

Update of Prior K-12 Construction Task Force Recommendations

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Legislative fiscal staff

Recommendations from the 1998 House Task Force on School Construction Funding

1. Improve investment options for the Permanent Common School Fund.

At statehood, the Enabling Act granted certain lands to the state to be held in trust for various public purposes. Article 9 of the State Constitution reflects the Enabling Act by establishing the Permanent Common School Fund (CSF) and the Common School Construction Fund.

The Department of Natural Resources transfers proceeds from the sale of stone, minerals, or property other than timber and crops for school and state land to the Washington State Investment Board (WSIB) for investment in the CSF. Earnings of the CSF are deposited in the Common School Construction Fund, which is appropriated for K-12 school construction.

In 1999, an opinion of the Washington State Attorney General concluded that the State Constitution does not prohibit the investment of moneys in the CSF, as long as the investment is authorized by law and is consistent with applicable trust principles. This opinion further reasoned that the constitutional phrase permanent and irreducible bars the Legislature from abolishing the CSF or expending its principal for purposes other than those for which the CSF was established, but does not prohibit the Legislature from specifying permissible investments.

Status: The 2007 Legislature enacted HB 2396 to clarify the law authorizing investment of the CSF in equities when the investment is in the best interest of the state and the CSF. The WSIB has the authority to invest the CSF to achieve a balance of long-term growth and current income. The State Treasurer calculates the irreducible principal.

2. Restore the state standard for construction cost per sq. foot and space per student.

The 1998 Task Force recommended that the State Board of Education give priority to begin restoring the level of state support per square foot of school construction and the space per student allocation to the pre-1985 level. During the early 1980's, the demand for state funds exceeded available revenues. In order to spread the available dollars to more school projects, the Board reduced the state allocation per square foot and the standard for space per student.

Status: In 2003, the State Board of Education and the Office of the Superintendent of Public Instruction adopted a six-year plan to provide state matching funds which were more closely aligned with actual new construction costs and with educational space specifications for today's students. In the 2003-05 and 2005-07 capital budgets, the Legislature took steps to enhance the amount paid per square foot, and funded new construction and modernization at the same rate. The Legislature also enhanced the space allowed per student.

3. Provide multiple release dates for state school construction funds. (1998 and 2002)

State funds are released by the State Board (now OSPI) on July 1 of each year and school districts are not able to obligate these funds until after that date. This release date is poorly timed for requesting bids and scheduling construction projects. The construction industry tries to schedule work in the early spring, but the July date causes some school districts to request bids in the late summer, reducing the number of available contractors and potential bidders.

The 1998 and 2002 Task Forces recommended that the State Board of Education use its rule making authority to implement this recommendation.

Status: No action was taken.

4. Consider Emergency Reserve Fund alternatives.

The 1998 Task Force recommended that the state's emergency reserve fund be modified so that money would flow faster into the Education Construction Fund. State law required all state general fund revenues above the spending limit to be deposited into an emergency reserve fund. Once the emergency reserve fund accumulated a balance equal to 5% of biennial revenues (about \$1 billion), any additional revenue was to be deposited into the Education Construction Account. If the 5% biennial emergency reserve were modified to a lower percentage or calculated on an annual revenue base, more money would flow into the Education Construction Account sooner. The Task Force recommended that the emergency reserve fund be 2% of annual revenues and the change be submitted to the voters for approval.

Status: In 2000, the Legislature enacted EHB 3169 that limited the Emergency Reserve Fund balance to five percent of annual (instead of biennial) state general fund revenues, which lowered the threshold at which moneys are deposited into the Education Construction Account. I-728 eliminated the excess emergency reserve fund going into the Education Construction Account and replaced them with a portion of the lottery proceeds.

5. Allow school districts the option to use capital funds to acquire facilities with lease/purchase agreements and make the agreements eligible for state assistance.

The 1998 Task Force recommended school districts be given the ability to use the capital projects fund, including state financial assistance, for lease/purchase options for school facilities. The Task Force recognized the need for school districts to have more flexibility to acquire facilities to serve the needs of rapidly growing student enrollments. Long-term lease/purchase agreements would provide an option to the traditional construction process by enabling districts to quickly respond to explosive enrollment growth and changing student demographics with fewer up-front costs.

Status: In 1999, the Legislature passed HB 1833 which authorized school districts to use state matching money and voter-approved bonds to pay for installment payments on school building purchase agreements or for long-term lease purchase contracts.

6. Allow school districts to use the unused state portion of property tax for school facilities - Temporary School Facility Levy.

The 1998 Task Force recommended that school districts be allowed to collect the unused portion of the state property tax for two years if a district fails to pass a levy for school facilities in two consecutive elections in one year, but receives at least a 50% majority vote in both elections.

The 2002 Task Force recommended several possibilities, such as: (1) when districts fail to get the 60% vote needed to pass a bond in two elections in the same year (as recommended by the 1998 Task Force on School Construction); (2) to endow the Permanent Fund or another endowment fund, or (3) for general school construction purposes.

Status: No action was taken.

7. Require constructability reviews, building commissioning, value engineering and professional construction managers on new school construction projects.

The 1998 Task Force recommended that school districts use constructability reviews, value engineering, and building commissioning for all new school construction projects and that school districts hire professional construction managers to manage all school projects. The Task Force further recommended that the additional cost of these construction management techniques be eligible for state matching financial assistance.

Status: In 1999, the Legislature passed HB 1831 which required school districts to use constructability reviews, value engineering, and building commissioning for all new school construction projects and that school districts hire professional construction managers to manage all school projects. The additional cost of these construction management techniques became eligible for state matching financial assistance.

8. Expand the use of limited general obligation (nonvoter-approved) bonds so they can be used for the same capital purposes as voter approved bonds.

The 1998 Task Force recommended that school districts be authorized to use nonvoter debt to pay for construction of new facilities, repair of existing buildings or any use authorized by voter-approved debt.