



H.B. 136

127th General Assembly
(As Introduced)

Reps. Raussen, Bubb, Seitz, J. McGregor, Combs, Schneider, Wolpert, Setzer, White, Adams, Collier, Flowers, Fessler, Fende, Wagoner

BILL SUMMARY

- Permits certain higher-wealth school districts to receive payments for district-directed classroom facilities projects in lieu of participating in other state facilities construction programs.

CONTENT AND OPERATION

Background

Classroom Facilities Assistance Program

The Ohio School Facilities Commission administers several programs that provide state funds to school districts to construct or renovate classroom facilities. Under these programs, the state and each participating district share the cost of the district's project. The main program, the Classroom Facilities Assistance Program (CFAP), is designed to provide each city, exempted village, and local school district with partial funding to address all of the district's classroom facilities needs.¹ Under the program, all districts are annually ranked into percentiles from lowest to highest wealth per pupil.² Generally, lower percentile districts are served first and receive a greater amount of state assistance than higher percentile districts will when it is their turn to be served. As the General Assembly appropriates funding for CFAP, the Commission determines which districts are next in line (as they are ranked by wealth percentile). In most cases, a district's portion of the total cost of its project is 1% times the percentile in which it is

¹ R.C. 3318.01 to 3318.20, none in the bill.

² School district wealth is determined by calculating the "adjusted valuation per pupil" of each school district, where a district's taxable valuation per pupil is modified by a factor of the income of the district's taxpayers. (R.C. 3318.011, not in the bill.)

ranked.³ Thus, for example, a district in the 15th percentile would pay 15% of the total project cost and the state would pay 85%.

The cost of a district's project (called the "basic project cost") is based on an assessment of the district's needs conducted by the Commission compared with specifications established in the Commission's design manual. A district may acquire items that do not meet the Commission's specifications as long as only district money is used to pay for those items. Those items (often called "local initiatives") are not included in the basic project cost. The cost of a site for new facilities, if needed, also is not included in the basic project cost.

Maintenance requirement. In addition to paying its share of the basic project cost, a school district must generate and set aside a specified amount for maintenance of those facilities. Generally, each city, exempted village, and local school district that participates in a state facilities program must levy at least ½ mill for 23 years for maintenance. As an alternative, a district may either earmark other existing taxes or make a one-time deposit of a designated "local donated contribution" to meet its maintenance obligation.⁴ Or, a district may deposit into a separate maintenance fund, annually for 23 years, an amount from other district resources equal to ½ mill of the district's tax valuation, instead of levying the maintenance tax.⁵

Other school facilities programs

Other programs have been established to address particular needs of certain types of districts. For example, the Expedited Local Partnership Program provides a way for districts to start their approved school building projects using local funds while they wait for their turn for state funding under the main CFAP program. Once a district is eligible for CFAP, it may apply this advance expenditure of local resources toward its portion of the basic project cost.⁶ Another program, the Accelerated Urban Program, allows six urban districts that had not received CFAP assistance by June 30, 2002, because their percentiles were not yet eligible for

³ R.C. 3318.032, not in the bill. There is an alternative method used for some districts based on a district's existing debt as well as its wealth percentile ranking.

⁴ R.C. 3318.05 and 3318.084, neither in the bill. Certain very low-wealth school districts are not required to levy the ½ mill maintenance tax (R.C. 3318.055). Joint vocational school districts that participate in a state facilities program, annually for 23 years, must deposit into a maintenance account an amount equal to 1.5% of the current insurance value of the acquired facilities (R.C. 3318.43, not in the bill).

⁵ R.C. 3318.051, not in the bill.

⁶ R.C. 3318.36, not in the bill.

assistance, to begin receiving state funds generally in the same manner as under CFAP but earlier than otherwise permitted under CFAP.⁷ This program was enacted to accommodate the relatively large scale of those districts' projects, thus allowing them more time to phase in construction of buildings. Under either program, a district's portion of its project costs is based on its wealth percentile. Both programs also require a district to levy the ½ mill maintenance tax or generate its equivalent through the alternative mechanisms described above.

Oversight by the Commission

Except for the Expedited Local Partnership Program, the scope of a district's project under one of the School Facilities Commission's programs is subject to approval by the Commission. Also, the Commission employs the project manager for each project and must approve all project labor and materials contracts.

Opt-out payments in lieu of participating in cost-sharing programs

Overview

The bill permits city, exempted village, and local school districts in the top 25 adjusted wealth percentiles, including some that have already begun receiving state funds for facilities acquisition, to opt out of the current programs. Instead, those districts may receive the state funds they otherwise would receive but then will administer their projects on their own without the oversight of the School Facilities Commission. They also are not required to levy the ½ mill maintenance tax or generate its equivalent through other means. Rather, the opt-out districts must set aside an amount equal to 0.5% of the insurance value of their completed facilities.

Districts that may opt out

(R.C. 3318.60(B))

The bill's opt-out provision applies to the following types of school districts:

(1) A district ranked in the 75th wealth percentile or above that has not received state funds for facilities.

⁷ R.C. 3318.38, not in the bill. This program applies only to Akron, Dayton, Cincinnati, Cleveland, Columbus, and Toledo. Canton and Youngstown (the other two urban Big-Eight School Districts) began receiving regular CFAP assistance prior to that date.

(2) A district ranked in the 75th wealth percentile or above that received state funds for facilities under CFAP as it was operated by the Department of Education prior to the creation of the School Facilities Commission (May 20, 1997), if those funds were for less than a complete district-wide project.⁸ (Under former CFAP provisions, priorities for funding were not established by statute and were not necessarily based on the relative wealth of each district. Many of those projects were not district-wide in scope. These districts are sometimes called "1990 districts," since their projects were approved by the Department in 1990. In 2000, the General Assembly authorized the Commission to reassess the needs of districts assisted prior to the Commission's existence if the percentiles in which the districts are ranked have been or are about to be eligible under the current CFAP program.⁹)

(3) A district receiving assistance under the Accelerated Urban Program for a project that is not completed and where the school district portion of the basic project cost is 75% or above.¹⁰

Expedited Local Partner districts (R.C. 3318.60(B) and (C)(1)). Under the bill, a district described under (1) or (2) above may participate in the opt-out provisions even if the district and the School Facilities Commission already have entered into an agreement under the Expedited Local Partnership Program. In that case, the bill instructs the district board and the Commission to cancel that agreement, and it instructs the Commission to pay the district in accordance with the bill's opt-out provisions instead of under the Expedited Local Partnership Program.

General operation of the opt-out provisions

(R.C. 3318.60(C) to (F))

When a school district that has not yet received CFAP funds becomes eligible for those funds, or when a "1990 district" becomes eligible for additional state funds, the district board may enter into an agreement with the School Facilities Commission to opt out of CFAP, receive the state portion of the basic project cost, and administer the project locally. When the district becomes eligible

⁸ The date is the effective date of Am. Sub. S.B. 102 of the 122nd General Assembly, which created the Commission and made several substantive changes in the state's school facilities programs.

⁹ R.C. 3318.04(B)(2), not in the bill.

¹⁰ Cincinnati is the only school district receiving funds under the Accelerated Urban Program with a district share of 75% or above.

to enter into the opt-out agreement, the Commission must conduct an assessment of the district's current classroom facilities needs in the same manner as if the district were going to receive CFAP assistance. This assessment will form the basis for determining how much funding the district may receive under the opt-out agreement (see below).

The bill further provides that an eligible Big-Eight district that has already begun its project (described under (3) above) may enter into an opt-out agreement under which the district board and the Commission will cancel their current CFAP agreement and the district will administer the rest of its project on its own.

Each district that opts out of CFAP is exempt from the provisions of CFAP. Thus, the bill specifies that the Commission may not oversee the district's project, except as necessary to monitor compliance with the opt-out agreement. Accordingly, management of the district's project, including solicitation of bids, awarding of contracts, and the form and content of all project related contracts, notices, and published procedures and processes are solely the responsibility of the district board. The board must award contracts in the manner otherwise specified by law for all non-state funded school construction projects--that is, to the lowest responsible or lowest responsive and responsible bidder. But those contracts are not subject to Commission approval. The Commission may not require the district to comply with the Commission's design specifications as a condition to entering into an opt-out agreement.

The Commission must make annual payments to the district, beginning in the fiscal year in which the district and Commission enter into the opt-out agreement, according to a schedule specified in the agreement.

Amount of opt-out payments

(R.C. 3318.60(F))

For either a district that has not previously received CFAP funds or a "1990 district" (see (1) and (2) under "**Districts that may opt out**" above), the aggregate payments to the district under the opt-out agreement must equal the amount that would have been the state's portion of the basic project cost under CFAP.

For an eligible Big-Eight district that has already begun its project (see (3) under "**Districts that may opt out**" above), the aggregate opt-out payments must equal the state's portion of the basic project cost as initially determined under the Accelerated Urban Program, prior to any reductions in scope made after the Commission and the district board entered into their Accelerated Urban agreement, and less any amount already paid to the district under that program. (The projects of the Big-Eight districts participating in the Accelerated Urban Program have been reduced in scope since they entered the program due to

reductions in projected future enrollments. The bill would hold harmless from those reductions in scope the Big-Eight district eligible to opt out of CFAP.)

Maintenance fund requirement

(R.C. 3318.60(G))

A district that opts out of CFAP is not required to comply with the ½ mill maintenance levy or the set-aside requirement. Instead, the bill requires an opt-out district to annually set aside in a separate maintenance fund an amount equal to 0.5% of the insurance value of the completed classroom facilities, as determined by the Commission, for 23 years less the number of years (if any) the district has already complied with the ½ mill or set-aside requirement. If a district has already levied the ½ mill maintenance tax, the bill instructs the county auditor and county treasurer to discontinue collection of that tax. In addition, if a district has taken other actions to comply with the ½ mill maintenance requirement, the bill specifically permits the district to discontinue those actions.

Ineligibility for maintenance equalization payments

(R.C. 3318.60(G))

The bill specifies that a district that opts out of CFAP is not eligible to receive the new state maintenance equalization payments.

(Beginning in fiscal year 2007, the Department of Education is required to pay an equalized subsidy to city, exempted village, and local school districts that participate in state-assisted facilities programs and have tax valuations per pupil below the statewide average. The subsidy equalizes, to the statewide average, the per pupil amount each eligible district raises from its ½ mill maintenance levy.¹¹ As noted above, opt-out districts are not required to comply with the ½ mill maintenance levy requirement. Nor is it likely that a district in the top 25 adjusted wealth percentiles would have less than the statewide average per-pupil revenue from the maintenance tax, anyway.)

HISTORY

| ACTION | DATE |
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| Introduced | 03-28-07 |

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¹¹ R.C. 3318.18, not in the bill.