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FISCAL IMPACT REPORT

ORIGINAL DATE 2/5/2007

SPONSOR Miera LAST UPDATED _____ HB 322

SHORT TITLE Public School Facility Opportunity Fund SB _____

ANALYST Aguilar

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	\$515.5	Recurring	General Fund
	\$387.9	Recurring	Severance Tax Bonds

(Parenthesis () Indicate Expenditure Decreases)

Duplicates SB-403
 Relates to HB-328, SB-395
 Conflicts with HB-145

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	(\$19,700.0)	(\$19,700.0)	Recurring	General Fund
	\$20,603.4	\$20,603.4	Recurring	Public School Facility Opportunity Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
 Public Education Department (PED)
 Attorney General's Office (AGO)
 Public School Facilities Authority (PSFA)

SUMMARY

Synopsis of Bill

House Bill 322 creates the Public School Facility Opportunity Fund; authorizes grants from the fund to certain districts so that the facilities in these districts may exceed adequacy standards; provides that unexpended balances in certain capital project appropriations will revert to the new fund, and provides that a portions of annual general fund appropriations shall revert to the new fund.

The bill also provides that 2 percent of all direct legislative appropriations to schools be directed to the fund; and that 2 percent of the gross receipts received from school construction projects be directed to the new fund.

FISCAL IMPLICATIONS

The decrease in revenue of \$19.7 million contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of any fiscal year shall not revert to the general fund.

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

House Bill 322 decreases revenue to the general fund by \$19.7 million and directs it to the Public School Facility Opportunity Fund for the purpose of making grants to specific districts so that the facilities in these districts may exceed adequacy standards.

An additional \$387 thousand is directed to the fund from severance tax bonds used for direct legislative appropriations.

The bill provides the following funding sources for the public school facility opportunity fund:

- A distribution equal to two percent of the taxable receipts attributable to public school construction;
- One-half of unexpended agency and fund balances that would otherwise revert to the general fund are transferred to the new fund for the next five fiscal years;
- Unspent capital project appropriations for fiscal years 2003 through 2006 are amended to provide for reversion to the new fund instead of the general fund;
- Unspent capital project appropriations that would otherwise revert to the general fund shall instead revert to the new fund; and,
- A two percent set aside of all special appropriations for school construction and transfers the amounts to the new fund

SIGNIFICANT ISSUES

The bill includes provisions for awarding additional grant assistance to approximately eight school districts to fund projects above the currently adopted adequacy standards. The current standards-based awards process was developed to make certain that all

students are taught in facilities meeting a certain level of adequacy to provide a sufficient education. This provision appears to be moving beyond the original intent of the Public School Capital Outlay Act and targeting funding outside of the adequacy process. This may set an undesirable precedent where the standards-based process is set aside and projects are funded using random criteria.

Under the provisions of this bill and at present, eight school districts, Cuba, Dexter, Gadsden, Gallup, Grants, Hagerman, Hatch and Zuni would be eligible for these funds

This bill diverts 2 percent of the taxable gross receipts attributable to the sale of school construction services to school districts or the PSFA to the opportunity fund. Based on information provided by PSFA, state spending on public school construction averages about \$120 million annually. This amount is matched by local spending, bringing average state and local public school construction spending to about \$240 million per year. In addition to this \$240 million from the state and local matching, local districts also pay about \$125 million more per year for projects separate from the Public School Capital Outlay Council for a grand total of \$365 million per year. Two percent of \$365 million is \$7.3 million

HB-322 provides that 2 percent of all direct appropriations made to a school district or another governmental agency for the purpose of passing money to a school district shall be transferred to the public school opportunity fund. In FY06, appropriations from the general fund for direct appropriations totaled \$25.8 million and appropriations from severance tax bonds totaled \$19.4 million resulting in approximately \$903 thousand identified for transfer to the fund.

The bill also provides that one-half of all unreserved and undesignated balances in reverting funds and accounts at the end of each fiscal year from FY07 through FY11 shall not revert but be transferred to the public schools facility opportunity fund. The consensus revenue estimate for recurring reversions to the general fund in FY08 is \$24.8 million. HB322 would require half of that amount, or \$12.4 million, to go to the adequacy fund.

ADMINISTRATIVE IMPLICATIONS

A separate application process would need to be developed by the PSCOC which would be administered by the Public School Facilities Authority. Criteria to evaluate and prioritize the applications would need to be developed. The additional responsibilities and oversight by the PSFA should be able to be accomplished with existing staff.

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