

Senate Bill No. 6

CHAPTER 899

An act to add Section 41207.5 to, and to add Article 1.5 (commencing with Section 17592.70) to Chapter 5 of Part 10.5 of, the Education Code, relating to school facilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 2004. Filed with Secretary of State September 29, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

SB 6, Alpert. School facilities: needs assessment: emergency repairs.

Existing law requires the governing board of any school district to furnish and repair the school property of its district and authorizes each school district to establish a restricted fund, known as the district deferred maintenance fund, for the purpose of major repair or replacement of specified items. Existing law requires the State Allocation Board to apportion from the State School Deferred Maintenance Fund, to eligible school districts, an amount equal to \$1 for each \$1 of local funds deposited in the district's deferred maintenance fund.

This bill would establish the School Facilities Needs Assessment Grant Program, to be administered by the State Allocation Board, for the purpose of awarding grants to school districts on behalf of schoolsites ranked in deciles 1 to 3, inclusive, on the Academic Performance Index, as specified, to conduct a one-time comprehensive assessment of school facilities needs, as provided.

The bill would establish in the State Treasury the School Facilities Emergency Repair Account, to be administered by State Allocation Board, for the purpose of reimbursing school districts with schools ranked in deciles 1 to 3, inclusive, on the Academic Performance Index, as specified, for emergency facility repairs, as provided. The bill would specify the source of the funds to be deposited into this account, including from the Proposition 98 Reversion Account, and would prescribe other requirements relating to the transfer of those funds.

The bill would require the State Allocation Board, for purposes of the above new program and account, to adopt regulations, establish and publish any procedures and policies for their administration, apportion funds to eligible school districts, provide technical assistance to school districts, and make specified reports to the Governor and the Legislature.

This bill would establish in the General Fund the Proposition 98 Reversion Account and would require the Legislature to transfer into this account moneys previously appropriated in satisfaction of the requirements of Section 8 of Article XVI of the California Constitution that have not been disbursed or otherwise encumbered for the purposes for which they were appropriated. The bill would require moneys that are appropriated in satisfaction of the minimum funding obligation under Section 8 of Article XVI of the California Constitution that would otherwise revert to the unexpended balance of the General Fund to be instead deposited in this new account.

This bill would appropriate \$250,000 from the General Fund to the State Allocation Board for the administration of the School Facilities Needs Assessment Grant Program and the School Facilities Emergency Repair Account for the 2004–05 fiscal year.

This bill would appropriate \$30,000,000 from the General Fund, of which \$25,000,000 would be appropriated to the State Department of Education for transfer to the State Allocation Board for grants to school districts under the School Facilities Needs Assessment Grant Program and \$5,000,000 would be appropriated for transfer to the School Facilities Emergency Repair Account. The bill would require the Controller to transfer those funds, as provided, upon receipt of certification from the Office of Public School Construction. The bill would provide that for the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation is General Fund revenues appropriated for school districts for the 2003–04 fiscal year.

This bill would state that the intent of the Legislature in enacting this act is to implement the settlement agreement in the case of *Williams v. State of California*.

This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Article 1.5 (commencing with Section 17592.70) is added to Chapter 5 of Part 10.5 of the Education Code, to read:

Article 1.5. School Assessments of Buildings and Emergency Repairs Grant Program

17592.70. (a) There is hereby established the School Facilities Needs Assessment Grant Program with the purpose to provide for a



one-time comprehensive assessment of school facilities needs. The grant program shall be administered by the State Allocation Board.

(b) (1) The grants shall be awarded to school districts on behalf of schoolsites ranked in deciles 1 to 3, inclusive, on the Academic Performance Index, pursuant to Section 52056, based on the 2003 base Academic Performance Index score for each school newly constructed prior to January 1, 2000.

(2) For purposes of this section, schools ranked in deciles 1 to 3, inclusive, on the 2003 base Academic Performance Index (API) shall include any schools determined by the State Department of Education to meet either of the following:

(A) The school meets all of the following criteria:

(i) Does not have a valid base API score for 2003.

(ii) Is operating in fiscal year 2004–05 and was operating in fiscal year 2003–04 during the Standardized Testing and Reporting (STAR) Program testing period.

(iii) Has a valid base API score for 2002 that was ranked in deciles 1 to 3, inclusive, in that year.

(B) The school has an estimated base API score for 2003 that would be in deciles 1 to 3, inclusive.

(3) The State Department of Education shall estimate an API score for any school meeting the criteria of clauses (i) and (ii) of subparagraph (A) of paragraph (2) and not meeting the criteria of clause (iii) of subparagraph (A) of that paragraph, using available testing scores and any weighting or corrective factors it deems appropriate. The department shall provide those API scores to the Office of Public School Construction and post them on its Web site within 30 days of the enactment of this section.

(c) The board shall allocate funds pursuant to subdivision (b) to school districts with jurisdiction over eligible schoolsites, based on ten dollars (\$10) per pupil enrolled in the eligible school as of October 2003, with a minimum allocation of seven thousand five hundred dollars (\$7,500) for each schoolsite.

(d) As a condition of receiving funds pursuant to this section, school districts shall do all of the following:

(1) Use the funds to develop a comprehensive needs assessment of all schoolsites eligible for grants pursuant to subdivision (b). The assessment shall contain, at a minimum, all of the following information for each schoolsite:

(A) The year each building that is currently used for instructional purposes was constructed.

(B) The year, if any, each building that is currently used for instructional purposes was last modernized.



- (C) The pupil capacity of the school.
 - (D) The number of pupils enrolled in the school.
 - (E) The density of the school campus measured in pupils per acre.
 - (F) The total number of classrooms at the school.
 - (G) The age and number of portable classrooms at the school.
 - (H) Whether the school is operating on a multitrack, year-round calendar, and, if so, what type.
 - (I) Whether the school has a cafeteria, or an auditorium or other space used for pupil eating and not for class instruction.
 - (J) The useful life remaining of all major building systems for each structure housing instructional space, including, but not limited to, sewer, water, gas, electrical, roofing, and fire and life safety protection.
 - (K) The estimated costs for five years necessary to maintain functionality of each instructional space to maintain health, safety, and suitable learning environment, as applicable, including classroom, counseling areas, administrative space, libraries, gymnasiums, multipurpose and dining space, and the accessibility to those spaces.
 - (L) A list of necessary repairs.
- (2) Use the data currently filed with the state as part of the process of applying for and obtaining modernization or construction funds for school facilities, or information that is available in the California Basic Education Data System for the element required in subparagraphs (D), (E), (F), and (G) of paragraph (1).
- (3) Use the assessment as the baseline for the facilities inspection system required pursuant to subdivision (e) of Section 17070.75.
- (4) Provide the results of the assessment to the Office of Public School Construction, including a report on the expenditures made in performing the assessment. It is the intent of the Legislature that the assessments be completed as soon as possible, but not later than January 1, 2006.
- (5) If a school district does not need the full amount of the allocation it receives pursuant to this section, the school district shall expend the remaining funds for making facilities repairs identified in its needs assessment. The school district shall report to the Office of Public School Construction on the repairs completed pursuant to this paragraph and the cost of the repairs.
- (6) Submit to the Office of Public School Construction an interim report regarding the progress made by the school district in completing the assessments of all eligible schools.
- 17592.71. (a) There is hereby established in the State Treasury the School Facilities Emergency Repair Account. The State Allocation Board shall administer the account.



(b) Commencing with the 2005–06 fiscal year, an amount of moneys shall be transferred in the annual Budget Act from the Proposition 98 Reversion Account to the School Facilities Emergency Repair Account equaling 50 percent of the unappropriated balance of the Proposition 98 Reversion Account or one hundred million dollars (\$100,000,000), whichever amount is greater. Moneys transferred pursuant to this subdivision shall be used for the purpose of addressing emergency facilities needs pursuant to Section 17592.72.

(c) The Legislature may transfer to the School Facilities Emergency Repair Account other one-time Proposition 98 funds, except funds specified pursuant to Section 41207. Donations by private entities shall be deposited in the account and, for tax purposes, be treated as otherwise provided by law.

(d) Funds shall be transferred pursuant to this section until a total of eight hundred million dollars (\$800,000,000) has been disbursed from the School Facilities Emergency Repair Account.

17592.72. (a) All moneys in the School Facilities Emergency Repair Account are available for reimbursement to schools ranked in deciles 1 to 3, inclusive, on the Academic Performance Index, pursuant to Section 52056, based on the 2003 base Academic Performance Index score for each school, as defined in subdivision (b) of Section 17592.70, to meet the repair costs of the school district projects that meet the criteria specified in subdivisions (c) and (d) and as approved by the State Allocation Board.

(b) (1) It is the intent of the Legislature that each school district exercise due diligence in the administration of deferred maintenance and regular maintenance in order to avoid the occurrence of emergency repairs.

(2) Funds made available pursuant to this article shall supplement, not supplant, existing funds available for maintenance of school facilities.

(3) The board is authorized to deny future funding pursuant to this article to a school district if the board determines that there is a pattern of failure to exercise due diligence pursuant to paragraph (1) or supplantation. If the board finds a pattern of failure to exercise due diligence, the board shall notify the county superintendent of schools in which the school district is located.

(c) (1) For purposes of this article, “emergency facilities needs” means structures or systems that are in a condition that poses a threat to the health and safety of pupils or staff while at school. These projects may include, but are not limited to, the following types of facility repair or replacements of:

(A) Gas leaks.



(B) Nonfunctioning heating, ventilation, fire sprinklers, or air-conditioning systems.

(C) Electrical power failure.

(D) Major sewer line stoppage.

(E) Major pest or vermin infestation.

(F) Broken windows or exterior doors or gates that will not lock and that pose a security risk.

(G) Abatement of hazardous materials previously undiscovered that pose an immediate threat to pupil or staff.

(H) Structural damage creating a hazardous or uninhabitable condition.

(2) For purposes of this section, “emergency facilities needs” does not include any cosmetic or nonessential repairs.

(d) For the purpose of this section, structures or components shall only be replaced if it is more cost-effective than repair.

17592.73. (a) The State Allocation Board shall do all of the following:

(1) Adopt regulations and review and amend its regulations, as necessary, pursuant to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), for the administration of this article, including those necessary to specify the qualifications of the personnel performing the needs assessment and a method to ensure their independence. The initial regulations adopted pursuant to this article shall be adopted as emergency regulations, and the circumstances related to the initial adoption are hereby deemed to constitute an emergency for this purpose. The initial regulations adopted pursuant to this article shall be adopted by January 31, 2005.

(2) Establish and publish any procedures and policies in connection with the administration of this article as it deems necessary.

(3) Apportion funds to eligible school districts under this article.

(4) Provide technical assistance to school districts to implement this article.

(5) Submit an interim status report to the Legislature and the Governor by June 30, 2005, by compiling the reports submitted pursuant to paragraph (6) of subdivision (d) of Section 17592.70.

(6) By June 30, 2008, report to the Legislature and the Governor on expenditures pursuant to Section 17592.72 and projections of future expenditures pursuant to Section 17592.72.

SEC. 2. Section 41207.5 is added to the Education Code, to read:

41207.5. There is hereby established in the General Fund the Proposition 98 Reversion Account. The Legislature shall, from time to time, transfer into the Proposition 98 Reversion Account moneys



previously appropriated in satisfaction of the requirements of Section 8 of Article XVI of the California Constitution that have not been disbursed or otherwise encumbered for the purposes for which they were appropriated. Moneys that are appropriated in satisfaction of the minimum funding obligation under Section 8 of Article XVI of the California Constitution that would otherwise revert to the unexpended balance of the General Fund shall instead be deposited in the Proposition 98 Reversion Account.

SEC. 3. The sum of two hundred fifty thousand dollars (\$250,000) is hereby appropriated from the General Fund to the State Allocation Board for the administration of Article 1.5 (commencing with Section 17592.70) of Chapter 5 of Part 10.5 of the Education Code for the 2004–05 fiscal year.

SEC. 4. (a) The sum of thirty million dollars (\$30,000,000) is hereby appropriated from the General Fund according to the following schedule:

(1) The sum of twenty-five million dollars (\$25,000,000) to the State Department of Education for transfer to the State Allocation Board for grants to school districts pursuant to Section 17592.70 of the Education Code.

(2) The sum of five million dollars (\$5,000,000) for transfer to the School Facilities Emergency Repair Account for grants to school districts pursuant to Section 17592.72 of the Education Code.

(3) The Controller shall transfer any amount certified by the Office of Public School Construction to be needed to fully fund the grants provided pursuant to Section 17592.70 of the Education Code from the appropriation in paragraph (2) to the appropriation in paragraph (1). The Controller shall transfer any amount certified by the Office of Public School Construction to be unneeded to fully fund the grants provided pursuant to Section 17592.70 of the Education Code from the appropriation in paragraph (1) to the appropriation in paragraph (2). The Controller shall not make the transfer provided in paragraph (2) until receiving a certification from the Office of Public School Construction pursuant to this paragraph.

(b) For the purpose of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be “General Fund revenues appropriated for school districts,” as defined in subdivision (c) of Section 41202 of the Education Code, for the 2003–04 fiscal year, and included within the “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as defined in subdivision (e) of Section 41202 of the Education Code for the 2003–04 fiscal year.



SEC. 5. It is the intent of the Legislature in enacting this act to implement the settlement agreement in the case of *Williams v. State of California* (Super. Ct., San Francisco, No. CGC-00-312236) and that local educational agencies, county offices of education, and state agencies with responsibility for implementing this act begin implementation as soon as practicable and with due diligence. Local educational agencies and county offices of education should use their best judgment as to the interpretation of provisions, recognizing that further implementation direction from the state in the form of statutes, regulations, and technical guidance may be provided in the future and may supersede local interpretations. The state recognizes that due to the date of enactment of this act and the time it will take to allocate the funding to local educational agencies and county offices of education, that full implementation of some of the provisions for school terms beginning in 2004–05 is impracticable.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to improve the condition of school facilities and to ensure the safety of pupils at public schools and to implement the settlement agreement in the case of *Williams v. State of California* (Super. Ct., San Francisco, No. CGC-00-312236) as soon as possible, it is necessary for this act to take effect immediately.

