

# SENATE BILL REPORT

## ESSB 5807

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As Passed Senate, March 11, 2009

**Title:** An act relating to use of capital projects funds by school districts.

**Brief Description:** Concerning the use of capital projects funds by school districts.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Brandland, Fraser, McAuliffe, King, Oemig and Shin).

**Brief History:**

**Committee Activity:** Ways & Means: 2/18/09, 2/25/09 [DPS, w/oRec].

Passed Senate: 3/11/09, 44-1.

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 5807 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Fairley, Hobbs, Honeyford, Keiser, Kline, McDermott, Murray, Oemig, Parlette, Pflug, Pridemore, Regala and Schoesler.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Carrell.

**Staff:** Elise Greef (786-7708)

**Background:** By law, school districts must establish a capital projects fund for major capital purposes. Proceeds from bond sales; capital fund investments; two- to six-year levies for construction, modernization, or remodeling of school facilities (capital levies); state forest revenues; and revenue from leases and sales of property are deposited into the capital projects fund. Monies in the capital projects fund can be used for specific purposes, including:

- major renovation, including the replacement of facilities and systems where periodic repairs are no longer economical;
- renovation and rehabilitation of playfields, athletic fields, and other district real property;
- energy audits and energy capital improvements;

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- purchase of major items of equipment (except vehicles);
- costs associated with implementing technology systems; and
- costs associated with the modernization of technology systems for operations and instruction (added in 2007).

School districts pay for maintenance and other technology costs from their general fund using state allocations for nonemployee-related costs and any local maintenance and operation levies, which are subject to a levy lid. Under the State Constitution and statute, capital levies may be authorized for up to six years. There is no levy lid for capital levies.

The Joint Legislative Task Force on School Construction Funding (Task Force) was created by the 2007 Legislature to comprehensively review and evaluate school construction funding issues. The Task Force recommended in its December 2008 report that the state should "expand the list of activities such as painting, major equipment repair or other major preventative maintenance purposes, that may be funded with local six-year school district capital levy revenues."

**Summary of Engrossed Substitute Bill:** It is clarified that "major renovations and replacement of facilities and systems" includes exterior painting of facilities, plumbing systems, and replacement and refurbishment of exterior walls and windows. The authorized uses of school districts' capital projects funds are expanded to include painting of facilities; major equipment repair; and other major preventative maintenance purposes. These purposes are also added to allowable uses of capital levy funds. A school district using capital projects funds for major equipment repair, exterior painting of facilities, and other major preventive maintenance purposes must transfer the funds to the district's general fund, and the Office of the Superintendent of Public Instruction must develop accounting guidelines for transferring funds used for this purpose. Further, capital projects funds used for these purposes may not supplant other maintenance expenditures being made from school districts' general funds.

It is further clarified that, for allowable uses of school district capital projects funds, there are two alternative purposes of major renovations and replacement of facilities: (1) where periodical repairs are no longer economical; or (2) when the renovation or replacement extends the useful life of the facility or system. Painting of facilities is authorized by section 1(2)(g), and this authorization is cross-referenced in section 1(2)(a).

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: One of the things that came out of the School Construction Task Force was that, as schools' finances become more and more pinched, districts are making very difficult trade-off choices. School buildings are, in some cases, in very poor condition, not because of neglect but because school districts are scrambling to fulfill their missions. This bill is a small thing the state can do for school districts to allow

them to use these types of funds for general maintenance, an expansion that the Task Force thought was a good thing to do. This bill is a long time coming. The important principle is extension of the life of buildings by being able to make needed major repairs. In the example of painting, this is not painting one classroom but, instead, a major painting project that protects the shell of the building and extends its life. Another example would be repairing a boiler system, allowing the desired lifespan of 25-plus years to be achieved. Currently, that type of maintenance expenditure is coming out of the General Fund and the Capital Fund is more appropriate. This bill provides some clarity about exactly what expenditures are permissible from these funds. This bill should save capital money because school districts report that, absent spending on basic maintenance, the life of school facilities is shortened. This shortened life manifests itself in other parts of the capital budget in the form of higher demand for state capital funds.

CON: The bill seems fairly innocuous on its surface but, over the past several years, the Legislature has blurred the bright line between capital and operating funds in this section of the statute. In 2002, school districts asked for permission to use capital funds for technology systems, licensing software, online applications and training; this was approved. In 2007, school districts returned to the Legislature and asked to be allowed to pay for teacher training and ongoing software license fees out of capital funds; this was also approved. There are Internal Revenue Service regulations that prohibit the use of tax-exempt bonds for noncapital purposes. The continued expansion of the use of these funds for noncapital activity is a problem and requires the Office of the Superintendent of Public Instruction to come up with accounting guidelines to account for the funds and to move the money around. The request today, such as painting facilities and other expansions that have occurred in the past, are operating expenditures. The Legislature and the public have reduced the voting threshold for operating levies from a super-majority to a simple-majority requirement. However, bond levies still require a super-majority. Capital funds, then, become even more precious since they require a higher voting threshold.

**Persons Testifying:** PRO: Senator Brandland, prime sponsor; Senator Fraser, co-sponsor; Pete Wall, Tacoma School District; Gordon Beck, Office of the Superintendent of Public Instruction; Dan Steele, Washington State School Directors' Association.

CON: Stan Bowman, American Institute of Architects, Washington Council.