Program, the state pays part of the costs of constructing classroom facilities for school districts.¹ Administered by the Ohio School Facilities Commission, the program is a graduated cost sharing program where the state and school district shares are based on the relative wealth of the district. Under this program, the poorest districts are served first and receive a greater amount of state assistance than the wealthier districts will receive when it is their turn to be served. A qualifying school district is responsible for paying its portion of the project with its own bond issue and an accompanying property tax levy to pay the annual service charges on those bonds.

In addition, a school district must levy a separate half-mill property tax for up to 23 years to pay for maintenance on the facilities constructed. However, the law also permits a school district board that has in place a continuing levy for on-going permanent improvements of at least two mills (where the proceeds may be used for maintenance) to earmark from the proceeds of that ongoing levy an amount the equivalent of the half-mill additional levy as a substitute for that levy.²

Release of the state's share of the project cost is subject to Controlling Board approval. The state's share of these cost-sharing projects is funded either with cash or with bonds issued by the state treasurer. The annual debt service on the state-issued bonds has been largely paid with lottery profits.³

¹ Under existing law, the term "classroom facilities" is defined as "rooms in which pupils regularly assemble in public school buildings to receive instruction and education and such facilities and building improvements for the operation and use of such rooms as may be needed in order to provide a complete educational program, and may include space within which a child day-care facility or a community resource center is housed" (R.C. 3318.01(B)).

² Under current law, changed by the bill, if a school district has an adjusted valuation per pupil above the statewide median, the proceeds from the district's half-mill tax must be divided evenly between maintenance of the facilities and payments to the state (R.C. 3318.05 and 3318.06).

³ The Ohio Constitution earmarks all the lottery profits for the support of elementary, secondary, vocational, and special education subject to appropriations of the General Assembly. The statute implementing this provision provides that the first \$10 million of

Calculation of the wealth of a district

The Department of Education is required to annually calculate the adjusted valuation per pupil of each district, rank order each district from lowest to highest, and divide the districts into percentiles. The Department must also annually calculate the *three-year average* adjusted valuation per pupil of each district and rank order the districts into percentiles based on those figures. The Department is then required to report these calculations to the Ohio School Facilities Commission. The Commission is required to use the *three-year average* adjusted valuation per pupil figures and resulting percentile ranks to determine a district's eligibility for assistance.

District share

A district's share of the basic project cost is the *greater* of two figures, both based on the wealth of the district. The district's share is either:

(1) An amount that increases the "net bonded indebtedness" of the school district to within \$5,000 of its "required level of indebtedness."⁴ The required level of indebtedness for districts in the first percentile is 5% of valuation. For

lottery profits be devoted to school building assistance bond service. (R.C. 3770.06, not in the bill.) The General Assembly annually has also appropriated additional funds both from lottery profits and the GRF to pay the annual service on state-issued bonds for classroom assistance.

⁴ *The law defines the "net bonded indebtedness" of a school district as the difference between:*

(1) The sum of the par value of all outstanding and unpaid bonds and notes of the district, any amounts the district is obligated to pay under a lease-purchase agreement under Revised Code section 3313.375 (not in the bill), and the par value of bonds authorized by district voters but not yet issued and which may be used for the classroom facilities project; and

(2) The amount held in the sinking fund and other indebtedness retirement funds of the district.

However, (1) notes issued for the purchase of school buses, (2) notes issued in anticipation of the collection of current revenues, (3) bonds issued to pay final judgments, and (4) indebtedness arising from the acquisition of a site for classroom facilities project are not included in the calculation of "net bonded indebtedness." (R.C. 3318.01(F), not in the bill.)

districts in a subsequent percentile, the required level of indebtedness is calculated under the following formula:

$$.05 + .0002[(\text{the percentile in which the district is ranked}) - 1].^5$$

(2) An amount equal to the district's "required percentage of the basic project cost." The required percentage of the basic project cost is calculated under the following formula:

$$.01(\text{the percentile in which the district is ranked}).^6$$

The law further provides that the district's share of the project cost (based on either the district's existing net bonded indebtedness or its required percentage as described above) will be frozen for one year from the date that the Controlling Board approves the project. Thus, if there is any change in the district's wealth pending voter approval of the district bond issue and tax levies within that year's time, these changes will not affect the district's share.

Elimination of the requirement that school districts with adjusted valuations per pupil above the statewide median make payments to the state

(R.C. 3318.05, 3318.06, 3318.08, 3318.13, 3318.14, and 3318.15; repealed R.C. 3318.18; Section 5)

As noted above, under the Classroom Facilities Assistance Program all school districts must levy a one-half mill property tax for maintenance or must earmark its equivalent from the proceeds of an existing ongoing permanent improvement levy. Current law also provides that in any year that a school district's adjusted valuation per pupil is above the statewide median the district must pay one-half of the proceeds from the half-mill tax (that is, one-quarter mill of the district's taxable value) to the state. The bill eliminates this latter requirement providing instead that *all* of the half-mill tax or its equivalent must be

⁵ For instance, the required level of indebtedness for a district in the 11th percentile would be 5.2% (or $.05 + .0002(10) = .052$); the required level of indebtedness for a district in the 50th percentile would be 5.98% (or $.05 + .0002(49) = .0598$); and the required level of indebtedness for a district in the 100th percentile would be 6.98% (or $.05 + .0002(99) = .0698$).

⁶ For instance, the required percentage of the project costs for a district in the 11th percentile would be 11% (or $.01(11) = .11$); the required percentage of the project costs for a district in the 50th percentile would be 50% (or $.01(50) = .50$); and the required percentage of the project costs for a district in the 100th percentile would be 100% (or $.01(100) = 1.00$).

placed in a separate fund to be used for maintenance of the classroom facilities built or renovated under the district's project.

Maximum school district share

(R.C. 3318.032)

Under current law, it is possible that the wealthiest school districts may pay the entire cost of a project under the Classroom Facilities Assistance Program. The bill specifies that a school district's share of a project may not exceed 95% of the total basic project cost.

Options for raising the school district share

Use of existing taxes to leverage bonds in lieu of bond issue and taxes otherwise required

(R.C. 133.06, 3318.052, 3318.06, and 3318.08)

The bill permits a school district board at its option to apply the proceeds of either an existing property tax that is levied for general ongoing permanent improvements or an existing income tax or a combination of such proceeds to leverage bonds in an amount equivalent to "all or part of" the bond issue and tax levies otherwise required for participation in the Classroom Facilities Assistance Program. The earmarking of such tax proceeds for that purpose may be done without voter approval as long as the proceeds may lawfully be used for general classroom facilities acquisition and maintenance.

Donated local contribution

(R.C. 3318.084)

The bill permits a school district board to apply any local donated contribution toward the district's share of the basic project cost and thus reduce the amount of bonds the district otherwise must issue under the Classroom Facilities Assistance Program. Under the bill, "local donated contribution" means money irrevocably donated or granted to the district by some source other than the state or any cash the district has on hand, which may include year-end operating balances. Any local donated contribution must be placed in the school district's project construction fund. The application of cash or operating fund balances must be approved by the Ohio School Facilities Commission in consultation with the Department of Education.

Waiting period for additional classroom facilities assistance

(R.C. 3318.04(B))

Under current law, a project is disqualified for state funding if both (1) the project includes the reconstruction of, or the making of additions to, any classroom facilities that were constructed, acquired, reconstructed, or added to as part of a project that previously received funding under the Classroom Facilities Assistance Program, and (2) the prior project was one for which the voters of the district approved a levy within the last ten years for purposes of qualifying for the state funding of that project. That is, after a school district is approved for classroom facilities assistance from the state, it must wait for at least ten years before it may receive state assistance again. Current law allows no exceptions to this requirement.

The bill lengthens the waiting period to 20 years, but establishes two exceptions.

Exception for school districts served under former law whose percentile ranks become eligible to be served under current program

(R.C. 3318.04(B)(2); Section 4)

The bill provides an exception to the waiting period for certain school districts that received assistance prior to May 20, 1997. On that date, Am. Sub. S.B. 102 of the 122nd General Assembly became effective. That act revised the Classroom Facilities Assistance Program and established the Ohio School Facilities Commission to administer it. Under previous versions of the program, administered by the Department of Education, school districts were not ranked by wealth and were not eligible for districtwide assessment of their needs. Assistance under those versions often did not meet all the needs of a district. The bill authorizes the Commission to provide assistance to up to five pre-S.B. 102 districts each fiscal year if the percentile rank of those districts has become eligible for assistance under the current Classroom Facilities Assistance Program, until all such districts have received the additional assistance.

In uncodified law, the bill also permits the Commission in fiscal years 2001 and 2002 to provide assistance to *more than five* of these pre-S.B. 102 districts if any additional district to receive such assistance approved a tax levy under a previous version of the program at least ten years prior to the effective date of the bill and the Commission determines that it is necessary in the interest of fairness to provide that assistance to the district because otherwise the district would be required to wait more than ten years after its previous levy was approved to be considered for additional assistance.

The bill also provides that the Commission may waive design specifications it normally uses to assess a district's classroom facilities needs for *new* renovations to classroom facilities that were constructed or renovated under a pre-S.B. 102 project. Finally, it also permits the Commission at its discretion to determine that no further assistance is necessary if it finds that a district's classroom facilities under its pre-S.B. 102 project are adequate.

Exception for growing districts

(R.C. 3318.04(B)(1))

A second exception to the 20-year wait is for districts able to demonstrate to the School Facilities Commission's satisfaction that they have experienced "an exceptional increase in enrollment above the district's design capacity under that prior project as determined by rule of the Commission." Such a district presumably could re-qualify for assistance even if its percentile rank is not eligible to be served, although that is not clear.

Changes in the Expedited Local Partnership Program

(R.C. 3318.021, 3318.36, and 3318.361; Section 3)

Background

The School Building Assistance Expedited Local Partnership Program permits the Ohio School Facilities Commission each year to enter into agreements with up to five school districts in the 20th to 40th wealth percentiles that are not yet eligible for state assistance under the Classroom Facilities Assistance Program. Under an agreement, these districts may apply the expenditure of local resources for the construction of classroom facilities toward the school district's portion required when the district is eligible for such state assistance. The Commission is required to assess the classroom facilities needs of participating districts, selected in the order in which they adopt resolutions certifying their intent to participate in the new program. The district then may expend any local resources, including the proceeds of bonds, on any discrete part of the district's needs that is either new construction, additions, or major repair. If the district later becomes eligible under the Classroom Facilities Assistance Program, the Commission then must reassess the needs of the district and recalculate the district's total basic project cost, adding in the amount spent by the school district under the Expedited Local Partnership Program. The school district may then deduct the amount expended under the Expedited Local Partnership Program from its local share required under the Classroom Facilities Assistance Program.

The bill

The bill makes several programmatic changes to the Expedited Local Partnership Program. First, it permits the Commission to enter into agreements with *all* school districts that are not expected to be eligible for the Classroom Facilities Assistance Program within two years after the time its participation in the "Expedited" program is being considered. It further removes the limitation as to the number of districts that can enter into agreements in any year.⁷ It also specifies that a school district board may substitute the proceeds of an existing permanent improvement property tax for the half-mill additional tax as permitted for school districts under the Classroom Facilities Assistance Program (see above under "*Background--Overview of Classroom Facilities Assistance Program*"). The bill also permits a school district board at its option to delay either levying the additional tax or earmarking existing tax proceeds until the time that the district becomes eligible for assistance under the Classroom Facilities Assistance Program.⁸

The bill also makes several procedural changes to the program. It requires that the district board specify in its resolution adopted under the program the approximate time the board intends either to seek voter approval for a tax or bond measure or to earmark other local resources for its participation in the "Expedited" program.⁹ A board may not specify a time that is sooner than six months after the date the resolution is adopted. If the resolution specifies that the board intends to seek voter approval or to encumber other resources within 12 months of the date the resolution is adopted, the Commission has six months to complete its on-site visits and assessment of the district. If the resolution specifies a date that is later than 12 months after the date the resolution is adopted, then the Commission may conduct those on-site visits and the assessment at a time based on priorities and a schedule adopted by the Commission. In such a case, however, the Commission must notify the district board within 30 days of the approximate time the Commission plans to complete the on-site visits and assessment.¹⁰ The bill also provides specific ballot language for the district board to use when levying the

⁷ R.C. 3318.36(B).

⁸ R.C. 3318.36(D).

⁹ *Current law requires that a district board adopt a resolution and certify it to the Commission, but current law does not specify the content or timing of that resolution.*

¹⁰ R.C. 3318.36(B)(2).

required half-mill tax if it is not necessary to combine that question with a bond issue or measures for acquisition of a site.¹¹

In addition to these changes, the bill clarifies that when a district becomes eligible for assistance under the Classroom Facilities Assistance Program, the district's share of the recalculated basic project cost is the same "percentage" of that cost that the district share was of the initial basic project cost. The bill further states that if a district has spent more than its share of the total basic project cost as recalculated at the time it is eligible for assistance under the Classroom Facilities Assistance Program, the Commission has up to one year to "grant" a reimbursement to the district. The bill also requires that any moneys reimbursed to the district be spent first to pay off any debt service the district has incurred under the "Expedited" program.¹²

Finally, the bill permits certain school districts to apply previously approved bond or tax measures to their "Expedited" projects. Specifically, the bill provides that if a school district's voters approved within 18 months prior to the effective date of the bill a bond issue or tax levy for the construction of or for additions or major repair to any classroom facility, the district board may apply that expenditure toward its share under the "Expedited" program if certain other conditions exist. These conditions are that the actual construction or repair work has not commenced prior to execution of the "Expedited" program agreement and that the design of the project complies with specifications of the Commission.¹³

Accelerated Urban School Building Assistance Program

(R.C. 3318.38)

Under existing uncodified law, Big-Eight school districts are eligible for temporary limited funding for renovation or repair of, or in some cases for constructing additions to, existing facilities. Eligible districts are required to pay 50% of the project cost.¹⁴ The "Big-Eight" school districts are the following city

¹¹ R.C. 3318.361.

¹² R.C. 3318.36(E). *The bill also clarifies that any reimbursement will be only for local resources applied to actual construction costs and not for any financing costs. Under current law, not changed by the bill, such financing costs would likely not be a part of the basic project cost anyway.*

¹³ Section 3 of the bill.

¹⁴ Section 7 of Am. Sub. S.B. 102 of the 122nd General Assembly as amended by Am. Sub. H.B. 282 of the 123rd General Assembly and Section 10.03 of Am. Sub. H.B. 282 of the 123rd General Assembly.

school districts: Akron, Canton, Cincinnati, Cleveland, Columbus, Dayton, Toledo, and Youngstown. Under recent amendments to the law, not changed by the bill, Canton and Youngstown no longer are eligible for this special assistance since they are now eligible for assistance under the Classroom Facilities Assistance Program due to their percentile ranking. Under current law, it will be some time before the remaining six districts are eligible for assistance under the Classroom Facilities Assistance Program.

The bill, however, establishes a new permanent program to provide accelerated service under the Classroom Facilities Assistance Program to the remaining Big-Eight districts. Under the bill, any Big-Eight district that has not already been served under the Classroom Facilities Assistance Program by July 1, 2002 may beginning on that date apply for and be approved for such assistance. To that end, the Ohio School Facilities Commission is required to make on-site visits to and assess the facilities needs of all eligible Big-Eight districts by June 30, 2002. The bill permits a district board that participates in this accelerated program, with the approval of the Commission, to divide its project into segments and to seek voter approval of each segment separately. Under this provision, the state's share of each segment is also encumbered separately.¹⁵ In addition, the bill specifies that the half-mill additional tax required for maintenance runs for up to 23 years from the time the voters approved the *last* segment.¹⁶

School Building Emergency Assistance Program

(R.C. 3318.351)

Under continuing law, the state provides assistance to the 292 poorest school districts to make emergency maintenance repairs to existing facilities.¹⁷

The bill establishes a new program to provide assistance to all school districts to reconstruct, repair, or renovate classroom facilities damaged by an "act

¹⁵ *If the state's share of any one segment is greater than \$40 million, the Commission must determine how much of that share is to be encumbered in each fiscal year. See R.C. 3318.38(B)(3) and 3318.11, latter section not in the bill.*

¹⁶ *Under this provision, the half-mill tax may run much longer than 23 years in total, since there may be some time between the voter approval of the first segment and the voter approval of the last segment.*

¹⁷ *R.C. 3318.35, not in the bill.*

of God."¹⁸ Assistance under this program is limited to any costs not covered by insurance or other public or private emergency assistance. Any damage caused by age of or lack of timely maintenance to the facilities is not compensable under this program. The Commission is required to consider applications under the program on a case-by-case basis. Although the bill requires that "every effort shall be made to conform an emergency project to design specifications adopted by the Commission," it also authorizes the Commission to approve a project that does not meet those specifications if it is impossible for the project to so conform.

Codification of the Exceptional Needs School Facilities Assistance Program

(R.C. 3318.37)

Another special needs program was authorized in the capital appropriations act passed by the 122nd General Assembly. In that act, the General Assembly appropriated \$30 million for a pilot project to fund new facilities in "low wealth" districts that have "exceptional need for immediate assistance" to protect the health and safety of students, and that are not expected to be served by the Classroom Facilities Assistance Program before June 30, 2002.¹⁹

The bill codifies this program and authorizes the Ohio School Facilities Commission to set aside up to 20% of the money annually appropriated to it for classroom facilities assistance for assistance under the program. In addition, the bill provides that any school district reasonably expected to be eligible for assistance under the Classroom Facilities Assistance Program within three fiscal years and any district that participates in the Expedited Local Partnership Program are not eligible for this program. It also clarifies that all procedures and requirements of the Classroom Facilities Assistance Program apply to a project under this program.²⁰

¹⁸ *Black's Law Dictionary* defines "act of God" as "[a]n overwhelming, unpreventable event caused exclusively by the forces of nature, such as an earthquake, fire, or tornado" (7th Ed. (1999), at p. 34).

¹⁹ Section 26 of Am. Sub. H.B. 850 of the 122nd General Assembly, as amended by Am. Sub. H.B. 282 of the 123rd General Assembly.

²⁰ Any individual classroom facility constructed under this program is subject to the limitation on additional assistance provided in R.C. 3318.04. However, a school district that receives assistance under the "Exceptional Needs" program may be considered for assistance under the Classroom Facilities Assistance Program for the remainder of its facilities needs once the district's percentile is eligible for such assistance.

Joint Vocational School District Facilities Assistance Program

(R.C. 3318.43 to 3318.46)

Currently, joint vocational school districts (JVSD) are not eligible to participate in assistance programs administered by the Ohio School Facilities Commission.²¹ The bill establishes a new program authorizing the Commission to provide assistance to JVSDs. Similar to the Classroom Facilities Assistance Program, a JVSD's priority for funding and respective share under the new program is determined by a ranking system that is based on the relative wealth of the JVSD. Each JVSD may raise its share in any manner authorized for other school districts under the Classroom Facilities Assistance Program. Funding is not available for any furnishings beyond the type of furnishings that would be funded for other school districts under the Classroom Facilities Assistance Program. In addition, just as under the Classroom Facilities Assistance Program, funding is not available for the acquisition of a site on which to construct facilities.²²

The bill requires the Commission to establish design specifications for classroom facilities that are appropriate for JVSDs not later than six months after the effective date of the bill. Assessments of the classroom facilities needs of JVSDs are to be based on those design specifications.²³

The bill further requires the Commission to rank each JVSD using an "index." The index for each JVSD is calculated by weighting the total taxable value of each JVSD by both the number of the percentile of each school district that is a member of the JVSD and the proportion of the total taxable value of the JVSD that is attributed to each school district that is a member of the JVSD. The result is that a JVSD comprised of a high proportion of school districts with relatively high percentile ranks (as used in the Classroom Facilities Assistance

²¹ *JVSDs are special taxing districts made up of the territory of two or more local, exempted village, or city school districts that enter into an agreement to establish such a district to provide vocational education services to member districts. JVSDs may provide services to other school districts on a contractual basis. With voter approval, JVSDs may levy property taxes and issue bonds to finance their operations and for acquisition of permanent improvements. Although all local, exempted village, or city school districts are required to provide vocational education opportunities to their students, they are not required to join a JVSD. On the other hand, they may be required to contract with a JVSD or another school district to provide vocational services if they do not provide those services directly. (R.C. 3311.18 to 3311.218 and 3313.90, none in the bill.)*

²² *R.C. 3318.44.*

²³ *R.C. 3318.45.*

Program) will pay a higher percentage of the cost of its project than a JVSD with a lower proportion of such school districts. The Commission is required to select JVSDs for assistance under the new program in the order of their respective index number from the lowest number to the highest number.²⁴

Unlike the Classroom Facilities Assistance Program, which requires a school district to levy a half-mill additional tax, the bill does not require a JVSD that receives assistance under the new program to levy any additional tax for maintenance or payments to the state. However, under continuing law, all school districts, including JVSDs, are required to establish and maintain a "capital and maintenance fund," into which it must deposit 4% of revenues that otherwise would go into the JVSD's general fund. Continuing law also permits the Superintendent of Public Instruction and the Auditor of State to prescribe by joint rule an amount other than 4% of general revenues be deposited into the account.²⁵

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	---	---

H0631-I.123/jc

²⁴ *R.C. 3318.46.*

²⁵ *R.C. 3315.18 and 3315.181, neither section in the bill.*