

EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE

Minutes

November 12, 2020

Call to Order and Roll Call

The November meeting of the Education Assessment and Accountability Review Subcommittee was held on Thursday, November 12, 2020, at 3:00 p.m., in Room 171 of the Capitol Annex. Representative Brandon Reed, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Max Wise, Co-Chair; Representative Brandon Reed, Co-Chair; Senators Alice Forgy Kerr, Gerald A. Neal, and Mike Wilson; Representatives Tina Bojanowski, and Steve Riley.

LRC Staff: Joshua Collins, Committee Analyst, and Maurya Allen, Committee Assistant.

Approval of Minutes – June 11, 2020 and July 7, 2020

Senator Wilson made a motion, seconded by Senator Wise to approve the minutes of the June 11, 2020 and July 7, 2020 meetings. The motion passed by voice vote.

OEA Research Report – Overview of Facilities Needs and Funding in Kentucky

Dr. Bart Liguori, OEA Research Division Manager, Chris Riley, OEA Research Analyst, and Sabrina Cummins, OEA Research Analyst were in attendance to present the report of facilities needs which examines the process for completing facility upgrades and how facilities are prioritized for funding. The report also includes an in-depth analysis of increased facility need reported by districts in the last 10 years.

The report showed that about half of all facility funding is distributed on an equal per-pupil basis. Districts receive additional funds when they express greater need on their district facility plans (DFPs) or institute a local ‘nickel’ tax to collect additional revenue for facilities in their communities. These funding methods are based on assumptions made by state and local decision makers. Standardized, objective data is important to inform these funding decisions. District need, as reported on DFPs, is currently the only comprehensive source of data and is fallible because it is difficult to compare and changes over time. At the state level, district reported need has been increasing, but expenditures have been decreasing. In the last eight years, most districts have transferred facilities funds to their general funds to cover other operating expenses.

As directed by the General Assembly, the Kentucky Department of Education (KDE) developed the Kentucky Facility Inventory and Classification System (KFICS) to provide standardized, objective data. However, the system is not fully implemented and there is currently no deadline for full implementation. In response to the committee's questions regarding how facility projects are prioritized, the report found districts must identify their critical needs, such as ADA compliance or life safety upgrades, when applying for funds. It is crucial to note, however, that schools do not need to strictly observe those priorities when initiating projects. A fully updated KFICS would be helpful to inform decisions by making critical data more readily available. The data used in this study was primarily provided by KDE, although some data from the National Center for Education Statistics was used in order to compare Kentucky to surrounding states regarding spending for construction and debt service. OEA was unable to collect superintendent responses regarding school facilities and funding due to constraints from the COVID-19 pandemic.

Facility funding from local and state sources totaled \$639 million during the 2019 school year. The Facilities Support Program of Kentucky (FSPK) is the primary funding mechanism in the state. It combines funds from local taxes collected to support facilities and state equalization which compensates less wealthy districts, resulting in the previously mentioned equal per-pupil funding. There are six districts which exceed the property wealth threshold to qualify for state equalization: Jefferson, Fayette, Campbell, Livingston, Lyon, and Anchorage Independent. These districts take in slightly more local revenue than others from state and local FSPK combined.

Capital outlay for facilities funding was first authorized in 1954. Districts receive \$100 per pupil in capital outlay funding and this amount has not changed since the inception of the program. Capital outlay and FSPK comprise almost half of all facilities funding, and because they are nearly equal in all districts, they are not the focus of the study. The School Facilities Construction Commission (SFCC), as can be seen in the report, makes offers of assistance to districts based upon facilities needs as reported on DFPs. These offers are paid on behalf of districts for construction bonds over a period of 20 years. All districts that levy the SFPK local tax are eligible to participate in the SFCC program. After SFPK local taxes, the next greatest source of funding are taxes collected through 'local nickels.' These are based on eligibility criteria or the political will of local voters. In most cases, these additional local nickel taxes are also equalized through state funding. The recallable nickel is the only nickel tax districts can pass at this time. Eligibility for the growth nickel tax has been capped since 2009. For the 2019 school year, there were 109 districts that levied at least one additional nickel tax. There were 30 districts that levied two additional nickels, and five that levied three.

The prevalence of facility funding from additional nickel taxes has increased from 2008 to 2019, which has led to per-pupil funding inequality. Average per-pupil funding by source and district wealth was illustrated using graphs, as was a comparison between

Kentucky's reported construction expenditures compared to neighboring states. In summary, local and state facility funding has kept pace with inflation. However, reported expenditures for construction and existing structures has decreased for Kentucky, neighboring states, and nationally. Growth in facility funding has been driven primarily by additional nickel taxes, but this has widened the gap between districts. As the share of additional nickels increases, the share from FSPK, capital outlay, and SFCC will continue to decrease.

District Facility Plans (DFPs) are meant to function as master plans that include an inventory of facility projects listed in priority order. They are used to guide spending of all restricted building funds and for calculating district facilities need used in SFCC funding. The plans are required to be updated every four years, or eight years with a waiver. DFPS are developed by local planning committees comprised of local stakeholders and are assisted by an architect/engineer. This committee reviews the condition of buildings, educational needs, demographic trends, and equity concerns. The meetings of these committees are subject to the open meetings act and the plan must be approved by the local board of education, reviewed by KDE, and approved by the Kentucky Board of Education (KBE).

A chart was presented illustrating DFP priority rankings. The highest ranking priorities (1a-1f) are needs for new construction based on student capacity, new construction to address inadequate spaces, major renovations, KERA Strands (preschool, SBDM, FRYSC, and technology), life safety, and handicapped accessibility. These are to be addressed in the biennium in which the plan is adopted, but this does not always occur. Priorities 2a-2f are the same as priorities 1a-1f, however, they can be completed any time after the biennium in which the plan was adopted. Priority 3 is for non-educational additions such as gyms and cafeterias, priority 4 is for management support areas such as bus garages, and priority 5 is for discretionary additions such as those too new to be replaced or extracurricular facilities. Ms. Cummins reminded the committee that this is not a four-year plan, it simply must be reviewed every four years. Projects on the DFP can be completed at any time, sometimes as many as 10 or 20 years after they were initially adopted.

Projects in priorities 1 through 4 are used in the current SFCC funding calculation. SFCC funds can only be used on priority projects based on their priority order. All projects within a category (such as priority 1a-1f) are considered equivalent and can be addressed in whichever order the district chooses. Unlike SFCC funding, construction expenditures from restricted funds can be used in any priority order for priorities 1 through 4. If all of those priorities are completed, districts can then use restricted funds on priority 5 projects. Funds from a district's general fund can be spent on any project listed on the DFP or for projects not included on the DFP. The plan is required to include the most critical needs of the district, but districts are not required to address critical needs before other projects.

Ms. Cummins noted there were some data concerns when OEA reviewed the DFPs. First, there were 71 districts who had their facility needs understated, and four districts had their needs overstated. These errors effect the districts' SFCC offers of assistance. Additionally, the latest unmet need for the state included 10 districts that have more local available revenue than facility needs and resulted in the KDE overstating state unmet need by \$66 million. Concerns were also noted when analyzing the Building and Grounds Form (BG-5) regarding compliance with use of restricted funds and timely submission of closeout forms.

A summary chart of all DFP need for the 2020 school year was used to illustrate the total need for priorities 1 through 4 for the state with a total combined need of almost \$8.4 billion. About two-thirds of the need is associated with major renovations, especially for projects to occur after the biennium. New construction comprised 21 percent of need, divided roughly equally between the current biennium and subsequent bienniums. One and a half percent of the need was associated with life safety projects as required by building codes and less than one percent of need was associated with handicapped accessibility. It is likely that much of the cost associated with life safety and handicapped accessibility is within major renovation costs in priorities 1c and 2c, thereby making these need estimates misleading. Many districts have included some priority 4 projects on their DFP for over a decade with the projects yet to be completed. A series of graphs was used to compare district per-pupil needs and costs based on data from DFPs.

Hypothetical scenarios were used to illustrate how the total need recorded on a DFP can be misleading in terms of critical need and how DFP need varies widely across districts. District-reported need is increasing, but funding has not increased to match. This has created a growing gap between what districts receive in revenue and what they need to spend. While facility revenue has been keeping up with inflation, spending has decreased substantially. Through budget language and statute, the General Assembly has authorized the use of capital funds requests to move restricted revenue from facilities into general funds. Between 2013 and 2019, 164 districts utilized capital funds request at least once. While overall facility needs for all districts has nearly doubled over the last ten years, districts have moved approximately \$347 million restricted for facilities into general funds.

The final section of the report focused on the KFICS, its statutory goals, and funding. KRS 157.420(9) requires KDE to "standardize the process for evaluating the overall quality and condition of all school buildings across the state" and to produce a "consistent categorization of buildings for local planning purposes and for the distribution of state general fund moneys designated for capital construction." The statute specifies several indicators related to building condition, educational suitability, and life safety. In 2016, the General Assembly appropriated \$2 million to KDE to develop "a maintainable and updateable process to assess the physical quality of and condition of K-12 public school buildings." Since that time, an additional \$600,000 has been allocated toward this goal. KDE has contracted with Ameresco to develop software to assess building conditions

and to train district staff, local architects, and engineers on using KFICS. Data can be entered and updated on-site using mobile devices. The number of school entered into KFICS has grown each, however, implementation is lagging. KDE set a goal of having most schools entered into the system last year, but as of September 2020, less than half of schools are in KFICS. While many districts have entered the majority of their schools, 67 districts have entered no schools into the system. Due to the incomplete nature of the KFICS data, it is invalid as a tool for state level decision making.

KFICS could potentially standardize data, but there is currently no deadline for all districts to be included and no penalty for districts not entering data. A statute passed in 2016 required KBE to develop a regulation to implement the KFICS, and the 2017 report to LRC by KDE set a goal of aligning and incorporating KFICS into the DFP process. Unfortunately, the KBE has not promulgated the required regulation and the Kentucky Facilities Planning Manual has not been updated since 2008. As a result, the DFP and KFICS processes are operating as parallel processes. To fully align with the DFP process, KFICS would need to incorporated data on future construction, while currently the KFICS only encompasses current costs and contracts.

In conclusion, Ms. Cummins briefly summarized the findings of the report and the OEA recommendations of actionable items for the General Assembly, such as establishing a deadline for data entry into KFICS for all school buildings; for KBE, such as promulgation of administrative regulations for KFICS; and for KDE, such as ensuring DFPs accurately reflect total costs of districts' facilities needs. Further details and recommendation can be found in the OEA research report published by the LRC (Research Report No. 467).

Responding to a question from Representative Bojanowski, Ms. Cummins said there is only one FSPK nickel tax for Jefferson County Public Schools (JCPS). Because JCPS does not qualify for state equalization, they choose not to issue additional nickel taxes. They can, however, shift funds from their general fund to cover facilities funding needs. In contrast, Oldham County has issued additional nickel taxes to increase funds.

Senator Wise said he has spoken with many superintendents who find the DFP process confusing, frustrating, and politically charged. He will also be interested in seeing the effects of the COVID-19 pandemic on school facilities funding and facilities needs assessments from schools. Future school buildings may look and function completely differently as a result of the pandemic, with a focus more on technology and remote instruction.

Responding to a question from Chair Reed, Ms. Cummins said the overstated need of \$66 million did not correlate with any funds being moved to or from individual district general funds.

Representative Bojanowski made a motion to accept the report. Senator Wise seconded the motion, which passed by voice vote. Representative Riley made a motion to accept the District Data Profiles report and the OEA Annual report from the July 7, 2020 meeting, seconded by Senator Wilson. The motion passed by voice vote.

Chair Reed introduced the proposed 2021 OEA Research Agenda for members to review. Dr. Bart Liguori stated the two studies proposed will focus on the Non-Traditional Instruction (NTI) Program in Kentucky and the Support Education Excellence in Kentucky (SEEK) Program, respectively. Additionally, there will be a 2020 District Data Profiles report. The ongoing effects of the COVID-19 pandemic were taken into account when determining which research projects were most feasible for 2021. These are projects which can be undertaken without the need to survey district staff or perform site visits to districts. Studying NTI while it is currently being utilized very differently than it was designed may be a challenge, however, it is critical to understand its use and potential impact on accountability measures.

There were no questions from the members. Senator Wise made a motion to approve the 2021 OEA Research Agenda, seconded by Representative Bojanowski. There were 6 Yes votes, 0 No votes, and 0 Pass votes.

With no further business to come before the committee, the meeting adjourned at 3:50 p.m.