

REFERENCE TITLE: school facilities board; procurement compliance

State of Arizona
House of Representatives
Fifty-third Legislature
Second Regular Session
2018

HB 2335

Introduced by
Representatives Weninger: Norgaard

AN ACT

AMENDING SECTION 15-2002, 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 15-2002, 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 and approve the distribution of grants as appropriate.

9 2. Maintain a database of school facilities to administer the
10 building renewal grant fund and new school facilities formula. The
11 facilities listed in the database must include all buildings that are
12 owned by school districts. The school facilities board shall ensure that
13 the database is updated on at least an annual basis. Each school district
14 shall report to the school facilities board no later than September 1 of
15 each year information as required by the school facilities board for the
16 administration of the building renewal grant fund and computation of new
17 school facilities formula distributions, including the nature and cost of
18 major repairs, renovations or physical improvements to or replacement of
19 building systems or equipment that were made in the previous year and that
20 were paid for either with local monies or monies provided by the school
21 facilities board from the building renewal grant fund. Each school
22 district shall report any school or school buildings that have been
23 closed, that have been leased to another entity or that operate as a
24 charter school. The school facilities board may review or audit the
25 information, or both, to confirm the information submitted by a school
26 district. Notwithstanding any other provision of this chapter, if a
27 school district converts space that is listed in the database maintained
28 pursuant to this paragraph to space that will be used for administrative
29 purposes, the school district is responsible for any costs associated with
30 the conversion, maintenance and replacement of that space. If a building
31 is significantly upgraded or remodeled, the school facilities board shall
32 adjust the age of that school facility in the database as follows:

33 (a) Determine the building capacity value as follows:

34 (i) Multiply the student capacity of the building by the per pupil
35 square foot capacity established by section 15-2041.

36 (ii) Multiply the product determined in item (i) of this
37 subdivision by the cost per square foot established by section 15-2041.

38 (b) Divide the cost of the renovation by the building capacity
39 value determined in subdivision (a) of this paragraph.

40 (c) Multiply the quotient determined in subdivision (b) of this
41 paragraph by the currently listed age of the building in the database.

42 (d) Subtract the product determined in subdivision (c) of this
43 paragraph from the currently listed age of the building in the database,
44 rounded to the nearest whole number. If the result is a negative number,
45 use zero.

1 3. Inspect school buildings at least once every five years to
2 ensure compliance with the building adequacy standards prescribed in
3 section 15-2011 and routine preventative maintenance guidelines as
4 prescribed in this section with respect to construction of new buildings
5 and maintenance of existing buildings. The school facilities board shall
6 randomly select twenty school districts every thirty months and inspect
7 them pursuant to this paragraph.

8 4. Review and approve student population projections submitted by
9 school districts to determine to what extent school districts are entitled
10 to monies to construct new facilities pursuant to section 15-2041. The
11 board shall make a final determination within five months after the
12 receipt of an application by a school district for monies from the new
13 school facilities fund.

14 5. Certify that plans for new school facilities meet the building
15 adequacy standards prescribed in section 15-2011.

16 6. Develop prototypical elementary and high school designs. The
17 board shall review the design differences between the schools with the
18 highest academic productivity scores and the schools with the lowest
19 academic productivity scores. The board shall also review the results of
20 a valid and reliable survey of parent quality rating in the highest
21 performing schools and the lowest performing schools in this state. The
22 survey of parent quality rating shall be administered by the department of
23 education. The board shall consider the design elements of the schools
24 with the highest academic productivity scores and parent quality ratings
25 in the development of elementary and high school designs. The board shall
26 develop separate school designs for elementary, middle and high schools
27 with varying pupil capacities.

28 7. Develop application forms, reporting forms and procedures to
29 carry out the requirements of this article.

30 8. Review and approve or reject requests submitted by school
31 districts to take actions pursuant to section 15-341, subsection G.

32 9. Submit electronically an annual report on or before December 15
33 to the speaker of the house of representatives, the president of the
34 senate, the superintendent of public instruction, the secretary of state
35 and the governor that includes the following information:

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

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

42 (c) A summary of the findings and conclusions of the building
43 maintenance inspections conducted pursuant to this article during the
44 previous fiscal year.

1 (d) A summary of the findings of common design elements and
 2 characteristics of the highest performing schools and the lowest
 3 performing schools based on academic productivity, including the results
 4 of the parent quality rating survey. For the purposes of this
 5 subdivision, "academic productivity" means academic year advancement per
 6 calendar year as measured with student-level data using the statewide
 7 nationally standardized norm-referenced achievement test.

8 10. On or before December 1 of each year, report electronically to
 9 the joint committee on capital review the amounts necessary to fulfill the
 10 requirements of sections 15-2022 and 15-2041 for the following three
 11 fiscal years. In developing the amounts necessary for this report, the
 12 school facilities board shall use the most recent average daily membership
 13 data available. On request from the board, the department of education
 14 shall make available the most recent average daily membership data for use
 15 in calculating the amounts necessary to fulfill the requirements of
 16 section 15-2041 for the following three fiscal years. The board shall
 17 provide copies of the report to the president of the senate, the speaker
 18 of the house of representatives and the governor.

19 11. Adopt minimum school facility adequacy guidelines to provide
 20 the minimum quality and quantity of school buildings and the facilities
 21 and equipment necessary and appropriate to enable pupils to achieve the
 22 educational goals of the Arizona state schools for the deaf and the blind.
 23 The school facilities board shall establish minimum school facility
 24 adequacy guidelines applicable to the Arizona state schools for the deaf
 25 and the blind.

26 12. In each even-numbered year, report electronically to the joint
 27 committee on capital review the amounts necessary to fulfill the
 28 requirements of section 15-2041 for the Arizona state schools for the deaf
 29 and the blind for the following two fiscal years. The Arizona state
 30 schools for the deaf and the blind shall incorporate the findings of the
 31 report in any request for new school facilities monies. Any monies
 32 provided to the Arizona state schools for the deaf and the blind for new
 33 school facilities are subject to legislative appropriation.

34 13. On or before June 15 of each year, submit electronically
 35 detailed information regarding demographic assumptions, a proposed
 36 construction schedule and new school construction cost estimates for
 37 individual projects approved in the current fiscal year and expected
 38 project approvals for the upcoming fiscal year to the joint committee on
 39 capital review for its review. A copy of the report shall also be
 40 submitted electronically to the governor's office of strategic planning
 41 and budgeting. The joint legislative budget committee staff, the
 42 governor's office of strategic planning and budgeting staff and the school
 43 facilities board staff shall agree on the format of the report.

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

4 15. On or before December 31 of each year, report to the joint
5 legislative budget committee on all class B bond approvals by school
6 districts in that year. Each school district shall report to the school
7 facilities board on or before December 1 of each year information required
8 by the school facilities board for the report prescribed in this
9 paragraph.

10 16. Validate proposed adjacent ways projects submitted by school
11 districts as prescribed in section 15-995.

12 17. ENSURE THAT SCHOOL DISTRICTS THAT USE MONIES FROM THE BUILDING
13 RENEWAL GRANT FUND ESTABLISHED BY SECTION 15-2032 ARE IN COMPLIANCE WITH
14 TITLE 41, CHAPTER 23. THIS PARAGRAPH DOES NOT CREATE ANY ADDITIONAL
15 PROCUREMENT REQUIREMENT OR MAKE THE AWARD OF MONIES FROM THE BUILDING
16 RENEWAL GRANT FUND CONTINGENT ON THE USE OF A SPECIFIC PROCUREMENT METHOD,
17 CONSULTANT OR VENDOR.

18 B. The school facilities board may contract for the following
19 services in compliance with the procurement practices prescribed in title
20 41, chapter 23:

- 21 1. Private services.
- 22 2. Construction project management services.
- 23 3. Assessments for school buildings to determine if the buildings
24 have outlived their useful life pursuant to section 15-2041, subsection G.
- 25 4. Services related to land acquisition and development of a school
26 site.

27 C. The governor shall appoint an executive director of the school
28 facilities board pursuant to section 38-211. The executive director is
29 eligible to receive compensation as determined pursuant to section 38-611
30 and may hire and fire necessary staff subject to title 41, chapter 4,
31 article 4 and as approved by the legislature in the budget. The executive
32 director shall have demonstrated competency in school finance, facilities
33 design or facilities management, either in private business or government
34 service. The executive director serves at the pleasure of the governor.
35 The staff of the school facilities board is exempt from title 41, chapter
36 4, articles 5 and 6. The executive director:

- 37 1. Shall analyze applications for monies submitted to the board by
38 school districts.
- 39 2. Shall assist the board in developing forms and procedures for
40 the distribution and review of applications and the distribution of monies
41 to school districts.
- 42 3. May review or audit, or both, the expenditure of monies by a
43 school district for deficiencies corrections and new school facilities.
- 44 4. Shall assist the board in the preparation of the board's annual
45 report.

1 5. Shall research and provide reports on issues of general interest
2 to the board.

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

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

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

10 9. Shall establish procedures to ensure compliance with the notice
11 and hearing requirements prescribed in section 15-905. The notice and
12 hearing procedures adopted by the board shall include the requirement,
13 with respect to the board's consideration of any application filed after
14 July 1, 2001 or after December 31 of the year in which the property
15 becomes territory in the vicinity of a military airport or ancillary
16 military facility as defined in section 28-8461 for monies to fund the
17 construction of new school facilities proposed to be located in territory
18 in the vicinity of a military airport or ancillary military facility, that
19 the military airport receive notification of the application by first
20 class mail at least thirty days before any hearing concerning the
21 application.

22 10. May expedite any request for monies in which the local match
23 was not obtained for a project that received preliminary approval by the
24 state board for school capital facilities.

25 11. Shall expedite any request for monies in which the school
26 district governing board submits an application that shows an immediate
27 need for a new school facility.

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

31 13. Shall provide technical support to school districts as
32 requested by school districts in connection with the construction of new
33 school facilities and the maintenance of existing school facilities and
34 may contract directly with construction project managers pursuant to
35 subsection B of this section. This paragraph does not restrict a school
36 district from contracting with a construction project manager using
37 district or state resources.

38 D. When appropriate, the school facilities board shall review and
39 use the statewide school facilities inventory and needs assessment
40 conducted by the joint committee on capital review and issued in July,
41 1995.

42 E. The school facilities board shall contract with one or more
43 private building inspectors to complete an initial assessment of school
44 facilities and equipment and shall inspect each school building in this
45 state at least once every five years to ensure compliance with section

1 15-2011. A copy of the inspection report, together with any
2 recommendations for building maintenance, shall be provided to the school
3 facilities board and the governing board of the school district.

4 F. The school facilities board may consider appropriate
5 combinations of facilities or uses in making assessments of and curing
6 deficiencies pursuant to subsection A, paragraph 1 of this section and in
7 certifying plans for new school facilities pursuant to subsection A,
8 paragraph 5 of this section.

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

11 H. The board shall not distribute monies to a school district for
12 replacement or repair of facilities if the costs associated with the
13 replacement or repair are covered by insurance or a performance or payment
14 bond.

15 I. The board may contract for construction services and materials
16 that are necessary to correct existing deficiencies in school district
17 facilities. The board may procure the construction services necessary
18 pursuant to this subsection by any method, including
19 construction-manager-at-risk, design-build, design-bid-build or
20 job-order-contracting as provided by title 41, chapter 23. The
21 construction planning and services performed pursuant to this subsection
22 are exempt from section 41-791.01.

23 J. The school facilities board may enter into agreements with
24 school districts to allow school facilities board staff and contractors
25 access to school property for the purposes of performing the construction
26 services necessary pursuant to subsection I of this section.

27 K. Each school district shall develop routine preventative
28 maintenance guidelines for its facilities. The guidelines shall include
29 plumbing systems, electrical systems, heating, ventilation and air
30 conditioning systems, special equipment and other systems and for roofing
31 systems shall recommend visual inspections performed by district staff for
32 signs of structural stress and weakness. The guidelines shall be
33 submitted to the school facilities board for review and approval. If on
34 inspection by the school facilities board it is determined that a school
35 district facility was inadequately maintained pursuant to the school
36 district's routine preventative maintenance guidelines, the school
37 district shall return the building to compliance with the school
38 district's routine preventative maintenance guidelines.

39 L. The school facilities board may temporarily transfer monies
40 between the capital reserve fund established by section 15-2003, the
41 emergency deficiencies correction fund established by section 15-2022 and
42 the new school facilities fund established by section 15-2041 if all of
43 the following conditions are met:

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

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

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

6 M. After notifying each school district, and if a written objection
7 from the school district is not received by the school facilities board
8 within thirty days of the notification, the school facilities board may
9 access public utility company records of power, water, natural gas,
10 telephone and broadband usage to assemble consistent and accurate data on
11 utility consumption at school facilities to determine the effectiveness of
12 facility design, operation and maintenance measures intended to reduce
13 energy and water consumption and costs. Any public utility that provides
14 service to a school district in this state shall provide the data
15 requested by the school facilities board pursuant to this subsection.

16 N. The school facilities board shall not require a common school
17 district that provides instruction to pupils in grade nine to obtain
18 approval from the school facilities board to reconfigure its school
19 facilities. A common school district that provides instruction to pupils
20 in grade nine is not entitled to additional monies from the school
21 facilities board for facilities to educate pupils in grade nine.