

CHAPTER 183

EDUCATION - PUBLIC SCHOOLS

SENATE BILL 23-220

BY SENATOR(S) Zenzinger and Kirkmeyer, Buckner, Cutter, Fields, Ginal, Moreno, Priola, Simpson;
also REPRESENTATIVE(S) Bird and Sirota, Amabile, Bacon, Bockenfeld, Brown, deGruy Kennedy, Gonzales-Gutierrez, Joseph, Lieder, Lindsay, Lindstedt, Mabrey, Marshall, Martinez, Michaelson Jenet, Ortiz, Ricks, Snyder, Story, Titone, Valdez, Weinberg, Young, McCluskie, Bradley, Hamrick, Jodeh, Kipp, McLachlan, Pugliese, Sharbini, Taggart, Velasco, Weissman, Wilson.

AN ACT

CONCERNING THE USE OF MONEY PREVIOUSLY ALLOCATED FOR PUBLIC SCHOOLS, AND, IN CONNECTION THEREWITH, REDUCING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative Declaration. (1) Due to exceptional, unanticipated construction inflation caused by the COVID-19 pandemic and supply chain disruptions, some school districts that were awarded capital construction assistance grants by the capital construction assistance board for capital construction projects during the 2020-2021, 2021-2022, and 2022-2023 fiscal year award cycles have been unable to complete the projects as planned;

(2) Because of unanticipated construction inflation, the previously allocated capital construction assistance grants do not have the same purchasing power as expected at the time of the awards; and

(3) Therefore, the General Assembly finds, determines, and declares that one-time supplemental funding should be provided to assist some grantee school districts in completing projects that have already been approved by the capital construction assistance board, state board of education, and capital development committee for fiscal years 2020-2021, 2021-2022, and 2022-2023 that are facing unanticipated construction inflation pressure and related cost overruns.

SECTION 2. In Colorado Revised Statutes, 22-43.7-109, **amend** (9)(a)(III), (9)(a)(V), (9)(b)(III), (9)(b)(V), and (15)(a)(I); **repeal** (9)(a)(VI) and (9)(b)(VI); and **add** (9.5) as follows:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

22-43.7-109. Financial assistance for public school capital construction - application requirements - evaluation criteria - local match requirements - technology grants - career and technical education capital construction grants - rules - definitions - repeal. (9) Except as otherwise provided in subsections (10) and (15) of this section, the board may recommend and the state board may approve financial assistance that does not involve a financed purchase of an asset or certificate of participation agreement for or recommend to the capital development committee the approval of financial assistance that involves a financed purchase of an asset or certificate of participation agreement for a public school facility capital construction project only if the applicant provides matching money in an amount equal to a percentage of the total financing for the project determined by the board after consideration of the applicant's financial capacity, as determined by the following factors:

(a) With respect to a school district's application for financial assistance:

~~(III) The school district's bond redemption fund mill levy~~ TOTAL DOLLAR AMOUNT OF ALL SCHOOL DISTRICT MILLS, PER CAPITA, relative to the statewide average;

(V) The school district's current available bond capacity remaining; AND

~~(VI) The school district's unreserved fund balance as a percentage of its annual budget; and~~

(b) With respect to a board of cooperative services' application for financial assistance:

~~(III) The average bond redemption fund mill levy~~ TOTAL DOLLAR AMOUNT OF ALL SCHOOL DISTRICT MILLS, PER CAPITA, of all members of the board of cooperative services participating in the capital construction project relative to the statewide average;

(V) The average available bond capacity remaining of all members of the board of cooperative services participating in the capital construction project; AND

~~(VI) The average unreserved fund balance as a percentage of the annual budget of all members of the board of cooperative services participating in the capital construction project; and~~

(9.5) (a) FOR THE 2023-24 STATE FISCAL YEAR, THE BOARD SHALL ALLOCATE FORTY NINE MILLION SEVEN HUNDRED FIVE THOUSAND TWO HUNDRED TWENTY DOLLARS OF THE ANNUAL APPROPRIATION FOR PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE BOARD CASH GRANTS FOR THE PURPOSE OF FUNDING SUPPLEMENTAL GRANTS RELATED SOLELY TO COST OVERRUNS IN PROJECTS APPROVED PURSUANT TO THIS PART 1 THAT ARE CAUSED BY COVID-19 PANDEMIC-RELATED INFLATIONARY PRESSURES AND SUPPLY CHAIN DISRUPTIONS. THIS FUNDING IS AVAILABLE FOR SUPPLEMENTAL GRANTS THAT ARE REQUESTED THROUGH THE REGULAR 2023-24 GRANT CYCLE. ANY MONEY REMAINING FOR SUPPLEMENTAL GRANTS AFTER AWARDS FOR SUPPLEMENTAL GRANTS ARE MADE DURING THE REGULAR GRANT CYCLE SHALL BE AVAILABLE FOR A SECOND 2023-24

SUPPLEMENTAL GRANT CYCLE DESCRIBED IN SUBSECTION (9.5)(b) OF THIS SECTION. NOTWITHSTANDING OTHER DEADLINES IN THIS SECTION TO THE CONTRARY, THE SECOND GRANT CYCLE MUST PROVIDE FOR ADDITIONAL REQUESTS FOLLOWING THE TIMELINES AND REQUIREMENTS ESTABLISHED BY THE BOARD AND SUBJECT TO SUBSECTIONS (9.5)(b) AND (9.5)(c) OF THIS SECTION. ANY MONEY REMAINING AFTER THE SUPPLEMENTAL GRANTS ARE AWARDED IN THE SECOND 2023-24 GRANT CYCLE MUST BE AWARDED TO FUND NEW PROJECTS UNDER THIS PART 1 THAT WERE NOT AWARDED FUNDING IN THE INITIAL GRANT ROUND CONDUCTED PURSUANT TO SUBSECTION (7)(a) OF THIS SECTION.

(b) ENTITIES THAT WERE AWARDED CAPITAL CONSTRUCTION ASSISTANCE GRANTS FOR FISCAL YEAR 2020-21 OR FISCAL YEAR 2021-22 THAT HAVE NOT BEEN ABLE TO COMPLETE THEIR PROJECTS AS PLANNED DUE TO INFLATION AND FOR WHOM INFLATIONARY NEEDS WERE NOT ADEQUATELY ADDRESSED THROUGH SUPPLEMENTAL GRANTS AWARDED IN THE FISCAL YEAR 2022-23 AWARD CYCLE ARE ELIGIBLE TO APPLY THROUGH JUNE 15, 2023, FOR FUNDING THROUGH THE SECOND 2023-24 FISCAL YEAR GRANT CYCLE. THE BOARD SHALL DETERMINE THE REQUIREMENTS OF THE SUPPLEMENTAL GRANT PROCESS FOR SUPPLEMENTAL PROJECTS AND DETERMINE AWARDS NO LATER THAN AUGUST 17, 2023. SUPPLEMENTAL GRANT REQUESTS MUST BE SUBMITTED ON AN APPLICATION PROVIDED BY THE DIVISION. SUPPLEMENTAL GRANTS MUST BE AWARDED AS NECESSARY TO PRESERVE THE INTEGRITY OF THE PROJECT GOALS AS INITIALLY APPROVED BY THE BOARD AND THE STATE BOARD WITHOUT EXPANSION OF INITIAL PROJECT SCOPE.

(c) NOTWITHSTANDING SUBSECTION (7)(a) OF THIS SECTION OR ANY OTHER PROVISION OF THIS PART 1 TO THE CONTRARY, THE BOARD HAS THE SOLE POWER TO AWARD SUPPLEMENTAL GRANTS PURSUANT TO THIS SUBSECTION (9.5) AND IS NOT REQUIRED TO OBTAIN THE APPROVAL OF THE STATE BOARD OR ANY OTHER ENTITY BEFORE AWARDED SUPPLEMENTAL GRANTS.

(d) EXCEPT AS PROVIDED IN SUBSECTIONS (9.5)(b) AND (9.5)(c) OF THIS SECTION, THE SECOND 2023-24 FISCAL YEAR GRANT CYCLE MUST COMPLY WITH THE PROVISIONS OF THIS ARTICLE 43.7.

(e) THIS SUBSECTION (9.5) IS REPEALED JULY 1, 2027.

(15) (a) (I) The board shall use money transferred from the general fund to the assistance fund pursuant to section 22-43.7-104 (2)(h) only to provide financial assistance in the form of grants for public school air quality improvement projects; EXCEPT THAT, ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (15)(a)(I), AS AMENDED BY THIS SENATE BILL 23-220, ENACTED IN 2023, THE MONEY SHALL NOT BE USED FOR GRANTS FOR PUBLIC SCHOOL AIR QUALITY IMPROVEMENT PROJECTS AND MUST BE USED ONLY FOR FINANCIAL ASSISTANCE IN THE FORM OF MATCHING GRANTS FOR APPLICANTS AS OTHERWISE PROVIDED IN THIS PART 1. The board shall prioritize grant awards based on grant applicants' matching moneys percentages calculated pursuant to subsection (9) of this section, with applicants with the lowest matching moneys percentages having the highest priority and applicants with the highest matching moneys percentages having the lowest priority, and shall not issue grants as reimbursement for public school air quality improvement projects funded or completed before April 1, 2021, ~~Notwithstanding~~

~~the matching moneys requirement specified in subsection (9) of this section; matching moneys are not required for grants issued pursuant to this subsection (15) OR ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (15)(a)(I), AS AMENDED BY THIS SENATE BILL 23-220, ENACTED IN 2023.~~

SECTION 3. In Colorado Revised Statutes, 39-28.8-501, **amend** (4.8) as follows:

39-28.8-501. Marijuana tax cash fund - creation - distribution - legislative declaration - repeal. (4.8) The state treasurer shall transfer from the fund to the public school capital construction assistance fund created in section 22-43.7-104:

- (a) Fifty million dollars on June 1, 2022; AND
- (b) ~~Thirty million dollars on June 1, 2023; and~~
- (c) Twenty million dollars on June 1, 2024.

SECTION 4. In Colorado Revised Statutes, 22-43.7-104, **amend** (2)(g); and **add** (2)(i) as follows: as follows:

22-43.7-104. Public school capital construction assistance fund - creation - crediting of money to fund - use of fund - emergency reserve - creation - reserve account - creation and use. (2) (g) The assistance fund includes ~~one hundred~~ SEVENTY million dollars, which the state treasurer is required to transfer from the marijuana tax cash fund created in section 39-28.8-501 (1) ~~over three fiscal years beginning~~ IN TWO INSTALLMENTS, WITH THE FIRST ON JUNE 1, 2022, AND THE SECOND ON JUNE 1, 2024, pursuant to section 39-28.8-501 (4.8).

(2) (i) ON JUNE 1, 2023, THE STATE TREASURER SHALL TRANSFER FIFTEEN MILLION DOLLARS FROM THE STATE EDUCATION FUND TO THE ASSISTANCE FUND.

SECTION 5. In Colorado Revised Statutes, 36-1-116, **add** (1)(b)(II)(F) as follows:

36-1-116. Disposition of rentals, royalties, and timber sale proceeds. (F) FOR THE 2022-23 STATE FISCAL YEAR, IN ADDITION TO THE MONEY CREDITED TO THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE FUND CREATED IN SECTION 22-43.7-104(1) PURSUANT TO SECTION 22-43.7-104 (2)(b)(I), TEN MILLION DOLLARS OF ROYALTIES AND OTHER PAYMENTS FOR THE DEPLETION OR EXTRACTION OF A NATURAL RESOURCE ON THE LANDS SHALL BE CREDITED TO THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE FUND.

SECTION 6. Appropriation - adjustments to 2023 long bill. To implement this act, the cash fund appropriation from the public school capital construction assistance fund created in section 22-43.7-104 (1), C.R.S., made in the annual general appropriation act for the 2023-24 state fiscal year to the department of education for public school capital construction assistance board cash grants, is decreased by \$294,780.

SECTION 7. Effective date. (1) This act takes effect upon passage; except that

sections 22-43.7-109 (9)(a)(III), (9)(a)(V), (9)(b)(III), and (9)(b)(V), Colorado Revised Statutes, as amended in section 2 of this act, and 22-43.7-109 (9)(a)(VI) and (9)(b)(VI), Colorado Revised Statutes, as repealed in section 2 of this act, take effect September 1, 2023.

(2) Sections 22-43.7-109 (9)(a)(III), (9)(a)(V), (9)(b)(III), and (9)(b)(V), Colorado Revised Statutes, as amended in section 2 of this act, and 22-43.7-109 (9)(a)(VI) and (9)(b)(VI), Colorado Revised Statutes, as repealed in section 2 of this act, apply to grants funded on or after July 1, 2024.

SECTION 8. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: May 12, 2023