

As Introduced

**127th General Assembly
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H. B. No. 114

Representative Wachtmann

**Cosponsors: Representatives Wagner, Bupp, Goodwin, Fessler, Adams,
Brinkman**

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A B I L L

To amend sections 3318.03, 3318.032, 3318.36, 1
3318.37, and 3318.42 and to enact section 3318.033 2
of the Revised Code to require the Ohio School 3
Facilities Commission to reduce the state funds 4
for a school district's classroom facilities 5
project by twenty per cent if the district 6
requires contractors to pay the prevailing rate of 7
wages. 8

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3318.03, 3318.032, 3318.36, 3318.37, 9
and 3318.42 be amended and section 3318.033 of the Revised Code be 10
enacted to read as follows: 11

Sec. 3318.03. (A) Before conducting an on-site evaluation of 12
a school district under section 3318.02 of the Revised Code, at 13
the request of the district board of education, the Ohio school 14
facilities commission shall examine any classroom facilities needs 15
assessment that has been conducted by the district and any master 16
plan developed for meeting the facility needs of the district. 17

(B) Upon conducting the on-site evaluation under section 18

3318.02 of the Revised Code, the Ohio school facilities commission shall make a determination of all of the following:

(1) The needs of the school district for additional classroom facilities;

(2) The number of classroom facilities to be included in a project and the basic project cost of constructing, acquiring, reconstructing, or making additions to each such facility;

(3) ~~The~~ Subject to section 3318.033 of the Revised Code, the amount of such cost that the school district can supply from available funds, by the issuance of bonds previously authorized by the electors of the school district the proceeds of which can lawfully be used for the project and by the issuance of bonds under section 3318.05 of the Revised Code;

(4) ~~The~~ Subject to section 3318.033 of the Revised Code, the remaining amount of such cost that shall be supplied by the state;

(5) ~~The~~ Subject to section 3318.033 of the Revised Code, the amount of the state's portion to be encumbered in accordance with section 3318.11 of the Revised Code in the current and subsequent fiscal years from funds appropriated for purposes of sections 3318.01 to 3318.20 of the Revised Code.

(C) The commission shall make a determination in favor of constructing, acquiring, reconstructing, or making additions to a classroom facility only upon evidence that the proposed project conforms to sound educational practice, that it is in keeping with the orderly process of school district reorganization and consolidation, and that the actual or projected enrollment in each classroom facility proposed to be included in the project is at least three hundred fifty pupils. Exceptions shall be authorized only in those districts where topography, sparsity of population, and other factors make larger schools impracticable.

If the school district board determines that an existing

facility has historical value or for other good cause determines 50
that an existing facility should be renovated in lieu of acquiring 51
a comparable facility by new construction, the commission may 52
approve the expenditure of project funds for the renovation of 53
that facility up to but not exceeding one hundred per cent of the 54
estimated cost of acquiring a comparable facility by new 55
construction, as long as the commission determines that the 56
facility when renovated can be operationally efficient, will be 57
adequate for the future needs of the district, and will comply 58
with the other provisions of this division. 59

(D) Sections 125.81 and 153.04 of the Revised Code shall not 60
apply to classroom facilities constructed under either sections 61
3318.01 to 3318.20 or sections 3318.40 to 3318.45 of the Revised 62
Code. 63

Sec. 3318.032. (A) The Subject to section 3318.033 of the 64
Revised Code, the portion of the basic project cost supplied by 65
the school district shall be the greater of: 66

(1) The required percentage of the basic project costs; 67

(2) An amount necessary to raise the school district's net 68
bonded indebtedness, as of the date the controlling board approved 69
the project, to within five thousand dollars of the required level 70
of indebtedness. 71

(B) The amount of the district's share determined under this 72
section shall be calculated only as of the date the controlling 73
board approved the project, and that amount applies throughout the 74
one-year period permitted under section 3318.05 of the Revised 75
Code for the district's electors to approve the propositions 76
described in that section. If the amount reserved and encumbered 77
for a project is released because the electors do not approve 78
those propositions within that year, and the school district later 79
receives the controlling board's approval for the project, the 80

district's portion shall be recalculated in accordance with this 81
section as of the date of the controlling board's subsequent 82
approval. 83

(C) Notwithstanding anything to the contrary in division (A) 84
or (B) of this section, at no time shall except for a school 85
district subject to the reduction of state funds prescribed in 86
section 3318.033 of the Revised Code, a school district's portion 87
of the basic project cost shall not be greater than ninety-five 88
per cent of the total basic project cost. 89

Sec. 3318.033. (A) As used in this section, "prevailing rate" 90
means the prevailing rate of wages determined under sections 91
4115.03 to 4115.16 of the Revised Code. 92

(B) The Ohio school facilities commission shall reduce by 93
twenty per cent the amount of state funds that otherwise would be 94
calculated for any project or segment of a project undertaken 95
under this chapter, if the city, local, exempted village, or joint 96
vocational school district board undertaking the project or 97
segment requires that mechanics and laborers engaged for that 98
project or segment be paid the prevailing rate. 99

(C) Nothing in this section affects the exemption of school 100
districts and educational service centers from the requirement to 101
pay the prevailing rate prescribed in division (B)(3) of section 102
4115.04 of the Revised Code. 103

Sec. 3318.36. (A)(1) As used in this section: 104

(a) "Ohio school facilities commission," "classroom 105
facilities," "school district," "school district board," "net 106
bonded indebtedness," "required percentage of the basic project 107
costs," "basic project cost," "valuation," and "percentile" have 108
the same meanings as in section 3318.01 of the Revised Code. 109

(b) "Required level of indebtedness" means five per cent of 110

the school district's valuation for the year preceding the year in 111
which the commission and school district enter into an agreement 112
under division (B) of this section, plus [two one-hundredths of 113
one per cent multiplied by (the percentile in which the district 114
ranks minus one)]. 115

(c) "Local resources" means any moneys generated in any 116
manner permitted for a school district board to raise the school 117
district portion of a project undertaken with assistance under 118
sections 3318.01 to 3318.20 of the Revised Code. 119

(2) For purposes of determining either the required level of 120
indebtedness, as defined in division (A)(1)(b) of this section, or 121
the required percentage of the basic project costs, under division 122
(C)(1) of this section, the percentile ranking of a school 123
district with which the commission has entered into an agreement 124
under this section between the first day of July and the 125
thirty-first day of August in each fiscal year is the percentile 126
ranking calculated for that district for the immediately preceding 127
fiscal year, and the percentile ranking of a school district with 128
which the commission has entered into such agreement between the 129
first day of September and the thirtieth day of June in each 130
fiscal year is the percentile ranking calculated for that district 131
for the current fiscal year. 132

(B)(1) There is hereby established the school building 133
assistance expedited local partnership program. Under the program, 134
the Ohio school facilities commission may enter into an agreement 135
with the school district board of any school district under which 136
the school district board may proceed with the new construction or 137
major repairs of a part of the school district's classroom 138
facilities needs, as determined under sections 3318.01 to 3318.20 139
of the Revised Code, through the expenditure of local resources 140
prior to the school district's eligibility for state assistance 141
under sections 3318.01 to 3318.20 of the Revised Code and may 142

apply that expenditure toward meeting the school district's 143
portion of the basic project cost of the total of the school 144
district's classroom facilities needs, as determined under 145
sections 3318.01 to 3318.20 of the Revised Code and as 146
recalculated under division (E) of this section, that are eligible 147
for state assistance under sections 3318.01 to 3318.20 of the 148
Revised Code when the school district becomes eligible for such 149
state assistance. Any school district that is reasonably expected 150
to receive assistance under sections 3318.01 to 3318.20 of the 151
Revised Code within two fiscal years from the date the school 152
district adopts its resolution under division (B) of this section 153
shall not be eligible to participate in the program. 154

(2) To participate in the program, a school district board 155
shall first adopt a resolution certifying to the commission the 156
board's intent to participate in the program. 157

The resolution shall specify the approximate date that the 158
board intends to seek elector approval of any bond or tax measures 159
or to apply other local resources to use to pay the cost of 160
classroom facilities to be constructed under this section. The 161
resolution may specify the application of local resources or 162
elector-approved bond or tax measures after the resolution is 163
adopted by the board, and in such case the board may proceed with 164
a discrete portion of its project under this section as soon as 165
the commission and the controlling board have approved the basic 166
project cost of the district's classroom facilities needs as 167
specified in division (D) of this section. The board shall submit 168
its resolution to the commission not later than ten days after the 169
date the resolution is adopted by the board. 170

The commission shall not consider any resolution that is 171
submitted pursuant to division (B)(2) of this section, as amended 172
by this amendment, sooner than September 14, 2000. 173

(3) Any project under this section shall comply with section 174

3318.03 of the Revised Code and with any specifications for plans 175
and materials for classroom facilities adopted by the commission 176
under section 3318.04 of the Revised Code. 177

(4) If a school district that enters into an agreement under 178
this section has not begun a project applying local resources as 179
provided for under that agreement at the time the district is 180
notified by the commission that it is eligible to receive state 181
assistance under sections 3318.01 to 3318.20 of the Revised Code, 182
all assessment and agreement documents entered into under this 183
section are void. 184

(5) Only construction of or repairs to classroom facilities 185
that have been approved by the commission and have been therefore 186
included as part of a district's basic project cost qualify for 187
application of local resources under this section. 188

(C) Based on the results of the on-site visits and assessment 189
conducted under division (B)(2) of this section, the commission 190
shall determine the basic project cost of the school district's 191
classroom facilities needs. The commission shall determine the 192
school district's portion of such basic project cost, which shall 193
be the greater of: 194

(1) The required percentage of the basic project costs, 195
determined based on the school district's percentile ranking; 196

(2) An amount necessary to raise the school district's net 197
bonded indebtedness, as of the fiscal year the commission and the 198
school district enter into the agreement under division (B) of 199
this section, to within five thousand dollars of the required 200
level of indebtedness. 201

(D)(1) When the commission determines the basic project cost 202
of the classroom facilities needs of a school district and the 203
school district's portion of that basic project cost under 204
division (C) of this section, the project shall be conditionally 205

approved. Such conditional approval shall be submitted to the 206
controlling board for approval thereof. The controlling board 207
shall forthwith approve or reject the commission's determination, 208
conditional approval, and the amount of the state's portion of the 209
basic project cost; however, no state funds shall be encumbered 210
under this section. Upon approval by the controlling board, the 211
school district board may identify a discrete part of its 212
classroom facilities needs, which shall include only new 213
construction of or additions or major repairs to a particular 214
building, to address with local resources. Upon identifying a part 215
of the school district's basic project cost to address with local 216
resources, the school district board may allocate any available 217
school district moneys to pay the cost of that identified part, 218
including the proceeds of an issuance of bonds if approved by the 219
electors of the school district. 220

All local resources utilized under this division shall first 221
be deposited in the project construction account required under 222
section 3318.08 of the Revised Code. 223

(2) Unless the school district board exercises its option 224
under division (D)(3) of this section, for a school district to 225
qualify for participation in the program authorized under this 226
section, one of the following conditions shall be satisfied: 227

(a) The electors of the school district by a majority vote 228
shall approve the levy of taxes outside the ten-mill limitation 229
for a period of twenty-three years at the rate of not less than 230
one-half mill for each dollar of valuation to be used to pay the 231
cost of maintaining the classroom facilities included in the basic 232
project cost as determined by the commission. The form of the 233
ballot to be used to submit the question whether to approve the 234
tax required under this division to the electors of the school 235
district shall be the form for an additional levy of taxes 236
prescribed in section 3318.361 of the Revised Code, which may be 237

combined in a single ballot question with the questions prescribed 238
under section 5705.218 of the Revised Code. 239

(b) As authorized under division (C) of section 3318.05 of 240
the Revised Code, the school district board shall earmark from the 241
proceeds of a permanent improvement tax levied under section 242
5705.21 of the Revised Code, an amount equivalent to the 243
additional tax otherwise required under division (D)(2)(a) of this 244
section for the maintenance of the classroom facilities included 245
in the basic project cost as determined by the commission. 246

(c) As authorized under section 3318.051 of the Revised Code, 247
the school district board shall, if approved by the commission, 248
annually transfer into the maintenance fund required under section 249
3318.05 of the Revised Code the amount prescribed in section 250
3318.051 of the Revised Code in lieu of the tax otherwise required 251
under division (D)(2)(a) of this section for the maintenance of 252
the classroom facilities included in the basic project cost as 253
determined by the commission. 254

(d) If the school district board has rescinded the agreement 255
to make transfers under section 3318.051 of the Revised Code, as 256
provided under division (F) of that section, the electors of the 257
school district, in accordance with section 3318.063 of the 258
Revised Code, first shall approve the levy of taxes outside the 259
ten-mill limitation for the period specified in that section at a 260
rate of not less than one-half mill for each dollar of valuation. 261

(e) The school district board shall apply the proceeds of a 262
tax to leverage bonds as authorized under section 3318.052 of the 263
Revised Code or dedicate a local donated contribution in the 264
manner described in division (B) of section 3318.084 of the 265
Revised Code in an amount equivalent to the additional tax 266
otherwise required under division (D)(2)(a) of this section for 267
the maintenance of the classroom facilities included in the basic 268
project cost as determined by the commission. 269

(3) A school district board may opt to delay taking any of 270
the actions described in division (D)(2) of this section until 271
such time as the school district becomes eligible for state 272
assistance under sections 3318.01 to 3318.20 of the Revised Code. 273
In order to exercise this option, the board shall certify to the 274
commission a resolution indicating the board's intent to do so 275
prior to entering into an agreement under division (B) of this 276
section. 277

(4) If pursuant to division (D)(3) of this section a district 278
board opts to delay levying an additional tax until the district 279
becomes eligible for state assistance, it shall submit the 280
question of levying that tax to the district electors as follows: 281

(a) In accordance with section 3318.06 of the Revised Code if 282
it will also be necessary pursuant to division (E) of this section 283
to submit a proposal for approval of a bond issue; 284

(b) In accordance with section 3318.361 of the Revised Code 285
if it is not necessary to also submit a proposal for approval of a 286
bond issue pursuant to division (E) of this section. 287

(5) No state assistance under sections 3318.01 to 3318.20 of 288
the Revised Code shall be released until a school district board 289
that adopts and certifies a resolution under division (D) of this 290
section also demonstrates to the satisfaction of the commission 291
compliance with the provisions of division (D)(2) of this section. 292

Any amount required for maintenance under division (D)(2) of 293
this section shall be deposited into a separate fund as specified 294
in division (B) of section 3318.05 of the Revised Code. 295

(E)(1) If the school district becomes eligible for state 296
assistance under sections 3318.01 to 3318.20 of the Revised Code 297
based on its percentile ranking as determined under division (B) 298
of this section, the commission shall conduct a new assessment of 299
the school district's classroom facilities needs and shall 300

recalculate the basic project cost based on this new assessment. 301
The basic project cost recalculated under this division shall 302
include the amount of expenditures made by the school district 303
board under division (D)(1) of this section. The commission shall 304
then recalculate the school district's portion of the new basic 305
project cost, which shall be the percentage of the original basic 306
project cost assigned to the school district as its portion under 307
division (C) of this section. However, the state's portion of the 308
recalculated basic project cost shall be reduced in accordance 309
with section 3318.033 of the Revised Code if, in either the part 310
of the project undertaken under division (D) of this section or 311
the part undertaken under sections 3318.01 to 3318.20 of the 312
Revised Code, the district requires that mechanics and laborers be 313
paid the prevailing rate as defined in section 3318.033 of the 314
Revised Code. The commission shall deduct the expenditure of 315
school district moneys made under division (D)(1) of this section 316
from the school district's portion of the basic project cost as 317
recalculated under this division. If the amount of school district 318
resources applied by the school district board to the school 319
district's portion of the basic project cost under this section is 320
less than the total amount of such portion as recalculated under 321
this division, the school district board by a majority vote of all 322
of its members shall, if it desires to seek state assistance under 323
sections 3318.01 to 3318.20 of the Revised Code, adopt a 324
resolution as specified in section 3318.06 of the Revised Code to 325
submit to the electors of the school district the question of 326
approval of a bond issue in order to pay any additional amount of 327
school district portion required for state assistance. Any tax 328
levy approved under division (D) of this section satisfies the 329
requirements to levy the additional tax under section 3318.06 of 330
the Revised Code. 331

(2) If the amount of school district resources applied by the 332
school district board to the school district's portion of the 333

basic project cost under this section is more than the total 334
amount of such portion as recalculated under this division, within 335
one year after the school district's portion is recalculated under 336
division (E)(1) of this section the commission may grant to the 337
school district the difference between the two calculated 338
portions, but at no time shall the commission expend any state 339
funds on a project in an amount greater than the state's portion 340
of the basic project cost as recalculated under this division. 341

Any reimbursement under this division shall be only for local 342
resources the school district has applied toward construction cost 343
expenditures for the classroom facilities approved by the 344
commission, which shall not include any financing costs associated 345
with that construction. 346

The school district board shall use any moneys reimbursed to 347
the district under this division to pay off any debt service the 348
district owes for classroom facilities constructed under its 349
project under this section before such moneys are applied to any 350
other purpose. However, the district board first may deposit 351
moneys reimbursed under this division into the district's general 352
fund or a permanent improvement fund to replace local resources 353
the district withdrew from those funds, as long as, and to the 354
extent that, those local resources were used by the district for 355
constructing classroom facilities included in the district's basic 356
project cost. 357

Sec. 3318.37. (A)(1) As used in this section: 358

(a) "Large land area school district" means a school district 359
with a territory of greater than three hundred square miles in any 360
percentile as determined under section 3318.011 of the Revised 361
Code. 362

(b) "Low wealth school district" means a school district in 363
the first through seventy-fifth percentiles as determined under 364

section 3318.011 of the Revised Code. 365

(c) A "school district with an exceptional need for immediate 366
classroom facilities assistance" means a low wealth or large land 367
area school district with an exceptional need for new facilities 368
in order to protect the health and safety of all or a portion of 369
its students. 370

(2) No school district reasonably expected to be eligible for 371
state assistance under sections 3318.01 to 3318.20 of the Revised 372
Code within three fiscal years after the year of the application 373
for assistance under this section shall be eligible for assistance 374
under this section, unless the district's entire classroom 375
facilities plan consists of only a single building designed to 376
house grades kindergarten through twelve and the district 377
satisfies the conditions prescribed in divisions (A)(3)(a) and (b) 378
of this section. 379

(3) No school district that participates in the school 380
building assistance expedited local partnership program under 381
section 3318.36 of the Revised Code shall receive assistance under 382
the program established under this section unless the following 383
conditions are satisfied: 384

(a) The district board adopted a resolution certifying its 385
intent to participate in the school building assistance expedited 386
local partnership program under section 3318.36 of the Revised 387
Code prior to September 14, 2000. 388

(b) The district was selected by the Ohio school facilities 389
commission for participation in the school building assistance 390
expedited local partnership program under section 3318.36 of the 391
Revised Code in the manner prescribed by the commission under that 392
section as it existed prior to September 14, 2000. 393

(B)(1) There is hereby established the exceptional needs 394
school facilities assistance program. Under the program, the Ohio 395

school facilities commission may set aside from the moneys 396
annually appropriated to it for classroom facilities assistance 397
projects up to twenty-five per cent for assistance to school 398
districts with exceptional needs for immediate classroom 399
facilities assistance. 400

(2)(a) After consulting with education and construction 401
experts, the commission shall adopt guidelines for identifying 402
school districts with an exceptional need for immediate classroom 403
facilities assistance. 404

(b) The guidelines shall include application forms and 405
instructions for school districts to use in applying for 406
assistance under this section. 407

(3) The commission shall evaluate the classroom facilities, 408
and the need for replacement classroom facilities from the 409
applications received under this section. The commission, 410
utilizing the guidelines adopted under division (B)(2)(a) of this 411
section, shall prioritize the school districts to be assessed. 412

Notwithstanding section 3318.02 of the Revised Code, the 413
commission may conduct on-site evaluation of the school districts 414
prioritized under this section and approve and award funds until 415
such time as all funds set aside under division (B)(1) of this 416
section have been encumbered. However, the commission need not 417
conduct the evaluation of facilities if the commission determines 418
that a district's assessment conducted under section 3318.36 of 419
the Revised Code is sufficient for purposes of this section. 420

(4) Notwithstanding division (A) of section 3318.05 of the 421
Revised Code, but subject to section 3318.033 of the Revised Code, 422
the school district's portion of the basic project cost under this 423
section shall be the "required percentage of the basic project 424
costs," as defined in division (K) of section 3318.01 of the 425
Revised Code. 426

(5) Except as otherwise specified in this section, any 427
project undertaken with assistance under this section shall comply 428
with all provisions of sections 3318.01 to 3318.20 of the Revised 429
Code. A school district may receive assistance under sections 430
3318.01 to 3318.20 of the Revised Code for the remainder of the 431
district's classroom facilities needs as assessed under this 432
section when the district is eligible for such assistance pursuant 433
to section 3318.02 of the Revised Code, but any classroom facility 434
constructed with assistance under this section shall not be 435
included in a district's project at that time unless the 436
commission determines the district has experienced the increased 437
enrollment specified in division (B)(1) of section 3318.04 of the 438
Revised Code. 439

(C) No school district shall receive assistance under this 440
section for a classroom facility that has been included in the 441
discrete part of the district's classroom facilities needs 442
identified and addressed in the district's project pursuant to an 443
agreement entered into under section 3318.36 of the Revised Code, 444
unless the district's entire classroom facilities plan consists of 445
only a single building designed to house grades kindergarten 446
through twelve. 447

Sec. 3318.42. (A) Not later than the sixty-first day after 448
~~the effective date of this section~~ March 14, 2003, and 449
subsequently not later than the sixty-first day after the first 450
day of each ensuing fiscal year, the department of education shall 451
do all of the following: 452

(1) Calculate the valuation per pupil of each joint 453
vocational school district according to the following formula: 454
The school district's average taxable value divided by the 455
school district's formula ADM reported under section 456
3317.03 of the Revised Code for the previous fiscal year. 457

For purposes of this calculation: 458

(a) "Average taxable value" means the average of the amounts 459
certified for a school district in the second, third, and fourth 460
preceding tax years under divisions (A)(1) and (2) of section 461
3317.021 of the Revised Code. 462

(b) "Formula ADM" has the same meaning as defined in section 463
3317.02 of the Revised Code. 464

(2) Calculate for each school district the three-year average 465
of the valuations per pupil calculated for the school district for 466
the current and two preceding fiscal years; 467

(3) Rank all joint vocational school districts in order from 468
the school district with the lowest three-year average valuation 469
per pupil to the school district with the highest three-year 470
average valuation per pupil; 471

(4) Divide the ranking under division (A)(3) of this section 472
into percentiles with the first percentile containing the one per 473
cent of school districts having the lowest three-year average 474
valuations per pupil and the one-hundredth percentile containing 475
the one per cent of school districts having the highest three-year 476
average valuations per pupil; 477

(5) Certify the information described in divisions (A)(1) to 478
(4) of this section to the Ohio school facilities commission. 479

(B) The commission annually shall select school districts for 480
assistance under sections 3318.40 to 3318.45 of the Revised Code 481
in the order of the school districts' three-year average 482
valuations per pupil such that the school district with the lowest 483
three-year average valuation per pupil shall be given the highest 484
priority for assistance. 485

(C) ~~Each~~ Subject to section 3318.033 of the Revised Code, 486
each joint vocational school district's portion of the basic 487

project cost of the school district's project under sections 488
3318.40 to 3318.45 of the Revised Code shall be one per cent times 489
the percentile in which the district ranks, ~~except that.~~ However, 490
no joint vocational school district's portion shall be less than 491
twenty-five per cent or, except for a school district subject to 492
the reduction of state funds prescribed in section 3318.033 of the 493
Revised Code, greater than ninety-five per cent of the basic 494
project cost. 495

Section 2. That existing sections 3318.03, 3318.032, 3318.36, 496
3318.37, and 3318.42 of the Revised Code are hereby repealed. 497