

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HOUSE BILL 2241

AN ACT

AMENDING SECTIONS 15-2002, 15-2031 AND 15-2041, ARIZONA REVISED STATUTES;
RELATING TO SCHOOL FACILITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 15-2002, Arizona Revised Statutes, is amended to
3 read:
4 15-2002. Powers and duties; executive director; staffing;
5 report
6 A. The school facilities board shall:
7 1. Make assessments of school facilities and equipment deficiencies
8 ~~pursuant to section 15-2021~~ and approve the distribution of grants as
9 appropriate.
10 2. Develop a database for administering the building renewal formula
11 prescribed in section 15-2031 and administer the distribution of monies to
12 school districts for building renewal.
13 3. Inspect school buildings at least once every five years to ensure
14 compliance with the building adequacy standards prescribed in section 15-2011
15 and routine preventative maintenance guidelines as prescribed in this section
16 with respect to construction of new buildings and maintenance of existing
17 buildings. The school facilities board shall randomly select twenty school
18 districts every thirty months and inspect them pursuant to this paragraph.
19 4. Review and approve student population projections submitted by
20 school districts to determine to what extent school districts are entitled to
21 monies to construct new facilities pursuant to section 15-2041. The board
22 shall make a final determination within six months of the receipt of an
23 application by a school district for monies from the new school facilities
24 fund.
25 5. Certify that plans for new school facilities meet the building
26 adequacy standards prescribed in section 15-2011.
27 6. Develop prototypical elementary and high school designs. The board
28 shall review the design differences between the schools with the highest
29 academic productivity scores and the schools with the lowest academic
30 productivity scores. The board shall also review the results of a valid and
31 reliable survey of parent quality rating in the highest performing schools
32 and the lowest performing schools in this state. The survey of parent
33 quality rating shall be administered by the department of education. The
34 board shall consider the design elements of the schools with the highest
35 academic productivity scores and parent quality ratings in the development of
36 elementary and high school designs. The board shall develop separate school
37 designs for elementary, middle and high schools with varying pupil
38 capacities.
39 7. Develop application forms, reporting forms and procedures to carry
40 out the requirements of this article.
41 8. Review and approve or reject requests submitted by school districts
42 to take actions pursuant to section 15-341, subsection F.
43 9. Submit an annual report by December 15 to the speaker of the house
44 of representatives, the president of the senate, the superintendent of public

1 instruction, the director of the Arizona state library, archives and public
2 records and the governor that includes the following information:

3 (a) A detailed description of the amount of monies distributed by the
4 school facilities board in the previous fiscal year.

5 (b) A list of each capital project that received monies from the
6 school facilities board during the previous fiscal year, a brief description
7 of each project that was funded and a summary of the board's reasons for the
8 distribution of monies for the project.

9 (c) A summary of the findings and conclusions of the building
10 maintenance inspections conducted pursuant to this article during the
11 previous fiscal year.

12 (d) A summary of the findings of common design elements and
13 characteristics of the highest performing schools and the lowest performing
14 schools based on academic productivity including the results of the parent
15 quality rating survey. For the purposes of this ~~paragraph~~ SUBDIVISION,
16 "academic productivity" means academic year advancement per calendar year as
17 measured with student-level data using the statewide nationally standardized
18 norm-referenced achievement test.

19 10. By December 1 of each year, report to the joint committee on
20 capital review the amounts necessary to fulfill the requirements of sections
21 ~~15-2021~~, 15-2022, 15-2031 and 15-2041 for the following fiscal year and the
22 estimated amounts necessary to fulfill the requirements of sections ~~15-2021~~,
23 15-2022, 15-2031 and 15-2041 for the fiscal year following the next fiscal
24 year. The board shall provide copies of the report to the president of the
25 senate, the speaker of the house of representatives and the governor.

26 11. Adopt minimum school facility adequacy guidelines to provide the
27 minimum quality and quantity of school buildings and the facilities and
28 equipment necessary and appropriate to enable pupils to achieve the
29 educational goals of the Arizona state schools for the deaf and the
30 blind. The school facilities board shall establish minimum school facility
31 adequacy guidelines applicable to the Arizona state schools for the deaf and
32 the blind ~~by December 31, 2000~~.

33 12. ~~Beginning August 15, 2004, and~~ IN each even-numbered year
34 ~~thereafter~~, report to the joint committee on capital review the amounts
35 necessary to fulfill the requirements of sections 15-2031 and 15-2041 for the
36 Arizona state schools for the deaf and the blind for the following two fiscal
37 years. The Arizona state schools for the deaf and the blind shall
38 incorporate the findings of the report in any request for building renewal
39 monies and new school facilities monies. Any monies provided to the Arizona
40 state schools for the deaf and the blind for building renewal and for new
41 school facilities are subject to legislative appropriation.

42 13. By October 15 of each year, submit information regarding
43 demographic assumptions, a proposed construction schedule and new school
44 construction cost estimates for the following fiscal year to the joint
45 committee on capital review for its review.

1 14. Every two years, provide school districts with information on
2 improving and maintaining the indoor environmental quality in school
3 buildings.

4 B. The school facilities board may contract for ~~private~~ THE FOLLOWING
5 services in compliance with the procurement practices prescribed in title 41,
6 chapter 23~~—~~ :

7 1. PRIVATE SERVICES.

8 2. CONSTRUCTION PROJECT MANAGEMENT SERVICES.

9 3. ASSESSMENTS FOR SCHOOL BUILDINGS TO DETERMINE IF THEY HAVE OUTLIVED
10 THEIR USEFUL LIFE PURSUANT TO SECTION 15-2041, SUBSECTION G.

11 4. SERVICES RELATED TO LAND ACQUISITION AND DEVELOPMENT.

12 C. THE SCHOOL FACILITIES BOARD MAY ADOPT RULES PURSUANT TO TITLE 41,
13 CHAPTER 6 TO CARRY OUT THIS CHAPTER.

14 ~~C.~~ D. The governor shall appoint an executive director of the school
15 facilities board pursuant to section 38-211. The executive director is
16 eligible to receive compensation as determined pursuant to section 38-611 and
17 may hire and fire necessary staff as approved by the legislature in the
18 budget. The executive director shall have demonstrated competency in school
19 finance, facilities design or facilities management, either in private
20 business or government service. The executive director serves at the
21 pleasure of the governor. The staff of the school facilities board is exempt
22 from title 41, chapter 4, articles 5 and 6. The executive director:

23 1. Shall analyze applications for monies submitted to the board by
24 school districts.

25 2. Shall assist the board in developing forms and procedures for the
26 distribution and review of applications and the distribution of monies to
27 school districts.

28 3. May review or audit, or both, the expenditure of monies by a school
29 district for deficiencies corrections, building renewal and new school
30 facilities.

31 4. Shall assist the board in the preparation of the board's annual
32 report.

33 5. Shall research and provide reports on issues of general interest to
34 the board.

35 6. May aid school districts in the development of reasonable and
36 cost-effective school designs in order to avoid statewide duplicated efforts
37 and unwarranted expenditures in the area of school design.

38 7. May assist school districts in facilitating the development of
39 multijurisdictional facilities.

40 8. Shall assist the board in any other appropriate matter or method as
41 directed by the members of the board.

42 9. Shall establish procedures to ensure compliance with the notice and
43 hearing requirements prescribed in section 15-905. The notice and hearing
44 procedures adopted by the board shall include the requirement, with respect
45 to the board's consideration of any application filed after July 1, 2001 or

1 after December 31 of the year in which the property becomes territory in the
2 vicinity of a military airport or ancillary military facility as defined in
3 section 28-8461 for monies to fund the construction of new school facilities
4 proposed to be located in territory in the vicinity of a military airport or
5 ancillary military facility, that the military airport receive notification
6 of the application by first class mail at least thirty days before any
7 hearing concerning the application.

8 10. May expedite any request for ~~funds~~ MONIES in which the local match
9 was not obtained for a project that received preliminary approval by the
10 state board for school capital facilities.

11 11. Shall expedite any request for ~~funds~~ MONIES in which the school
12 district governing board submits an application that shows an immediate need
13 for a new school facility.

14 12. Shall make a determination as to administrative completion within
15 one month after the receipt of an application by a school district for monies
16 from the new school facilities fund.

17 13. Shall provide technical support to school districts as requested by
18 school districts in connection with the construction of new school facilities
19 and the maintenance of existing school facilities AND MAY CONTRACT DIRECTLY
20 WITH CONSTRUCTION PROJECT MANAGERS PURSUANT TO SUBSECTION B OF THIS SECTION.
21 THIS PARAGRAPH DOES NOT RESTRICT A SCHOOL DISTRICT FROM CONTRACTING WITH A
22 CONSTRUCTION PROJECT MANAGER UTILIZING DISTRICT RESOURCES OR USING STATE
23 RESOURCES IF THE SCHOOL FACILITIES BOARD DOES NOT MODIFY THE BASE COST PER
24 SQUARE FOOT PURSUANT TO SECTION 15-2041, SUBSECTION D, PARAGRAPH 3,
25 SUBDIVISION (c).

26 ~~D.~~ E. When appropriate, the school facilities board shall review and
27 use the statewide school facilities inventory and needs assessment conducted
28 by the joint committee on capital review and issued in July, 1995.

29 ~~E.~~ F. The school facilities board shall contract with one or more
30 private building inspectors to complete an initial assessment of school
31 facilities and equipment ~~provided in section 15-2021~~ and shall inspect each
32 school building in this state at least once every five years to ensure
33 compliance with section 15-2011. A copy of the inspection report, together
34 with any recommendations for building maintenance, shall be provided to the
35 school facilities board and the governing board of the school district.

36 ~~F.~~ G. The school facilities board may consider appropriate
37 combinations of facilities or uses in making assessments of and curing
38 deficiencies pursuant to subsection A, paragraph 1 of this section and in
39 certifying plans for new school facilities pursuant to subsection A,
40 paragraph 5 of this section.

41 ~~G.~~ H. The board shall not award any monies to fund new facilities
42 that are financed by class A bonds that are issued by the school district.

43 ~~H.~~ I. The board shall not distribute monies to a school district for
44 replacement or repair of facilities if the costs associated with the

1 replacement or repair are covered by insurance or a performance or payment
2 bond.

3 ~~I.~~ J. The board may contract for construction services and materials
4 that are necessary to correct existing deficiencies in school district
5 facilities ~~as determined pursuant to section 15-2021~~. The board may procure
6 the construction services necessary pursuant to this subsection by any method
7 including construction-manager-at-risk, design-build, design-bid-build or
8 job-order-contracting as provided by title 41, chapter 23. The construction
9 planning and services performed pursuant to this subsection are exempt from
10 section 41-791.01.

11 ~~J.~~ K. The school facilities board may enter into agreements with
12 school districts to allow school facilities board staff and contractors
13 access to school property for the purposes of performing the construction
14 services necessary pursuant to subsection I of this section.

15 ~~K.~~ L. ~~By October 1, 2002,~~ Each school district shall develop routine
16 preventative maintenance guidelines for its facilities. The guidelines shall
17 be submitted to the school facilities board for review and approval ~~by~~
18 ~~February 1, 2003~~. If upon inspection by the school facilities board it is
19 determined that a school district facility was inadequately maintained
20 pursuant to the school district's routine preventative maintenance
21 guidelines, the school district shall use building renewal monies pursuant to
22 section 15-2031, subsection J to return the building to compliance with the
23 school district's routine preventative maintenance guidelines. Once the
24 district is in compliance, it no longer is required to use building renewal
25 monies for preventative maintenance.

26 ~~L.~~ M. The school facilities board may temporarily transfer monies
27 between the capital reserve fund established by section 15-2003, ~~the~~
28 ~~deficiencies correction fund established by section 15-2021,~~ the emergency
29 deficiencies correction fund established by section 15-2022, the building
30 renewal fund established by section 15-2031 and the new school facilities
31 fund established by section 15-2041 if all of the following conditions are
32 met:

33 1. The transfer is necessary to avoid a temporary shortfall in the
34 fund into which the monies are transferred.

35 2. The transferred monies are restored to the fund where the monies
36 originated as soon as practicable after the temporary shortfall in the other
37 fund has been addressed.

38 3. The school facilities board reports to the joint committee on
39 capital review the amount of and the reason for any monies transferred.

40 Sec. 2. Section 15-2031, Arizona Revised Statutes, is amended to read:

41 15-2031. Building renewal fund; definitions

42 A. A building renewal fund is established consisting of monies
43 appropriated by the legislature ~~and monies credited to the fund pursuant to~~
44 ~~section 42-5030.01~~. The school facilities board shall administer the fund
45 and distribute monies to school districts for the purpose of maintaining the

1 adequacy of existing school facilities. Monies in the fund are continuously
2 appropriated and are exempt from the provisions of section 35-190 relating to
3 lapsing of appropriations.

4 B. The school facilities board shall inventory and inspect all school
5 buildings in this state in order to develop a database to administer the
6 building renewal formula. The database shall include the student capacity of
7 the building as determined by the school facilities board. The board shall
8 distribute monies from the building renewal fund to school districts in an
9 amount computed pursuant to subsection G of this section. A school district
10 that receives monies from the building renewal fund shall use the monies
11 primarily for any buildings in the database developed or created under
12 subsection D of this section and secondly for any other buildings owned by
13 the school district for any of the following:

- 14 1. Major renovations and repairs of a building.
- 15 2. Upgrading systems and areas that will maintain or extend the useful
16 life of the building.
- 17 3. Infrastructure costs.
- 18 4. Relocation and placement of portable and modular buildings.
- 19 C. Monies received from the building renewal fund shall not be used
20 for any of the following purposes:
 - 21 1. New construction.
 - 22 2. Remodeling interior space for aesthetic or preferential reasons.
 - 23 3. Exterior beautification.
 - 24 4. Demolition.
 - 25 5. The purchase of soft capital items pursuant to section 15-962,
26 subsection D.
 - 27 6. Routine maintenance except as provided in section 15-2002,
28 subsection ~~K~~ L and subsection J of this section.

29 D. The school facilities board shall maintain the building renewal
30 database and use the database for the computation of the building renewal
31 formula distributions. The board shall ensure that the database is updated
32 on at least an annual basis to reflect changes in the ages and value of
33 school buildings. The facilities listed in the database shall include only
34 those buildings that are owned by school districts that are required to meet
35 academic standards. Each school district shall report to the school
36 facilities board no later than September 1 of each year the number and type
37 of school buildings owned by the district, the square footage of each
38 building, the age of each building, the nature of any renovations completed
39 and the cost of any renovations completed. The school facilities board may
40 review or audit, or both, to confirm the information submitted by a school
41 district. The board shall adjust the age of each school facility in the
42 database whenever a building is significantly upgraded or remodeled. The age
43 of a building that has been significantly upgraded or remodeled shall be
44 recomputed as follows:

1 1. Divide the cost of the renovation by the building capacity value of
2 the building determined in subsection G, paragraph 3 of this section.
3 2. Multiply the quotient determined in paragraph 1 of this subsection
4 by the currently listed age of the building in the database.
5 3. Subtract the product determined in paragraph 2 of this subsection
6 from the currently listed age of the building in the database, rounded to the
7 nearest whole number. If the result is negative, use zero.
8 E. The school facilities board shall submit an annual report to the
9 president of the senate, the speaker of the house of representatives, the
10 Arizona state library, archives and public records and the governor by
11 October 1 that includes the computation of the amount of monies to be
12 distributed from the building renewal fund for the current fiscal year. The
13 joint committee on capital review shall review the school facilities board's
14 calculation of the building renewal fund distributions. After the joint
15 committee on capital review reviews the distributions computed by the school
16 facilities board, the school facilities board shall distribute the monies
17 from the building renewal fund to school districts in two equal installments
18 in November and May of each year.
19 F. School districts that receive monies from the building renewal fund
20 shall establish a district building renewal fund and shall use the monies in
21 the district building renewal fund only for the purposes prescribed in
22 subsection B of this section. Ending cash balances in a school district's
23 building renewal fund may be used in following fiscal years for building
24 renewal pursuant to subsection B of this section. By October 15 of each
25 year, each school district shall report to the school facilities board the
26 projects funded at each school in the previous fiscal year with monies from
27 the district building renewal fund, an accounting of the monies remaining in
28 the district building renewal fund at the end of the previous fiscal year and
29 a comprehensive three year plan that details the proposed use of building
30 renewal monies. If a school district fails to submit the report by October
31 15 OR THE INFORMATION REQUIRED BY SUBSECTION D OF THIS SECTION, the school
32 facilities board shall withhold building renewal monies from the school
33 district until the school facilities board determines that the school
34 district has complied with the reporting requirement. When the school
35 facilities board determines that the school district has complied with the
36 reporting requirement, the school facilities board shall restore the full
37 amount of withheld building renewal monies to the school district.
38 G. Notwithstanding any other provision of this chapter, if a school
39 district converts space that is listed in the database maintained pursuant to
40 this section to space that will be used for administrative purposes, the
41 school district is responsible for any costs associated with the conversion,
42 maintenance and replacement of that space. The building renewal amount for
43 each school building shall be computed as follows:

1 1. Divide the age of the building as computed pursuant to subsection D
2 of this section by one thousand two hundred seventy-five or, in the case of
3 modular or portable buildings, by two hundred ten.
4 2. Multiply the quotient determined in paragraph 1 of this subsection
5 by 0.67.
6 3. Determine the building capacity value as follows:
7 (a) Multiply the student capacity of the building by the per student
8 square foot capacity established by section 15-2041.
9 (b) Multiply the product determined in subdivision (a) by the cost per
10 square foot established by section 15-2041.
11 4. Multiply the product determined in paragraph 2 of this subsection
12 by the product determined in paragraph 3, subdivision (b) of this subsection.
13 H. If the school facilities board determines that a school district
14 has spent monies from the building renewal fund for purposes other than those
15 prescribed in subsection B of this section, the school facilities board shall
16 notify the superintendent of public instruction. Notwithstanding any other
17 law, the superintendent of public instruction shall withhold a corresponding
18 amount from the monies that would otherwise be due the school district under
19 the capital outlay revenue limit until these monies are repaid.
20 I. Beginning on July 1, 2002, a school district is not entitled to
21 receive monies from the building renewal fund for any buildings that are to
22 be replaced with new buildings that are funded with deficiencies corrections
23 monies ~~pursuant to section 15-2021~~. The replacement buildings are not
24 eligible to receive building renewal funding until the fiscal year following
25 the completion of the building.
26 J. Notwithstanding subsections B and C of this section, a school
27 district may use eight per cent of the building renewal amount computed
28 pursuant to subsection G of this section for routine preventative
29 maintenance. The board, after consultation with maintenance specialists in
30 school districts, shall provide examples of recommended services that are
31 routine preventative maintenance.
32 K. A school district that uses building renewal monies for routine
33 preventative maintenance shall use the building renewal monies to supplement
34 and not supplant expenditures from other funds for the maintenance of school
35 buildings. The auditor general shall prescribe a method for determining
36 compliance with the requirements of this subsection. A school district, in
37 connection with any audit conducted by a certified public accountant, shall
38 also contract for an independent audit to determine whether the school
39 district used building renewal monies to reduce the school district's
40 existing level of routine preventative maintenance funding. The auditor
41 general may conduct discretionary reviews of a school district that is not
42 required to contract for an independent audit.
43 L. For the purposes of this section:
44 1. "Routine preventative maintenance" means services that are
45 performed on a regular schedule at intervals ranging from four times a year

1 to once every three years and that are intended to extend the useful life of
2 a building system and reduce the need for major repairs.

3 2. "Student capacity" has the same meaning prescribed in section
4 15-2011.

5 Sec. 3. Section 15-2041, Arizona Revised Statutes, is amended to read:
6 15-2041. New school facilities fund; capital plan; report

7 A. A new school facilities fund is established consisting of monies
8 appropriated by the legislature and monies credited to the fund pursuant to
9 section 37-221. The school facilities board shall administer the fund and
10 distribute monies, as a continuing appropriation, to school districts for the
11 purpose of constructing new school facilities **AND FOR CONTRACTED EXPENSES**
12 **PURSUANT TO SECTION 15-2002, SUBSECTION B, PARAGRAPHS 2, 3 AND 4.** On June 30
13 of each fiscal year, any unobligated contract monies in the new school
14 facilities fund shall be transferred to the capital reserve fund established
15 by section 15-2003.

16 B. The school facilities board shall prescribe a uniform format for
17 use by the school district governing board in developing and annually
18 updating a capital plan that consists of each of the following:

19 1. Enrollment projections for the next five years for elementary
20 schools and eight years for middle and high schools, including a description
21 of the methods used to make the projections.

22 2. A description of new schools or additions to existing schools
23 needed to meet the building adequacy standards prescribed in section 15-2011.
24 The description shall include:

25 (a) The grade levels and the total number of pupils that the school or
26 addition is intended to serve.

27 (b) The year in which it is necessary for the school or addition to
28 begin operations.

29 (c) A timeline that shows the planning and construction process for
30 the school or addition.

31 3. Long-term projections of the need for land for new schools.

32 4. Any other necessary information required by the school facilities
33 board to evaluate a school district's capital plan.

34 5. If a school district pays tuition for all or a portion of the
35 school district's high school pupils to another school district, the capital
36 plan shall indicate the number of pupils for which the district pays tuition
37 to another district. If a school district accepts pupils from another school
38 district pursuant to section 15-824, subsection A, the school district shall
39 indicate the projections for this population separately. This paragraph does
40 not apply to a small isolated school district as defined in section 15-901.

41 C. If the capital plan indicates a need for a new school or
42 addition to an existing school within the next four years or a need for land
43 within the next ten years, the school district shall submit its plan to the
44 school facilities board by September 1 and shall request monies from the new
45 school facilities fund for the new construction or land. Monies provided for

1 land shall be in addition to any monies provided pursuant to subsection D of
2 this section.

3 D. The school facilities board shall distribute monies from the new
4 school facilities fund as follows:

5 1. The school facilities board shall review and evaluate the
6 enrollment projections and either approve the projections as submitted or
7 revise the projections. In determining new construction requirements, the
8 school facilities board shall determine the net new growth of pupils that
9 will require additional square footage that exceeds the building adequacy
10 standards prescribed in section 15-2011. If the projected growth and the
11 existing number of pupils ~~exceeds~~ EXCEED three hundred fifty pupils who are
12 served in a school district other than the pupil's resident school district,
13 the school facilities board, the receiving school district and the resident
14 school district shall develop a capital facilities plan on how to best serve
15 those pupils. A small isolated school district as defined in section 15-901
16 is not required to develop a capital facilities plan pursuant to this
17 paragraph.

18 2. If the approved projections indicate that additional space will not
19 be needed within the next two years for elementary schools or three years for
20 middle or high schools in order to meet the building adequacy standards
21 prescribed in section 15-2011, the request shall be held for consideration by
22 the school facilities board for possible future funding and the school
23 district shall annually submit an updated plan until the additional space is
24 needed.

25 3. If the approved projections indicate that additional space will be
26 needed within the next two years for elementary schools or three years for
27 middle or high schools in order to meet the building adequacy standards
28 prescribed in section 15-2011, the school facilities board shall provide an
29 amount as follows:

30 (a) Determine the number of pupils requiring additional square footage
31 to meet building adequacy standards. This amount for elementary schools
32 shall not be less than the number of new pupils for whom space will be needed
33 in the next year and shall not exceed the number of new pupils for whom space
34 will be needed in the next five years. This amount for middle and high
35 schools shall not be less than the number of new pupils for whom space will
36 be needed in the next four years and shall not exceed the number of new
37 pupils for whom space will be needed in the next eight years.

38 (b) Multiply the number of pupils determined in subdivision (a) of
39 this paragraph by the square footage per pupil. The square footage per pupil
40 is ninety square feet per pupil for preschool children with disabilities,
41 kindergarten programs and grades one through six, one hundred square feet for
42 grades seven and eight, one hundred thirty-four square feet for a school
43 district that provides instruction in grades nine through twelve for fewer
44 than one thousand eight hundred pupils and one hundred twenty-five square
45 feet for a school district that provides instruction in grades nine through

1 twelve for at least one thousand eight hundred pupils. The total number of
2 pupils in grades nine through twelve in the district shall determine the
3 square footage factor to use for net new pupils. The school facilities board
4 may modify the square footage requirements prescribed in this subdivision for
5 particular schools based on any of the following factors:

6 (i) The number of pupils served or projected to be served by the
7 school district.

8 (ii) Geographic factors.

9 (iii) Grade configurations other than those prescribed in this
10 subdivision.

11 (iv) Compliance with minimum school facility adequacy requirements
12 established pursuant to section 15-2011.

13 (c) Multiply the product obtained in subdivision (b) of this paragraph
14 by the cost per square foot. The cost per square foot is ninety dollars for
15 preschool children with disabilities, kindergarten programs and grades one
16 through six, ninety-five dollars for grades seven and eight and one hundred
17 ten dollars for grades nine through twelve. The cost per square foot shall
18 be adjusted annually for construction market considerations based on an index
19 identified or developed by the joint legislative budget committee as
20 necessary but not less than once each year. The school facilities board
21 shall multiply the cost per square foot by 1.05 for any school district
22 located in a rural area. The school facilities board may modify the base
23 cost per square foot prescribed in this subdivision for particular schools
24 based on geographic conditions or site conditions. For the purposes of this
25 subdivision, "rural area" means an area outside a thirty-five mile radius of
26 a boundary of a municipality with a population of more than fifty thousand
27 persons.

28 (d) Once the school district governing board obtains approval from the
29 school facilities board for new facility construction funds, additional
30 portable or modular square footage created for the express purpose of
31 providing temporary space for pupils until the completion of the new facility
32 shall not be included by the school facilities board for the purpose of new
33 construction funding calculations. On completion of the new facility
34 construction project, if the portable or modular facilities continue in use,
35 the portable or modular facilities shall be included as prescribed by this
36 chapter, unless the school facilities board approves their continued use for
37 the purpose of providing temporary space for pupils until the completion of
38 the next new facility that has been approved for funding from the new school
39 facilities fund.

40 4. For projects approved after December 31, 2001, and notwithstanding
41 paragraph 3 of this subsection, a unified school district that does not have
42 a high school is not eligible to receive high school space as prescribed by
43 section 15-2011 and this section unless the unified district qualifies for
44 geographic factors prescribed by paragraph 3, subdivision (b), item (ii) of
45 this subsection.

1 E. Monies for architectural and engineering fees, project management
2 services and preconstruction services shall be distributed on the completion
3 of the analysis by the school facilities board of the school district's
4 request. After receiving monies pursuant to this subsection, the school
5 district shall submit a design development plan for the school or addition to
6 the school facilities board before any monies for construction are
7 distributed. If the school district's request meets the building adequacy
8 standards, the school facilities board may review and comment on the
9 district's plan with respect to the efficiency and effectiveness of the plan
10 in meeting state square footage and facility standards before distributing
11 the remainder of the monies. If the school facilities board modifies the
12 cost per square foot as prescribed in subsection D, paragraph 3, subdivision
13 (c) OF THIS SECTION, the school facilities board may deduct the cost of
14 project management services and preconstruction services from the required
15 cost per square foot. The school facilities board may decline to fund the
16 project if the square footage is no longer required due to revised enrollment
17 projections.

18 F. The school facilities board shall distribute the monies needed for
19 land for new schools so that land may be purchased at a price that is less
20 than or equal to fair market value and in advance of the construction of the
21 new school. If necessary, the school facilities board may distribute monies
22 for land to be leased for new schools if the duration of the lease exceeds
23 the life expectancy of the school facility by at least fifty per cent. The
24 proceeds derived through the sale of any land purchased or partially
25 purchased with monies provided by the school facilities board shall be
26 returned to the state fund from which it was appropriated and to any other
27 participating entity on a proportional basis. Except as provided in section
28 15-342, paragraph 33, if a school district acquires real property by donation
29 at an appropriate school site approved by the school facilities board, the
30 school facilities board shall distribute an amount equal to twenty per cent
31 of the fair market value of the donated real property that can be used for
32 academic purposes. The school district shall place the monies in the
33 unrestricted capital outlay fund and increase the unrestricted capital budget
34 limit by the amount of monies placed in the fund. Monies distributed under
35 this subsection shall be distributed from the new school facilities fund. A
36 school district that receives monies from the new school facilities fund for
37 a donation of land pursuant to section 15-342, paragraph 33 shall not receive
38 monies from the school facilities board for the donation of real property
39 pursuant to this subsection. A school district shall not pay a consultant a
40 percentage of the value of any of the following:

41 1. Donations of real property, services or cash from any of the
42 following:

43 (a) Entities that have offered to provide construction services to the
44 school district.

1 (b) Entities that have been contracted to provide construction
2 services to the school district.

3 (c) Entities that build residential units in that school district.

4 (d) Entities that develop land for residential use in that school
5 district.

6 2. Monies received from the school facilities board on behalf of the
7 school district.

8 3. Monies paid by the school facilities board on behalf of the school
9 district.

10 G. In addition to distributions to school districts based on pupil
11 growth projections, a school district may submit an application to the school
12 facilities board for monies from the new school facilities fund if one or
13 more school buildings have outlived their useful life. If the school
14 facilities board determines that the school district needs to build a new
15 school building for these reasons, the school facilities board shall remove
16 the square footage computations that represent the building from the
17 computation of the school district's total square footage for purposes of
18 this section. If the square footage recomputation reflects that the school
19 district no longer meets building adequacy standards, the school district
20 qualifies for a distribution of monies from the new school construction
21 formula in an amount determined pursuant to subsection D of this
22 section. Buildings removed from a school district's total square footage
23 pursuant to this subsection shall not be included in the computation of
24 monies from the building renewal fund established by section 15-2031. The
25 school facilities board may modify the base cost per square foot prescribed
26 in this subsection under extraordinary circumstances for geographic factors
27 or site conditions.

28 H. School districts that receive monies from the new school facilities
29 fund shall establish a district new school facilities fund and shall use the
30 monies in the district new school facilities fund only for the purposes
31 prescribed in this section. By October 15 of each year, each school district
32 shall report to the school facilities board the projects funded at each
33 school in the previous fiscal year with monies from the district new school
34 facilities fund and shall provide an accounting of the monies remaining in
35 the new school facilities fund at the end of the previous fiscal year.

36 I. If a school district has surplus monies received from the new
37 school facilities fund, the school district may use the surplus monies only
38 for capital purposes for the project for up to one year after completion of
39 the project. If the school district possesses surplus monies from the new
40 school construction project that have not been expended within one year of
41 the completion of the project, the school district shall return the surplus
42 monies to the school facilities board for deposit in the new school
43 facilities fund.

44 J. The board's consideration of any application filed after July 1,
45 2001 or after December 31 of the year in which the property becomes territory

1 in the vicinity of a military airport or ancillary military facility as
2 defined in section 28-8461 for monies to fund the construction of new school
3 facilities proposed to be located in territory in the vicinity of a military
4 airport or ancillary military facility shall include, if after notice is
5 transmitted to the military airport pursuant to section 15-2002 and before
6 the public hearing the military airport provides comments and analysis
7 concerning compatibility of the proposed school facilities with the high
8 noise or accident potential generated by military airport or ancillary
9 military facility operations that may have an adverse effect on public health
10 and safety, consideration and analysis of the comments and analysis provided
11 by the military airport before making a final determination.

12 K. If a school district uses its own project manager for new school
13 construction, the members of the school district governing board and the
14 project manager shall sign an affidavit stating that the members and the
15 project manager understand and will follow the minimum adequacy requirements
16 prescribed in section 15-2011.

17 L. The school facilities board shall establish a separate account in
18 the new school facilities fund designated as the litigation account to pay
19 attorney fees, expert witness fees and other costs associated with litigation
20 in which the school facilities board pursues the recovery of damages for
21 deficiencies correction that resulted from alleged construction defects or
22 design defects that the school facilities board believes caused or
23 contributed to a failure of the school building to conform to the building
24 adequacy requirements prescribed in section 15-2011. Attorney fees paid
25 pursuant to this subsection shall not exceed the market rate for similar
26 types of litigation. Monies recovered as damages pursuant to this subsection
27 shall be used to offset debt service on the correction of existing
28 deficiencies ~~as prescribed by section 15-2021~~. The joint committee on
29 capital review shall conduct an annual review of the litigation account,
30 including the costs associated with current and potential litigation.

31 M. Until the state board of education and the auditor general adopt
32 rules pursuant to section 15-213, subsection I, the school facilities board
33 may allow school districts to contract for construction services and
34 materials through the qualified select bidders list method of project
35 delivery for new school facilities pursuant to this section.

36 N. The school facilities board shall submit a report on project
37 management services and preconstruction services to the governor, the
38 president of the senate and the speaker of the house of representatives by
39 December 31 of each year. The report shall compare projects that use project
40 management and preconstruction services with those that do not. The report
41 shall address cost, schedule and other measurable components of a
42 construction project. School districts, construction manager at risk firms
43 and project management firms that participate in a school facilities board
44 funded project shall provide the information required by the school
45 facilities board in relation to this report.

1 0. If a school district constructs new square footage according to
2 section 15-342, paragraph 33, the school facilities board shall review design
3 plans and location of any new school facility submitted by school districts
4 and another party to determine whether the design plans comply with the
5 adequacy standards prescribed in section 15-2011 and the square footage per
6 pupil requirements pursuant to subsection D, paragraph 3, subdivision (b) of
7 this section. When the school district qualifies for a distribution of
8 monies from the new school facilities fund according to this section, the
9 school facilities board shall distribute monies to the school district from
10 the new school facilities fund for the square footage constructed under
11 section 15-342, paragraph 33 at the same cost per square foot established by
12 this section that was in effect at the time of the beginning of the
13 construction of the school facility. Before the school facilities board
14 distributes any monies pursuant to this subsection, the school district shall
15 demonstrate to the school facilities board that the facilities to be funded
16 pursuant to this section meet the minimum adequacy standards prescribed in
17 section 15-2011. The agreement entered into pursuant to section 15-342,
18 paragraph 33 shall set forth the procedures for the allocation of these funds
19 to the parties that participated in the agreement.