

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill Number:** HB 268aa

**51st Legislature, 1st Session, 2013**

**Tracking Number:** .190439.5

**Short Title:** School District Funding Match Waivers

**Sponsor(s):** Representatives Christine Trujillo, Mimi Stewart, and Others

**Analyst:** Sarah Amador-Guzman

**Date:** March 7, 2013

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**FOR THE PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE AND  
THE LEGISLATIVE EDUCATION STUDY COMMITTEE**

**AS AMENDED**

The House Judiciary Committee amendments remove the word “allow” in the title and replace it with amending the Public School Capital Outlay Act to “change certain criteria for” the Public School Capital Outlay Council (PSCOC) to determine the eligibility of a school district in receiving a waiver from its required funding match. Additionally, the committee strikes the word “may” and replaces it with the word “shall,” which changes the bill from having permissive language that would have allowed the PSCOC to either consider or disregard the waiver eligibility criteria (see “Background,” below for details) to mandatory language that would require the PSCOC to consider only the waiver criteria in granting eligibility to school districts in applying for a waiver of its required funding match.

The House Education Committee amendments remove the added criteria to Condition 1 (see “Background,” below) that school districts have less than an average of 800 full-time equivalent students on the 80<sup>th</sup> and 220<sup>th</sup> days of the prior school year. Additionally, the committee amendments change the criteria for school districts under Condition 2 (see “Background,” below) that require at least 50 percent of the students be eligible for free or reduced-fee lunch and that for all educational purposes, the residential property tax rate be at least \$5.00 on each \$1,000 of taxable value.

**Original Bill Summary:**

HB 268 amends provisions in the *Public School Capital Outlay Act* with regard to the determination by the Public School Capital Outlay Council (PSCOC) whether a school district applying for grant assistance is eligible for a waiver of its required funding match. More specifically, the bill:

- expands the eligibility criteria for all districts, especially those districts that have been unable to receive capital outlay dollars to address facility needs;
- changes the eligibility criteria for school districts applying for a waiver of the required local funding match; and
- by providing that the PSCOC “may,” rather than “shall,” consider the listed criteria, allows the PSCOC either to apply or disregard the waiver criteria established in the

*Public School Capital Outlay Act* as part of its discretion in approving or disapproving a waiver.

Under current law, one of the sets of conditions under which the PSCOC may adjust the amount of a district's local share is if the school district:

- has insufficient bonding capacity over the next four years to provide the local match to complete the project; and
- for all educational purposes, has a residential property tax rate of at least \$10 on each \$1,000 of taxable value, as measured by the sum of all rates imposed by the local school board including the rates set to pay interest and principal on outstanding school district general obligation bonds.

HB 268 would amend this set of criteria by adding the following condition: the school district must have fewer than an average of 800 full-time equivalent students on the 80<sup>th</sup> and 220<sup>th</sup> day of the prior school year (see "Technical Issues," below).

The bill would also require that a school district make "a good-faith effort to use" all of its local resources, rather than actually having used all of its resources, before the PSCOC can consider making an adjustment to the local share.

### **Fiscal Impact:**

According to the Public Education Department (PED) bill analysis, the PSCOC may see a fluctuation in waiver applications, which may have an impact on the funds available for capital outlay awards.

### **Substantive Issues:**

The bill is attempting to help school districts that have been unable to receive a waiver in the past, by including language that would allow these schools an opportunity to petition the council for a waiver of the required funding match.

### **Technical Issue:**

The sponsor may wish to consider the following amendment: on page 10, line 15, after the first "the" strike "eightieth and two hundred twentieth days" and insert in lieu thereof "second and third reporting dates." The amendment would align the reporting dates to those in current law.<sup>1</sup>

### **Background:**

The *Public School Capital Outlay Act*:

- is a funding mechanism established to:

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<sup>1</sup> Provisions in the *Public School Finance Act* identify the following dates when student membership (MEM) should be reported to PED: the first reporting period date is the second Wednesday in October; the second reporting period date is December 1 or the first working day in December; and the third reporting period date is the second Wednesday in February.

- ensure the physical condition;
  - educational suitability;
  - technology infrastructure; and
  - help public school facilities meet a condition of adequate level statewide through a standards-based process;
- is a standards-based process that uses a statewide assessment database, which ranks the condition of every school building relative to the statewide adequacy standards; and
  - requires that the schools with the greatest facilities needs be addressed first, according to the New Mexico Condition Index (NMCI).

The NMCI database operates as an objective prioritizing and ranking tool to assist the Public School Capital Outlay Council (PSCOC) in allocating funds to school districts. Additionally, the standards-based process requires school districts that receive awards to provide a local match that will be determined by the state match distribution formula.

Pursuant to the act, the PSCOC has the ability to:

- waive a school district’s local match; and
- adjust the amount of local share if it determines that a school district has used all of its local resources.

However, before the PSCOC can grant a waiver of the local match requirement, the school district must meet one of the following current conditions. The school district must have:

**Condition 1**

- insufficient bonding capacity over the next four years to provide the local match; and
- have a residential property tax rate of at least ten mills, including all educational purposes; or

(As explained under the “Bill Summary,” above, HB 268 adds criteria to this condition.)

**Condition 2**

- fewer than an average of 800 students on the 80<sup>th</sup> and 120<sup>th</sup> days of the prior school year;
- at least 70 percent of its students eligible for free or reduced-fee lunch;
- a local share greater than 50 percent; and
- including all educational purposes, have a residential property tax rate of at least seven mills; or

**Condition 3**

- an enrollment growth rate over the previous school year of at least 2.5 percent;
- will be building a new school within the next two years, pursuant its five-year facilities plan; and
- including all educational purposes, have a residential property tax rate of at least \$10,000 on each \$1,000 of taxable value, as measured by the sum of all rates imposed by resolution of the local school board, plus rates set to pay interest and principal on outstanding school district general obligation bonds.

**Committee Referrals:**

HEC/HJC/SEC

**Related Bills:**

SB 363 *Early College High Schools*