

# SENATE BILL REPORT

## SB 5933

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As of January 28, 2022

**Title:** An act relating to establishing a school seismic safety grant program.

**Brief Description:** Establishing a school seismic safety grant program.

**Sponsors:** Senators Frockt, Schoesler, Conway, Honeyford, Keiser, Lovelett, Mullet, Pedersen, Rolfes and Wilson, J..

**Brief History:**

**Committee Activity:** Ways & Means: 1/31/22.

### Brief Summary of Bill

- Establishes a school seismic safety grant program for school districts and state tribal compact schools for remediation of seismic or tsunami hazards in qualifying buildings.
- Requires qualifying buildings to be located in high seismic hazard areas and must have been built prior to 1998, and has not received a seismic retrofit to 2005 seismic standards.
- Authorizes the State Finance Committee to issue up to \$500 million in general obligation bonds to finance the school seismic safety grant program.
- Subjects the \$500 million outside of the debt limit to a vote of the people.

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Michael Bezanson (786-7449)

**Background:** State Funding Programs for School Construction. The capital budget

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provides funding to assist school districts with the costs of school construction, seismic retrofits, and other capital costs through several programs. The three largest programs related to seismic or tsunami construction are the School Construction Assistance Program (SCAP), the Small District and Tribal Compact Schools Modernization Program, and the School Seismic Safety Retrofit Program.

*School Construction Assistance Program.* SCAP provides state financial assistance on a formula basis to school districts for constructing new, and remodeling existing, school buildings. Only districts' permanent instructional space is eligible for state funding through the program. The Office of the Superintendent of Public Instruction (OSPI) administers the program and works with school districts on project approval and reimbursement.

The state allocates SCAP funding to districts based on a set of space and cost standards determined by OSPI and adopted by the Legislature, as well as a statutory funding assistance percentage based on the relative property wealth of districts. Capital construction costs for instructional space that exceed the state financial assistance provided by SCAP are generally borne by school districts. A school district must first secure local funding before it may become eligible for SCAP funding. Although voter-approved capital bonds are the most common form of local project financing, examples of other local funding include voter-approved capital levies, impact fees, mitigation payments, and interest income from a school district's capital projects fund.

*Small District and Tribal Compact Schools Modernization Program.* This program provides planning and construction grants for small school districts and tribal compact schools with significant building deficiencies. Projects are evaluated and ranked by an advisory committee of facilities professionals. This prioritization process must achieve the greatest improvement of school facilities, in the districts and state-tribal education compact schools with the most limited financial capacity, for projects likely to improve student health, safety, and academic performance for the largest number of students for the amount of state grant support.

Participation is limited to school districts and tribal compact schools with total enrollments of 1000 students or less. No local cost share is required of districts, but grants may be coordinated with SCAP funding. Although the related statutes do not limit the scope of modernization projects funded through this program, the work funded has generally modernized parts of school facilities. Examples of typical projects include heating, ventilation, air conditioning, electrical, and roofing improvements. The 2021-23 Capital Budget contains provisions that limit program participation for the 2023-25 biennium to projects with a state funding level of \$5 million or less.

*School Seismic Safety Retrofit Program.* This program provides seismic retrofit planning and construction grants to school districts for the improvement of school buildings used for the instruction of students. Under the related 2021-23 Capital Budget proviso, OSPI must prioritize school districts with the most significant building deficiencies and the greatest

seismic risks as determined by the most recent geological data and building engineering assessments, beginning with facilities classified as very high risk. In the project development process, OSPI is also required to consider:

- prioritizing student instructional spaces and facilities that improve communities' emergency response capacity, including school gymnasiums and school facilities capable of providing space for emergency shelter and response coordination;
- the financial capacity of low property value school districts in determining the size of grant awards;
- facilities' seismic needs considering the useful life of the facilities; and
- the extent to which the cost of the proposed seismic improvements are less than the estimated cost of facility replacement or new construction.

State Bonds and Constitutional Debt Limit. The State Finance Committee (SFC), composed of the Governor, the Lieutenant Governor, and the State Treasurer, authorizes the issuance of all bonds and other state obligations, including financing leases, that finance capital projects authorized in the capital and transportation budgets. The SFC also acts to refinance state debt when appropriate to reduce interest costs. No bonds may be authorized for sale without prior legislative appropriation of the net proceeds.

General obligation bonds pledge the full faith, credit, and taxing power of the state toward payment of debt service. When debt service payments are due, the state treasurer withdraws the amounts necessary to make the payments and deposits them into bond retirement funds.

The State Constitution establishes a state debt limit. The State Treasurer may not issue bonds that would cause debt service to exceed 8.25 percent of general state revenue. The State Constitution also authorizes the issuance of debt outside of the debt limit subject to a vote of the people via referendum. Recent bond authorizations via referenda include:

- Motor Vehicle Fuel Tax, Referendum 49 (1998)—\$1.9 billion;
- Stadium and Exhibition Center Authorization (1997)—\$300 million;
- Waste Disposal Facilities (1980)—\$450 million;
- Handicapped Facilities (1979)—\$25 million; and
- Public Water Supply Facilities (1979)—\$125 million.

Seismic and Tsunami Hazards. The United States Geological Survey (USGS) produces a seismic hazard long-term model that defines the potential for earthquake ground shaking under various scenarios across the United States. The model is applied in seismic provisions of building codes, insurance rate structures, risk assessments, and other public policy. The most recent model is from 2018 and has been updated every four years since 1996.

Washington adopted 2018 International Building Code amendments that directs designers, engineers, and architects to use the Washington Tsunami Design Zone Maps to determine whether structures, which can include school buildings, of certain risk types need to be designed for tsunamis.

**Summary of Bill:** A school seismic safety grant program is established for school districts and state tribal compact schools for remediation of seismic or tsunami hazards in qualifying buildings.

Eligibility. A qualifying building must be located within a high seismic hazard area and must have been constructed before 1998 and not received a seismic retrofit to 2005 seismic standards. A high seismic hazard area means:

- any location identified by USGS national seismic map with a 2 percent probability of exceedance in 50 years and a national earthquake hazards reduction program site class D that are 0.3 peak horizontal acceleration or greater; or
- any area located within a Washington tsunami design zone map that requires structures in risk category three or four to be designed for tsunamis.

Eligible projects are remediation solutions that mitigate or eliminate site specific seismic or tsunami hazards and may include building relocation if related to a tsunami hazard.

Grant Awards. The Superintendent of Public Instruction must award state and federal grants to eligible school districts and state education tribal compact schools an amount equal to at least two-thirds of the total project cost. The total project cost is the average cost per square foot for new or modernization at the time of bid for projects participating in SCAP.

If funds are appropriated, OSPI must provide technical assistance and planning grants to assist schools interested in applying for a school seismic safety grant.

Process. OSPI must appoint an advisory committee with experience in financing, managing, or planning seismic remediation projects at school facilities. The advisory committee must prioritize applications that achieve the greatest improvement in school facilities, in school districts and state-tribal education compact schools with the most limited financial capacity, for projects likely to improve student health, safety, and academic performance for the largest number of students for the amount of state grant support.

The Superintendent of Public Instruction must propose a list of prioritized school seismic safety grants to the Governor by September 1st of each year, beginning September 1, 2022. The Superintendent of Public Instruction and the Governor may determine the level of funding in their funding requests to the Legislature, but their funding requests must follow the prioritized list unless new information determines a specific project is no longer viable as proposed.

OSPI may streamline the administrative and procedural process of the school safety seismic program and SCAP. Funding from both programs may not exceed the total project cost.

Bond Funding. SFC is authorized to issue up to \$500 million in state general obligation

bonds to finance the school seismic safety grant program and to pay expenses incurred in the issuance and sale of bonds. SFC will issue the bonds outside of the debt limit in the State Constitution, subject to approval by the voters via referendum. Proceeds from the sale of bonds must be deposited to the school seismic safety grant bond account or into the school seismic safety grant taxable bond account. The State Treasurer is required to withdraw from general state revenues the amounts necessary to make the principal and interest payments on the bonds and must deposit these amounts into the Nondebt-Limit General Fund Bond Retirement Account.

The Secretary of State must submit the bond authorization to the people, for their adoption or rejection, at the next general election to be held in the state. The ballot title must read: "The Legislature has passed Senate Bill 5933, concerning the school seismic safety grant program. This bill would authorize bonds to build new or modernize existing school buildings that are in high seismic areas."

**Appropriation:** None.

**Fiscal Note:** Requested on January 24, 2022.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed. The bond provisions take effect after the November 2022 election.