



Arizona State Senate **Issue Brief**

August 27, 2008

Note to Reader:

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Students FIRST

INTRODUCTION

In 1994, Arizona's system of school capital finance was declared unconstitutional by a Court decision in *Roosevelt v. Bishop* because it failed to conform to the state Constitution's "general and uniform" clause. The Court opined that the system, which allowed school districts to rely heavily on secondary property, which is driven by the property wealth, created an unequalized system and funding disparities between school districts.

The state twice attempted to address the Court's ruling, first in 1996 through an amended system based on the original financing system, and again in 1997 with the creation of a new system, the Assistance to Build Classrooms program. In *Hull v. Albrecht*, the Court rejected both proposals and imposed on the state a deadline of June 30, 1998, to develop a constitutional system of school capital finance or risk closure of K-12 public schools. On July 9, 1998, during a special session, legislation was passed reforming the way traditional K-12 public schools (not including charter schools) are constructed in Arizona. This legislation was called Students Fair and Immediate Resources for Students Today, commonly known as Students FIRST.

Since 1998, the Students FIRST program has served as Arizona's school capital finance system, funded in part by Proposition 301 revenues dedicated from the state transaction privilege (sales) tax, state trust land revenues and annual legislative appropriations to the School Facilities Board (SFB). The Students FIRST program consists of three programs:

- Deficiencies Corrections – School districts received \$1.3 billion in one-time state funding to correct structural and spatial deficiencies in existing school facilities (completed in FY 2005-2006).
- Building Renewal – The state provides ongoing formula funding to school districts to maintain existing school facilities.
- New School Construction – School districts receive ongoing funding to construct new school facilities, while retaining a limited ability to raise local funds through

bond issuances and capital overrides to supplement SFB funds.

SCHOOL FACILITIES BOARD

The Students FIRST program is administered by the SFB, which consists of nine voting members appointed by the Governor. Additionally, the Superintendent of Public Instruction or his/her designee serves as a nonvoting member. Each voting member is appointed based on expertise in one of the following areas: school district governing board member, taxpayer representative, school construction, school facilities management, demographics, teacher, engineering, architecture or private business owner. Each member serves a term of four years. Day-to-day operations are managed by the Executive Director, who is also appointed by the Governor, subject to Senate confirmation.

MINIMUM BUILDING ADEQUACY STANDARDS

In September 1999, the SFB established the Building Adequacy Guidelines, which serve as the minimum standards for the SFB and school districts on how existing and new school facilities must be built and maintained. The standards range from statutorily set square footage requirements to specifications on building systems, classroom and nonclassroom space (cafeteria, libraries, and athletic facilities) and energy efficiency measures. Compliance with these standards are the basis on which deficiencies corrections and new construction projects are approved by the SFB.

In February 2007, the SFB adopted new interpretations of the established minimum adequacy guidelines for school and gym flooring, millwork (cabinetry), exterior lighting, canopies, playground structures and landscaping.

DEFICIENCIES CORRECTION

The purpose of the Deficiencies Correction Program was to provide one-time funding to correct square footage or structural quality deficiencies in existing school facilities. The

determination of deficiency was based on whether existing buildings were in compliance with minimum building adequacy standards. An initial statewide assessment of school facilities completed in 1999 identified the school district facilities that would require repair, renovation or replacement.

Students FIRST legislation required that all projects be completed by June 30, 2004. In 2002, however, in an effort to address state budget shortfalls, the completion date was delayed until June 30, 2005, for three school districts: 1) Mesa Unified; 2) Glendale Union; and 3) Tucson Unified. In 2005, the completion date was further delayed to June 30, 2006.

The Deficiencies Corrections Program was completed in FY 2005-2006. Over the course of the Deficiencies Corrections Program, the state provided \$1.314 billion for over 9,200 projects, including approximately 36,000 computers and statewide Internet connectivity for all school districts. The \$1.314 billion was funded in the following manner:

- Bonds.....\$ 1.1 billion
- General Fund.....\$176 million
- Fund Transfers\$ 38 million

To ensure that the state’s \$1.3 billion investment is preserved, the SFB is required to inspect school facilities every five years to ensure that school districts perform adequate preventative maintenance so that the school facilities will not fall below minimum building adequacy standards. Each school district is also required to submit an annual preventative maintenance report to the SFB. If the school district is found to be in noncompliance, the school district must use building renewal monies (as discussed below) to return to compliance.

The Legislature established the Emergency Deficiencies Correction Fund to address emergency capital needs that “seriously threaten the functioning of a school district, the preservation or property, or public health, welfare, or safety.” A school district that experiences an emergency of this nature may apply for additional funding. SFB funding under the Emergency Deficiencies Correction Fund requires a school district to exhaust all other

funding sources available for these types of emergencies, such as insurance proceeds or building renewal monies (see below).

BUILDING RENEWAL

The Building Renewal Program is designed to provide school districts with funding to maintain existing school facilities. These monies can be used for: 1) major renovations and repairs of a building; 2) upgrades to building systems (e.g., heating, cooling, plumbing, etc.) that will maintain or extend the useful life of a building; 3) infrastructure costs; and 4) portable and modular building placement or relocation. A school district may also allocate up to eight percent of funding for preventative maintenance.

Building Renewal monies may not be used for new construction, remodeling interior space for aesthetic purposes, exterior beautification, demolition, soft capital items or routine maintenance. The Building Renewal formula funding is allocated on a building-by-building basis, taking into account the building's square footage, age, student capacity and prior renovations. The SFB distributes Building Renewal monies to school districts in two equal installments in November and May of each year.

From FY 1998-1999 to FY 2006-2007, the formula has generated over \$1 billion cumulatively; however, due to budget deficits, the state distributed \$606.8 million from the state General Fund. In FY 2007-2008, \$86.3 million was appropriated for the Building Renewal Program, although the statutory formula generated approximately \$190.2 million. The reduced funding amounts in FY 2004-2005 through FY 2007-2008 reflect a funding level based on a revised building renewal formula passed by the Legislature, which the Governor vetoed each time the legislation to permanently alter the formula was proposed. In her veto messages, she raised a concern relating to the impact of the proposed formula changes to the pending lawsuit against the state brought forth by school districts when the building renewal formula was partially funded in FY 2001-2002 through FY 2003-2004.

The Building Renewal Program was suspended for FY 2008-2009 and no funding was provided. However, \$20 million was appropriated to fund a newly created Building Renewal Grant Fund to distribute monies to school districts for primary building renewal projects such as major renovations and repairs, infrastructure costs and upgrading systems and areas that will maintain or extend the useful life of a building.

BUILDING RENEWAL LAWSUITS

In 1999 and 2001, eight school districts sued the state citing that the Legislature's failure to fund the Building Renewal Program at the formula amount set by Students FIRST is unconstitutional. In October 2006, the court ruled in favor of the state stating that the plaintiff school districts had not attempted to obtain all available funds from the state prior to making the complaint. However, the court permitted the plaintiffs to provide additional evidence by spring 2008 to demonstrate whether a trial would be warranted. An evidentiary hearing is scheduled for September 2008, with possible trial dates in late 2008 or early 2009.

NEW SCHOOL FACILITIES

The New School Construction Program distributes funding to school districts for the purchase of land and costs of construction for new schools. School districts qualify for new space based on annual capital plans and approval of school district enrollment projections. The SFB provides funding if approved enrollment projections indicate that additional space will be needed because school district-wide square footage per pupil will fall below the statutory minimum, within the next two years for an elementary district, or three years for a middle or high school.

The SFB distributes new school facilities monies to school districts based on the following new school construction formula:

(No. of Pupils x Square Foot per Pupil x Cost per Square Foot)

Statute dictates the required square footage per pupil (specified by type of school and size)

and the cost per square foot. The SFB is statutorily permitted to increase monies in excess of the formula under four conditions: 1) inflation index as identified by the Joint Legislative Budget Committee (see below); 2) five percent increase for rural areas; 3) geographic conditions; and 4) site conditions.

If a project is completed at a cost below the formula amount, a school district may use the excess funds on the same project within one year. However, in recent years, excess monies have not been available to school districts; rather, the SFB has made additional awards to school districts above the formulaic amount.

Funding Guidelines		
Type of School	Sq. foot Per Pupil	Cost per Sq. foot
K-6	90	\$134.01
K-8	92.4	\$135.77
6-8	96.67	\$138.98
7-8	100	\$141.47
9-12<1,800 pupils	134	\$163.81
9-12>1,800 pupils	125	\$163.81

Note: Cost per square foot is increased by five percent for rural school districts.

Prior to FY 2002-2003, the state paid for new construction costs on a cash-basis through legislative appropriations from the state General Fund. However, from FY 2002-2003 to FY 2004-2005, due to budget shortfalls, the state implemented debt financing through lease-purchase agreements to pay for new construction costs. In FY 2005-2006, the state returned to cash funding new school construction from the state General Fund.

As part of the FY 2008-2009 budget, the state prohibited the SFB from authorizing or awarding funding for the design or construction or school site acquisitions of any new school facility unless the school district qualified for new space in FY 2008-2009 due to the implementation of full-day kindergarten.

Additionally, in FY 2008-2009, the state again returned to debt financing for new school

construction by allowing the SFB to enter into up to 15-year lease-to-own transactions for up to \$593 million in FY 2008-2009, of which \$344 is recouped from FY 2007-2008 or prior year expenditures, \$8 million is used for full-day kindergarten capital costs and \$12 million for SFB loan agreements. \$117 million was appropriated in FY 2008-2009 from the state General Fund for new construction projects due to an insufficient cash balance before lease-to-own proceeds are received and must be repaid from lease-to-own proceeds by the end of FY 2008-2009.

INFLATION

The Joint Legislative Budget Committee (JLBC) is statutorily obligated to develop or identify an inflation index for the cost per square foot funding component in the New School Construction formula (the index also applies to the Building Renewal formula cost per square foot amount). The following table lists the annual inflation index adopted by the JLBC:

Inflation	
Fiscal Year	Index
2000	3.1%
2001	5.0%
2002	0.6%
2003	0.0%
2004	4.2%
2005	1.4%
2006	12.85%
2007	12.20%
2008	2.2%

ADDITIONAL RESOURCES

- *Roosevelt v. Bishop*, 179 Ariz. 233 877 P.2nd 806 (Ariz. 1994)
- *Hull v. Albrecht*, 190 Ariz. 520 950 P.2nd 1141 (Ariz. 1997)
- *Hull v. Albrecht*, 192 Ariz. 34 960 P.2nd 634 (Ariz. 1998)
- Arizona School Facilities Board
602-542-6501
www.azsfb.gov/sfb

- Annual Appropriations Report, Joint
Legislative Budget Committee
www.azleg.gov/jlbc.htm