AN ACT

D.C. ACT 21-582

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 21, 2016

To amend the School Based Budgeting and Accountability Act of 1998 to require a 10-year Master Facilities Plan that considers the facility planning needs of each local education agency in the District of Columbia, and to amend the requirements for the formulation of the 6-year District of Columbia Public Schools capital improvement plan.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Planning Actively for Comprehensive Education Facilities Amendment Act of 2016”.

Sec. 2. The School Based Budgeting and Accountability Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code § 38-2801 et seq.), is amended as follows:

(a) Section 1102a (D.C. Official Code § 38-2801.01) is amended as follows:

(1) Redesignate paragraph (1) as paragraph (1A).

(2) A new paragraph (1) is added to read as follows:

“(1) “At-risk” shall have the same meaning as provided in section 102(2A) of the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, effective March 26, 1999 (D.C. Law 12-207; D.C. Official Code § 38-2901(2A)).”.

(3) A new paragraph (1B) is added to read as follows:

“(1B) “Educational specification” means a description, complete to the degree that an architect may use it as the basic document from which to create a school facility design, of the educational program that a proposed school facility and grounds are intended to support and the types of spaces needed to accommodate those educational program requirements.”.

(4) New paragraphs (2A), (2B), (2C), (2D), (2E), and (2F) are added to read as follows:

“(2A) “Feeder pattern” means the collection of DCPS elementary, middle, and high schools to or from which a student enrolled in a DCPS school may matriculate, by right, due to the student’s geographic attendance zone.

“(2B) “Full-funded cost estimate” means all projected costs over a capital project’s entire active period, not limited to 6 fiscal years, including costs for necessary swing space and soft costs such as architectural design, engineering, project management, project contingency, moving expenses, and other pre- and post-construction expenses.
“(2C) “Local education agency” or “LEA” means the District of Columbia Public Schools system or any individual or group of public charter schools operating under a single charter.

“(2D) “Major construction” means a capital improvement to a school facility that is not limited in scope to the ordinary repair or replacement of an element of a school facility’s central mechanical and electrical systems, water systems, building structure, physical plant support spaces, hard and soft landscaping, or building envelope, including walls, floors, roof, windows, and doors.

“(2E) “Neighborhood cluster” means an apolitical geographic boundary made up of 3 to 5 neighborhoods defined by the Office of Planning for use in budgeting, planning, service delivery, and analysis purposes by the District government.

“(2F) “Rough order of magnitude estimate” means an estimate of a specific project’s level of effort and cost to complete based on preliminary observations, quantities, and a reasonably foreseeable scope of work. These estimates are subject to change as specific project scope is established based on educational specifications.”.

(b) Section 1104 (D.C. Official Code § 38-2803) is amended as follows:

(1) Subsection (a) is amended as follows:
(A) Paragraph (1) is amended to read as follows:
“(1) Beginning on December 15, 2017, and every 10 years thereafter, the Mayor shall prepare and submit to the Council for its review and approval a comprehensive 10-year Master Facilities Plan for public education facilities, along with a proposed resolution, in accordance with this section. The Council shall vote on the 10-year Master Facilities Plan concurrently with its vote on the Mayor’s capital budget proposal. If approved by the Council, the 10-year Master Facilities Plan shall take effect on the first day of the succeeding fiscal year.”.

(B) Paragraph (2) is amended by striking the phrase “5-year Master Facilities Plan” and inserting the phrase “10-year Master Facilities Plan” in its place.

(C) Paragraph (3) is amended by striking the phrase “5-year Master Facilities Plan” and inserting the phrase “10-year Master Facilities Plan” in its place.

(2) Subsection (b) is amended as follows:
(A) Paragraph (2) is amended as follows:
(i) Subparagraph (A) is amended by striking the semicolon at the end and inserting the phrase “(“DCPS”) and each public charter school campus;” in its place.
(ii) Subparagraph (B) is amended as follows:
(I) The lead-in language is amended by striking the phrase “5-year facility needs” and inserting the phrase “10-year facility needs” in its place.

(II) Sub-subparagraph (ii) is amended by striking the word “and”.

(III) Sub-subparagraph (iii) is amended by striking the semicolon at the end and inserting the phrase “; and” in its place.

(IV) A new sub-subparagraph (iv) is added to read as follows:
“(iv) DCPS school attendance zone boundaries;”.

(iii) Subparagraph (C) is amended by striking the semicolon at the end and inserting the phrase “for each DCPS school and public charter school;” in its place.

(iv) Subparagraph (H) is amended to read as follows:

“(H) A communications and community involvement plan for each neighborhood cluster that includes engagement of students, school-based personnel, parents, and key stakeholders throughout the community, including:

“(i) Advisory Neighborhood Commissions;
“(ii) Local school advisory teams;
“(iii) School improvement teams; and
“(iv) Ward-based and city-wide volunteer civic groups;”.

(v) Subparagraph (I) is amended by striking the phrase “housing, health, and welfare sectors,” and inserting the phrase “the District’s housing sector” in its place.

(B) Paragraph (3) is amended as follows:

(i) Subparagraph (A) is amended as follows:

(I) Sub-subparagraph (i) is amended by striking the phrase “it considers”.

(II) Sub-subparagraph (iii) is amended to read as follows:

“(iii) Its 10-year enrollment projections for each school under its jurisdiction; and”.

(III) Sub-subparagraph (iv) is amended by striking the phrase “5-year” and inserting the phrase “10-year” in its place.

(ii) Subparagraph (B(i)) is amended as follows:

(I) Strike the phrase “5-year” and insert the phrase “10-year” in its place.

(II) Strike the phrase “facilities-related needs” and insert the phrase “each public charter LEA’s 10-year projection of facility needs” in its place.

(iii) Subparagraph (D) is repealed.

(iv) Subparagraph (E) is amended to read as follows:

“(E) The Department of General Services, which shall:
“(i) Implement the Master Facilities Plan consistent with the policy priorities set forth in this act; and
“(ii) In collaboration with the Deputy Mayor for Education, DCPS, and the Public Charter School Board, conduct an annual survey to update information on the condition of each DCPS and public charter school facility, including whether each facility has a working carbon monoxide detector, the results of the most recent water tests at each facility for sources of lead, and potential asbestos hazards at each facility. The survey results shall be disaggregated by facility, made publicly available, and transmitted to OPEFP.”.

(C) A new paragraph (5) is added to read as follows:

“(5) The Mayor may levy a fine against the Public Charter School Board for the failure of a public charter LEA to cooperate in providing the data required pursuant to paragraph
(3)(E)(ii) of this subsection for the development of the Master Facilities Plan and annual supplement. The cumulative value of such fines shall not annually exceed $10,000.”.

(3) Subsection (c) is amended as follows:

(A) Paragraph (2) is repealed.
(B) Paragraph (4) is amended by striking the word “and” at the end.
(C) Paragraph (6) is amended by striking the period at the end and inserting a semicolon in its place.
(D) New paragraphs (7), (8), and (9) are added to read as follows:

“(7) The Office of Planning;
“(8) The Department of General Services; and
“(9) The District of Columbia Public Schools.”.

(4) A new subsection (c-1) is added to read as follows:

“(c-1) The Master Facilities Plan shall not affect the duties, powers, or control afforded to public charter schools under section 2204 of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1802.04), to the extent the Master Facilities Plan is inconsistent with that law.”.

(5) Subsection (d) is amended as follows:

(A) Paragraph (1) is amended by striking the phrase “Beginning in fiscal year 2010” and inserting the phrase “Beginning in Fiscal Year 2017” in its place.
(B) Paragraphs (2) and (3) are amended to read as follows:

“(2) The School Facility CIP shall include:
“(A) A description of guiding principles to frame decisions within the School Facility CIP; provided, that these guiding principles shall be revisited with each new School Facility CIP to ensure that they are consistent with the DCPS strategic plan, the Master Facilities Plan, and the needs of the community;
“(B) A description of the process and timeline used to develop the School Facility CIP, including community engagement;
“(C) A longitudinal and future analysis of DCPS student enrollment and school facility capacity needs;
“(D) School-specific project recommendations on the timing and funding for modernization of existing school facilities, new school facility construction, and other school facility capital improvements planned for the next fiscal year and the succeeding 5 fiscal years; and
“(E) For each project identified pursuant to subparagraph (D) of this paragraph:
“(i) A description of the scope of work to be done, schedule of achieved and projected major milestones, and an explanation for any delay in meeting projected milestones;
“(ii) A justification for the modernization, new construction, or other capital improvements supported by the educational specification, student enrollment
projections, school facility condition assessment, and assessment of need for use as an educational facility;

“(iii) A full-funded cost estimate of improvements, except that for projects slated for modernization, new construction, or other capital improvements in years 4 through 6 of the School Facility CIP, the School Facility CIP may include rough order of magnitude estimates of improvements based on the required general design and feasibility analysis completed pursuant to paragraph (4)(C) of this subsection;

“(iv) A cost estimate of improvements planned for the next fiscal year and the succeeding 5 fiscal years and a detailed explanation for any proposed increases over 10% from the prior-year School Facility CIP estimate;

“(v) The estimated cost of annual maintenance and operations of the improved school facility;

“(vi) The lifetime expenditure for the school facility; and

“(vii) The name, address, and ward of each school facility.

“(3)(A) Major construction and capital improvements for existing school facilities shall be prioritized for inclusion in the School Facility CIP based on certain objective criteria contained in this paragraph.

“(B)(i) By September 30, 2017, and every 5 years thereafter, DCPS shall calculate a final prioritization score for each school facility in its portfolio by assigning each facility a score from one to 10 based on the normal distribution of the raw data obtained for every school facility in each of the following subcategories, multiplying that score by the subcategory weight as follows, and summing the weighted subcategory scores for each school facility:

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<tr>
<th>Category</th>
<th>Category Total</th>
<th>Subcategory</th>
<th>Subcategory Weight</th>
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<tbody>
<tr>
<td>Facility Condition</td>
<td>0.55</td>
<td>Date and type of last major construction through the preceding fiscal year</td>
<td>0.20</td>
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<td>Expenditures for major construction projects for the preceding 10 fiscal years per square feet of the school facility</td>
<td>0.15</td>
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<td>School facility condition score based on the most recent assessment completed by the Department of General Services</td>
<td>0.20</td>
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<td>Demand</td>
<td>0.20</td>
<td>Average percentage of the school’s enrollment growth over the past 5 school years based on audited enrollment</td>
<td>0.10</td>
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<td><strong>Average percent of school facility’s building utilization over the past 5 school years</strong></td>
<td>0.10</td>
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<td><strong>Community Need</strong></td>
<td>0.10</td>
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<td>Number of in-boundary children who would be served by the school facility’s educational program divided by the school facility’s capacity</td>
<td>0.05</td>
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<td>Projected percent change in the number of children who would be served by the school facility’s educational program in the neighborhood cluster over a prospective 6-year time period</td>
<td>0.05</td>
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<td><strong>Equity</strong></td>
<td>0.15</td>
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<td>Total number of square feet in the school’s feeder pattern that have had a major construction in the preceding 10 fiscal years divided by total square footage of the feeder pattern</td>
<td>0.05</td>
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<td>Number of at-risk students enrolled in the school based on the current school year enrollment projection</td>
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"(ii) For a school that is considered citywide for the purposes of the enrollment lottery, the entire District shall be considered the school’s boundary and neighborhood cluster.

"(iii) For a high school that is considered citywide for the purposes of the enrollment lottery, the feeder pattern shall be all other citywide high schools.

"(C) By September 30, 2017, and every 5 years thereafter, DCPS shall transmit to the Council all of the prioritization scores and raw data, and shall make the information publicly available online.

"(D) In addition to the prioritization score based on criteria outlined in subparagraph (B) of this paragraph, DCPS shall consider the following factors when determining the prioritization and inclusion of projects in the School Facility CIP:

"(i) Availability of capital funding in the budget;

"(ii) Availability of appropriate swing space;

"(iii) Immediate life and safety concerns;

"(iv) Need for additional planning for a project;

"(v) New education program space requirements; and

"(vi) Scope and sequence of projects due to planned grade configuration changes, boundary changes, school facility consolidations, or school facility closures."
"(E) Within 180 days of the release of the prioritization data pursuant to subparagraph (C) of this paragraph, DCPS shall conduct at least 3 public meetings to discuss school facility modernizations. DCPS shall conduct explicit outreach with the parent and school community for each school facility project likely to be added, removed, or extensively modified in the next fiscal year’s 6-year School Facility CIP.

(C) A new paragraph (4) is added to read as follows:

“(4) Before adding a school or other education facility project to a School Facility CIP, the project shall have the following completed:

“(A) An educational specification approved by DCPS;

“(B) A rough order of magnitude estimate, except that for projects slated for modernization, new construction, or other capital improvements in years one through 3 of the School Facility CIP, the project shall have a full-funded cost estimate of improvements; and

“(C) A general design and feasibility analysis that is developed with parent, school, and community engagement and is made publicly available, which includes the following:

“(i) An analysis of educational programming needs as they relate to the current or projected school facility;

“(ii) An evaluation of whether the existing building and site conditions can accommodate the educational specification and programming needs; and

“(iii) An evaluation of whether swing space on-site or off-site will be needed.”.

Sec. 3. Applicability.
(a) Section 2(b)(1)-(4) shall take effect subject to the inclusion of its fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of this act.

Sec. 4. Fiscal impact statement.

Sec. 5. Effective date.
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as
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provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 21, 2016
**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**WASHINGTON, D.C. 20004**

**ADMITTED FIRST READING, 11/01/2016**

**APPROVED**

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AB – Absent  
NV – Present, Not Voting

**CERTIFICATION RECORD**

Secretary to the Council

**ADMITTED FINAL READING, 11/15/2016**

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Secretary to the Council