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

Bill Number	<u>SB230</u>	Sponsor	<u>Stewart</u>
Tracking Number	<u>.211724.1</u>	Committee Referrals	<u>SEC/SFC;HEC/HAFC</u>
Short Title	<u>Pre-K Classroom Facilities Initiative</u>		
Analyst	<u>Rogne</u>	Original Date	<u>1/24/2019</u>
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FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

BILL SUMMARY

Synopsis of Bill

Senate Bill 230 (SB230) would allow public school prekindergarten facilities to be funded with a qualifying standards-based award under the Public School Capital Outlay Act and would also allow the Public School Capital Outlay Council (PSCOC) to adopt standards for prekindergarten classrooms. The bill would also add a five-year temporary program to fund prekindergarten facilities. Lastly, the bill will authorize prekindergarten facilities as an allowable use of Public School Capital Improvements Act funds, commonly referred to as SB9 funds, and Public School Buildings Act funds, commonly referred to as HB33 funds.

FISCAL IMPACT

The bill does not contain an appropriation.

The Public School Facilities Authority (PSFA) requested \$25 million to be appropriated in the 2019 legislative session through the infrastructure capital improvements committee as PSCOC cannot allocate funds for prekindergarten classrooms through the Public School Capital Outlay Act. PSFA indicates that the infrastructure capital improvement plan submitted by PSFA allocates a total of \$25 million in its financial plan for prekindergarten classrooms with a \$5 million allocation for each fiscal year of FY20 through FY24.

SUBSTANTIVE ISSUES

SB230 would enact a five-year prekindergarten classroom facilities initiative from FY20 through FY24. In addition, SB230 would also allow PSCOC to fund prekindergarten classrooms with a qualifying standards-based award, provided that prekindergarten space is not included in the calculation of project funding prioritization. SB230 would allow PSCOC to develop guidelines for a prekindergarten classroom facilities initiative, including establishing and adopting prekindergarten classroom standards. PSFA, staff to PSCOC, would rank all applications it

receives for the prekindergarten classroom initiative according to a methodology adopted by PSCOC for that purpose. After a public hearing, PSCOC would award funding based on this ranking. SB230 would require prekindergarten classroom facilities initiative projects to be subject to the state and local match formula, and that school districts expend funds within three years of the award, both typical requirements for PSCOC awards. Finally, SB230 would amend the Public School Capital Improvements Act and the Public School Buildings Act to make prekindergarten classrooms an allowable use of SB9 and HB33 funds.

SB230 also makes technical changes to Section 22-24-4 NMSA 1978, such as changing “public school facilities authority” to “authority,” removing a reference to the federal No Child Left Behind Act of 2001, changing “eightieth day” to “second reporting date,” and cleaning up references to other sections of law.

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.

Prekindergarten Classroom Facilities Issues. While multiple bills to increase access to prekindergarten programs are under consideration, sufficient, appropriate classrooms do not currently exist. Prekindergarten classrooms are not eligible for standards-based funding pursuant to the Public School Capital Outlay Act unless classrooms serve 3- and 4-year-old students with developmental delays. In years past, as the state has increased investments in prekindergarten programs, funds have been appropriated to the Public Education Department (PED) to make awards to school districts for prekindergarten classroom space. Since FY07, PED awarded \$15.5 million to school districts statewide to renovate and build 52 prekindergarten classrooms. Historically, school districts had limited interest and PED had little capacity to manage the program. For this reason, the Legislature in 2018 reauthorized a \$5 million appropriation made to PED in 2016 and appropriated the \$5 million to PSFA, given the capacity and project management expertise of the agency. In FY18, for the first time, interest in funds for prekindergarten spaces exceeded availability, with \$6.1 million in requests exceeding the \$5 million available.

ADMINISTRATIVE IMPLICATIONS

According to PSFA, administrative implications for their agency will be minimal. PSFA can develop prekindergarten standards without difficulty by incorporating the already existing adequacy standards for kindergarten classrooms. The adequacy planning guide has specific design guides with recommended net square foot per student which are applicable to kindergarten.

CONSEQUENCE OF NOT ENACTING THE BILL

PSFA indicates that there would be a lack of availability of discretionary grant funds through the Public School Capital Outlay Act for prekindergarten facilities, and prekindergarten classroom standards would not be adopted.

RELATED BILLS

Relates to HJR1, Permanent Funds for Early Childhood, CA, which would amend the Constitution of the State of New Mexico to increase annual distributions from the Land Grant Permanent Fund by 1 percent for early childhood services.

Relates to SB22, Early Childhood Education & Care Dept., which would create the Early Childhood Education and Care Department and expand the definition of prekindergarten.

Relates to SB298, Public Pre-Kindergarten Act, which would expand prekindergarten services.

SOURCES OF INFORMATION

- LESC Files
- Public School Facilities Authority
- Regional Education Cooperatives
- New Mexico School for the Blind and Visually Impaired

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