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BUILDING EXCELLENT SCHOOLS TODAY (BEST) ACT

by Kori Donaldson

During the 2008 session, the General Assembly enacted House Bill 08-1335, the Building Excellent Schools Today (BEST) act. The act replaced existing law concerning state financial assistance for public school capital construction and established a grant program in order to accelerate funding for K-12 capital construction. In addition to increasing the level of assistance provided by the state for public school capital construction, the act also identified new sources of funding for capital projects in order to make life safety renovations and address issues of overcrowding. This issue brief discusses the origins and administration of the BEST program, the statewide facilities assessment conducted pursuant to the BEST legislation, funding for BEST projects, and the grant awards made since the program's inception.

Background

Origins of the BEST program. Prior to 1998, public school capital construction was largely funded from local rather than state sources. A class action lawsuit filed in 1998 changed how the state contributes to K-12 capital construction (Giardino v. Colorado State Board of Education). The Colorado Constitution requires the state to "provide for the establishment and maintenance of a thorough and uniform system of free public schools throughout the state, wherein all residents of the state, between the ages of 6 and 21 years, may be educated gratuitously." The lawsuit alleged that the state had not fulfilled its constitutional responsibility to establish and maintain a thorough and uniform system of public schools because of the deteriorating condition of many public schools and issues of overcrowding. Senate Bill 00-181 implemented the terms of a settlement, which required the General Assembly to appropriate $190 million for public school capital construction over a period of 11 years. In 2008, the General Assembly enacted the BEST act, which replaces the financial assistance programs established pursuant to the lawsuit.

Building Excellent Schools Today (BEST) Program

The BEST program was established to provide grants to public schools to rebuild, repair, or replace the worst of the state's K-12 facilities. The following entities are qualified to participate in the BEST program:

- ✓ 178 local school districts;
- ✓ 149 charter schools;
- ✓ 21 Boards of Cooperative Services; and
- ✓ the Colorado School for the Deaf and the Blind.

Capital construction projects qualify for funding and are prioritized in order based on the following criteria: (1) addresses potential safety hazards and/or health concerns; (2) relieves overcrowding; (3) incorporates technology into the educational environment; and (4) all other projects. The enacting legislation established a division and staff within the Colorado Department of Education to manage the program.

Operation of the BEST program. Pursuant to House Bill 08-1335, the BEST program is administered by the nine-member Public School Capital Construction Assistance Board, including experts in public school finance and facilities planning. The board is charged with annually submitting a prioritized list of projects recommended for funding to the State Board of Education.

Funding for BEST projects. Two types of grants may be awarded to BEST-qualified projects, including: (1) cash awards; and (2) long-term borrowing either in the form of lease-purchase agreements called certificates of participation (COPs), or Qualified School Construction Bonds, a federal program that allows public entities to borrow at zero percent interest to finance K-12 capital construction. The source of state funds for the cash awards and to repay debt is the Public School Capital Construction Assistance Fund. Moneys for this purpose are annually appropriated in the Long Bill. The fund collects revenue from the following sources:

- 35 percent of the moneys earned from state public school lands in the form of income, mineral royalties, and interest;
- proceeds from the sale of COPs or bonds; and
- lottery proceeds that would otherwise be transferred to the General Fund.

The BEST program requires recipients to pay a portion of the cost of a project, unless a waiver is granted. Table 1 summarizes state dollars spent since 2000 for K-12 capital construction projects. Table 2 lists the total BEST grants awarded to date by county and year.

Table 1
Funding for K-12 Capital Construction

Fiscal Year	State Funding Made Available
Prior to 2000	N/A -- funded locally
FY 00-01 — FY 07-08	$145.0 million
FY 07-08 — present	$507.4 million
Total	**$652.4 million**

Table 2
Total Number of BEST Grants By County and Year

County	FY 08-09	FY 09-10	FY 10-11	FY 11-12
Adams	N/A	6	4	8
Alamosa	2	N/A	N/A	N/A
Arapahoe	N/A	1	3	1
Baca	N/A	1	N/A	N/A
Bent	N/A	4	N/A	N/A
Boulder	N/A	N/A	1	2
Chaffee	N/A	N/A	2	N/A
Conejos	N/A	1	1	1
Costilla	1	N/A	N/A	1
Delta	N/A	1	N/A	N/A
Douglas	N/A	1	N/A	N/A
Eagle	N/A	N/A	N/A	1
El Paso	2	14	4	6
Elbert	N/A	4	N/A	3
Garfield	N/A	2	N/A	2
Grand	N/A	N/A	1	N/A
Gunnison	N/A	N/A	1	N/A
Huerfano	N/A	N/A	2	N/A
Jefferson	N/A	N/A	1	1
Kiowa	N/A	1	N/A	N/A
La Plata	N/A	N/A	1	N/A
Lake	N/A	1	1	N/A
Larimer	N/A	N/A	1	1
Las Animas	N/A	1	2	1
Lincoln	N/A	1	2	N/A
Logan	1	N/A	N/A	N/A
Montezuma	1	1	N/A	1
Montrose	N/A	3	4	1
Morgan	1	1	N/A	N/A
Otero	N/A	1	6	N/A
Park	N/A	1	1	N/A
Phillips	N/A	N/A	N/A	2
Prowers	1	1	1	N/A
Pueblo	1	N/A	N/A	N/A
Rio Grande	1	N/A	1	N/A
Routt	1	N/A	1	N/A
Saguache	1	1	2	N/A
San Juan	N/A	1	N/A	N/A
Sedgewick	N/A	1	N/A	N/A
Washington	N/A	1	2	N/A
Weld	N/A	N/A	N/A	2
Yuma	N/A	1	N/A	2
Totals	**13**	**52**	**45**	**36**

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