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*Bill Analysis*  
*Legislative Service Commission*

**Am. Sub. S.B. 272\***  
123rd General Assembly  
(As Reported by H. Finance & Appropriations)

**Sens. Cupp, Kearns, Prentiss, Carnes, Hottinger, Latta, Oelslager, Watts, Ray, Mumper, Armbruster, Gardner, Spada, White, Drake**

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**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 25% of classroom facilities assistance moneys for that purpose.
- Requires the Ohio School Facilities Commission to propose legislation for a program to provide classroom facilities assistance money to joint vocational school districts and to develop design guidelines for such a program.
- 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.

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\* *This analysis was prepared before the report of the House Finance and Appropriations Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

- Permits Big-Eight school districts receiving accelerated classroom facilities assistance to segment their projects and to seek voter approval for any necessary bond issues or tax levies for each segment separately.
- Provides that for school facilities projects for which the state's portion exceeds \$25 million (reduced from \$40 million as under current law), the entire amount of the state's portion does not have to be encumbered during the first biennium of the project.
- Authorizes school districts 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.
- Requires the Ohio School Facilities Commission to conduct an assessment of the current classroom facilities conditions of any school district not yet participating in any of the state classroom facilities assistance programs within two years of the district's request for such an assessment.
- Makes other changes to the Classroom Facilities Assistance Program.
- Requires the Speaker of the House and the Senate President, in July of 2000 (instead of 2001 as under current law) and in July of every sixth year thereafter, each to appoint three members to a committee charged with selecting a rational method of calculating the costs of an adequate education system for the next six-year period.
- Makes an appropriation.

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## 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.<sup>1</sup> 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

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<sup>1</sup> 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)).

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 ongoing 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.<sup>2</sup>

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. The annual debt service on the state-issued bonds has been largely paid with lottery profits.<sup>3</sup>

### **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:

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<sup>2</sup> *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).*

<sup>3</sup> *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 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.*

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

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

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<sup>4</sup> *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.)*

<sup>5</sup> *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  $.05 + .0002(99) = .0698$ ).*

<sup>6</sup> *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  $.01(100) = 1.00$ ).*

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.

**Changes made by the bill**

**Three-year adjusted valuation per pupil clarification**

(R.C. 3318.011)

The bill clarifies that in calculating the three-average adjusted valuation per pupil for each school district used to determine a district's eligibility for facility assistance, the Department of Education must use the adjusted valuations per pupil calculated for each district for the *current and previous two fiscal years*.

**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 6)

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

**School districts may levy more than one-half mill additional tax**

(R.C. 3318.05, 3318.06, 3318.061, 3318.36, and 3318.361)

Existing law does not allow school districts to levy more than one-half mill for the additional tax to be used for maintenance. Existing law also limits the maintenance tax to the greater of a total amount equal to the state's share of the project, or the amount raised from the 1/2 mill tax for 23 years. The bill requires

the tax levy for maintenance to be "not less than one-half mill" for a specific period of 23 years.

**Exception to the maintenance tax requirement for certain districts**

(R.C. 3318.055)

The bill provides a special exception to the maintenance tax requirement for school districts where the tax would raise only a small amount of money. It permits any school district board to not propose the maintenance tax to its voters if the Department of Taxation estimates that the tax during the first 12-month period of collection would raise less than 10% of the amount that the district is required to deposit into its Capital and Maintenance Fund. Currently, each school district must deposit annually into that Fund an amount equal to 3% of its general revenue moneys.<sup>7</sup>

**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 a previously authorized (or newly authorized) property tax that is levied for general ongoing permanent improvements or a previously authorized (or newly authorized) income tax or a combination of such proceeds to leverage bonds in an amount

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<sup>7</sup> Under continuing law, each school district board is required to establish a Capital and Maintenance Fund into which it is required to deposit annually an amount equal to 4% of its general revenue moneys or a lesser amount as permitted by rule jointly adopted by the Auditor of State and the Department of Education. Currently, such rule freezes the percentage of general revenue moneys that must be deposited into the Fund at 3%. The law also provides a number of alternative sources for the moneys to be deposited into the Fund, including the maintenance tax required under R.C. 3318.06. Moneys in the Fund may be used by the district only for "acquisition, replacement, enhancement, maintenance, or repair of permanent improvements." (R.C. 3315.18 and 3315.181, neither section in the bill.)

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, any cash the district has on hand, which may include year-end operating balances, or any letter of credit issued on behalf of the school district. Any local donated contribution must be placed in the school district's project construction fund. The application of cash, operating fund balances, or letter of credit must be approved by the Ohio School Facilities Commission in consultation with the Department of Education.

**Bond pooling**

(R.C. 135.143(A)(13) and (G) and 3318.085)

The bill permits two or more school districts, in which the amount of bonds needed by each in order to pay each district's portion of its project under any state-assisted classroom facilities program is not more than \$10 million, to enter into an agreement with the Treasurer of State under which the Treasurer will pool the bonds approved for that purpose by each district's voters. Under such an agreement, each school district is liable only for the amount of principal, interest, and financing costs associated with its classroom facilities project. The cumulative total of indebtedness issued for all the districts combined must not be less than \$10 million. In addition, the agreement and the bonds issued under it must hold the state harmless for any liability or obligation incurred by a school district. The Treasurer of State may employ a negotiating underwriter to negotiate the bond pool. There may not be more than two bond pooling agreements entered into in any fiscal year and no agreement may be executed prior to January 1, 2001.

**Credit for previously approved bond issue**

(R.C. 3318.01(L), 3318.03, 3318.033, 3318.05, and 3318.08)

Under current law, in order to participate in a project under the Classroom Facilities Assistance Program, a school district must prospectively pass a bond issue and levy the tax to pay the annual service on the bonds. While the calculation of existing debt does account for previously issued bonds used to pay

for classroom facilities outside the state program, that expenditure does not count toward the district's local share of the state-assisted project. The bill requires the Ohio School Facilities Commission to count toward the district's local share of a project any bonds issued for classroom facilities within 18 months prior to notification to the district board that the district is eligible for state assistance *if the facilities supported by the bond measure meet the Commission's design specifications.*

**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) and 3318.061; Section 5). 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. 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.

Finally, the bill requires a school district that receives additional assistance to extend its existing half-mill maintenance levy for 23 years from the date of its new agreement with the Commission.

**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.

### **Encumbrance of state share**

(R.C. 3318.03, 3318.04, 3318.11, and 3318.38(B)(3)(b))

Under current law, for any project for which the state's portion exceeds \$40 million, the Commission must determine the amount to be encumbered in each biennium based on the project's estimated construction schedule for that biennium. If the Commission determines the entire amount does not need to be encumbered, then in each biennium subsequent to the first biennium in which state appropriations are encumbered for the project, the act specifies, the project has priority for state funds over projects for which initial state funding is sought.

The bill changes the amount of state share that triggers this phased encumbrance to \$25 million.

### **Changes in the Expedited Local Partnership Program**

(R.C. 3318.021, 3318.36, and 3318.361, and 3318.362; Sections 3 and 4)

**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.

**Programmatic changes.** 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. However, it does permit the Commission to limit the number of districts in fiscal year 2001 to 55 with the approval of the Controlling Board.<sup>8</sup>

The bill clarifies that a school district board may raise funds to apply toward its "Expedited" project in any manner permitted for a project under the Classroom Facilities Assistance Program. 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

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<sup>8</sup> R.C. 3318.36(B) and Section 4.

earmarking existing tax proceeds until the time that the district becomes eligible for assistance under the Classroom Facilities Assistance Program.<sup>9</sup>

Current law for all state classroom facilities assistance programs requires that the bonds issued by a school district may not extend beyond 23 years. For purposes of the "Expedited" program only, the bill permits a school district to issue bonds for longer than 23 years up to the limit established in the Uniform Public Securities Law, codified in R.C. Chapter 133. Under that law, a school district may issue bonds for the "acquisition of real property" for up to 30 years.<sup>10</sup> The bill further provides that any moneys that a school district receives from the state under the "Expedited" agreement once the district becomes eligible for the main Classroom Facilities Assistance Program must be placed in an escrow fund if such moneys cannot be paid down on the debt all at once due to restrictions against early payoff specified in the bond documents.

**Recalculation of state and school district shares in the event of changes in gas pipeline assessment rates** (R.C. 3318.035). The bill provides that: (1) if there is a change in state law regarding the assessment rates on gas pipelines, and (2) if that change affects a school district's valuation by more than 10%, and (3) if the Ohio School Facilities Commission has already determined the respective shares of such a district's project under the "Expedited" program, then the Commission must recalculate those respective shares using the district's new valuation (as altered by the amended pipeline assessment law).

**Procedural and other changes.** 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.<sup>11</sup> A board may not specify a time that is sooner than 12 months after the date the resolution is adopted.<sup>12</sup> The bill also provides specific ballot language for the district board to use when levying the

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<sup>9</sup> R.C. 3318.36(A)(3) and (D).

<sup>10</sup> R.C. 133.20(A)(3)(c), not in the bill.

<sup>11</sup> 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.

<sup>12</sup> 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.<sup>13</sup>

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.<sup>14</sup>

Finally, the bill permits school districts to apply some 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.<sup>15</sup>

### **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.<sup>16</sup> The "Big-Eight" school districts are the following city

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<sup>13</sup> R.C. 3318.361.

<sup>14</sup> 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.*

<sup>15</sup> Section 3 of the bill.

<sup>16</sup> 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 any necessary bond issues or tax levies of each segment separately. Under this provision, the state's share of each segment is also encumbered separately.<sup>17</sup> In addition, the bill specifies that any half-mill additional tax required for maintenance runs for 23 years from the year in which the *last* segment is undertaken.<sup>18</sup>

### **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.<sup>19</sup>

The bill establishes a new program to provide assistance to all school districts to reconstruct, repair, or renovate classroom facilities damaged by an "act of God."<sup>20</sup> Assistance under this program is limited to any costs not covered by

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<sup>17</sup> *If the state's share of any one segment is greater than \$25 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.*

<sup>18</sup> *Under this provision, the half-mill tax may run much longer than 23 years in total.*

<sup>19</sup> *R.C. 3318.35, not in the bill.*

<sup>20</sup> *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).*

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.<sup>21</sup>

The bill codifies this program and authorizes the Ohio School Facilities Commission to set aside up to 25% of the money annually appropriated to it for classroom facilities assistance for assistance under the program. In addition, the bill provides that any school districts reasonably expected to be eligible for assistance under the Classroom Facilities Assistance Program within three fiscal years and any districts that participate 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.<sup>22</sup>

**Extreme environmental contamination of classroom facilities**

(Section 10.02 of Am. Sub. H.B. 282 of the 123rd General Assembly, amended in Sections 7 and 8)

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<sup>21</sup> 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.

<sup>22</sup> 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.

In the education budget act for the 1999-2001 biennium, the General Assembly authorized the Ohio School Facilities Commission to specifically provide assistance under the "Exceptional Needs Pilot Program" (described just above under "**Codification of the Exceptional Needs School Facilities Assistance Program**") to any school district regardless of its percentile rank to replace or relocate a classroom facility when such replacement or relocation is made necessary by "extreme environmental contamination." That provision also required that the school district and the state divide proportionally any restitution payments that the district receives from the federal government.

The bill amends that provision to permit the Commission to provide assistance to a school district that qualifies under the provision for a *complete district-wide project* instead of just replacing the contaminated facility, if the Commission's assessment conducted under the Exceptional Needs Pilot Program indicates that *all* of the district's classroom facilities ultimately would be replaced under the Classroom Facilities Assistance Program. In addition, the bill permits the school district board to use any federal restitution payments it receives up to the amount of its portion of the project as defined by the Commission to pay that portion and, thus, may reduce the amount of bonds it otherwise would have to issue under that project.

**Proposal for assistance to joint vocational school districts**

(R.C. 3318.311)

Within six months of its effective date, the bill requires the Commission to present to the Speaker of the House, the President of the Senate, and the Governor proposed legislation for providing classroom facilities assistance to joint vocational school districts.

The bill also 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.

In addition, the bill clarifies that the Commission may include space for the operation of a vocational education program when determining the needs of regular school districts that provide such services to their students.<sup>23</sup>

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<sup>23</sup> R.C. 3318.01(B). *Continuing law already implicitly permits the Commission to include vocational education space in projects it funds under the Classroom Facilities Assistance Program, since the definition of "classroom facilities" includes space for "a complete education program." The bill clarifies that such a "complete program"*

*Assessments of school districts not participating in state programs*

(R.C. 3318.022)

The bill requires the Ohio School Facilities Commission to conduct an assessment of the "current conditions" of the classroom facilities of any school district that is not yet participating in any of the state classroom facilities assistance programs within two years of the district's request for such an assessment. The assessment conducted under this provision does not include any final agreement between the school district and Commission as to the basic project cost of the district's needs. In other words, it does not result in a "Master Plan" of the district's conditionally approved classroom facilities needs.

*Examination of school district assessments and plans*

(R.C. 3318.03)

The bill requires the Commission to examine any classroom facilities needs assessment and Master Plan that have been developed by a school district before the Commission conducts its own evaluation of the school district's needs under any of the state's classroom facilities assistance programs.

*Legislative committee to study cost of an adequate education*

(R.C. 3317.012(C))

Current law requires the Speaker of the House and the Senate President to each appoint three members to a committee to reexamine the cost of an adequate education. The first appointment must be made in July of 2001 and new appointments must be made in July of every sixth year thereafter.

The committee is charged with selecting a rational methodology for calculating the costs of an adequate education system for the ensuing six-year period and reporting the methodology and resulting costs to the General Assembly. The committee must make its report to the Office of Budget and Management and the General Assembly within one year of its appointment so that the information is available for use in preparing the next biennial appropriations act.

The bill changes the date of the initial appointment of the committee to July of 2000 and requires the committee to make its report within *six months* of its appointment.

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*includes vocational education in a school district that operates its own vocational education program.*

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-22-00	p. 1519
Reported, S. Education	05-17-00	pp. 1727-1728
Passed Senate (33-0)	05-17-00	pp. 1734-1748
Reported, H. Finance & Appropriations	---	---

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