

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 689 Session of
2009

INTRODUCED BY DRUCKER, BELFANTI, BRENNAN, BROWN, CALTAGIRONE,
DePASQUALE, FRANKEL, GEIST, GRUCELA, HARPER, JOHNSON,
JOSEPHS, KORTZ, MAHONEY, MANN, McILVAINE SMITH, MELIO, MUNDY,
MURT, M. O'BRIEN, ROSS, SIPTROTH, STURLA, VULAKOVICH,
FREEMAN, BRIGGS AND EACHUS, MARCH 3, 2009

AS REPORTED FROM COMMITTEE ON EDUCATION, HOUSE OF
REPRESENTATIVES, AS AMENDED, APRIL 29, 2009

AN ACT

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



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

11 Section 1. Section 701.1 of the act of March 10, 1949 (P.L.
12 30, No.14), known as the Public School Code of 1949, amended
13 July 4, 2004 (P.L.536, No.70), is amended to read:

14 Section 701.1. Referendum or Public Hearing Required Prior
15 to Construction or Lease.--Except where the approval of the
16 electors is obtained to incur indebtedness to finance the
17 construction of a school project, the board of school directors
18 of any school district of the second, third or fourth classes,
19 shall not construct, enter into a contract to construct or enter

1 into a contract to lease a new school building or substantial
2 addition to an existing school building without the consent of
3 the electors obtained by referendum or without holding a public
4 hearing as hereinafter provided. In the event that a new school
5 building or a substantial addition to an existing building is to
6 be constructed or leased, the school board shall, by a majority
7 vote of all its members, authorize a maximum project cost and a
8 maximum building construction cost to be financed by the
9 district or amortized by lease rentals to be paid by the
10 district. Building construction cost shall consist of the cost
11 of all building construction including general construction
12 costs, plumbing, heating, electrical, ventilating and other
13 structural costs, equipment and fixtures and architectural and
14 engineering fees relating thereto, but not including costs for
15 site acquisition and development, rough grading to receive the
16 building, sewage treatment facilities or equivalent capital
17 contributions, and architectural and engineering fees relating
18 thereto. Building construction cost shall not include any
19 additional ~~LEED~~ costs INCURRED TO MEET CERTIFICATION ←
20 REQUIREMENTS OF A GREEN BUILDING STANDARD. In all cases, a
21 public hearing shall be held not later than thirty (30) days
22 before the school district submits the initial building
23 construction cost and ~~LEED~~ GREEN BUILDING STANDARD cost ←
24 estimates to the Department of Education for approval. Notice of
25 the hearing shall be given not later than twenty (20) days
26 before the date of the scheduled hearing. In the event that the
27 maximum building construction cost authorization exceeds the
28 aggregate building expenditure standard hereinafter specified,
29 the aforesaid authorization of the school board shall be
30 submitted to the electors of the school district for their

1 approval within six (6) months prior to submission of the final
2 building construction cost bids to the Department of Education
3 for approval. Such referendum shall be held in the same manner
4 as provided by law for the approval of the incurring of
5 indebtedness by referendum. The question as submitted shall
6 specify the maximum project cost, the maximum building
7 construction cost and the annual sinking fund charge or lease
8 rental to be incurred by the school district and the portion of
9 such charge or rental expected to be reimbursed by the
10 Commonwealth. If the final building construction cost bids to be
11 submitted to the Department of Education for approval are less
12 than the aggregate building expenditure standard hereafter
13 specified but exceed by eight (8) per cent or more the initial
14 building construction cost estimates submitted to the Department
15 for approval, a second public hearing shall be held before the
16 Department shall give its final approval.

17 The applicable aggregate building expenditure standard shall
18 be a total amount calculated for each building or substantial
19 addition by multiplying the rated pupil capacity under the
20 approved room schedule by the following: two thousand eight
21 hundred dollars (\$2,800) for each pupil of rated elementary
22 capacity; four thousand two hundred dollars (\$4,200) for each
23 pupil of rated secondary capacity in grades seven, eight and
24 nine and five thousand two hundred dollars (\$5,200) for each
25 pupil of rated secondary capacity in grades ten, eleven and
26 twelve and five thousand two hundred dollars (\$5,200) for each
27 pupil of rated vocational-technical capacity in grades ten,
28 eleven and twelve to not include the cost of equipment and
29 fixtures in such vocational-technical schools: Provided,
30 however, That each of the preceding per pupil amounts shall be

1 adjusted by the Department of Education on July 1, 1974; and
2 annually thereafter through July 1, 2003, by multiplying said
3 amounts by the ratio of the composite construction cost index
4 compiled and published by the United States Department of
5 Commerce for the preceding calendar year to such index for the
6 next preceding calendar year; and Further Provided, however,
7 That each of the preceding per pupil amounts shall be adjusted
8 by the Department of Education on July 1, 2004; and annually
9 thereafter by multiplying said amounts by the ratio of the
10 Building Cost Index published by the McGraw-Hill Companies for
11 the preceding calendar year to such index for the next preceding
12 calendar year. Rated elementary pupil capacity or rated
13 secondary pupil capacity for any school building shall be the
14 rated pupil capacity determined on the basis of the method used
15 by the Department for school building reimbursement purposes
16 during the school year 1971-1972.

17 For purposes of this section:

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

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

25 (3) "Equipment and fixtures" means property fixed or movable
26 which is incidental and necessary to conduct the educational
27 program, and includes, but is not limited to movable equipment
28 such as desks, chairs, tables, portable physical education
29 equipment, audio-visual equipment and science, homemaking,
30 industrial art and business equipment and instructional

1 materials and fixtures such as casework, laboratory equipment,
2 kitchen equipment, auditorium seating and any other special
3 fixtures or equipment required to conduct a particular
4 educational program.

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

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

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

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

26 (5) "GREEN BUILDING STANDARD" MEANS A BUILDING STANDARD THAT ←
27 MEETS THE FOLLOWING CRITERIA:

28 (I) IS CONSENSUS-BASED, AS DEFINED BY THE OFFICE OF
29 MANAGEMENT AND BUDGET, CIRCULAR A-119, DATED FEBRUARY 10, 1998.

30 (II) AT A MINIMUM, INCLUDES PERFORMANCE-BASED CATEGORIES OR

1 CREDITS THAT WILL FOSTER THE OPTIMIZATION OF A BUILDING'S ENERGY
2 PERFORMANCE AND USE OF ENVIRONMENTALLY BENIGN BUILDING MATERIALS
3 AND TECHNOLOGIES.

4 (III) REQUIRES DOCUMENTATION, VERIFIABLE CALCULATIONS OR
5 EQUIVALENT PROCEDURES TO SUBSTANTIATE AND SUPPORT ANY AND ALL
6 CLAIMS MADE REGARDING A BUILDING'S ENERGY PERFORMANCE AND THE
7 USE OF ENVIRONMENTALLY BENIGN MATERIALS.

8 (IV) EMPLOYS THIRD-PARTY, POSTCONSTRUCTION REVIEW AND
9 VERIFICATION OF ACHIEVEMENT OF CERTIFICATION.

10 (V) HAS A PERFORMANCE RECORD OF CERTIFIED GREEN BUILDINGS IN
11 THE UNITED STATES.

12 (6) "GREEN BUILDING STANDARD COST" MEANS THE DESIGN,
13 CONSTRUCTION AND REGISTRATION COSTS DIRECTLY ATTRIBUTABLE TO
14 ACHIEVING POINTS UNDER A GREEN BUILDING STANDARD, INCLUDING, BUT
15 NOT LIMITED TO, ENERGY PERFORMANCE BENCHMARKING; LIFE-CYCLE COST
16 ASSESSMENTS; LOW-IMPACT DEVELOPMENT; STORM WATER MANAGEMENT
17 TECHNOLOGIES; ENERGY AND LIGHTING MODELING; ALTERNATIVE ENERGY
18 TECHNOLOGY; BUILDING COMMISSIONING AND THE COST OF REGISTRATION
19 WITH THE ORGANIZATION PROVIDING THE GREEN BUILDING STANDARD.

20 ~~Section 2. Section 2574(a) of the act, amended September 29,~~ ←
21 ~~1959 (P.L.992, No.407), is amended to read:~~

22 ~~Section 2574. Approved Reimbursable Rental for Leases~~
23 ~~Hereafter Approved and Approved Reimbursable Sinking Fund~~
24 ~~Charges on Indebtedness. (a) For school building projects for~~
25 ~~which the general construction contract is awarded subsequent to~~
26 ~~March 22, 1956, and for approved school building projects for~~
27 ~~which the general construction contract was awarded but for~~
28 ~~which a lease was not approved by the Department of [Public~~
29 ~~Instruction] Education prior to March 22, 1956, the Department~~
30 ~~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~~

1 ~~on such construction cost.~~

2 ~~***~~

3 Section 3 2. This act shall take effect in 60 days.

