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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
54th Legislature, 1st Session, 2019

Bill Number	<u>HB473</u>	Sponsor	<u>Baldonado/Ruiloba</u>
Tracking Number	<u>.212052.2</u>	Committee Referrals	<u>HEC/H AFC</u>
Short Title	<u>School Security Equipment Fund</u>		
Analyst	<u>Rogne</u>	Original Date	<u>2/13/2019</u>
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BILL SUMMARY

Synopsis of Bill

House Bill 473 (HB473) would create the school security equipment fund to assist school districts with the purchase of security vehicles and other security equipment that is not eligible for funding under the Public School Capital Outlay Act's school security system project grant initiative. The Public Education Department (PED) would establish by rule, procedures to apply for grants, rank applications, and determine that the applicant is willing to pay the portion of the cost not funded with grant assistance. PED would also be responsible for awarding grants to school districts after a public hearing. HB473 would require projects to be subject to the state and local match formula in the Public School Capital Outlay Act, and require grant funds to be expended within two years of the award.

FISCAL IMPACT

The bill appropriates \$5 million from the general fund to the school security equipment fund for expenditure in FY20 and subsequent fiscal years for the purposes of the fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

According to PED, the immediate fiscal impact would be moderate. PED notes they would have to promulgate rules and procedures for school districts to apply for funding, including ranking applications. In addition, PED would also have to develop procedures on how to certify applications and communicate those approvals to the Department of Finance and Administration (DFA) for voucher payments. PED notes that after the initial startup year, the fiscal impact would be minimal.

SUBSTANTIVE ISSUES

The school security equipment fund in HB473 would assist school districts with the purchase of security vehicles and equipment not eligible for funding under the school security project grant initiative, which is awarded by the Public School Capital Outlay Council (PSCOC). However, HB473 would require PED to oversee the school security equipment fund, including establishing

procedures to apply for grants, rank applications, and give awards after a public hearing. As PSCOC typically grants public school capital outlay awards, and the Public School Facilities Authority (PSFA), staff to PSCOC, administers procedures such as the application process. HB473 may create administrative issues by requiring that PED administer the school security equipment fund. For example, HB473 would require PED to coordinate with PSFA to ensure projects funded through the school security equipment fund are not eligible under the school security project grant initiative, as well as for calculating the state and local match. See technical issues.

Background on Public School Capital Outlay. Public school capital outlay funding, used to purchase capital assets like buildings, is both a local and state responsibility in New Mexico. The current standards-based public school capital outlay program was developed and established partially in response to a 1998 lawsuit filed in state district court by the Zuni Public Schools and later joined by the Gallup-McKinley County Public Schools and the Grants-Cibola County Public Schools. The State district court found that through its public school capital outlay funding system the state was violating that portion of the state constitution that guarantees establishment and maintenance of a “uniform system of free public schools sufficient for the education of, and open to, all children of school age” in the state. The court ordered the state to “establish and implement a uniform funding system for capital improvements... and for correcting past inequities” and set a deadline at the end of the 2001 legislative session. The court appointed a special master to review the state’s progress.

Although the quality of school facilities has improved significantly since the lawsuit, litigant school districts are still concerned the system is inequitable. These alleged ongoing disparities led Gallup-McKinley County Schools (GMCS) two years ago to reopen the *Zuni* lawsuit – which had never been closed – and seek judicial intervention to cure what the school district characterizes as ongoing disparities in the current public school capital outlay funding system. For example, GMCS is concerned that property-wealthy school districts are able to build public school facilities significantly above adequacy without taxing themselves to the same extent that voters in the GMCS school district tax themselves.

PSCOC, which implemented standards-based awards in 2004 as part of its response to the *Zuni* lawsuit, considers four primary factors when making standards-based awards: the cost of bringing the school up to adequacy standards, the size of the state match for which the school district is eligible, availability of funding, and the school’s eligibility for funding based on its ranking. The statewide adequacy standards set the minimum educational space requirements for school facilities. Since 2003, all PSCOC-funded capital outlay projects have been subject to the Public School Capital Outlay Act’s state and local match formula that requires school districts and charter schools to pay a portion of project costs. In addition, the Legislature in 2003 enacted a measure to counteract the disequalizing effect of direct legislative appropriations by requiring an offset be applied against the state share of PSCOC funds for school districts that receive direct legislative appropriations for capital outlay expenditures. In 2004, PSCOC developed the facility condition index (FCI) and the weighted New Mexico Condition Index (wNMCI) to rank every facility based on relative need from greatest to least.

ADMINISTRATIVE IMPLICATIONS

According to PSFA, collaboration and coordination between PSFA and PED would be required to ensure grants made from the school security equipment fund are not eligible for funding under Section 22-24-4.7 NMSA 1978. PSFA also notes PED would need to collaborate with PSFA for

the calculation of the state and local match pursuant to Subparagraph B of Section 22-24-5 NMSA 1978, which would require use of the phase two formula implementation and a reduction of the state share of the award by the total of direct appropriation offsets. PSFA also notes that unlike the provisions of the school security system project grant initiative, applications from the HB473's school security equipment fund do not require a school security assessment for funding. School security assessments allow experts to recommend the most effective school security projects for a school district or charter school.

TECHNICAL ISSUES

HB473 would require PED to promulgate rules and procedures for the application and awarding process of the school security equipment fund, however, PSCOC typically oversees public school capital outlay awards, including the existing school security project grant initiative. The sponsors may want to amend HB473 so that page 2, lines 7 and 21 reference PSCOC instead of the department.

The New Mexico Attorney General notes that “security vehicles” and “other security equipment” should be defined to provide more clarity as to what may be expended from the school security fund.

RELATED BILLS

HB129, School Security Personnel & Deadly Weapons, expands the classes of people who may carry weapons on campus to include retired peace officers and contract security guards who are registered as level three security guards.

SB146, Create Crime of School Threat, would amend the Criminal Code to create the crime of making a school threat a fourth degree felony.

SB147, School Safety Drill Requirements, would change the requirements for school emergency drills.

SB148, Former Officers as School Security Personnel, would allow retired law enforcement officers to receive annual cost of living adjustments if employed as school security personnel by an Educational Retirement Board employer.

SOURCES OF INFORMATION

- LESC Files
- Department of Public Safety (DPS)
- Department of Homeland Security and Emergency Management (DHSEM)
- New Mexico Attorney General (AG)
- Public Education Department (PED)
- Public School Facilities Authority (PSFA)
- Regional Education Cooperatives (REC)