

REFERENCE TITLE: school districts; partnerships; school facilities

State of Arizona
Senate
Fifty-second Legislature
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2015

SB 1323

Introduced by
Senators Miranda, Begay, Dalessandro; Representative Cardenas; Senators
Contreras, Farley; Representative Saldate

AN ACT

AMENDING SECTIONS 15-342 AND 15-2041, ARIZONA REVISED STATUTES; RELATING TO
SCHOOL DISTRICT GOVERNING BOARDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-342, Arizona Revised Statutes, is amended to
3 read:

4 15-342. Discretionary powers

5 The governing board may:

6 1. Expel pupils for misconduct.

7 2. Exclude from grades one through eight children under six years of
8 age.

9 3. Make such separation of groups of pupils as it deems advisable.

10 4. Maintain such special schools during vacation as deemed necessary
11 for the benefit of the pupils of the school district.

12 5. Permit a superintendent or principal or representatives of the
13 superintendent or principal to travel for a school purpose, as determined by
14 a majority vote of the board. The board may permit members and members-elect
15 of the board to travel within or without the school district for a school
16 purpose and receive reimbursement. Any expenditure for travel and
17 subsistence pursuant to this paragraph shall be as provided in title 38,
18 chapter 4, article 2. The designated post of duty referred to in section
19 38-621 shall be construed, for school district governing board members, to be
20 the member's actual place of residence, as opposed to the school district
21 office or the school district boundaries. Such expenditures shall be a
22 charge against the budgeted school district funds. The governing board of a
23 school district shall prescribe procedures and amounts for reimbursement of
24 lodging and subsistence expenses. Reimbursement amounts shall not exceed the
25 maximum amounts established pursuant to section 38-624, subsection C.

26 6. Construct or provide in rural districts housing facilities for
27 teachers and other school employees that the board determines are necessary
28 for the operation of the school.

29 7. Sell or lease to the state, a county, a city, another school
30 district or a tribal government agency any school property required for a
31 public purpose, provided the sale or lease of the property will not affect
32 the normal operations of a school within the school district.

33 8. Annually budget and expend funds for membership in an association
34 of school districts within this state.

35 9. Enter into leases or lease-purchase agreements for school buildings
36 or grounds, or both, as lessor or as lessee, for periods of less than ten
37 years subject to voter approval for construction of school buildings as
38 prescribed in section 15-341, subsection A, paragraph 7.

39 10. Subject to chapter 16 of this title, sell school sites or enter
40 into leases or lease-purchase agreements for school buildings and grounds, as
41 lessor or as lessee, for a period of ten years or more, but not to exceed
42 ninety-nine years, if authorized by a vote of the school district electors in
43 an election called by the governing board as provided in section 15-491,
44 except that authorization by the school district electors in an election is
45 not required if one of the following requirements is met:

1 (a) The market value of the school property is less than fifty
2 thousand dollars or the property is procured through a renewable energy
3 development agreement, an energy performance contract, which among other
4 items includes a renewable energy power service agreement, or a simplified
5 energy performance contract pursuant to section 15-213.01.

6 (b) The buildings and sites are completely funded with monies
7 distributed by the school facilities board.

8 (c) The transaction involves the sale of improved or unimproved
9 property pursuant to an agreement with the school facilities board in which
10 the school district agrees to sell the improved or unimproved property and
11 transfer the proceeds of the sale to the school facilities board in exchange
12 for monies from the school facilities board for the acquisition of a more
13 suitable school site. For a sale of property acquired by a school district
14 prior to July 9, 1998, a school district shall transfer to the school
15 facilities board that portion of the proceeds that equals the cost of the
16 acquisition of a more suitable school site. If there are any remaining
17 proceeds after the transfer of monies to the school facilities board, a
18 school district shall only use those remaining proceeds for future land
19 purchases approved by the school facilities board, or for capital
20 improvements not funded by the school facilities board for any existing or
21 future facility.

22 (d) The transaction involves the sale of improved or unimproved
23 property pursuant to a formally adopted plan and the school district uses the
24 proceeds of this sale to purchase other property that will be used for
25 similar purposes as the property that was originally sold, provided that the
26 sale proceeds of the improved or unimproved property are used within two
27 years after the date of the original sale to purchase the replacement
28 property. If the sale proceeds of the improved or unimproved property are
29 not used within two years after the date of the original sale to purchase
30 replacement property, the sale proceeds shall be used towards payment of any
31 outstanding bonded indebtedness. If any sale proceeds remain after paying
32 for outstanding bonded indebtedness, or if the district has no outstanding
33 bonded indebtedness, sale proceeds shall be used to reduce the district's
34 primary tax levy. A school district shall not use this subdivision unless
35 all of the following conditions exist:

36 (i) The school district is the sole owner of the improved or
37 unimproved property that the school district intends to sell.

38 (ii) The school district did not purchase the improved or unimproved
39 property that the school district intends to sell with monies that were
40 distributed pursuant to chapter 16 of this title.

41 (iii) The transaction does not violate section 15-341, subsection G.

42 11. Review the decision of a teacher to promote a pupil to a grade or
43 retain a pupil in a grade in a common school or to pass or fail a pupil in a
44 course in high school. The pupil has the burden of proof to overturn the
45 decision of a teacher to promote, retain, pass or fail the pupil. In order
46 to sustain the burden of proof, the pupil shall demonstrate to the governing

1 board that the pupil has mastered the academic standards adopted by the state
2 board of education pursuant to sections 15-701 and 15-701.01. If the
3 governing board overturns the decision of a teacher pursuant to this
4 paragraph, the governing board shall adopt a written finding that the pupil
5 has mastered the academic standards. Notwithstanding title 38, chapter 3,
6 article 3.1, the governing board shall review the decision of a teacher to
7 promote a pupil to a grade or retain a pupil in a grade in a common school or
8 to pass or fail a pupil in a course in high school in executive session
9 unless a parent or legal guardian of the pupil or the pupil, if emancipated,
10 disagrees that the review should be conducted in executive session and then
11 the review shall be conducted in an open meeting. If the review is conducted
12 in executive session, the board shall notify the teacher of the date, time
13 and place of the review and shall allow the teacher to be present at the
14 review. If the teacher is not present at the review, the board shall consult
15 with the teacher before making its decision. Any request, including the
16 written request as provided in section 15-341, the written evidence presented
17 at the review and the written record of the review, including the decision of
18 the governing board to accept or reject the teacher's decision, shall be
19 retained by the governing board as part of its permanent records.

20 12. Provide transportation or site transportation loading and unloading
21 areas for any child or children if deemed for the best interest of the
22 district, whether within or without the district, county or state.

23 13. Enter into intergovernmental agreements and contracts with school
24 districts or other governing bodies as provided in section 11-952.
25 Intergovernmental agreements and contracts between school districts or
26 between a school district and other governing bodies as provided in section
27 11-952 are exempt from competitive bidding under the procurement rules
28 adopted by the state board of education pursuant to section 15-213.

29 14. Include in the curricula it prescribes for high schools in the
30 school district career and technical education, vocational education and
31 technology education programs and career and technical, vocational and
32 technology program improvement services for the high schools, subject to
33 approval by the state board of education. The governing board may contract
34 for the provision of career and technical, vocational and technology
35 education as provided in section 15-789.

36 15. Suspend a teacher or administrator from the teacher's or
37 administrator's duties without pay for a period of time of not to exceed ten
38 school days, if the board determines that suspension is warranted pursuant to
39 section 15-341, subsection A, paragraphs 21 and 22.

40 16. Dedicate school property within an incorporated city or town to
41 such city or town or within a county to that county for use as a public
42 right-of-way if both of the following apply:

43 (a) Pursuant to an ordinance adopted by such city, town or county,
44 there will be conferred upon the school district privileges and benefits that
45 may include benefits related to zoning.

1 (b) The dedication will not affect the normal operation of any school
2 within the district.

3 17. Enter into option agreements for the purchase of school sites.

4 18. Donate surplus or outdated learning materials, educational
5 equipment and furnishings to nonprofit community organizations where the
6 governing board determines that the anticipated cost of selling the learning
7 materials, educational equipment or furnishings equals or exceeds the
8 estimated market value of the materials.

9 19. Prescribe policies for the assessment of reasonable fees for
10 students to use district-provided parking facilities. The fees are to be
11 applied by the district solely against costs incurred in operating or
12 securing the parking facilities. Any policy adopted by the governing board
13 pursuant to this paragraph shall include a fee waiver provision in
14 appropriate cases of need or economic hardship.

15 20. Establish alternative educational programs that are consistent with
16 the laws of this state to educate pupils, including pupils who have been
17 reassigned pursuant to section 15-841, subsection E or F.

18 21. Require a period of silence to be observed at the commencement of
19 the first class of the day in the schools. If a governing board chooses to
20 require a period of silence to be observed, the teacher in charge of the room
21 in which the first class is held shall announce that a period of silence not
22 to exceed one minute in duration will be observed for meditation, and during
23 that time no activities shall take place and silence shall be maintained.

24 22. Require students to wear uniforms.

25 23. Exchange unimproved property or improved property, including school
26 sites, where the governing board determines that the improved property is
27 unnecessary for the continued operation of the school district without
28 requesting authorization by a vote of the school district electors if the
29 governing board determines that the exchange is necessary to protect the
30 health, safety or welfare of pupils or when the governing board determines
31 that the exchange is based on sound business principles for either:

32 (a) Unimproved or improved property of equal or greater value.

33 (b) Unimproved property that the owner contracts to improve if the
34 value of the property ultimately received by the school district is of equal
35 or greater value.

36 24. For common and high school pupils, assess reasonable fees for
37 optional extracurricular activities and programs conducted when the common or
38 high school is not in session, except that no fees shall be charged for
39 pupils' access to or use of computers or related materials. For high school
40 pupils, the governing board may assess reasonable fees for fine arts and
41 vocational education courses and for optional services, equipment and
42 materials offered to the pupils beyond those required to successfully
43 complete the basic requirements of any other course, except that no fees
44 shall be charged for pupils' access to or use of computers or related
45 materials. Fees assessed pursuant to this paragraph shall be adopted at a
46 public meeting after notice has been given to all parents of pupils enrolled

1 at schools in the district and shall not exceed the actual costs of the
2 activities, programs, services, equipment or materials. The governing board
3 shall authorize principals to waive the assessment of all or part of a fee
4 assessed pursuant to this paragraph if it creates an economic hardship for a
5 pupil. For the purposes of this paragraph, "extracurricular activity" means
6 any optional, noncredit, educational or recreational activity that
7 supplements the education program of the school, whether offered before,
8 during or after regular school hours.

9 25. Notwithstanding section 15-341, subsection A, paragraphs 7 and 9,
10 construct school buildings and purchase or lease school sites, without a vote
11 of the school district electors, if the buildings and sites are totally
12 funded from one or more of the following:

13 (a) Monies in the unrestricted capital outlay fund, except that the
14 estimated cost shall not exceed two hundred fifty thousand dollars for a
15 district that utilizes section 15-949.

16 (b) Monies distributed from the school facilities board established by
17 section 15-2001.

18 (c) Monies specifically donated for the purpose of constructing school
19 buildings.

20 This paragraph shall not be construed to eliminate the requirement for an
21 election to raise revenues for a capital outlay override pursuant to section
22 15-481 or a bond election pursuant to section 15-491.

23 26. Conduct a background investigation that includes a fingerprint
24 check conducted pursuant to section 41-1750, subsection G for certificated
25 personnel and personnel who are not paid employees of the school district, as
26 a condition of employment. A school district may release the results of a
27 background check to another school district for employment purposes. The
28 school district may charge the costs of fingerprint checks to its
29 fingerprinted employee, except that the school district may not charge the
30 costs of fingerprint checks for personnel who are not paid employees of the
31 school district.

32 27. Unless otherwise prohibited by law, sell advertising as follows:

33 (a) Advertisements shall be age appropriate and not contain promotion
34 of any substance that is illegal for minors such as alcohol, tobacco and
35 drugs or gambling. Advertisements shall comply with the state sex education
36 policy of abstinence.

37 (b) Advertising approved by the governing board for the exterior of
38 school buses may appear only on the sides of the bus in the following areas:

39 (i) The signs shall be below the seat level rub rail and not extend
40 above the bottom of the side windows.

41 (ii) The signs shall be at least three inches from any required
42 lettering, lamp, wheel well or reflector behind the service door or stop
43 signal arm.

44 (iii) The signs shall not extend from the body of the bus so as to
45 allow a handhold or present a danger to pedestrians.

1 (iv) The signs shall not interfere with the operation of any door or
2 window.

3 (v) The signs shall not be placed on any emergency doors.

4 (c) The school district shall establish an advertisement fund that is
5 composed of revenues from the sale of advertising. The monies in an
6 advertisement fund are not subject to reversion.

7 28. Assess reasonable damage deposits to pupils in grades seven through
8 twelve for the use of textbooks, musical instruments, band uniforms or other
9 equipment required for academic courses. The governing board shall adopt
10 policies on any damage deposits assessed pursuant to this paragraph at a
11 public meeting called for this purpose after providing notice to all parents
12 of pupils in grades seven through twelve in the school district. Principals
13 of individual schools within the district may waive the damage deposit
14 requirement for any textbook or other item if the payment of the damage
15 deposit would create an economic hardship for the pupil. The school district
16 shall return the full amount of the damage deposit for any textbook or other
17 item if the pupil returns the textbook or other item in reasonably good
18 condition within the time period prescribed by the governing board. For the
19 purposes of this paragraph, "in reasonably good condition" means the textbook
20 or other item is in the same or a similar condition as it was when the pupil
21 received it, plus ordinary wear and tear.

22 29. Notwithstanding section 15-1105, expend surplus monies in the civic
23 center school fund for maintenance and operations or unrestricted capital
24 outlay, if sufficient monies are available in the fund after meeting the
25 needs of programs established pursuant to section 15-1105.

26 30. Notwithstanding section 15-1143, expend surplus monies in the
27 community school program fund for maintenance and operations or unrestricted
28 capital outlay, if sufficient monies are available in the fund after meeting
29 the needs of programs established pursuant to section 15-1142.

30 31. Adopt guidelines for standardization of the format of the school
31 report cards required by section 15-746 for schools within the district.

32 32. Adopt policies that require parental notification when a law
33 enforcement officer interviews a pupil on school grounds. Policies adopted
34 pursuant to this paragraph shall not impede a peace officer from the
35 performance of the peace officer's duties. If the school district governing
36 board adopts a policy that requires parental notification:

37 (a) The policy may provide reasonable exceptions to the parental
38 notification requirement.

39 (b) The policy shall set forth whether and under what circumstances a
40 parent may be present when a law enforcement officer interviews the pupil,
41 including reasonable exceptions to the circumstances under which a parent may
42 be present when a law enforcement officer interviews the pupil, and shall
43 specify a reasonable maximum time after a parent is notified that an
44 interview of a pupil by a law enforcement officer may be delayed to allow the
45 parent to be present.

1 33. Enter into voluntary partnerships with any party to finance ~~with~~
2 ~~funds other than school district funds~~ and cooperatively design school
3 facilities that comply with the adequacy standards prescribed in section
4 15-2011 and the square footage per pupil requirements pursuant to section
5 15-2041, subsection D, paragraph 3, subdivision (b). The design plans and
6 location of any such school facility shall be submitted to the school
7 facilities board for approval pursuant to section 15-2041, subsection 0. If
8 the school facilities board approves the design plans and location of any
9 such school facility, the party in partnership with the school district may
10 cause to be constructed and the district may begin operating the school
11 facility before monies are distributed from the school facilities board
12 pursuant to section 15-2041. Monies distributed from the new school
13 facilities fund to a school district in a partnership with another party to
14 finance and design the school facility shall be paid to the school district
15 pursuant to section 15-2041. The school district shall reimburse the party
16 in partnership with the school district from the monies paid to the school
17 district pursuant to section 15-2041, in accordance with the voluntary
18 partnership agreement. Before the school facilities board distributes any
19 monies pursuant to this subsection, the school district shall demonstrate to
20 the school facilities board that the facilities to be funded pursuant to
21 section 15-2041, subsection 0 meet the minimum adequacy standards prescribed
22 in section 15-2011. If the cost to construct the school facility exceeds the
23 amount that the school district receives from the new school facilities fund,
24 the partnership agreement between the school district and the other party
25 shall specify that, except as otherwise provided by the other party, any such
26 excess costs shall be the responsibility of the school district. The school
27 district governing board shall adopt a resolution in a public meeting that an
28 analysis has been conducted on the prospective effects of the decision to
29 operate a new school with existing monies from the school district's
30 maintenance and operations budget and how this decision may affect other
31 schools in the school district. If a school district acquires land by
32 donation at an appropriate school site approved by the school facilities
33 board and a school facility is financed and built on the land pursuant to
34 this paragraph, the school facilities board shall distribute an amount equal
35 to twenty ~~per cent~~ PERCENT of the fair market value of the land that can be
36 used for academic purposes. The school district shall place the monies in
37 the unrestricted capital outlay fund and increase the unrestricted capital
38 budget limit by the amount of the monies placed in the fund. Monies
39 distributed under this paragraph shall be distributed from the new school
40 facilities fund pursuant to section 15-2041. If ~~a school district acquires~~
41 ~~land by donation at an appropriate school site approved by the school~~
42 ~~facilities board and~~ a school facility is financed and built ~~on the land~~
43 pursuant to this paragraph, the school district shall not receive monies from
44 the school facilities board ~~for the donation of real property~~ pursuant to
45 section 15-2041, subsection F. It is unlawful for:

1 (a) A county, city or town to require as a condition of any land use
2 approval that a landowner or landowners that entered into a partnership
3 pursuant to this paragraph provide any contribution, donation or gift, other
4 than a site donation, to a school district. This subdivision only applies to
5 the property in the voluntary partnership agreement pursuant to this
6 paragraph.

7 (b) A county, city or town to require as a condition of any land use
8 approval that the landowner or landowners located within the geographic
9 boundaries of the school subject to the voluntary partnership pursuant to
10 this paragraph provide any donation or gift to the school district except as
11 provided in the voluntary partnership agreement pursuant to this paragraph.

12 (c) A community facilities district established pursuant to title 48,
13 chapter 4, article 6 to be used for reimbursement of financing the
14 construction of a school pursuant to this paragraph.

15 ~~(d) A school district to enter into an agreement pursuant to this~~
16 ~~paragraph with any party other than a master planned community party. Any~~
17 ~~land area consisting of at least three hundred twenty acres that is the~~
18 ~~subject of a development agreement with a county, city or town entered into~~
19 ~~pursuant to section 9-500.05 or 11-1101 shall be deemed to be a master~~
20 ~~planned community. For the purposes of this subdivision, "master planned~~
21 ~~community" means a land area consisting of at least three hundred twenty~~
22 ~~acres, which may be noncontiguous, that is the subject of a zoning ordinance~~
23 ~~approved by the governing body of the county, city or town in which the land~~
24 ~~is located that establishes the use of the land area as a planned area~~
25 ~~development or district, planned community development or district, planned~~
26 ~~unit development or district or other land use category or district that is~~
27 ~~recognized in the local ordinance of such county, city or town and that~~
28 ~~specifies the use of such land is for a master planned development.~~

29 34. Enter into an intergovernmental agreement with a presiding judge of
30 the juvenile court to implement a law-related education program as defined in
31 section 15-154. The presiding judge of the juvenile court may assign
32 juvenile probation officers to participate in a law-related education program
33 in any school district in the county. The cost of juvenile probation
34 officers who participate in the program implemented pursuant to this
35 paragraph shall be funded by the school district.

36 35. Offer to sell outdated learning materials, educational equipment or
37 furnishings at a posted price commensurate with the value of the items to
38 pupils who are currently enrolled in that school district before those
39 materials are offered for public sale.

40 36. If the school district is a small school district as defined in
41 section 15-901, and if permitted by federal law, opt out of federal grant
42 opportunities if the governing board determines that the federal requirements
43 impose unduly burdensome reporting requirements.

1 Sec. 2. Section 15-2041, Arizona Revised Statutes, is amended to read:
2 15-2041. New school facilities fund; capital plan; report

3 A. A new school facilities fund is established consisting of monies
4 appropriated by the legislature and monies credited to the fund pursuant to
5 section 37-221. The school facilities board shall administer the fund and
6 distribute monies, as a continuing appropriation, to school districts for the
7 purpose of constructing new school facilities and for contracted expenses
8 pursuant to section 15-2002, subsection B, paragraphs 2, 3 and 4. On June 30
9 of each fiscal year, any unobligated contract monies in the new school
10 facilities fund shall be transferred to the capital reserve fund established
11 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. The school
42 facilities board may require a school district to sell land that was
43 previously purchased entirely with monies provided by the school facilities
44 board if the school facilities board determines that the property is no
45 longer needed within the ten year period specified in this subsection for a
46 new school or no longer needed within that ten year period for an addition to

1 an existing school. Monies provided for land shall be in addition to any
2 monies provided pursuant to subsection D of 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. On or before March 1, following the submission of
7 the enrollment projections, the school facilities board shall either approve
8 the projections as submitted or revise the projections. In approving or
9 revising the enrollment projections, the school facilities board shall use
10 the most recent average daily membership data available. On request from the
11 school facilities board, the department of education shall make available the
12 most recent average daily membership data for use in revising the enrollment
13 projections. In determining new construction requirements, the school
14 facilities board shall determine the net new growth of pupils that will
15 require additional square footage that exceeds the building adequacy
16 standards prescribed in section 15-2011. If the projected growth and the
17 existing number of pupils exceed three hundred fifty pupils who are served in
18 a school district other than the pupil's resident school district, the school
19 facilities board, the receiving school district and the resident school
20 district shall develop a capital facilities plan on how to best serve those
21 pupils. A small isolated school district as defined in section 15-901 is not
22 required to develop a capital facilities plan pursuant to this paragraph.

23 2. If the approved projections indicate that additional space would
24 not have been needed during the current school year in order to meet the
25 building adequacy standards prescribed in section 15-2011, the request shall
26 be held for consideration by the school facilities board for possible future
27 funding and the school district shall annually submit an updated plan until
28 the additional space is needed.

29 3. If the approved projections indicate that additional space would
30 have been needed during the current school year in order to meet the building
31 adequacy standards prescribed in section 15-2011, the school facilities board
32 shall provide an amount as follows:

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

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

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

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

10 (ii) Geographic factors.

11 (iii) Grade configurations other than those prescribed in this
12 subdivision.

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

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

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

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

1 geographic factors prescribed by paragraph 3, subdivision (b), item (ii) of
2 this subsection.

3 5. If a joint technical education district leases a building from a
4 school district, that building shall be included in the school district's
5 square footage calculation for the purposes of new construction pursuant to
6 this section.

7 6. If a school district leases a building to another entity, including
8 a charter school that is sponsored by a school district pursuant to section
9 15-183, that building shall be included in the school district's square
10 footage calculation for purposes of new construction pursuant to this
11 section.

12 7. A school district shall qualify for monies from the new school
13 facilities fund in a fiscal year only if the school facilities board has
14 approved or revised its enrollment projection under paragraph 3 of this
15 subsection on or before March 1 of the prior fiscal year.

16 E. Monies for architectural and engineering fees, project management
17 services and preconstruction services shall be distributed on the completion
18 of the analysis by the school facilities board of the school district's
19 request. After receiving monies pursuant to this subsection, the school
20 district shall submit a design development plan for the school or addition to
21 the school facilities board before any monies for construction are
22 distributed. If the school district's request meets the building adequacy
23 standards, the school facilities board may review and comment on the
24 district's plan with respect to the efficiency and effectiveness of the plan
25 in meeting state square footage and facility standards before distributing
26 the remainder of the monies. If the school facilities board modifies the
27 cost per square foot as prescribed in subsection D, paragraph 3, subdivision
28 (c) of this section, the school facilities board may deduct the cost of
29 project management services and preconstruction services from the required
30 cost per square foot. The school facilities board may decline to fund the
31 project if the square footage is no longer required due to revised enrollment
32 projections.

33 F. The school facilities board shall distribute the monies needed for
34 land for new schools so that land may be purchased at a price that is less
35 than or equal to fair market value and in advance of the construction of the
36 new school. If necessary, the school facilities board may distribute monies
37 for land to be leased for new schools if the duration of the lease exceeds
38 the life expectancy of the school facility by at least fifty ~~per-cent~~
39 PERCENT. A school district shall not use land purchased or partially
40 purchased with monies provided by the school facilities board for a purpose
41 other than a site for a school facility without obtaining prior written
42 approval from the school facilities board. A school district shall not
43 lease, sell or take any action that would diminish the value of land
44 purchased or partially purchased with monies provided by the school
45 facilities board without obtaining prior written approval from the school
46 facilities board. The proceeds derived through the sale of any land

1 purchased or partially purchased, or the sale of buildings funded or
2 partially funded, with monies provided by the school facilities board shall
3 be returned to the state fund from which it was appropriated and to any other
4 participating entity on a proportional basis. Except as provided in section
5 15-342, paragraph 33, if a school district acquires real property by donation
6 at an appropriate school site approved by the school facilities board, the
7 school facilities board shall distribute an amount equal to twenty ~~per-cent~~
8 PERCENT of the fair market value of the donated real property that can be
9 used for academic purposes. The school district shall place the monies in
10 the unrestricted capital outlay fund and increase the unrestricted capital
11 budget limit by the amount of monies placed in the fund. Monies distributed
12 under this subsection shall be distributed from the new school facilities
13 fund. A school district that receives monies from the new school facilities
14 fund for a ~~donation of land~~ SCHOOL FACILITY pursuant to section 15-342,
15 paragraph 33 shall not receive monies from the school facilities board for
16 the donation of real property pursuant to this subsection. A school district
17 shall not pay a consultant a percentage of the value of any of the following:
18 1. Donations of real property, services or cash from any of the
19 following:
20 (a) Entities that have offered to provide construction services to the
21 school district.
22 (b) Entities that have been contracted to provide construction
23 services to the school district.
24 (c) Entities that build residential units in that school district.
25 (d) Entities that develop land for residential use in that school
26 district.
27 2. Monies received from the school facilities board on behalf of the
28 school district.
29 3. Monies paid by the school facilities board on behalf of the school
30 district.
31 G. In addition to distributions to school districts based on pupil
32 growth projections, a school district may submit an application to the school
33 facilities board for monies from the new school facilities fund if one or
34 more school buildings have outlived their useful life. If the school
35 facilities board determines that the school district needs to build a new
36 school building for these reasons, the school facilities board shall remove
37 the square footage computations that represent the building from the
38 computation of the school district's total square footage for purposes of
39 this section. If the square footage recomputation reflects that the school
40 district no longer meets building adequacy standards, the school district
41 qualifies for a distribution of monies from the new school construction
42 formula in an amount determined pursuant to subsection D of this section.
43 The school facilities board may only modify the base cost per square foot
44 prescribed in this subsection under extraordinary circumstances for
45 geographic factors or site conditions.

1 H. School districts that receive monies from the new school facilities
2 fund shall establish a district new school facilities fund and shall use the
3 monies in the district new school facilities fund only for the purposes
4 prescribed in this section. By October 15 of each year, each school district
5 shall report to the school facilities board the projects funded at each
6 school in the previous fiscal year with monies from the district new school
7 facilities fund and shall provide an accounting of the monies remaining in
8 the new school facilities fund at the end of the previous fiscal year.

9 I. If a school district has surplus monies received from the new
10 school facilities fund, the school district may use the surplus monies only
11 for capital purposes for the project for up to one year after completion of
12 the project. If the school district possesses surplus monies from the new
13 school construction project that have not been expended within one year of
14 the completion of the project, the school district shall return the surplus
15 monies to the school facilities board for deposit in the new school
16 facilities fund.

17 J. The board's consideration of any application filed after
18 December 31 of the year in which the property becomes territory in the
19 vicinity of a military airport or ancillary military facility as defined in
20 section 28-8461 for monies to fund the construction of new school facilities
21 proposed to be located in territory in the vicinity of a military airport or
22 ancillary military facility shall include, if after notice is transmitted to
23 the military airport pursuant to section 15-2002 and before the public
24 hearing the military airport provides comments and an analysis concerning
25 compatibility of the proposed school facilities with the high noise or
26 accident potential generated by military airport or ancillary military
27 facility operations that may have an adverse effect on public health and
28 safety, consideration and analysis of the comments and analysis provided by
29 the military airport before making a final determination.

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

35 L. The school facilities board shall establish a separate account in
36 the new school facilities fund designated as the litigation account to pay
37 attorney fees, expert witness fees and other costs associated with litigation
38 in which the school facilities board pursues the recovery of damages for
39 deficiencies correction that resulted from alleged construction defects or
40 design defects that the school facilities board believes caused or
41 contributed to a failure of the school building to conform to the building
42 adequacy requirements prescribed in section 15-2011. Attorney fees paid
43 pursuant to this subsection shall not exceed the market rate for similar
44 types of litigation. On or before December 1 of each year, the school
45 facilities board shall report to the joint committee on capital review the

1 costs associated with current and potential litigation that may be paid from
2 the litigation account.

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

8 N. The school facilities board shall submit electronically a report on
9 project management services and preconstruction services to the governor, the
10 president of the senate and the speaker of the house of representatives by
11 December 31 of each year. The report shall compare projects that use project
12 management and preconstruction services with those that do not. The report
13 shall address cost, schedule and other measurable components of a
14 construction project. School districts, construction manager at risk firms
15 and project management firms that participate in a school facilities board
16 funded project shall provide the information required by the school
17 facilities board in relation to this report.

18 O. If a school district constructs new square footage according to
19 section 15-342, paragraph 33, the school facilities board shall review the
20 design plans and location of any new school facility submitted by school
21 districts and another party to determine whether the design plans comply with
22 the adequacy standards prescribed in section 15-2011 and the square footage
23 per pupil requirements pursuant to subsection D, paragraph 3, subdivision (b)
24 of this section. When the school district qualifies for a distribution of
25 monies from the new school facilities fund according to this section, the
26 school facilities board shall distribute monies to the school district from
27 the new school facilities fund for the square footage constructed under
28 section 15-342, paragraph 33 at the same cost per square foot established by
29 this section that was in effect at the time of the beginning of the
30 construction of the school facility. Before the school facilities board
31 distributes any monies pursuant to this subsection, the school district shall
32 demonstrate to the school facilities board that the facilities to be funded
33 pursuant to this section meet the minimum adequacy standards prescribed in
34 section 15-2011. The agreement entered into pursuant to section 15-342,
35 paragraph 33 shall set forth the procedures for the allocation of these funds
36 to the parties that participated in the agreement.

37 P. Accommodation schools are not eligible for monies from the new
38 school facilities fund.