LSC Greenbook

Analysis of the Enacted Budget

School Facilities Commission

Edward M. Millane, Senior Budget Analyst
Legislative Service Commission

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OVERVIEW

Agency Overview

The Ohio School Facilities Commission (SFC) provides funding, management oversight, and technical assistance to school districts and to the Ohio Schools for the Blind and Deaf for the construction and renovation of classroom facilities. SFC was created in 1997 by S.B. 102 of the 122nd General Assembly to implement a plan to rebuild all of Ohio's schools.

SFC is governed by a seven-member commission, which consists of three voting members (the Director of Budget and Management, the Director of Administrative Services, and the Superintendent of Public Instruction) and four nonvoting legislative members. The Executive Director, who is appointed by the Commission, oversees SFC's daily operations.

Appropriation Overview

Agency Appropriations by Fund Group, FY 2012 and FY 2013 (Am. Sub. H.B. 153)					
Fund Group	FY 2011*	FY 2012	% change, FY 2011-FY 2012	FY 2013	% change, FY 2012-FY 2013
General Revenue	$155,840,150	$150,604,900	-3.4%	$341,919,400	127.0%
State Special Revenue	$7,657,362	$8,950,000	16.9%	$8,550,000	-4.5%
School Building Assistance	$2,859,286	$0	-100.0%	$0	0.0%
TOTAL	**$166,356,998**	**$159,554,900**	**-4.1%**	**$350,469,400**	**119.7%**

*FY 2011 figures represent actual expenditures.

The preceding table shows the appropriations for SFC by fund group. SFC's GRF appropriations are for debt service on the bonds issued to finance the state share of school facilities projects. As part of a debt restructuring plan, debt service payments decrease by 3.4% in FY 2012. However, because debt service payments are not scheduled to be restructured in FY 2013, payments in that fiscal year return to normal levels, which results in the increase in appropriation of 127.0%. SFC's State Special

Revenue appropriations are for the operating expenses of the agency. School Building Assistance funds supported payments in FY 2010 and FY 2011 for the community school loan guarantee program, for school entrance improvements, and for statehouse debt service payments. The budget does not appropriate funds for these programs in the FY 2012-FY 2013 biennium.

Budget Provisions

Lapsed SFC Projects

Under prior law, a school district receiving conditional approval of state funding for an SFC project had 12 months to gain voter approval of the bond issue and tax levy necessary to pay its share of the project cost. If the school district did not gain voter approval, the conditional approval lapsed. After a district's funding has lapsed, the district may still attempt to receive voter approval. If the voters do eventually approve the local share of the project, the district receives priority for SFC funding as it becomes available. Districts with lapsed projects typically have resubmitted to their voters the same project scope and costs of their original project.

The budget makes two changes to these procedures. First, the budget gives districts an additional month to obtain the required voter approval before their funding lapses. Second, the budget specifies that if a school district wishes to renew a lapsed project, it must request that SFC set a new scope and estimated cost for the project. Instead of resubmitting the original project scope and costs, the district may submit the updated project scope and costs to the district's voters.

School District Debt Limit

Generally, a school district may not incur debt in a net amount greater than 9% of its tax valuation. However, a school district may incur debt exceeding that limit when undertaking a state-assisted classroom facilities project or if the state Superintendent certifies that the district has "special needs" for public improvements that it cannot finance without exceeding the limit. The budget makes changes to both of these exceptions.

State-assisted school facilities projects exception

Under continuing law, a district undertaking a state-assisted facilities assistance project may exceed the ordinary debt limit to raise funds necessary to pay for (1) the district's share of the project, (2) the site for the project, and (3) any "required" locally funded initiatives.[1] The budget adds to this list the cost of other, nonrequired, locally funded initiatives in an amount up to 50% of the district's project cost.

[1] SFC may require districts to pay the entire amount for certain items that do not meet the SFC's specifications but are closely associated with the state-assisted portion of the entire project.

Special needs districts exception

Under continuing law, the state Superintendent, upon application, may declare a district as a "special needs" district, permitting the district to incur debt in excess of the ordinary limit in order to acquire needed permanent improvements. The budget makes several changes to the process to apply for special needs certification and the amount of additional debt a special needs district may incur. The changes include: (1) eliminating the requirement that a district submit a history and projection of its student population growth when applying for certification; (2) reducing the required projected average tax valuation growth from at least 3% per year to 1.5% per year as a standard for certification; and (3) increasing the amount of debt a certified special needs district may incur.

Project Close-Out

The budget establishes criteria and procedures for SFC to use to close out its state-assisted projects. The budget requires SFC to issue a certificate of completion for a school district project when the following have occurred: (1) all facilities have been completed and the district has received certificates of occupancy, (2) SFC has issued certificates of contract completion on all prime construction contracts, (3) SFC has completed a final accounting of the district's project construction fund and determined that all payments were in compliance with SFC policies, (4) any litigation concerning the project has been resolved, and (5) all construction management services provided by SFC have been delivered. SFC also may issue a certificate of completion if it determines that the circumstances preventing any of the five criteria from occurring are so minor that the project should be considered complete.

If a school district does not voluntarily participate in the close-out process, the budget permits SFC to issue a certificate of completion if the construction manager verifies that all facilities have been completed and SFC determines those facilities have been occupied for at least one year. In cases where this close-out procedure is followed, the budget requires the Auditor of State to issue a finding for recovery against the district and request legal action by the Attorney General if any funds remaining in the project construction fund that are owed to SFC have not been returned within 60 days after issuance of the certificate of completion.

Debarment of Contractors on SFC Projects

Continuing law permits the Director of Administrative Services to debar contractors from contract awards for public improvements for a variety of reasons. The budget authorizes SFC to request the Director to do the same for contractors awarded contracts for SFC projects.

General Changes in Public Construction Law

The budget modifies the law governing the construction process for public authorities, including SFC and school districts. In addition to the multiple-prime contract model required under current law, the budget allows state agencies to choose the manager-at-risk or design-build construction contract model for capital projects. The budget also increases from $50,000 to $200,000 the contract threshold for which agencies must obtain additional design or construction documentation, such as full and accurate plans of the construction, a full and accurate estimate of each item of expense, and a life-cycle cost analysis. Agencies that contract with manager-at-risk or design-build firms are exempted from this requirement altogether. For a complete explanation of these proposed changes, please see the budget's final analysis.

Half-Mill Maintenance Levy for the Accelerated Urban Districts

Currently, all districts participating in a state-assisted project with SFC are required to obtain approval of a half-mill maintenance levy for a period of 23 years. H.B. 1 of the 128th General Assembly eliminated the requirement that the half-mill maintenance levy for accelerated urban districts begin as the district's last segment is undertaken, and, instead, required that the 23-year period begin at the date the initial segment is undertaken. It also required that SFC amend the project agreement with any of the six accelerated urban districts in order to comply with these changes. The budget continues the requirement for SFC to amend any project agreements.

Spending Local and State Shares of Facilities Projects

SFC projects contain a local and a state share. Under prior law, local and state funds were spent simultaneously, in proportion to their respective shares, for joint vocational school districts and the six districts in the Accelerated Urban Initiative, but for all other districts, the funds for the state share of a project were spent first. The budget requires that the funds be spent simultaneously for all district projects.

Segmenting of Facilities Projects

Continuing law requires that when a district completes its facilities projects in segments, instead of all at once, (1) each segment must consist of new construction or complete renovation of one or more entire buildings and (2) the district's share of the cost of each segment must be equal to at least 4% of the district's tax valuation. The budget exempts from these two requirements certain districts that received assistance under a former state program and are now eligible for an SFC program. Under the budget, these districts can create a segment that addresses only a part of a facility in order to renovate or replace work done under its prior project if SFC determines that the renovation or replacement is necessary to protect the facility. The cost of the segment is to be shared by the state and the district in the usual manner, but the minimum size requirements described in (1) and (2) above do not apply. The budget also specifies that the 23-year maintenance levy requirement does not apply to these projects.

Corrective Action Grants

H.B. 266 of the 127th General Assembly appropriated $25.0 million to be used by SFC to award grants to school districts to correct defective or omitted work in SFC projects. Schools are currently required to notify SFC of any potential omitted or defective work within five years of project close-out to be eligible for the grants. Funds received from the grants are in addition to those funds received by the school districts from the state for its SFC project. The budget codifies this program, with a few changes from the temporary law provision, including changing the deadline for a school district to notify SFC of defects or omissions to five years after facility occupancy, instead of five years after project close-out.

Exceptional Needs Program (ENP)

ENP, which was created by H.B. 850 of the 122nd General Assembly, is designed to assist school districts in addressing the health and safety needs associated with a specific building instead of addressing the entire classroom facilities needs of the district as under the main Classroom Facilities Assistance Program (CFAP). School districts ranked up to the 75th percentile in wealth or with a territory larger than 300 square miles are eligible for participation in the program. Under prior law, a school district was generally prohibited from participating in ENP if it was within three fiscal years of being eligible for CFAP. The budget removes this prohibition.

The Extreme Environmental Contamination Program allows a school district experiencing extreme environmental contamination to participate in ENP. Since 1999, this program has been authorized under temporary law. The budget codifies this program.

Vocational Facilities Assistance Program (VFAP)

VFAP, which was created by H.B. 675 of the 124th General Assembly, provides classroom facilities assistance to the state's 49 joint vocational school districts (JVSDs). SFC has the authority to spend up to 2% of its annual capital appropriations for VFAP projects. The budget notwithstands this provision and instead permits SFC to provide VFAP assistance to at least one joint vocational school district each year.

The budget also permits a JVSD to commit the use of existing or new tax levies to finance the annual debt service on securities issued for both its state assisted classroom facilities project and locally-funded initiatives related to that project in the same resolution.

Energy Conservation Program

The Energy Conservation Program allows school districts with older facilities to borrow funds to make energy-saving facilities improvements without seeking voter approval. The cost of the improvements may not exceed the savings in energy, operating, and maintenance costs over a 15-year period. Prior to its approval of a district's plan, SFC largely relies on the Department of Development to conduct a cost-benefit analysis.

The budget requires participating school districts to report (1) forgone residual value of materials or equipment replaced by the energy conservation measures and (2) a baseline analysis of actual energy consumption data for the preceding five years, along with other current law savings estimate requirements, to SFC when applying to SFC for authority to purchase energy conservation measures.

STEM School Facilities Assistance Program

The budget establishes a facilities assistance program for certain STEM (science, technology, engineering, and math) schools. Specifically, the budget authorizes SFC, with Controlling Board approval, to provide funding to any STEM school that is not governed by a single school district board for constructing, reconstructing, repairing, or making additions to the classroom facilities for the school. STEM schools are required to secure at least 50% of the total cost of the acquisition of the classroom facilities. The budget also requires the agreement between SFC and a STEM school to stipulate the ownership of the classroom facilities in the event the STEM school permanently closes.

College-Preparatory Boarding School Facilities Program

The budget permits the establishment of college-preparatory boarding schools to serve at-risk middle and high school students.[2] To support the schools, the budget establishes the College-Preparatory Boarding School Facilities Program, which requires SFC to provide assistance for the acquisition of classroom facilities to these schools. To be eligible for assistance, the school must secure at least $20 million of private money to satisfy its share of facilities acquisition. The budget specifies that the acquisition of classroom facilities with assistance provided by the program is not subject to current CFAP requirements. SFC is required to adopt any necessary rules for implementation and administration of the program.

Vetoed Provisions

The Governor vetoed a provision that specified if a school district's general business tangible personal property (TPP) valuation made up 18% or more of its total taxable value for tax year 2005, then its three-year "average taxable value" used for

[2] For more information on provisions regarding the college-preparatory school, please see the budget's final analysis or the Department of Education's greenbook.

computing wealth percentile rankings of school districts for school facilities assistance is the three-year average of the sum of its real property valuation, rather than of its real property and TPP valuations as under current law. The vetoed provision required ODE to calculate and certify a new alternate equity list that included this change for use in FY 2012.

The Governor also vetoed a provision that specified that the local share of a CFAP project for a school district that participated in the Expedited Local Partnership Program (ELPP) and whose TPP valuation made up 18% or more of its total taxable value for tax year 2005, be the lesser of (1) the percentage locked in when the district signed the ELPP agreement, (2) the percentage computed using its current wealth percentile rank, or (3) for a project in 2012, the percentage computed using the alternate equity list described above.

Analysis of Enacted Budget

The following table shows the appropriation for each item in SFC's budget in each fiscal year of the biennium.

Funding for the School Facilities Commission				
Fund		**ALI and Name**	**FY 2012**	**FY 2013**
General Revenue Fund				
GRF	230908	Common Schools G.O. Debt Service	$150,604,900	$341,919,400
		General Revenue Fund Subtotal	***$150,604,900***	***$341,919,400***
State Special Revenue Fund Group				
5E30	230644	Operating Expenses	$8,950,000	$8,550,000
		State Special Revenue Fund Group Subtotal	***$8,950,000***	***$8,550,000***
Total Funding: School Facilities Commission			**$159,554,900**	**$350,469,400**

Common Schools G.O. Debt Service (230908)

This line item is used to pay the debt service on general obligation (G.O.) bonds issued to raise funds for the state share of school facilities project costs.

Operating Expenses (230644)

This line item provides funding for administrative support for all of SFC's programs. SFC's operating costs are primarily driven by the amount of capital appropriations SFC receives annually. The budget authorizes SFC to determine the amount of capital funding available for disbursement in a given fiscal year for any CFAP project in order to keep aggregate state capital spending within approved limits. The budget also permits SFC to take actions including, but not limited to, determining the schedule for design or bidding of approved projects, to ensure an appropriate and sustainable cash flow.

Historically, SFC's operating expenses were supported entirely by investment earnings from the School Buildings Assistance Fund (Fund 7032), the Public School Building Fund (Fund 7021), and the Education Facilities Trust Fund (Fund N087). The investment earnings are transferred quarterly to Fund 5E30 to cover the projected disbursements for the quarter. H.B. 1 of the 128th General Assembly permitted the transfer of noninterest cash from Fund 7021 and Fund N087 to support SFC operations. The budget continues to permit the transfer of noninterest cash.

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Line Item Detail by Agency

Report For Main Operating Appropriations Bill   **Version:** Enacted

			FY 2010	FY 2011	Appropriations FY 2012	FY 2011 to FY 2012 % Change	Appropriations FY 2013	FY 2012 to FY 2013 % Change
SFC	**School Facilities Commission**							
GRF	230908	Common Schools General Obligation Debt Service	$ 148,231,389	$ 155,840,150	$ 150,604,900	-3.36%	$ 341,919,400	127.03%
General Revenue Fund Total			**$ 148,231,389**	**$ 155,840,150**	**$ 150,604,900**	**-3.36%**	**$ 341,919,400**	**127.03%**
5E30	230644	Operating Expenses	$ 7,267,000	$ 7,657,362	$ 8,950,000	16.88%	$ 8,550,000	-4.47%
State Special Revenue Fund Group Total			**$ 7,267,000**	**$ 7,657,362**	**$ 8,950,000**	**16.88%**	**$ 8,550,000**	**-4.47%**
5S60	230602	Community School Loan Guarantee	$ 49,767	$0	$ 0	N/A	$ 0	N/A
7021	230909	School Entrance Improvements	$ 755,716	$ 628,017	$ 0	-100.00%	$ 0	N/A
7021	230910	Statehouse Debt Service	$ 755,537	$ 2,231,469	$ 0	-100.00%	$ 0	N/A
School Building Assistance Fund Group Total			**$ 1,561,020**	**$ 2,859,486**	**$ 0**	**-100.00%**	**$ 0**	**N/A**
School Facilities Commission Total			**$ 157,059,409**	**$ 166,356,998**	**$ 159,554,900**	**-4.09%**	**$ 350,469,400**	**119.65%**