

REFERENCE TITLE: new schools; energy standards

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

# HB 2619

Introduced by  
Representative Mason

AN ACT

AMENDING SECTION 15-2041, ARIZONA REVISED STATUTES; RELATING TO THE SCHOOL FACILITIES BOARD.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-2041, Arizona Revised Statutes, is amended to  
3 read:

4 15-2041. New school facilities fund; capital plan; report

5 A. A new school facilities fund is established consisting of monies  
6 appropriated by the legislature and monies credited to the fund pursuant to  
7 section 37-221. The school facilities board shall administer the fund and  
8 distribute monies, as a continuing appropriation, to school districts for the  
9 purpose of constructing new school facilities. On June 30 of each fiscal  
10 year, any unobligated contract monies in the new school facilities fund shall  
11 be transferred to the capital reserve fund established by section 15-2003.

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

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

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

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

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

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

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

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

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

37 C. If the capital plan indicates a need for a new school or an  
38 addition to an existing school within the next four years or a need for land  
39 within the next ten years, the school district shall submit its plan to the  
40 school facilities board by September 1 and shall request monies from the new  
41 school facilities fund for the new construction or land. Monies provided for  
42 land shall be in addition to any monies provided pursuant to subsection D of  
43 this section.

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

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

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

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

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

34           (b) Multiply the number of pupils determined in subdivision (a) of  
35 this paragraph by the square footage per pupil. The square footage per pupil  
36 is ninety square feet per pupil for preschool children with disabilities,  
37 kindergarten programs and grades one through six, one hundred square feet for  
38 grades seven and eight, one hundred thirty-four square feet for a school  
39 district that provides instruction in grades nine through twelve for fewer  
40 than one thousand eight hundred pupils and one hundred twenty-five square  
41 feet for a school district that provides instruction in grades nine through  
42 twelve for at least one thousand eight hundred pupils. The total number of  
43 pupils in grades nine through twelve in the district shall determine the  
44 square footage factor to use for net new pupils. The school facilities board

1 may modify the square footage requirements prescribed in this subdivision for  
2 particular schools based on any of the following factors:

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

5 (ii) Geographic factors.

6 (iii) Grade configurations other than those prescribed in this  
7 subdivision.

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

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

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

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

43 5. PROJECTS APPROVED AFTER JUNE 30, 2008 SHALL CONFORM TO THE ENERGY  
44 AND WATER PERFORMANCE STANDARDS APPROVED BY THE SCHOOL FACILITIES BOARD IN A  
45 MANNER PRESCRIBED BY THE SCHOOL FACILITIES BOARD. THE SCHOOL FACILITIES

1 BOARD SHALL CONSIDER ENERGY AND ENVIRONMENTAL DESIGN RATING SYSTEMS DEVELOPED  
2 BY A UNITED STATES GREEN BUILDING COUNCIL AND SHALL MONITOR THAT UNITED  
3 STATES GREEN BUILDING COUNCIL FOR CHANGES TO ENERGY AND ENVIRONMENTAL DESIGN  
4 RATING SYSTEMS AND STANDARDS THAT IMPACT SCHOOLS.

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

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

- 1           1. Donations of real property, services or cash from any of the  
2 following:
- 3           (a) Entities that have offered to provide construction services to the  
4 school district.
- 5           (b) Entities that have been contracted to provide construction  
6 services to the school district.
- 7           (c) Entities that build residential units in that school district.
- 8           (d) Entities that develop land for residential use in that school  
9 district.
- 10          2. Monies received from the school facilities board on behalf of the  
11 school district.
- 12          3. Monies paid by the school facilities board on behalf of the school  
13 district.
- 14          G. In addition to distributions to school districts based on pupil  
15 growth projections, a school district may submit an application to the school  
16 facilities board for monies from the new school facilities fund if one or  
17 more school buildings have outlived their useful life. If the school  
18 facilities board determines that the school district needs to build a new  
19 school building for these reasons, the school facilities board shall remove  
20 the square footage computations that represent the building from the  
21 computation of the school district's total square footage for purposes of  
22 this section. If the square footage recomputation reflects that the school  
23 district no longer meets building adequacy standards, the school district  
24 qualifies for a distribution of monies from the new school construction  
25 formula in an amount determined pursuant to subsection D of this section.  
26 Buildings removed from a school district's total square footage pursuant to  
27 this subsection shall not be included in the computation of monies from the  
28 building renewal fund established by section 15-2031. The school facilities  
29 board may modify the base cost per square foot prescribed in this subsection  
30 under extraordinary circumstances for geographic factors or site conditions.
- 31          H. School districts that receive monies from the new school facilities  
32 fund shall establish a district new school facilities fund and shall use the  
33 monies in the district new school facilities fund only for the purposes  
34 prescribed in this section. By October 15 of each year, each school district  
35 shall report to the school facilities board the projects funded at each  
36 school in the previous fiscal year with monies from the district new school  
37 facilities fund and shall provide an accounting of the monies remaining in  
38 the new school facilities fund at the end of the previous fiscal year.
- 39          I. If a school district has surplus monies received from the new  
40 school facilities fund, the school district may use the surplus monies only  
41 for capital purposes for the project for up to one year after completion of  
42 the project. If the school district possesses surplus monies from the new  
43 school construction project that have not been expended within one year of  
44 the completion of the project, the school district shall return the surplus

1 monies to the school facilities board for deposit in the new school  
2 facilities fund.

3 J. The board's consideration of any application filed after July 1,  
4 2001 or after December 31 of the year in which the property becomes territory  
5 in the vicinity of a military airport or ancillary military facility as  
6 defined in section 28-8461 for monies to fund the construction of new school  
7 facilities proposed to be located in territory in the vicinity of a military  
8 airport or ancillary military facility shall include, if after notice is  
9 transmitted to the military airport pursuant to section 15-2002 and before  
10 the public hearing the military airport provides comments and analysis  
11 concerning compatibility of the proposed school facilities with the high  
12 noise or accident potential generated by military airport or ancillary  
13 military facility operations that may have an adverse effect on public health  
14 and safety, consideration and analysis of the comments and analysis provided  
15 by the military airport before making a final determination.

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

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

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

40 N. The school facilities board shall submit a report on project  
41 management services and preconstruction services to the governor, the  
42 president of the senate and the speaker of the house of representatives by  
43 December 31 of each year. The report shall compare projects that use project  
44 management and preconstruction services with those that do not. The report  
45 shall address cost, schedule and other measurable components of a

1 construction project. School districts, construction manager at risk firms  
2 and project management firms that participate in a school facilities board  
3 funded project shall provide the information required by the school  
4 facilities board in relation to this report.

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

24 Sec. 2. Retroactivity

25 Section 15-2041, Arizona Revised Statutes, as amended by this act,  
26 applies retroactively to from and after June 30, 2008.