

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill No: HB 620

49th Legislature, 1st Session, 2009

Short Title: Public School Capital Outlay Maintenance

Sponsor(s): Representative Rick Miera and Others

Analyst: Pamela Herman

Date: February 24, 2009

Bill Summary:

HB 620 amends the *Public School Capital Improvements Act* to:

- remove the exclusion of salary expenses of school district employees from the definition of ‘capital improvements’; and
- define ‘maintenance’ as those activities required to keep a public school facility open and safe for use and to keep the grounds, buildings, and equipment in effective working condition and good repair.

Fiscal Impact:

HB 620 does not contain an appropriation.

Fiscal Issues:

The effect of HB 620 would be to allow school districts to use funds generated under the *Public School Capital Improvements Act* (also known as SB-9 funds) to pay the salaries of maintenance personnel.

According to the Public Education Department (PED), \$114.9 million is generated in SB-9 revenues for all 89 school districts, including \$97.2 million from local voter-approved real property levies, and \$18.1 million from state matching funds. PED notes that HB 620 would affect only the portion of SB-9 funds collected by school districts from property tax levies, because the state matching funds are partially funded through state severance tax bond proceeds, the uses of which are restricted in state administrative rule¹.

According to the Public Education Department (PED) agency bill analysis, allowing school districts to shift some operational costs, such as maintenance salary expenses, to their SB-9 funds will relieve their operational budgets during difficult economic times. According to PED:

- the original intent of enacting the *Public School Capital Improvements Act* was to provide for maintenance, and the change proposed in HB 620 is aligned with that intent; and
- currently some school districts are using SB-9 funds for “janitorial activities,” and the proposed definition of “maintenance” in HB 620 will clarify the act and help school districts avoid audit findings.

¹ New Mexico Administrative Code Section 2.61.6

According to the Public School Facilities Authority (PSFA) bill analysis, district facility maintenance programs rely on diminishing operational dollars for maintenance salaries and mostly on SB-9 funds for maintenance contracts, equipment, material and training. The PSFA analysis also indicates that:

- one on hand:
 - statewide SB-9 revenue is apparently insufficient to cover all allowable uses;
 - if districts are permitted to use these funds to pay maintenance salaries, there may be less remaining to properly equip or supply maintenance staff or pay contractors for proper maintenance operations; and
 - in the short term, classroom conditions may suffer, and in the long term, there could be premature deterioration of school facility infrastructure and an accelerated expense for facility system replacement across the state; however,
- on the other hand, if districts with insufficient operating funds are not allowed to use SB-9 funds for maintenance salaries, then some maintenance workers may be laid off and district facility maintenance programs may be compromised; and
- in either case, facility maintenance may be degraded and the classroom environment may suffer.

Background:

The *Public School Capital Improvements Act* allows a local school board to adopt a resolution to put to the qualified electors of the school district the question of whether a property tax should be imposed for the purpose of capital improvement in the school district. The resolution shall:

- identify the capital improvements for which the revenue will be used;
- specify the rate of the proposed tax, which shall not exceed \$2 on each \$1,000 of net taxable value of property allocated to the school district under the *Property Tax Code*;
- specify the date of the election; and
- limit the imposition of the proposed tax to no more than six property tax years.

The act also sets forth a formula for calculating the state matching share from the Public School Capital Improvements Fund for any school district that has imposed an SB-9 levy pursuant to the act. According to PED, all 89 public school districts currently receive SB-9 revenues.

The act currently explicitly excludes salary expenses of school district employees from the definition of “capital improvements.”

Related Bills:

*HB 465 *Public School Improvement Definitions*

*SB 378 *Public School Capital Outlay Amendments*