

HOUSE BILL NO. 247

INTRODUCED BY B. GRUBBS, J. BACHMEIER, Z. BROWN, F. GARNER, K. HOLMLUND, J. KASSMIER,
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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING SCHOOL FUNDING RELATED TO MAJOR MAINTENANCE PROJECTS; AUTHORIZING TRUSTEES TO ISSUE OBLIGATIONS FOR LIMITED PURPOSES TO CERTAIN FINANCIAL INSTITUTIONS IN ADDITION TO THE BOARD OF INVESTMENTS; REQUIRING TRUSTEES TO GIVE THE BOARD OF INVESTMENTS THE RIGHT OF FIRST REFUSAL; CLARIFYING THE AUTHORITY OF TRUSTEES TO UTILIZE REVENUES IN THE BUILDING RESERVE FUND TO REPAY THESE OBLIGATIONS; AMENDING SECTIONS 20-9-471 AND 20-9-525, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-9-471, MCA, is amended to read:

"20-9-471. Issuance of obligations -- authorization -- conditions. (1) The trustees of a school district may, without a vote of the electors of the district, SECURE LOANS FROM OR issue and sell to the board of investments or, AS PROVIDED IN SUBSECTION (2), a bank, building and loan association, savings and loan association, or credit union that is a regulated lender, as defined in 31-1-111, obligations for the purpose of financing all or a portion of:

(a) the costs of vehicles and equipment and construction of buildings used primarily for the storage and maintenance of vehicles and equipment;

(b) the costs associated with renovating, rehabilitating, and remodeling facilities, including but not limited to roof repairs, heating, plumbing, electrical systems, and cost-saving measures as defined in 90-4-1102;

(c) the costs of nonpermanent modular classrooms necessary for student instruction when existing buildings of the district are determined to be inadequate by the trustees;

(d) any other expenditure that the district is otherwise authorized to make, subject to subsection ~~(4)~~ (5), including the payment of settlements of legal claims and judgments; and

(e) the costs associated with the issuance and sale of the obligations.

(2) (A) BEFORE SEEKING TO SECURE A LOAN OR ISSUE AND SELL OBLIGATIONS TO A REGULATED LENDER

1 SPECIFIED IN SUBSECTION (1), THE TRUSTEES SHALL FIRST OFFER THE BOARD OF INVESTMENTS A WRITTEN NOTICE OF
 2 THE BOARD'S RIGHT OF FIRST REFUSAL.

3 (B) IF THE BOARD OF INVESTMENTS ACCEPTS THE OFFER TO ISSUE A LOAN OR PURCHASE OBLIGATIONS, THE
 4 BOARD SHALL PROVIDE A WRITTEN RESPONSE TO THE TRUSTEES BY THE LATER OF:

5 (I) 120 DAYS FOLLOWING DELIVERY OF THE TRUSTEES' OFFER TO THE BOARD; OR

6 (II) THE DAY AFTER THE NEXT MEETING OF THE BOARD OF INVESTMENTS.

7 (C) IF THE TRUSTEES HAVE NOT RECEIVED A WRITTEN ACCEPTANCE BY THE DEADLINE PROVIDED FOR IN
 8 SUBSECTION (2)(B), THE TRUSTEES MAY SEEK TO SECURE A LOAN OR ISSUE AND SELL AN OBLIGATION TO A REGULATED
 9 LENDER SPECIFIED IN SUBSECTION (1).

10 ~~(2)~~(3) The term of the obligation, including an obligation for a qualified energy project, may not exceed
 11 15 fiscal years. For the purposes of this subsection, a "qualified energy project" means a project designed to
 12 reduce energy use in a school facility and from which the resulting energy cost savings are projected to meet or
 13 exceed the debt service obligation for financing the project, as determined by the department of environmental
 14 quality.

15 ~~(3)~~(4) (a) At the time of issuing the obligation, there must exist an amount in the budget of an applicable
 16 budgeted fund of the district for the current fiscal year available and sufficient to make the debt service payment
 17 on the obligation coming due in the current year. The budget of an applicable budgeted fund of the district for
 18 each following year in which any portion of the principal of and interest on the obligation is due must provide for
 19 payment of that principal and interest.

20 (b) For an obligation sold under subsection (1)(d) for the purposes of paying a tax protest refund, a
 21 district may pledge revenue from a special tax protest refund levy for the repayment of the obligation, pursuant
 22 to 15-1-402(7).

23 ~~(4)~~(5) Except as provided in 20-9-502, 20-9-503, and subsections (1)(a) and (1)(c) of this section, the
 24 proceeds of the obligation may not be used to acquire real property or construct a facility unless:

25 (a) the acquisition or construction project does not constitute more than 20% of the square footage of
 26 the existing real property improvements made to a facility containing classrooms;

27 (b) the 20% square footage limitation may not be exceeded within any 5-year period; and

28 (c) the electors of the district approve a proposition authorizing the trustees to apply for funds through
 29 the board of investments or a bank, building and loan association, savings and loan association, or credit union
 30 that is a regulated lender, as defined in 31-1-111, for the construction project. The proposition must be approved

1 at an election held in accordance with all of the requirements of 20-9-428, except that the proposition is
 2 considered to have passed if a majority of the qualified electors voting approve the proposition.

3 ~~(5)(6)~~ The school district may not submit for a vote of the electors of the district a proposition to impose
 4 a levy to pay the principal or any interest on an obligation that is payable from the guaranteed cost savings under
 5 energy performance contracts as defined in 90-4-1102.

6 ~~(6)(7)~~ Except as provided in subsection ~~(3)(b)~~ (4)(B), the obligation must state clearly on its face that the
 7 obligation is not secured by a pledge of the school district's taxing power but is payable from amounts in its
 8 general fund or other legally available funds.

9 ~~(7)(8)~~ An obligation issued is payable from any legally available fund of the district and constitutes a
 10 general obligation of the district.

11 ~~(8)(9)~~ The obligation may bear interest at a fixed or variable rate and may be sold to the board of
 12 investments or a bank, building and loan association, savings and loan association, or credit union that is a
 13 regulated lender, as defined in 31-1-111, at par, at a discount, or with a premium and on any other terms and
 14 conditions that the trustees determine to be in the best interests of the district.

15 ~~(9)(10)~~ The principal amount of the obligation, when added to the outstanding bonded indebtedness of
 16 the district, may not exceed the debt limitation established in 20-9-406."

17

18 **Section 2.** Section 20-9-525, MCA, is amended to read:

19 **"20-9-525. School major maintenance aid account -- formula.** (1) There is a school major
 20 maintenance aid account in the state special revenue fund provided for in 17-2-102.

21 (2) [Subject to legislative fund transfer,] the purpose of the account is to provide, contingent on
 22 appropriation from the legislature, funding for school major maintenance aid as provided in subsection (3) for
 23 school facility projects, including the payment of principal and interest on obligations issued pursuant to 20-9-471
 24 for school facility projects, that support a basic system of free quality public elementary and secondary schools
 25 under 20-9-309 and that involve:

26 (a) first, making any repairs categorized as "safety", "damage/wear out", or "codes and standards" in the
 27 facilities condition inventory for buildings of the school district as referenced in the K-12 public schools facility
 28 condition and needs assessment final report prepared by the Montana department of administration pursuant to
 29 section 1, Chapter 1, Special Laws of December 2005; and

30 (b) after addressing the repairs in subsection (2)(a), any of the following:

1 (i) updating the facility condition inventory as recommended in the final report referenced in subsection
2 (2)(a) with the scope and methods of the review to be determined by the trustees, employing experts as the
3 trustees determine necessary. The first update must be completed by July 1, 2019, and each district shall certify
4 the completion to the office of public instruction no later than October 31, 2019. Subsequent updates must be
5 certified to the office of public instruction no less than once every 5 years following the first certification.

6 (ii) undertaking projects designed to produce operational efficiencies such as utility savings, reduced
7 future maintenance costs, improved utilization of staff, and enhanced learning environments for students,
8 including but not limited to projects addressing:

9 (A) roofing systems;

10 (B) heating, air conditioning, and ventilation systems;

11 (C) energy-efficient window and door systems and insulation;

12 (D) plumbing systems;

13 (E) electrical systems and lighting systems;

14 (F) information technology infrastructure, including internet connectivity both within and to the school
15 facility; and

16 (G) other critical repairs to an existing school facility or facilities.

17 (3) (a) In any year in which the legislature has appropriated funds for distribution from the school major
18 maintenance aid account, the superintendent of public instruction shall administer the distribution of school major
19 maintenance aid from the school major maintenance aid account for deposit in the subfund of the building reserve
20 fund provided for in 20-9-502(3)(e). Subject to proration under subsection (5) of this section, aid must be annually
21 distributed no later than the last working day of May to a school district imposing a levy pursuant to 20-9-502(3)
22 in the current school fiscal year, with the amount of state support per dollar of local effort of the applicable
23 elementary and high school program of each district determined as follows:

24 (i) using the taxable valuation most recently certified by the department of revenue under 15-10-202:

25 (A) divide the total statewide taxable valuation by the statewide total of school major maintenance
26 amounts and multiply the result by 171%;

27 (B) multiply the result determined under subsection (3)(a)(i)(A) by the district's school major maintenance
28 amount;

29 (C) subtract the district's taxable valuation from the amount determined under subsection (3)(a)(i)(B);

30 and

- 1 (D) divide the amount determined under subsection (3)(a)(i)(C) by 1,000;
- 2 (ii) determine the greater of the amount determined in subsection (3)(a)(i) or 18% of the district's mill
3 value; and
- 4 (iii) multiply the result determined under subsection (3)(a)(ii) by the district's school major maintenance
5 amount, then divide the product by the sum of the result determined under subsection (3)(a)(ii) and the district's
6 school major maintenance amount.
- 7 (b) For a district with an adopted general fund budget in the prior year greater than or equal to 97% of
8 the district's general fund maximum budget in the prior year, the amount determined in subsection (3)(a)(iii)
9 rounded to the nearest cent is the amount of school major maintenance aid per dollar of local effort, not to exceed
10 an amount that would result in the state aid composing more than 80% of the district's school major maintenance
11 amount.
- 12 (c) For a district with an adopted general fund budget in the prior year less than 97% of the district's
13 maximum budget in the prior year, multiply the amount determined in subsection (3)(a)(iii) by the ratio of the
14 district's adopted general fund budget in the prior year to the district's maximum general fund budget in the prior
15 year. The result, rounded to the nearest cent, is the amount of state school major maintenance aid per dollar of
16 local effort, not to exceed an amount that would result in the state aid composing more than 80% of the district's
17 school major maintenance amount.
- 18 (4) Using the taxable valuation most recently certified by the department of revenue under 15-10-202,
19 the superintendent shall provide school districts with a preliminary estimated amount of state school major
20 maintenance aid per dollar of local effort for the ensuing school year no later than March 1 and a final amount
21 for the current school year no later than July 31.
- 22 (5) If the appropriation from or the available funds in the school major maintenance aid account in any
23 school fiscal year are less than the amount for which school districts would otherwise qualify, the superintendent
24 of public instruction shall proportionally prorate the aid distributed to ensure that the distributions do not exceed
25 the appropriated or available funds.
- 26 (6) If in any fiscal year the amount of revenue in the school major maintenance aid account is sufficient
27 to fund school major maintenance aid without a proration reduction pursuant to subsection (5) and if in that same
28 fiscal year the amount of revenue available in the school facility and technology account established in 20-9-516
29 will result in a proration reduction in debt service assistance pursuant to 20-9-346(2)(b) for that fiscal year, the
30 state treasurer shall transfer any excess funds in the school major maintenance aid account to the school facility

1 and technology account, not to exceed the amount required to avoid a proration reduction.

2 (7) For the purposes of this section, the following definitions apply:

3 (a) "Local effort" means an amount of money raised by levying no more than 10 mills pursuant to
4 20-9-502(3) and, provided that 10 mills have been levied, any additional amount of money deposited or
5 transferred by trustees to the subfund pursuant to 20-9-502(3).

6 (b) "School major maintenance amount" means the sum of \$15,000 and the product of \$100 multiplied
7 by the district's budgeted ANB for the prior fiscal year. (Bracketed language in subsection (2) terminates June
8 30, 2019--sec. 28, Ch. 6, Sp. L. November 2017.)"

9

10 NEW SECTION. **Section 3. Effective date.** [This act] is effective July 1, 2019.

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