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THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 435 Session of 2011

INTRODUCED BY LEACH, FONTANA, ERICKSON, BOSCOLA, TARTAGLIONE, EARLL AND FERLO, FEBRUARY 7, 2011

REFERRED TO EDUCATION, FEBRUARY 7, 2011

AN ACT

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," further providing for referendum or public hearing required prior to construction or lease and for approved reimbursable rental for certain leases and approved reimbursable sinking fund charges on indebtedness.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 701.1 of the act of March 10, 1949 (P.L. 30, No.14), known as the Public School Code of 1949, amended July 4, 2004 (P.L.536, No.70), is amended to read:

Section 701.1. Referendum or Public Hearing Required Prior to Construction or Lease.--Except where the approval of the electors is obtained to incur indebtedness to finance the construction of a school project, the board of school directors of any school district of the second, third or fourth classes, shall not construct, enter into a contract to construct or enter into a contract to lease a new school building or substantial addition to an existing school building without the consent of

the electors obtained by referendum or without holding a public hearing as hereinafter provided. In the event that a new school building or a substantial addition to an existing building is to be constructed or leased, the school board shall, by a majority vote of all its members, authorize a maximum project cost and a maximum building construction cost to be financed by the district or amortized by lease rentals to be paid by the district. Building construction cost shall consist of the cost of all building construction including general construction costs, plumbing, heating, electrical, ventilating and other structural costs, equipment and fixtures and architectural and engineering fees relating thereto, but not including costs for site acquisition and development, rough grading to receive the building, sewage treatment facilities or equivalent capital contributions, and architectural and engineering fees relating thereto. Building construction cost shall not include any additional LEED costs. In all cases, a public hearing shall be held not later than thirty (30) days before the school district submits the initial building construction cost and LEED cost estimates to the Department of Education for approval. Notice of the hearing shall be given not later than twenty (20) days before the date of the scheduled hearing. In the event that the maximum building construction cost authorization exceeds the aggregate building expenditure standard hereinafter specified, the aforesaid authorization of the school board shall be submitted to the electors of the school district for their approval within six (6) months prior to submission of the final building construction cost bids to the Department of Education for approval. Such referendum shall be held in the same manner as provided by law for the approval of the incurring of

indebtedness by referendum. The question as submitted shall specify the maximum project cost, the maximum building construction cost and the annual sinking fund charge or lease rental to be incurred by the school district and the portion of such charge or rental expected to be reimbursed by the Commonwealth. If the final building construction cost bids to be submitted to the Department of Education for approval are less than the aggregate building expenditure standard hereafter specified but exceed by eight (8) per cent or more the initial building construction cost estimates submitted to the Department for approval, a second public hearing shall be held before the Department shall give its final approval.

The applicable aggregate building expenditure standard shall be a total amount calculated for each building or substantial addition by multiplying the rated pupil capacity under the approved room schedule by the following: two thousand eight hundred dollars ($2,800) for each pupil of rated elementary capacity; four thousand two hundred dollars ($4,200) for each pupil of rated secondary capacity in grades seven, eight and nine and five thousand two hundred dollars ($5,200) for each pupil of rated secondary capacity in grades ten, eleven and twelve and five thousand two hundred dollars ($5,200) for each pupil of rated vocational-technical capacity in grades ten, eleven and twelve to not include the cost of equipment and fixtures in such vocational-technical schools: Provided, however, That each of the preceding per pupil amounts shall be adjusted by the Department of Education on July 1, 1974; and annually thereafter through July 1, 2003, by multiplying said amounts by the ratio of the composite construction cost index compiled and published by the United States Department of

Commerce for the preceding calendar year to such index for the next preceding calendar year; and Further Provided, however, That each of the preceding per pupil amounts shall be adjusted by the Department of Education on July 1, 2004; and annually thereafter by multiplying said amounts by the ratio of the Building Cost Index published by the McGraw-Hill Companies for the preceding calendar year to such index for the next preceding calendar year. Rated elementary pupil capacity or rated secondary pupil capacity for any school building shall be the rated pupil capacity determined on the basis of the method used by the Department for school building reimbursement purposes during the school year 1971-1972.

For purposes of this section:

(1) "Site acquisition" includes the cost of land and mineral rights, demolition and clearing, rights-of-way and related utility relocations, surveys and soils analysis, and the cost of all fees relating thereto.

(2) "Site development" includes excavation, grouting or shoring, special foundations for buildings, access roads to site, utilities on site, extension of utilities to site.

(3) "Equipment and fixtures" means property fixed or movable which is incidental and necessary to conduct the educational program, and includes, but is not limited to movable equipment such as desks, chairs, tables, portable physical education equipment, audio-visual equipment and science, homemaking, industrial art and business equipment and instructional materials and fixtures such as casework, laboratory equipment, kitchen equipment, auditorium seating and any other special fixtures or equipment required to conduct a particular educational program.

(4) "Substantial addition" means more than twenty (20) per centum of the area and replacement value of the structure to which the improvement is to be added.

(5) "LEED" means the Leadership in Energy and Environmental Design, a program designed by the United States Green Building Council and committed to designing buildings in an energy-efficient and environmentally conservative manner.

(6) "LEED for schools rating system" means the most current version of the Leadership in Energy and Environmental Design (LEED) program designed by the United States Green Building Council (USGBC) to measure the energy and environmental performance of K-12 schools.

(7) "LEED cost" means the design, construction and registration costs directly attributable to achieving points under the Leadership in Energy and Environmental Design (LEED) for schools rating system, including, but not limited to, energy performance benchmarking, life-cycle cost assessments, low-impact development stormwater management technologies, energy and lighting modeling, alternative energy technology, building commissioning, and registration with the United States Green Building Council (USGBC).

Section 2. Section 2574(a) of the act, amended September 29, 1959 (P.L.992, No.407), is amended to read:

Section 2574. Approved Reimbursable Rental for Leases Hereafter Approved and Approved Reimbursable Sinking Fund Charges on Indebtedness.--(a) For school building projects for which the general construction contract is awarded subsequent to March 22, 1956, and for approved school building projects for which the general construction contract was awarded but for which a lease was not approved by the Department of [Public

Instruction] Education prior to March 22, 1956, the Department of [Public Instruction] Education shall calculate an approved reimbursable rental or approved reimbursable sinking fund charges. Reimbursable sinking fund charges may include charges for temporary indebtedness within constitutional limitations, if the indebtedness is incurred for approved [permanent] improvements to the school plant including the cost of acquiring a suitable site for a school building, the cost of constructing a new school building, or the cost of providing needed additions or alterations to existing buildings for which no bond issue is provided and for which an approved obligation or obligations other than bonds have been issued and the obligation or obligations are payable within five (5) years from the date of issue of the obligation in equal annual installments. As used in this section, "building" shall include a permanent structure that contains or is attached to relocatable or modular classrooms. The term "relocatable or modular classroom" shall mean a classroom not of a permanent nature which meets the criteria and specifications of the Department of Education.

Approved reimbursable rental or sinking fund charge shall consist of that part of the annual rental or sinking fund charge attributable to--

(1) The cost of acquiring the land upon which the school buildings are situate, the cost of necessary rough grading to permit proper placement of the building upon said land and the cost of sewage treatment plants, as required by the Department of Health, to the extent that such costs are deemed reasonable by the Department of [Public Instruction] Education and the interest on such costs of acquisition, grading and sewage treatment plants earned subsequent to date the construction

contract is awarded, and

(2) The approved building construction cost and the interest on such construction cost.

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Section 3. This act shall take effect in 60 days.