

COMMITTEE ON EDUCATION
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2482
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 41-5702, Arizona Revised Statutes, is
3 amended to read:

4 41-5702. Powers and duties; staffing; reporting requirements

5 A. The division shall:

6 1. Assess school facilities and equipment deficiencies and
7 approve the distribution of grants as appropriate.

8 2. Maintain a database of school facilities to allow for the
9 administration of the new school facilities formula and the building
10 renewal grant fund. The facilities listed in the database must
11 include all buildings that are owned by school districts. The
12 division shall ensure that the database is updated on at least an
13 annual basis. Each school district shall report to the division not
14 later than September 1 of each year information as required by the
15 division to administer the building renewal grant fund and by the
16 school facilities oversight board to compute new school facilities
17 formula distributions, including the nature and cost of major
18 repairs, renovations or physical improvements to or replacement of
19 building systems or equipment that were made in the previous year
20 and that were paid for either with local monies or monies provided
21 from the building renewal grant fund. Each school district shall
22 report any school or school buildings that have been closed, that
23 are vacant or partially used pursuant to section 15-119 and that
24 have been leased to another entity or that operate as a charter
25 school. The division shall develop guidelines and definitions for
26 the reporting prescribed in this paragraph and may review or audit
27 the information, or both, to confirm the information submitted by a
28 school district. Notwithstanding any other provision of this
29 chapter, if a school district converts space that is listed in the
30 database maintained pursuant to this paragraph to space that will be
31 used for administrative purposes, the school district is responsible
32 for any costs associated with converting, maintaining and replacing
33 that space. If a building is significantly upgraded or remodeled,
34 the division 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
38 pupil square foot capacity established by section 41-5741.

1 (ii) Multiply the product determined in item (i) of this
2 subdivision by the cost per square foot established by section
3 41-5741.

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

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

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

13 3. Inspect, contract with a third party to inspect or certify
14 school district self-inspections of school buildings at least once
15 every five years to ensure compliance with the building adequacy
16 standards prescribed in section 41-5711, the accuracy of the
17 reporting of vacant and partially used buildings pursuant to this
18 subsection and routine preventive maintenance guidelines as
19 prescribed in this section with respect to constructing new
20 buildings and maintaining existing buildings. The division shall
21 randomly select twenty school districts every thirty months and
22 provide for them to be inspected pursuant to this paragraph.

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

36 5. Develop application forms, reporting forms and procedures
37 to carry out the requirements of this article, including developing
38 and implementing policies and procedures to:

39 (a) Ensure that the division and the school facilities
40 oversight board, as applicable, notify school districts in a uniform
41 manner of the services and funding available for school districts
42 from the board or the division for facility construction, renovation
43 and repair projects. The policies and procedures shall require the
44 division and the board to provide at least one annual communication
45 to school districts in a manner prescribed by the division and shall
46 require each school district to develop and maintain a list of
47 persons who are responsible for facilities management at that school
48 district.

1 (b) Establish a project eligibility assessment for all
2 projects submitted for FUNDING FROM THE building renewal grant
3 ~~funding~~ FUND ESTABLISHED BY SECTION 41-5731 or THE emergency
4 deficiencies correction ~~funding~~ FUND ESTABLISHED BY SECTION 41-5721,
5 including establishing standardized criteria for project
6 eligibility. NOTWITHSTANDING SECTION 15-213, SUBSECTION M, CHAPTER
7 23 OF THIS TITLE AND THE RULES ADOPTED BY THE STATE BOARD OF
8 EDUCATION PURSUANT TO SECTION 15-213, SUBSECTION A, THE MAXIMUM
9 DOLLAR AMOUNT OF AN INDIVIDUAL JOB ORDER FOR JOB-ORDER-CONTRACTING
10 FOR CONSTRUCTION SERVICES IS \$1,000,000 FOR ANY PROJECT THAT
11 RECEIVES MONIES FROM THE BUILDING RENEWAL GRANT FUND ESTABLISHED BY
12 SECTION 41-5731. Before the division formally approves a project,
13 the staff of the division may review the costs and scope of the
14 proposed project with persons and entities that have submitted bids
15 on the project AND SHALL VERIFY THAT REQUIREMENTS ARE NOT
16 ARTIFICIALLY DIVIDED OR FRAGMENTED IN ORDER TO CONSTITUTE A JOB
17 ORDER THAT SATISFIES THE REQUIREMENTS OF THIS SUBDIVISION.

18 (c) Ensure that the division and the school facilities
19 oversight board maintain standardized documentation of all projects
20 submitted to the board and the division for consideration to receive
21 services or a financial award from the board or the division. The
22 board and the division shall maintain standardized documentation of
23 any project awarded monies by the board or the division, including
24 records of payments to school districts in a manner prescribed by
25 the division. The standardized documentation shall include the
26 following as part of the eligibility determination criteria:

27 (i) Whether the problem that the proposed project intends to
28 address caused the building or facility to fall below the minimum
29 school facility adequacy guidelines prescribed in section 41-5711.

30 (ii) Whether the school district performed the routine
31 preventive maintenance required by section 41-5731 on the building
32 or facility.

33 (d) Require a school district to submit contact information
34 for each proposed project, including the name, email address and
35 telephone number of persons who are responsible for facilities
36 management at the school district.

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

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

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

42 (iii) Any completed professional study regarding the proposed
43 project.

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

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

47 (vi) The project category.

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

3 (viii) Documentation on associated insurance coverage, if
4 applicable.

5 (f) Require that an initial application not be considered
6 complete until all necessary information is submitted.

7 (g) Allow a school district to submit an incomplete
8 application and request technical assistance from the staff of the
9 board if the school district is unable to provide sufficient
10 information in the initial application.

11 (h) If applicable, require that a complete application be
12 received by the board at least fifteen business days before the next
13 regularly scheduled board meeting in order for the application to be
14 considered at that meeting. An incomplete application may be
15 considered at that meeting if both the staff of the board and the
16 superintendent of the school district deem the project critical.

17 (i) Allow the staff of the board or the division, as
18 applicable, to notify a school district in writing before review by
19 the board or division that the proposed project does not meet
20 eligibility criteria prescribed in this chapter. The written
21 notification shall include documentation to support the
22 determination that the proposed project does not meet the
23 eligibility criteria prescribed in this chapter. The school
24 district may directly appeal the determination of ineligibility to
25 the director of the division. The school district may directly
26 appeal the director's determination of ineligibility to the board.

27 (j) Prohibit the staff of the board or division from
28 requesting that a school district withdraw a project application
29 from review by the board or division if the initial review
30 determines that the proposed project may be ineligible for monies
31 pursuant to this chapter.

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

37 (a) A detailed description of the amount of monies
38 distributed by the division under this chapter in the previous
39 fiscal year.

40 (b) A list of each capital project that received monies from
41 the division under this chapter during the previous fiscal year, a
42 brief description of each project that was funded and a summary of
43 the division's reasons for distributing monies for the project.

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

47 (d) A summary of the findings of common design elements and
48 characteristics of the highest performing schools and the lowest

1 performing schools based on academic productivity, including the
2 results of the parent quality rating survey. For the purposes of
3 this subdivision, "academic productivity" means academic year
4 advancement per calendar year as measured with student-level data
5 using the statewide nationally standardized norm-referenced
6 achievement test.

7 7. On or before December 1 of each year, report
8 electronically to the joint committee on capital review the amounts
9 necessary to fulfill the requirements of section 41-5721 for the
10 following three fiscal years. In developing the amounts necessary
11 for this report, the division shall use the most recent average
12 daily membership data available. On request from the division, the
13 department of education shall make available the most recent average
14 daily membership data for use in calculating the amounts necessary
15 to fulfill the requirements of section 41-5721 for the following
16 three fiscal years. The division shall provide copies of the report
17 to the president of the senate, the speaker of the house of
18 representatives and the governor.

19 8. On or before June 15 of each year, electronically submit
20 detailed information regarding demographic assumptions and a
21 proposed construction schedule for individual projects approved in
22 the current fiscal year and expected project approvals for the
23 upcoming fiscal year to the joint committee on capital review for
24 its review. A copy of the report shall also be submitted
25 electronically to the governor's office of strategic planning and
26 budgeting. The joint legislative budget committee staff, the
27 governor's office of strategic planning and budgeting staff and the
28 division staff shall agree on the format of the report.

29 9. Every two years, provide school districts with information
30 on improving and maintaining the indoor environmental quality in
31 school buildings.

32 10. Adopt rules regarding the validation of adjacent ways
33 projects pursuant to paragraph 11 of this subsection.

34 11. Validate proposed adjacent ways projects that are
35 submitted by school districts as prescribed in section 15-995
36 pursuant to rules adopted by the division under paragraph 10 of this
37 subsection.

38 12. Submit a monthly report to the school facilities
39 oversight board that details each adjacent ways project validated
40 pursuant to paragraph 11 of this subsection.

41 13. Brief the joint committee on capital review at least once
42 each year regarding the use of monies from all of the following:

43 (a) The emergency deficiencies correction fund established by
44 section 41-5721.

45 (b) The building renewal grant fund established by section
46 41-5731.

47 (c) The new school facilities fund established by section
48 41-5741.

1 B. The school facilities oversight board or the division may
2 contract for the following services in compliance with the
3 procurement practices prescribed in chapter 23 of this title:
4 1. Private services.
5 2. Construction project management services.
6 3. Assessments for school buildings to determine if the
7 buildings have outlived their useful life pursuant to section
8 41-5741, subsection G or have been condemned.
9 4. Services related to land acquisition and development of a
10 school site.
11 C. The school facilities oversight board shall:
12 1. Review and approve student population projections
13 submitted by school districts to determine to what extent school
14 districts are entitled to monies to construct new facilities
15 pursuant to section 41-5741. The board shall make a final
16 determination within five months after receiving an application from
17 a school district for monies from the new school facilities fund.
18 2. Certify that plans for new school facilities meet the
19 building adequacy standards prescribed in section 41-5711.
20 3. Review and approve or reject requests submitted by school
21 districts to take actions pursuant to section 15-341, subsection G.
22 4. On or before December 15 of each year, electronically
23 submit a report to the speaker of the house of representatives, the
24 president of the senate, the superintendent of public instruction,
25 the secretary of state and the governor that includes the following
26 information:
27 (a) A detailed description of the amount of monies the board
28 distributed under this chapter in the previous fiscal year.
29 (b) A list of each capital project that received monies from
30 the board under this chapter during the previous fiscal year, a
31 brief description of each project that was funded and a summary of
32 the board's reasons for distributing monies for the project.
33 (c) A summary of the findings and conclusions of the building
34 maintenance inspections conducted pursuant to this article during
35 the previous fiscal year.
36 5. On or before December 1 of each year, electronically
37 report to the joint committee on capital review the amounts
38 necessary to fulfill the requirements of section 41-5741 for the
39 following three fiscal years. In developing the amounts necessary
40 for this report, the board shall use the most recent average daily
41 membership data available. On request from the board, the
42 department of education shall make available the most recent average
43 daily membership data for use in calculating the amounts necessary
44 to fulfill the requirements of section 41-5741 for the following
45 three fiscal years. The board shall provide copies of the report to
46 the president of the senate, the speaker of the house of
47 representatives and the governor.

1 6. Adopt minimum school facility adequacy guidelines to
2 provide the minimum quality and quantity of school buildings and the
3 facilities and equipment necessary and appropriate to enable pupils
4 to achieve the educational goals of the Arizona state schools for
5 the deaf and the blind. The board shall establish minimum school
6 facility adequacy guidelines applicable to the Arizona state schools
7 for the deaf and the blind.

8 7. On or before June 15 of each year, electronically submit
9 to the joint committee on capital review for its review detailed
10 information regarding demographic assumptions, a proposed
11 construction schedule and new school construction cost estimates for
12 individual projects approved in the current fiscal year and expected
13 project approvals for the upcoming fiscal year. A copy of the
14 report shall also be submitted electronically to the governor's
15 office of strategic planning and budgeting. The joint legislative
16 budget committee staff, the governor's office of strategic planning
17 and budgeting staff and the board staff shall agree on the format of
18 the report.

19 8. On or before December 31 of each year, report to the joint
20 legislative budget committee on all class B bond approvals by school
21 districts in that year. Each school district shall report to the
22 board on or before December 1 of each year information required by
23 the board for the report prescribed in this paragraph.

24 9. Determine whether any interest disclosed pursuant to
25 subsection D, paragraph 13 of this section is a substantial interest
26 as defined in section 38-502 and maintain a record of all
27 substantial interests that are identified pursuant to this
28 paragraph.

29 D. The director of the division shall serve as the director
30 of the school facilities oversight board. The director may hire and
31 fire necessary staff subject to chapter 4, article 4 of this title
32 and as approved by the legislature in the budget. The staff of the
33 school facilities oversight board is exempt from chapter 4, articles
34 5 and 6 of this title. The director:

35 1. Shall analyze applications for monies submitted to the
36 board and to the division by school districts.

37 2. Shall assist the board and the division in developing
38 forms and procedures for distributing and reviewing applications and
39 distributing monies to school districts.

40 3. May review or audit, or both, the expenditure of monies by
41 a school district for deficiencies corrections and new school
42 facilities.

43 4. Shall assist the board and the division in preparing the
44 board's and division's annual reports.

45 5. Shall research and provide reports on issues of general
46 interest to the board and the division.

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

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

6 8. Shall assist the board and the division in any other
7 appropriate matter or method as directed by the division and the
8 members of the board.

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

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

24 11. Shall determine administrative completeness within one
25 month after receiving an application from a school district for
26 monies from the new school facilities fund.

27 12. Shall provide technical support to school districts as
28 requested by school districts in connection with constructing new
29 school facilities and maintaining existing school facilities and may
30 contract directly with construction project managers pursuant to
31 subsection B of this section. This paragraph does not restrict a
32 school district from contracting with a construction project manager
33 using district or state resources.

34 13. Shall require each employee of the school facilities
35 oversight board to disclose in writing to the board at least once
36 per year any interest that the employee has in any contract, sale,
37 purchase, service or other transaction of the board or division or
38 of a school district.

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

43 F. The school facilities oversight board shall contract with
44 one or more private building inspectors to complete an initial
45 assessment of school facilities and equipment and shall inspect each
46 school building in this state at least once every five years to
47 ensure compliance with section 41-5711. A copy of the inspection
48 report, together with any recommendations for building maintenance,

1 shall be provided to the school facilities oversight board and the
2 governing board of the school district.

3 G. The division or the board, as applicable, may consider
4 appropriate combinations of facilities or uses in assessing and
5 curing deficiencies pursuant to subsection A, paragraph 1 of this
6 section and in certifying plans for new school facilities pursuant
7 to subsection C, paragraph 2 of this section.

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

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

15 J. The division may contract for construction services and
16 materials that are necessary to correct existing deficiencies in
17 school district facilities. The division may procure the
18 construction services necessary pursuant to this subsection by any
19 method, including construction-manager-at-risk, design-build,
20 design-bid-build or job-order-contracting as provided by chapter 23
21 of this title, EXCEPT THAT THE MAXIMUM DOLLAR AMOUNT OF AN
22 INDIVIDUAL JOB ORDER FOR JOB-ORDER-CONTRACTING FOR CONSTRUCTION
23 SERVICES IS \$1,000,000 FOR ANY PROJECT THAT IS FUNDED BY MONIES FROM
24 THE BUILDING RENEWAL GRANT FUND ESTABLISHED BY SECTION 41-5731. The
25 construction planning and services performed pursuant to this
26 subsection are exempt from section 41-791.01.

27 K. The division may enter into agreements with school
28 districts to allow division staff and contractors access to school
29 property for the purposes of performing the construction services
30 necessary pursuant to subsection J of this section.

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

43 M. The division may temporarily transfer monies, or, if
44 applicable, the board may direct the division to transfer monies,
45 between the emergency deficiencies correction fund established by
46 section 41-5721 and the new school facilities fund established by
47 section 41-5741 if all of the following conditions are met:

1 1. The transfer is necessary to avoid a temporary shortfall
2 in the fund into which the monies are transferred.
3 2. The transferred monies are restored to the fund where the
4 monies originated as soon as practicable after the temporary
5 shortfall in the other fund has been addressed.
6 3. The board and the division report to the joint committee
7 on capital review the amount of and the reason for any monies
8 transferred.
9 N. After notifying each school district, and if a written
10 objection from the school district is not received by the board or
11 the division within thirty days after the notification, the board or
12 the division may access public utility company records of power,
13 water, natural gas, telephone and broadband usage to assemble
14 consistent and accurate data on utility consumption at school
15 facilities to determine the effectiveness of facility design,
16 operation and maintenance measures intended to reduce energy and
17 water consumption and costs. Any public utility that provides
18 service to a school district in this state shall provide the data
19 requested by the board or the division pursuant to this subsection.
20 O. The division or the board shall not require a common
21 school district that provides instruction to pupils in grade nine to
22 obtain approval from the division or the board to reconfigure its
23 school facilities. A common school district that provides
24 instruction to pupils in grade nine is not entitled to additional
25 monies from the division or the board for facilities to educate
26 pupils in grade nine.
27 P. A school district may appeal the denial of a request for
28 monies pursuant to this chapter or any other appealable agency
29 action by the division or the board pursuant to chapter 6, article
30 10 of this title. For the purposes of this subsection, "appealable
31 agency action" has the same meaning prescribed in section 41-1092."
32 Amend title to conform
 And, as so amended, it do pass

MATT GRESS
CHAIRMAN

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