

AMENDMENTS TO HOUSE BILL NO. 2124

Sponsor: REPRESENTATIVE CARROLL

Printer's No. 3481

1 Amend Bill, page 1, lines 1 through 25; page 2, lines 1
2 through 14, by striking out all of said lines on said pages and
3 inserting
4 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
5 act relating to the public school system, including certain
6 provisions applicable as well to private and parochial
7 schools; amending, revising, consolidating and changing the
8 laws relating thereto," in grounds and buildings, further
9 providing for approval by Department of Education of plans,
10 etc. of buildings and exceptions; providing for
11 accountability and reducing costs in construction process;
12 further providing for limitation on new applications for
13 Department of Education approval of school building projects;
14 providing for interest on delayed reimbursement; and, in
15 reimbursements by Commonwealth and between school districts,
16 further providing for definitions, for approved reimbursable
17 rental for leases hereafter approved and approved
18 reimbursable sinking fund charges on indebtedness, for
19 payments on account of leases hereafter approved and on
20 account of sinking fund charges on indebtedness for school
21 buildings hereafter constructed and for payments on account
22 of building costs; and providing for lump sum reimbursement
23 for construction or reconstruction.
24 The General Assembly finds and declares that:
25 (1) Recognizing challenges have developed and escalated
26 over a period of years in the process of Commonwealth
27 reimbursement for public school construction and
28 reconstruction, which have caused delays in approvals by the
29 Department of Education for reimbursement payments owed to
30 school districts throughout this Commonwealth as well as the
31 limitation on school district submission of new applications
32 for Commonwealth reimbursement, and acknowledging that these
33 challenges were born of an antiquated, complex and overly
34 burdensome administrative process, as well as financially
35 unsustainable Commonwealth construction and reconstruction
36 reimbursement obligations, it is a matter of high priority
37 that these challenges be addressed.

1 (2) Therefore, it is the intent of the General Assembly
2 to reform the existing process of Commonwealth reimbursement
3 for public school construction and reconstruction to ensure
4 that a modern, simplified and financially sustainable process
5 is instituted.

6 Amend Bill, page 2, lines 17 through 30; pages 3 through 25,
7 lines 1 through 30; page 26, lines 1 through 22, by striking out
8 all of said lines on said pages and inserting

9 Section 1. Section 731 of the act of March 10, 1949 (P.L.30,
10 No.14), known as the Public School Code of 1949, amended June
11 27, 1973 (P.L.75, No.34), is amended to read:

12 Section 731. Approval by Department of Plans, etc., of
13 Buildings; Exceptions.--(a) The Department of Education, with
14 respect to construction or reconstruction of public school
15 buildings, shall have the power and its duties shall be:

16 (1) To review all projects, plans and specifications for
17 school building construction or reconstruction, and to make
18 recommendations thereon to the General Assembly and the
19 Governor: Provided, however, That approval of the Department of
20 Education shall not be required for projects, plans and
21 specifications for school construction projects for which
22 reimbursement from the Commonwealth is not requested;

23 (2) To assist school districts in preplanning construction
24 and reconstruction projects, and offer such architectural,
25 engineering and financial advice as will enable the project to
26 comply with the standards prescribed by the State Board of
27 Education;

28 (3) To hold hearings on any or all projects and subpoena
29 witnesses, administer oaths, take testimony and compel the
30 production of documents relevant to any investigation;

31 (4) To act as liaison between the public, local school
32 officials, the General Assembly, and the Governor on school
33 building construction and reconstruction projects;

34 (5) To receive and investigate complaints from the public or
35 other source concerning any school building construction or
36 reconstruction project;

37 (6) To conduct investigations on any phase of school
38 building construction or reconstruction projects.

39 (7) To provide for an electronic database on its publicly
40 accessible Internet website for the purpose of providing public
41 access to information on public school construction and
42 reconstruction projects, building purchases and charter school
43 lease reimbursements submitted for the approval of, or approved
44 by, the Department of Education. The electronic database shall
45 indicate the date each application for reimbursement was
46 submitted to the Department of Education and the date of
47 approval for each step of the reimbursement process as outlined
48 in section 731.2 of this act.

1 (b) The Department of Education shall employ engineers,
2 architects, financial advisors, and such other staff personnel
3 as may be necessary for the proper performance of the duties of
4 the Department with respect to construction or reconstruction of
5 public school buildings.

6 (c) No public school building shall be contracted for,
7 constructed, or reconstructed, in any school district of the
8 second, third, or fourth class until the plans and
9 specifications therefor have been approved by the Department of
10 Education[.

11 When ordinary repairs are proposed, such as plastering,
12 painting, replacement of floors, improvement of school grounds,
13 repairing or providing walks, roadways or retaining walls, the
14 cost of which in districts of the second class or in districts
15 of the third and fourth class will not exceed fifteen thousand
16 dollars (\$15,000) per building, no approval shall be required.
17 Where any structural change is involved, such as moving or
18 adding doors, windows, partitions, making additions or any
19 excavations, or any work which may affect the safety or health
20 of the pupils, or any work which comes under the jurisdiction of
21 another department of the Commonwealth, approval of the
22 Department of Education shall be required regardless of the cost
23 of such structural change.];

24 Provided, however, That approval of the Department of Education
25 shall not be required for projects, plans and specifications for
26 school construction projects for which reimbursement from the
27 Commonwealth is not requested.

28 (d) No school building shall be purchased by any school
29 district until such purchase shall have been approved by the
30 Department of Education. Such approval shall not be given unless
31 the school building to be purchased and any approved structural
32 changes or renovations meet the standards required to operate
33 public school buildings of a similar age currently in use in the
34 Commonwealth.

35 Section 2. The act is amended by adding a section to read:

36 Section 731.2. Accountability and Reducing Costs in
37 Construction Process.--(a) No later than July 1, 2015, the
38 department shall develop and implement a process, including
39 standardized forms and procedures, which shall be used by school
40 districts to apply for Commonwealth reimbursement for school
41 construction and reconstruction projects and which shall be
42 known as the Accountability and Reducing Costs in Construction
43 Process. In developing the Accountability and Reducing Costs in
44 Construction Process, the department shall separate the process
45 into five (5) benchmark steps of department approval which shall
46 be labeled one (1) through five (5) and shall minimally include
47 the following:

48 (1) Step 1 shall consist of the following:

49 (i) project description;

50 (ii) project justification; and

51 (iii) a technical schematic design review conference with

1 the department.

2 (2) Step 2 shall consist of the following:

3 (i) site acquisition, if applicable to the project;

4 (ii) project accounting based on cost estimates; and

5 (iii) a conference with the department to review completed

6 construction documents, including bid specifications, drawings

7 for the project and documentation regarding the fulfillment of

8 State and local agency requirements.

9 (3) Step 3 shall consist of the following:

10 (i) project accounting based on costs for actual

11 construction bids for which contracts shall be awarded; and

12 (ii) project financing, including financing method and the

13 calculation of the temporary reimbursable percent for the

14 project. In calculating the temporary reimbursable percent, the

15 department shall factor in a twenty (20) percentage point

16 reduction which shall be utilized until the calculation of the

17 permanent reimbursable percent is completed in Step 4.

18 Approval through Step 3 shall initiate project reimbursement

19 from the Commonwealth.

20 (4) Step 4 shall consist of the following:

21 (i) interim reporting of project modifications, including

22 the reporting of change orders and supplemental contracts; and

23 (ii) project accounting based on the final costs of a

24 project after completion of the following:

25 (A) construction of the project; and

26 (B) payment for all construction or reconstruction work,

27 unless the department has granted an exception.

28 The calculation of the permanent reimbursable percent for a

29 project shall take place during Step 4.

30 (5) Step 5 shall consist of project refinancing, where

31 applicable, to allow for the restructuring, refinancing or

32 refunding of existing indebtedness.

33 (b) (1) Except as provided for in paragraph (2), school

34 districts shall be reimbursed by the department in the order in

35 which their projects received approval for Commonwealth

36 reimbursement by the Department of Education.

37 (2) The Secretary of Education may prioritize the

38 reimbursement of a school construction or reconstruction project

39 of a school district declared to be in financial recovery status

40 under Article VI-A of this act. Projects that are given priority

41 under this paragraph shall be reimbursed before all other

42 projects.

43 (c) (1) School districts shall develop a complete

44 districtwide facility study of all district educational

45 facilities, including the district administrative offices. The

46 study shall be completed prior to, and within five (5) years of,

47 the initial date of submission to the department of an

48 application for Commonwealth reimbursement of a school

49 construction or reconstruction project.

50 (2) The study shall provide an appraisal as to each

51 facility's ability to meet current and planned education program

1 requirements, the degree to which the present facilities meet
2 reasonably current construction standards, and an estimated cost
3 of necessary repairs and improvements.

4 (3) The study shall be submitted to the department along
5 with an initial application for Commonwealth reimbursement of a
6 school construction or reconstruction project.

7 (4) The department shall not grant to school districts any
8 exceptions, waivers or variances to the provisions of this
9 subsection.

10 (d) (1) In order to receive Commonwealth reimbursement for
11 the construction of a new building, a school district shall,
12 within Step 1 of the Accountability and Reducing Costs in
13 Construction Process provided for in subsection (a), complete
14 and submit to the department a cost-benefit analysis of the
15 project that compares the construction of the proposed new
16 building to the expansion or renovation of an existing building
17 for the same purpose.

18 (2) If the cost of a new building exceeds that of the
19 expansion or renovation of an existing building for the same
20 purpose, the school district shall only be eligible for
21 Commonwealth reimbursement for the new building if substantial
22 evidence is presented which demonstrates the necessity of a new
23 building and how a new building would better meet the needs of
24 the school district and its students than a building expansion
25 or renovation.

26 (3) A determination by the department that insufficient
27 evidence was provided to demonstrate the necessity of a new
28 building rather than a building expansion or renovation shall be
29 appealable by a school district under 2 Pa.C.S. (relating to
30 administrative law and procedure).

31 (4) The department shall not grant to school districts any
32 exceptions, waivers or variances to the provisions of this
33 subsection.

34 (e) (1) School districts shall not be eligible for
35 Commonwealth reimbursement of school construction or
36 reconstruction project costs for any existing building which is
37 less than thirty (30) years old or for which a Commonwealth
38 reimbursable project has been approved by the department within
39 the preceding thirty (30) years. The thirty (30) year period
40 between eligible Commonwealth reimbursable projects for a school
41 building shall be calculated from the bid opening date of the
42 previous Commonwealth reimbursable project to the bid opening
43 date of the proposed Commonwealth reimbursable project.

44 (2) The department shall not grant to school districts any
45 exceptions, waivers or variances to the provisions of this
46 subsection except in the case of an emergency. For the purposes
47 of this paragraph, an emergency shall include a natural
48 disaster, fire or flood.

49 (f) (1) School districts shall not be eligible for
50 Commonwealth reimbursement of school construction or
51 reconstruction project costs for any existing building where the

1 cost of expansion or renovation of the building, excluding costs
2 for building purchase, movable fixtures and equipment, asbestos
3 abatement, roof replacement, site development and architect
4 fees, is less than forty (40) percent of the replacement value
5 of the entire building.

6 (2) The provisions of this subsection shall not apply to
7 area vocational-technical school construction or reconstruction
8 projects.

9 (3) The department shall not grant to school districts any
10 exceptions, waivers or variances to the provisions of this
11 subsection.

12 (g) The department shall, where possible and appropriate,
13 automate the Accountability and Reducing Costs in Construction
14 Process to allow school districts to submit plans and documents
15 relating to reimbursement for a school construction or
16 reconstruction project electronically.

17 (h) A school district shall not be required to submit any
18 school construction or reconstruction project plans, drawings,
19 bid specifications or other documents to the department on
20 microfilm as a condition of receiving Commonwealth reimbursement
21 for a construction or reconstruction project.

22 (i) A school district shall not be required to resubmit to
23 the department any completed plans, drawings, bid specifications
24 or other documents for a school construction or reconstruction
25 project for which the department received a completed
26 application by October 1, 2012, due to the implementation of
27 this section.

28 (j) Subsections (c), (d), (e) and (f) shall not apply to any
29 school construction or reconstruction project for which a
30 completed school construction or reconstruction project
31 application was submitted to the department by October 1, 2012.

32 (k) No later than twelve (12) months after the effective
33 date of this section, the department shall develop such rules
34 and guidelines as may be necessary to implement this section:
35 Provided, however, That the department shall not create steps of
36 approval in addition to those provided for under subsection (a)
37 and shall not require more than one school board resolution at
38 each step.

39 (l) For the purposes of this section, the term "department"
40 shall mean the Department of Education of the Commonwealth.

41 Section 3. Section 732.1(b) of the act, amended July 9, 2013
42 (P.L.408, No.59), is amended to read and the section is amended
43 by adding a subsection to read:

44 Section 732.1. Limitation on New Applications for Department
45 of Education Approval of Public School Building Projects.--* * *

46 (b) (1) The Department of Education shall, in consultation
47 with school district officials and the General Assembly, conduct
48 a review of the Department of Education's current process
49 through which public school building projects are reviewed and
50 approved for Commonwealth reimbursement. The review shall
51 incorporate an analysis of impacting local factors, including,

1 but not limited to, tax effort and building requirements, and
2 shall make recommendations to the chair and minority chair of
3 the Appropriations Committee of the Senate, the chair and
4 minority chair of the Education Committee of the Senate, the
5 chair and minority chair of the Appropriations Committee of the
6 House of Representatives and the chair and minority chair of the
7 Education Committee of the House of Representatives by May 1,
8 2013. The Department of Education shall also conduct a Statewide
9 analysis of school facilities and future capital needs and shall
10 submit a preliminary report on that analysis by May 1, 2014.

11 (2) The Statewide analysis shall be completed and submitted
12 to the chairman and minority chairman of the Appropriations
13 Committee of the Senate, the chairman and minority chairman of
14 the Education Committee of the Senate, the chairman and minority
15 chairman of the Appropriations Committee of the House of
16 Representatives and the chairman and minority chairman of the
17 Education Committee of the House of Representatives no later
18 than May 1, 2015.

19 (c) (1) Any school district that began a school
20 construction or reconstruction project during the time in which
21 the Department of Education was not accepting or approving new
22 school construction and reconstruction project applications for
23 reimbursement pursuant to subsection (a) shall remain eligible
24 and may apply for Commonwealth reimbursement for those school
25 construction or reconstruction projects following the expiration
26 of the limitation provided for under subsection (a).

27 (2) No later than twelve (12) months after the effective
28 date of this section the department shall develop such rules and
29 guidelines as may be necessary to implement this subsection.

30 Section 4. The act is amended by adding a section to read:

31 Section 732.2. Interest on Delayed Reimbursement.--(a) Each
32 school district which has satisfactorily met all construction or
33 reconstruction reimbursement requirements established by this
34 act, 22 Pa. Code (relating to education) and the Department of
35 Education, has submitted all appropriate documentation to the
36 Department of Education, necessary to receive approval for
37 reimbursement for a school construction or reconstruction
38 project and has not been approved for reimbursement after a
39 period of one (1) year following the last date of submission of
40 required documentation shall be eligible to receive interest on
41 the delayed reimbursement.

42 (b) The interest on delayed reimbursement shall be an amount
43 equal to the prime rate of interest, as listed in the first
44 edition of the Wall Street Journal published in the year,
45 multiplied by the total amount of construction or reconstruction
46 reimbursement for which the school district is eligible under
47 Article XXV of this act but has not received, calculated for
48 each year in which the school district does not receive
49 reimbursement.

50 (c) Interest payments on delayed reimbursement shall be
51 included in those payments made to a school district for

1 Commonwealth reimbursement of a construction or reconstruction
2 project when such payments commence.

3 Section 5. Section 2501 of the act is amended by adding a
4 definition to read:

5 Section 2501. Definitions.--For the purposes of this article
6 the following terms shall have the following meanings:

7 * * *

8 (31) "Department." The Department of Education of the
9 Commonwealth.

10 Section 6. Section 2574(b.1), (c.4) and (c.6) of the act,
11 amended or added July 13, 2005 (P.L.226, No.46) and July 11,
12 2006 (P.L.1092, No.114), are repealed:

13 Section 2574. Approved Reimbursable Rental for Leases
14 Hereafter Approved and Approved Reimbursable Sinking Fund
15 Charges on Indebtedness.--* * *

16 [(b.1) For school buildings constructed and based on an
17 approved school facility design received from the Department of
18 Education's school facility design clearinghouse, for which the
19 general construction contract is awarded subsequent to January
20 1, 2005, and for approved school building projects for which the
21 general construction contract was awarded but for which a lease
22 or general obligation bond resolution was not approved by the
23 Department of Education prior to January 1, 2005, the approved
24 building construction cost shall additionally include the
25 product of the rated pupil capacity as determined by the
26 Department of Education at the time the project is approved and
27 (i) four hundred seventy dollars (\$470) in the case of
28 elementary schools, (ii) six hundred twenty dollars (\$620) in
29 the case of secondary schools, (iii) an amount in the case of
30 combined elementary-secondary schools obtained by multiplying
31 the rated elementary pupil capacity by four hundred seventy
32 dollars (\$470) and the rated secondary pupil capacity by six
33 hundred twenty dollars (\$620) and dividing the sum by the total
34 rated pupil capacity.]

35 * * *

36 [(c.4) For school buildings for which the general
37 construction contract is awarded on or after January 1, 2005,
38 and for approved school building projects for which the general
39 construction contract was awarded but for which a lease or
40 general obligation bond resolution was not approved by the
41 Department of Education prior to January 1, 2005, and where the
42 school building receives a silver, gold or platinum
43 certification from the United States Green Building Council's
44 Leadership in Energy and Environmental Design Green Building
45 Rating System or two, three or four Globes under the Green
46 Building Initiative's Green Globes Green Building Rating System
47 on or after January 1, 2005, the Department of Education shall
48 adjust the approved building construction cost to additionally
49 include the product of the rated pupil capacity as determined by
50 the Department of Education at the time the project is approved
51 and (i) four hundred seventy dollars (\$470) in the case of

1 elementary schools, (ii) six hundred twenty dollars (\$620) in
2 the case of secondary schools, (iii) an amount in the case of
3 combined elementary-secondary schools obtained by multiplying
4 the rated elementary pupil capacity by four hundred seventy
5 dollars (\$470) and the rated secondary pupil capacity by six
6 hundred twenty dollars (\$620) and dividing the sum by the total
7 rated pupil capacity. The Department of Education in
8 consultation with the Governor's Green Government Council shall
9 issue guidelines to carry out this section.]

10 * * *

11 [(c.6) If a school district receives reimbursement for a
12 school construction project under this section, the school
13 district, upon request by the Department of Education, shall do
14 all of the following:

15 (i) Provide information required by the department to
16 determine whether the school construction project meets criteria
17 established by the department for certification as an approved
18 school facility design for purposes of the department's school
19 facility design clearinghouse.

20 (ii) Authorize the department, in its discretion, to certify
21 the school construction project as an approved school facility
22 design and to include information about the certified project in
23 the department's school facility design clearinghouse.]

24 * * *

25 Section 7. Section 2575(a) of the act, amended July 12, 1968
26 (P.L.192, No.96), is amended to read:

27 Section 2575. Payments on Account of Leases Hereafter
28 Approved and on Account of Sinking Fund Charges on Indebtedness
29 for School Buildings Hereafter Constructed.--(a) The
30 Commonwealth shall pay annually to each school district erecting
31 or sharing in the erection of a building or buildings under the
32 provisions of the Public School Building Authority Act, the
33 Municipality Authority Act, section 758 of the Public School
34 Code of 1949, or section 791 of the Public School Code of 1949,
35 on account of buildings for which the lease is approved on or
36 after March 22, 1956, or through the incurring of indebtedness
37 by the issuance of general obligation bonds on account of
38 buildings for which the general construction contract is awarded
39 on or after March 22, 1956, an amount to be determined by
40 multiplying the district's [capital account reimbursement
41 fraction computed for the year 1967 or] aid ratio [whichever is
42 larger] by the approved reimbursable rental or approved
43 reimbursable sinking fund charge.

44 * * *

45 Section 8. Section 2575.1 of the act, amended July 9, 1992
46 (P.L.392, No.85), is amended to read:

47 Section 2575.1. Payments on Account of Building Costs.--(a)
48 The Commonwealth shall pay to any school district making a
49 preliminary payment on account of the approved building
50 construction or approved renovation cost as authorized by
51 section 783 or by clause (4) of section 790 or by clause (5) of

1 section 791 of this act, an amount determined by multiplying the
2 district's [capital account reimbursement fraction computed for
3 the year 1967 or] aid ratio [whichever is larger] by the amount
4 of the payment made by the school district.

5 (b) Whenever any school district provides the full payment
6 on account of approved building construction or approved
7 renovation cost without incurring debt, or without assuming a
8 lease, the Commonwealth shall pay to such school district an
9 amount determined by multiplying the district's [capital account
10 reimbursement fraction computed for the year 1967 or] aid ratio
11 [whichever is larger] by the amount of the payment made by the
12 school district.

13 (c) The payment required by this section shall be made for
14 the year in which the school district made its payment on
15 account of the approved building construction or approved
16 renovation cost.

17 Section 9. The act is amended by adding a section to read:

18 Section 2581. Lump Sum Reimbursement for Construction or
19 Reconstruction.--

20 (1) The department may, upon the availability of sufficient
21 funds and the mutual agreement of the department and a school
22 district, provide an immediate lump sum payment to the school
23 district as full reimbursement for a construction or
24 reconstruction project that has received all required approvals
25 from the department for Commonwealth reimbursement. The lump sum
26 payment provided for under this section shall be equal to
27 seventy-five percent (75%) of the total allowable construction
28 or reconstruction reimbursement provided for under Article XXV
29 of this act for which the school district is eligible: Provided,
30 however, That such payments shall not include reimbursement for
31 interest incurred by a school district.

32 (2) No later than twelve (12) months after the effective
33 date of this section, the department shall develop such rules
34 and guidelines as may be necessary to implement this section.

35 Section 10. For the 2014-2015 fiscal year the General
36 Assembly shall appropriate not less than \$396,198,000 to the
37 Authority Rentals and Sinking Fund Requirements line item in the
38 General Appropriation Act.

39 Section 11. This act shall take effect as follows:

40 (1) The addition of section 731.2(d), (e), (f) and (g)
41 of the act shall take effect July 1, 2015.

42 (2) The remainder of this act shall take effect
43 immediately.