

REFERENCE TITLE: SFB; procurement; building renewal grants

State of Arizona
House of Representatives
Fifty-fourth Legislature
Second Regular Session
2020

HB 2500

Introduced by
Representative Weninger

AN ACT

AMENDING SECTIONS 15-2002 AND 15-2032, 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 reporting requirements

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 are vacant or partially used pursuant to section 15-119 and
24 that have been leased to another entity or that operate as a charter
25 school. The school facilities board shall develop guidelines and
26 definitions for the reporting prescribed in this paragraph and may review
27 or audit the information, or both, to confirm the information submitted by
28 a school district. Notwithstanding any other provision of this chapter,
29 if a school district converts space that is listed in the database
30 maintained pursuant to this paragraph to space that will be used for
31 administrative purposes, the school district is responsible for any costs
32 associated with the conversion, maintenance and replacement of that space.
33 If a building is significantly upgraded or remodeled, the school
34 facilities board shall adjust the age of that school facility in the
35 database as follows:

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

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

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

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

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

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

5 3. Inspect school buildings at least once every five years to
6 ensure compliance with the building adequacy standards prescribed in
7 section 15-2011, the accuracy of the reporting of vacant and partially
8 used buildings pursuant to this subsection and routine preventive
9 maintenance guidelines as prescribed in this section with respect to
10 construction of new buildings and maintenance of existing buildings. The
11 school facilities board shall randomly select twenty school districts
12 every thirty months and inspect them pursuant to this paragraph.

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

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

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

33 7. Develop application forms, reporting forms and procedures to
34 carry out the requirements of this article, including developing and
35 implementing policies and procedures to:

36 (a) Ensure that the board notifies school districts in a uniform
37 manner of the services and funding available for school districts from the
38 board for facility construction, renovation and repair projects. The
39 policies and procedures shall require the board to provide at least one
40 annual communication to school districts in a manner prescribed by the
41 board and shall require each school district to develop and maintain a
42 list of persons who are responsible for facilities management at that
43 school district.

44 (b) Establish a project eligibility assessment for all projects
45 submitted for building renewal grant funding or emergency deficiencies

1 correction funding, including establishing standardized criteria for
2 project eligibility. Before the board formally approves a project, the
3 staff of the board may review the costs and scope of the proposed project
4 with persons and entities that have submitted bids on the project.

5 (c) Ensure that the board maintains standardized documentation of
6 all projects submitted to the board for consideration to receive services
7 or a financial award from the board. The board shall maintain
8 standardized documentation of any project awarded monies by the board,
9 including records of payments to school districts in a manner prescribed
10 by the board. The standardized documentation shall include the following
11 as part of the eligibility determination criteria:

12 (i) Whether the problem that the proposed project intends to
13 address caused the building or facility to fall below the minimum school
14 facility adequacy guidelines prescribed in section 15-2011.

15 (ii) Whether the school district performed the routine preventive
16 maintenance required pursuant to section 15-2032 on the building or
17 facility.

18 (d) Require a school district to submit contact information for
19 each proposed project, including the name, e-mail address and telephone
20 number of persons who are responsible for facilities management at the
21 school district.

22 (e) Require a school district to provide justification for each
23 proposed project, including all of the following:

24 (i) The school district's use or planned use of the facility.

25 (ii) A detailed description of the problem and the school
26 district's recommended solution.

27 (iii) Any completed professional study regarding the proposed
28 project.

29 (iv) Any citation or report from government entities.

30 (v) The estimated cost of the proposed project, with documentation.

31 (vi) The project category.

32 (vii) A description of any local funding that will be used for the
33 proposed project.

34 (viii) Documentation on associated insurance coverage, if
35 applicable.

36 (f) If the application is for monies from the building renewal
37 grant fund established by section 15-2032, require the school district to
38 report the preventive maintenance activities completed during the previous
39 twelve months for the facility for which the monies are being requested.

40 (g) Require that an initial application not be considered complete
41 until all necessary information is submitted.

42 (h) Allow a school district to submit an incomplete application and
43 request technical assistance from the staff of the board if the school
44 district is unable to provide sufficient information in the initial
45 application.

1 (i) Require that a complete application be received by the board at
2 least fifteen business days before the next regularly scheduled board
3 meeting in order for the application to be considered at that meeting. An
4 incomplete application may be considered at that meeting if both the staff
5 of the board and the superintendent of the school district deem the
6 project critical.

7 (j) Allow the staff of the board to notify a school district in
8 writing before review by the board that the proposed project does not meet
9 eligibility criteria prescribed in this chapter. The written notification
10 shall include documentation to support the staff's determination that the
11 proposed project does not meet the eligibility criteria prescribed in this
12 chapter. The school district may directly appeal the staff's
13 determination of ineligibility to the executive director of the board.
14 The school district may directly appeal the executive director's
15 determination of ineligibility to the board.

16 (k) Prohibit the staff of the board from requesting that a school
17 district withdraw a project application from review by the board if the
18 initial staff review determines that the proposed project may be
19 ineligible for monies from the board.

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

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

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

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

32 (c) A summary of the findings and conclusions of the building
33 maintenance inspections conducted pursuant to this article during the
34 previous fiscal year.

35 (d) A summary of the findings of common design elements and
36 characteristics of the highest performing schools and the lowest
37 performing schools based on academic productivity, including the results
38 of the parent quality rating survey. For the purposes of this
39 subdivision, "academic productivity" means academic year advancement per
40 calendar year as measured with student-level data using the statewide
41 nationally standardized norm-referenced achievement test.

42 10. On or before December 1 of each year, report electronically to
43 the joint committee on capital review the amounts necessary to fulfill the
44 requirements of sections 15-2022 and 15-2041 for the following three
45 fiscal years. In developing the amounts necessary for this report, the

1 school facilities board shall use the most recent average daily membership
2 data available. On request from the board, the department of education
3 shall make available the most recent average daily membership data for use
4 in calculating the amounts necessary to fulfill the requirements of
5 section 15-2041 for the following three fiscal years. The board shall
6 provide copies of the report to the president of the senate, the speaker
7 of the house of representatives and the governor.

8 11. Adopt minimum school facility adequacy guidelines to provide
9 the minimum quality and quantity of school buildings and the facilities
10 and equipment necessary and appropriate to enable pupils to achieve the
11 educational goals of the Arizona state schools for the deaf and the blind.
12 The school facilities board shall establish minimum school facility
13 adequacy guidelines applicable to the Arizona state schools for the deaf
14 and the blind.

15 12. In each even-numbered year, report electronically to the joint
16 committee on capital review the amounts necessary to fulfill the
17 requirements of section 15-2041 for the Arizona state schools for the deaf
18 and the blind for the following two fiscal years. The Arizona state
19 schools for the deaf and the blind shall incorporate the findings of the
20 report in any request for new school facilities monies. Any monies
21 provided to the Arizona state schools for the deaf and the blind for new
22 school facilities are subject to legislative appropriation.

23 13. On or before June 15 of each year, submit electronically
24 detailed information regarding demographic assumptions, a proposed
25 construction schedule and new school construction cost estimates for
26 individual projects approved in the current fiscal year and expected
27 project approvals for the upcoming fiscal year to the joint committee on
28 capital review for its review. A copy of the report shall also be
29 submitted electronically to the governor's office of strategic planning
30 and budgeting. The joint legislative budget committee staff, the
31 governor's office of strategic planning and budgeting staff and the school
32 facilities board staff shall agree on the format of the report.

33 14. Every two years, provide school districts with information on
34 improving and maintaining the indoor environmental quality in school
35 buildings.

36 15. On or before December 31 of each year, report to the joint
37 legislative budget committee on all class B bond approvals by school
38 districts in that year. Each school district shall report to the school
39 facilities board on or before December 1 of each year information required
40 by the school facilities board for the report prescribed in this
41 paragraph.

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

1 B. The school facilities board may contract for the following
2 services in compliance with the procurement practices prescribed in title
3 41, chapter 23:

- 4 1. Private services.
- 5 2. Construction project management services.
- 6 3. Assessments for school buildings to determine if the buildings
7 have outlived their useful life pursuant to section 15-2041, subsection G.
- 8 4. Services related to land acquisition and development of a school
9 site.

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

- 20 1. Shall analyze applications for monies submitted to the board by
21 school districts.
- 22 2. Shall assist the board in developing forms and procedures for
23 the distribution and review of applications and the distribution of monies
24 to school districts.
- 25 3. May review or audit, or both, the expenditure of monies by a
26 school district for deficiencies corrections and new school facilities.
- 27 4. Shall assist the board in the preparation of the board's annual
28 report.
- 29 5. Shall research and provide reports on issues of general interest
30 to the board.
- 31 6. May aid school districts in the development of reasonable and
32 cost-effective school designs in order to avoid statewide duplicated
33 efforts and unwarranted expenditures in the area of school design.
- 34 7. May assist school districts in facilitating the development of
35 multijurisdictional facilities.
- 36 8. Shall assist the board in any other appropriate matter or method
37 as directed by the members of the board.
- 38 9. Shall establish procedures to ensure compliance with the notice
39 and hearing requirements prescribed in section 15-905. The notice and
40 hearing procedures adopted by the board shall include the requirement,
41 with respect to the board's consideration of any application filed after
42 July 1, 2001 or after December 31 of the year in which the property
43 becomes territory in the vicinity of a military airport or ancillary
44 military facility as defined in section 28-8461 for monies to fund the
45 construction of new school facilities proposed to be located in territory

1 in the vicinity of a military airport or ancillary military facility, that
2 the military airport receive notification of the application by first
3 class mail at least thirty days before any hearing concerning the
4 application.

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

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

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

14 13. Shall provide technical support to school districts as
15 requested by school districts in connection with the construction of new
16 school facilities and the maintenance of existing school facilities and
17 may contract directly with construction project managers pursuant to
18 subsection B of this section. This paragraph does not restrict a school
19 district from contracting with a construction project manager using
20 district or state resources.

21 D. When appropriate, the school facilities board shall review and
22 use the statewide school facilities inventory and needs assessment
23 conducted by the joint committee on capital review and issued in July,
24 1995.

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

32 F. The school facilities board may consider appropriate
33 combinations of facilities or uses in making assessments of and curing
34 deficiencies pursuant to subsection A, paragraph 1 of this section and in
35 certifying plans for new school facilities pursuant to subsection A,
36 paragraph 5 of this section.

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

39 H. The board shall not distribute monies to a school district for
40 replacement or repair of facilities if the costs associated with the
41 replacement or repair are covered by insurance or a performance or payment
42 bond.

43 I. The board may contract for construction services and materials
44 that are necessary to correct existing deficiencies in school district
45 facilities. The board may procure the construction services necessary

1 pursuant to this subsection by any method, including
2 construction-manager-at-risk, design-build, design-bid-build or
3 job-order-contracting as provided by title 41, chapter 23. The
4 construction planning and services performed pursuant to this subsection
5 are exempt from section 41-791.01.

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

10 K. Each school district shall develop routine preventive
11 maintenance guidelines for its facilities. The guidelines shall include
12 plumbing systems, electrical systems, heating, ventilation and air
13 conditioning systems, special equipment and other systems and for roofing
14 systems shall recommend visual inspections performed by district staff for
15 signs of structural stress and weakness. The guidelines shall be
16 submitted to the school facilities board for review and approval. If on
17 inspection by the school facilities board it is determined that a school
18 district facility was inadequately maintained pursuant to the school
19 district's routine preventive maintenance guidelines, the school district
20 shall return the building to compliance with the school district's routine
21 preventive maintenance guidelines.

22 L. The school facilities board may temporarily transfer monies
23 between the capital reserve fund established by section 15-2003, the
24 emergency deficiencies correction fund established by section 15-2022 and
25 the new school facilities fund established by section 15-2041 if all of
26 the following conditions are met:

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

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

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

34 M. After notifying each school district, and if a written objection
35 from the school district is not received by the school facilities board
36 within thirty days of the notification, the school facilities board may
37 access public utility company records of power, water, natural gas,
38 telephone and broadband usage to assemble consistent and accurate data on
39 utility consumption at school facilities to determine the effectiveness of
40 facility design, operation and maintenance measures intended to reduce
41 energy and water consumption and costs. Any public utility that provides
42 service to a school district in this state shall provide the data
43 requested by the school facilities board pursuant to this subsection.

44 N. The school facilities board shall not require a common school
45 district that provides instruction to pupils in grade nine to obtain

1 approval from the school facilities board to reconfigure its school
2 facilities. A common school district that provides instruction to pupils
3 in grade nine is not entitled to additional monies from the school
4 facilities board for facilities to educate pupils in grade nine.

5 O. A school district may appeal the denial of a request for monies
6 pursuant to this chapter or any other appealable agency action by the
7 school facilities board pursuant to title 41, chapter 6, article 10. For
8 the purposes of this subsection, "appealable agency action" has the same
9 meaning prescribed in section 41-1092.

10 P. ANY PROJECT THAT A SCHOOL DISTRICT UNDERTAKES AND THAT IS
11 AUTHORIZED BY THE SCHOOL FACILITIES BOARD PURSUANT TO THIS CHAPTER IS
12 SUBJECT TO THE PROCUREMENT RULES ADOPTED BY THE STATE BOARD OF EDUCATION
13 PURSUANT TO SECTION 15-213. THE SCHOOL FACILITIES BOARD MAY NOT ADOPT ANY
14 POLICY OR PROCEDURE RELATING TO PROCUREMENT THAT ALTERS, SUPPLEMENTS OR
15 SUBTRACTS FROM THE PROCUREMENT RULES ADOPTED BY THE STATE BOARD OF
16 EDUCATION PURSUANT TO SECTION 15-213.

17 Sec. 2. Section 15-2032, Arizona Revised Statutes, is amended to
18 read:

19 15-2032. School facilities board; building renewal grant
20 fund; definitions

21 A. The building renewal grant fund is established consisting of
22 monies appropriated to the fund by the legislature. The school facilities
23 board shall administer the fund and distribute monies to school districts
24 for the purpose of maintaining the adequacy of existing school facilities.
25 Monies in the fund are exempt from the provisions of section 35-190
26 relating to lapsing of appropriations.

27 B. The school facilities board shall distribute monies from the
28 fund based on grant requests from school districts to fund primary
29 building renewal projects. Project requests shall be prioritized by the
30 school facilities board, with priority given to school districts that have
31 provided routine preventive maintenance on the facility. The school
32 facilities board shall approve only projects that will be completed within
33 twelve months, unless similar projects on average take longer to complete.

34 C. School districts that receive monies from the fund shall use
35 these monies on projects for buildings or any part of a building in the
36 school facilities board's database for any of the following:

37 1. Major renovations and repairs to a building that is **REQUIRED TO**
38 **MEET MINIMUM SCHOOL FACILITY ADEQUACY GUIDELINES OR THAT IS** used for
39 student instruction or other academic purposes.

40 2. Upgrading systems and areas that will maintain or extend the
41 useful life of the **building FACILITY**.

42 3. Infrastructure costs.

43 D. Monies received from the fund shall not be used for any of the
44 following purposes:

45 1. New construction.

- 1 2. Remodeling interior space for aesthetic or preferential reasons.
- 2 3. Exterior beautification.
- 3 4. Demolition.
- 4 5. Routine preventive maintenance.
- 5 6. Any project in a building, or part of a building, that is being
- 6 leased to another entity.

7 E. Accommodation schools are not eligible for monies from the
8 building renewal grant fund.

9 F. If the school facilities board or a court of competent
10 jurisdiction determines that a school district received monies from the
11 building renewal grant fund that must be reimbursed to the school
12 facilities board due to legal action associated with improper construction
13 by a hired contractor, the school district shall reimburse the school
14 facilities board an agreed-on amount for deposit into the building renewal
15 grant fund.

16 G. The school facilities board shall categorize each project that
17 is eligible for monies from the building renewal grant fund as either
18 critical or noncritical. The board shall adopt policies and procedures to
19 prioritize critical projects and to designate critical projects as
20 projects that immediately impact student safety or building closures or
21 that result in operational disruptions. Critical projects have priority
22 over any previously approved noncritical projects.

23 H. If the school facilities board determines that sufficient monies
24 are not available for a noncritical project that the board has approved,
25 the board shall notify the school district that submitted the project
26 request that monies will be distributed from the building renewal grant
27 fund for the project only if the legislature appropriates sufficient
28 monies. If sufficient monies are not available in the fiscal year in
29 which the project is awarded for a noncritical project, the noncritical
30 project does not receive priority in the next fiscal year.

31 I. A SCHOOL DISTRICT THAT IS NOTIFIED PURSUANT TO SUBSECTION H OF
32 THIS SECTION THAT MONIES WILL BE DISTRIBUTED FROM THE BUILDING RENEWAL
33 GRANT FUND FOR A PROJECT APPROVED BY THE SCHOOL FACILITIES BOARD ONLY IF
34 THE LEGISLATURE APPROPRIATES SUFFICIENT MONIES MAY USE LEGALLY AVAILABLE
35 DISTRICT MONIES TO EXECUTE THE PROJECT AND REIMBURSE THOSE DISTRICT MONIES
36 AT A LATER DATE WITH THE BUILDING RENEWAL GRANT FUND MONIES IF THE
37 DISTRIBUTION IS MADE FROM THE BUILDING RENEWAL GRANT FUND. IF A SCHOOL
38 DISTRICT USES LEGALLY AVAILABLE DISTRICT MONIES TO EXECUTE A PROJECT
39 PURSUANT TO THIS SUBSECTION, THE SCHOOL DISTRICT SHALL EXECUTE THE PROJECT
40 PURSUANT TO STANDARD SCHOOL FACILITIES BOARD PROCESSES, TERMS AND
41 CONDITIONS. THERE IS NO GUARANTEE OF REIMBURSEMENT FOR A SCHOOL DISTRICT
42 THAT USES LEGALLY AVAILABLE DISTRICT MONIES TO EXECUTE A PROJECT PURSUANT
43 TO THIS SUBSECTION. THE SCHOOL FACILITIES BOARD MAY NOT ALTER THE
44 PRIORITY OF BUILDING RENEWAL GRANT FUND DISTRIBUTIONS BASED ON WHETHER A

1 SCHOOL DISTRICT HAS USED LEGALLY AVAILABLE DISTRICT MONIES TO EXECUTE A
2 PROJECT PURSUANT TO THIS SUBSECTION.

3 ~~J.~~ J. Building renewal grants pursuant to this section shall be
4 used only for projects that serve an academic purpose.

5 ~~K.~~ K. For the purposes of this section:

6 1. "Primary building renewal projects" means projects that are
7 necessary for ~~buildings~~ FACILITIES owned by school districts that are
8 required to meet the minimum adequacy standards for student capacity and
9 that fall below the minimum school facility adequacy guidelines, as
10 adopted by the school facilities board pursuant to section 15-2011, for
11 school districts that have provided routine preventive maintenance to the
12 school facility.

13 2. "Routine preventive maintenance" means services that are
14 performed on a regular schedule at intervals ranging from four times a
15 year to once every three years, or on the schedule of services recommended
16 by the manufacturer of the specific building system or equipment, and that
17 are intended to extend the useful life of a building system and reduce the
18 need for major repairs.

19 3. "Student capacity" has the same meaning prescribed in section
20 15-2011.