

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2124 Session of  
2014

INTRODUCED BY GROVE, DeLUCA, LUCAS, BAKER, DUNBAR, WATSON,  
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SAYLOR, GODSHALL, MAJOR, ROCK, MAHER AND CLYMER,  
MARCH 25, 2014

REFERRED TO COMMITTEE ON EDUCATION, MARCH 25, 2014

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," in grounds and buildings, further  
6 providing for approval by Department of Education of plans,  
7 etc. of buildings and exceptions; providing for  
8 accountability and reducing costs in construction process;  
9 further providing for limitation on new applications for  
10 Department of Education approval of school building projects;  
11 providing for interest on delayed reimbursement; and, in  
12 reimbursements by Commonwealth and between school districts,  
13 further providing for definitions, for approved reimbursable  
14 rental for leases hereafter approved and approved  
15 reimbursable sinking fund charges on indebtedness, for  
16 payments on account of leases hereafter approved and on  
17 account of sinking fund charges on indebtedness for school  
18 buildings hereafter constructed and for payments on account  
19 of building costs; and providing for lump sum reimbursement  
20 for construction or reconstruction.

21 The General Assembly finds and declares that:

22 (1) Recognizing challenges have developed and escalated  
23 over a period of years in the process of Commonwealth  
24 reimbursement for public school construction and  
25 reconstruction, which have caused delays in approvals by the

1 Department of Education for reimbursement payments owed to  
2 school districts throughout this Commonwealth as well as the  
3 limitation on school district submission of new applications  
4 for Commonwealth reimbursement, and acknowledging that these  
5 challenges were born of an antiquated, complex and overly  
6 burdensome administrative process, as well as financially  
7 unsustainable Commonwealth construction and reconstruction  
8 reimbursement obligations, it is a matter of high priority  
9 that these challenges be addressed.

10 (2) Therefore, it is the intent of the General Assembly  
11 to reform the existing process of Commonwealth reimbursement  
12 for public school construction and reconstruction to ensure  
13 that a modern, simplified and financially sustainable process  
14 is instituted.

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

17 Section 1. Section 731 of the act of March 10, 1949 (P.L.30,  
18 No.14), known as the Public School Code of 1949, amended June  
19 27, 1973 (P.L.75, No.34), is amended to read:

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

24 (1) To review all projects, plans and specifications for  
25 school building construction or reconstruction, and to make  
26 recommendations thereon to the General Assembly and the  
27 Governor: Provided, however, That approval of the Department of  
28 Education shall not be required for projects, plans and  
29 specifications for school construction projects for which  
30 reimbursement from the Commonwealth is not requested;

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

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

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

12 (5) To receive and investigate complaints from the public or  
13 other source concerning any school building construction or  
14 reconstruction project;

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

17 (7) To provide for an electronic database on its publicly  
18 accessible Internet website for the purpose of providing public  
19 access to information on public school construction and  
20 reconstruction projects, building purchases and charter school  
21 lease reimbursements submitted for the approval of, or approved  
22 by, the Department of Education. The electronic database shall  
23 indicate the date each application for reimbursement was  
24 submitted to the Department of Education and the date of  
25 approval for each step of the reimbursement process as outlined  
26 in section 731.2 of this act.

27 (b) The Department of Education shall employ engineers,  
28 architects, financial advisors, and such other staff personnel  
29 as may be necessary for the proper performance of the duties of  
30 the Department with respect to construction or reconstruction of

1 public school buildings.

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

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

20 Provided, however, That approval of the Department of Education  
21 shall not be required for projects, plans and specifications for  
22 school construction projects for which reimbursement from the  
23 Commonwealth is not requested.

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

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

2 Section 731.2. Accountability and Reducing Costs in  
3 Construction Process.--(a) No later than July 1, 2015, the  
4 department shall develop and implement a process, including  
5 standardized forms and procedures, which shall be used by school  
6 districts to apply for Commonwealth reimbursement for school  
7 construction and reconstruction projects and which shall be  
8 known as the Accountability and Reducing Costs in Construction  
9 Process. In developing the Accountability and Reducing Costs in  
10 Construction Process, the department shall separate the process  
11 into five (5) benchmark steps of department approval which shall  
12 be labeled one (1) through five (5) and shall minimally include  
13 the following:

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

15 (i) project description;

16 (ii) project justification; and

17 (iii) a technical schematic design review conference with  
18 the department.

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

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

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

22 (iii) a conference with the department to review completed  
23 construction documents, including bid specifications, drawings  
24 for the project and documentation regarding the fulfillment of  
25 State and local agency requirements.

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

27 (i) project accounting based on costs for actual  
28 construction bids for which contracts shall be awarded; and

29 (ii) project financing, including financing method and the  
30 calculation of the temporary reimbursable percent for the

1 project. In calculating the temporary reimbursable percent, the  
2 department shall factor in a twenty (20) percentage point  
3 reduction which shall be utilized until the calculation of the  
4 permanent reimbursable percent is completed in Step 4.  
5 Approval through Step 3 shall initiate project reimbursement  
6 from the Commonwealth.

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

8 (i) interim reporting of project modifications, including  
9 the reporting of change orders and supplemental contracts; and

10 (ii) project accounting based on the final costs of a  
11 project after completion of the following:

12 (A) construction of the project; and

13 (B) payment for all construction or reconstruction work,  
14 unless the department has granted an exception.

15 The calculation of the permanent reimbursable percent for a  
16 project shall take place during Step 4.

17 (5) Step 5 shall consist of project refinancing, where  
18 applicable, to allow for the restructuring, refinancing or  
19 refunding of existing indebtedness.

20 (b) (1) Except as provided for in paragraph (2), school  
21 districts shall be reimbursed by the department in the order in  
22 which their projects received approval for Commonwealth  
23 reimbursement by the Department of Education.

24 (2) The Secretary of Education may prioritize the  
25 reimbursement of a school construction or reconstruction project  
26 of a school district declared to be in financial recovery status  
27 under Article VI-A of this act. Projects that are given priority  
28 under this paragraph shall be reimbursed before all other  
29 projects.

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

1 districtwide facility study of all district educational  
2 facilities, including the district administrative offices. The  
3 study shall be completed prior to, and within five (5) years of,  
4 the initial date of submission to the department of an  
5 application for Commonwealth reimbursement of a school  
6 construction or reconstruction project.

7 (2) The study shall provide an appraisal as to each  
8 facility's ability to meet current and planned education program  
9 requirements, the degree to which the present facilities meet  
10 reasonably current construction standards, and an estimated cost  
11 of necessary repairs and improvements.

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

15 (4) The department shall not grant to school districts any  
16 exceptions, waivers or variances to the provisions of this  
17 subsection.

18 (d) (1) In order to receive Commonwealth reimbursement for  
19 the construction of a new building, a school district shall,  
20 within Step 1 of the Accountability and Reducing Costs in  
21 Construction Process provided for in subsection (a), complete  
22 and submit to the department a cost-benefit analysis of the  
23 project that compares the construction of the proposed new  
24 building to the expansion or renovation of an existing building  
25 for the same purpose.

26 (2) If the cost of a new building exceeds that of the  
27 expansion or renovation of an existing building for the same  
28 purpose, the school district shall only be eligible for  
29 Commonwealth reimbursement for the new building if substantial  
30 evidence is presented which demonstrates the necessity of a new

1 building and how a new building would better meet the needs of  
2 the school district and its students than a building expansion  
3 or renovation.

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

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

12 (e) (1) School districts shall not be eligible for  
13 Commonwealth reimbursement of school construction or  
14 reconstruction project costs for any existing building which is  
15 less than thirty (30) years old or for which a Commonwealth  
16 reimbursable project has been approved by the department within  
17 the preceding thirty (30) years. The thirty (30) year period  
18 between eligible Commonwealth reimbursable projects for a school  
19 building shall be calculated from the bid opening date of the  
20 previous Commonwealth reimbursable project to the bid opening  
21 date of the proposed Commonwealth reimbursable project.

22 (2) The department shall not grant to school districts any  
23 exceptions, waivers or variances to the provisions of this  
24 subsection except in the case of an emergency. For the purposes  
25 of this paragraph, an emergency shall include a natural  
26 disaster, fire or flood.

27 (f) (1) School districts shall not be eligible for  
28 Commonwealth reimbursement of school construction or  
29 reconstruction project costs for any existing building where the  
30 cost of expansion or renovation of the building, excluding costs

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

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

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

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

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

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

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

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

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

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

13 Section 732.1. Limitation on New Applications for Department  
14 of Education Approval of Public School Building Projects.--\* \* \*

15 (b) (1) The Department of Education shall, in consultation  
16 with school district officials and the General Assembly, conduct  
17 a review of the Department of Education's current process  
18 through which public school building projects are reviewed and  
19 approved for Commonwealth reimbursement. The review shall  
20 incorporate an analysis of impacting local factors, including,  
21 but not limited to, tax effort and building requirements, and  
22 shall make recommendations to the chair and minority chair of  
23 the Appropriations Committee of the Senate, the chair and  
24 minority chair of the Education Committee of the Senate, the  
25 chair and minority chair of the Appropriations Committee of the  
26 House of Representatives and the chair and minority chair of the  
27 Education Committee of the House of Representatives by May 1,  
28 2013. The Department of Education shall also conduct a Statewide  
29 analysis of school facilities and future capital needs and shall  
30 submit a preliminary report on that analysis by May 1, 2014.

1 (2) The Statewide analysis shall be completed and submitted  
2 to the chairman and minority chairman of the Appropriations  
3 Committee of the Senate, the chairman and minority chairman of  
4 the Education Committee of the Senate, the chairman and minority  
5 chairman of the Appropriations Committee of the House of  
6 Representatives and the chairman and minority chairman of the  
7 Education Committee of the House of Representatives no later  
8 than May 1, 2015.

9 (c) (1) Any school district that began a school  
10 construction or reconstruction project during the time in which  
11 the Department of Education was not accepting or approving new  
12 school construction and reconstruction project applications for  
13 reimbursement pursuant to subsection (a) shall remain eligible  
14 and may apply for Commonwealth reimbursement for those school  
15 construction or reconstruction projects following the expiration  
16 of the limitation provided for under subsection (a).

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

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

21 Section 732.2. Interest on Delayed Reimbursement.--(a) Each  
22 school district which has satisfactorily met all construction or  
23 reconstruction reimbursement requirements established by this  
24 act, Title 22 of the Pennsylvania Code and the Department of  
25 Education and which has submitted all appropriate documentation  
26 to the Department of Education necessary to receive approval for  
27 reimbursement for a school construction or reconstruction  
28 project and which has not been approved for reimbursement after  
29 a period of one (1) year following the last date of submission  
30 of required documentation, shall be eligible to receive interest

1 on the delayed reimbursement.

2 (b) The interest on delayed reimbursement shall be an amount  
3 equal to the prime rate of interest, as listed in the first  
4 edition of the Wall Street Journal published in the year,  
5 multiplied by the total amount of construction or reconstruction  
6 reimbursement for which the school district is eligible under  
7 Article XXV of this act but has not received, calculated for  
8 each year in which the school district does not receive  
9 reimbursement.

10 (c) Interest payments on delayed reimbursement shall be  
11 included in those payments made to a school district for  
12 Commonwealth reimbursement of a construction or reconstruction  
13 project when such payments commence.

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

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

18 \* \* \*

19 (31) "Department." The Department of Education of the  
20 Commonwealth.

21 Section 6. Section 2574(b.1), (c.4) and (c.6) of the act,  
22 amended or added July 13, 2005 (P.L.226, No.46) and July 11,  
23 2006 (P.L.1092, No.114), are repealed:

24 Section 2574. Approved Reimbursable Rental for Leases  
25 Hereafter Approved and Approved Reimbursable Sinking Fund  
26 Charges on Indebtedness.--\* \* \*

27 [(b.1) For school buildings constructed and based on an  
28 approved school facility design received from the Department of  
29 Education's school facility design clearinghouse, for which the  
30 general construction contract is awarded subsequent to January

1 1, 2005, and for approved school building projects for which the  
2 general construction contract was awarded but for which a lease  
3 or general obligation bond resolution was not approved by the  
4 Department of Education prior to January 1, 2005, the approved  
5 building construction cost shall additionally include the  
6 product of the rated pupil capacity as determined by the  
7 Department of Education at the time the project is approved and  
8 (i) four hundred seventy dollars (\$470) in the case of  
9 elementary schools, (ii) six hundred twenty dollars (\$620) in  
10 the case of secondary schools, (iii) an amount in the case of  
11 combined elementary-secondary schools obtained by multiplying  
12 the rated elementary pupil capacity by four hundred seventy  
13 dollars (\$470) and the rated secondary pupil capacity by six  
14 hundred twenty dollars (\$620) and dividing the sum by the total  
15 rated pupil capacity.]

16 \* \* \*

17 [(c.4) For school buildings for which the general  
18 construction contract is awarded on or after January 1, 2005,  
19 and for approved school building projects for which the general  
20 construction contract was awarded but for which a lease or  
21 general obligation bond resolution was not approved by the  
22 Department of Education prior to January 1, 2005, and where the  
23 school building receives a silver, gold or platinum  
24 certification from the United States Green Building Council's  
25 Leadership in Energy and Environmental Design Green Building  
26 Rating System or two, three or four Globes under the Green  
27 Building Initiative's Green Globes Green Building Rating System  
28 on or after January 1, 2005, the Department of Education shall  
29 adjust the approved building construction cost to additionally  
30 include the product of the rated pupil capacity as determined by

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

12 \* \* \*

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

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

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

26 \* \* \*

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

29 Section 2575. Payments on Account of Leases Hereafter  
30 Approved and on Account of Sinking Fund Charges on Indebtedness

1 for School Buildings Hereafter Constructed.--(a) The  
2 Commonwealth shall pay annually to each school district erecting  
3 or sharing in the erection of a building or buildings under the  
4 provisions of the Public School Building Authority Act, the  
5 Municipality Authority Act, section 758 of the Public School  
6 Code of 1949, or section 791 of the Public School Code of 1949,  
7 on account of buildings for which the lease is approved on or  
8 after March 22, 1956, or through the incurring of indebtedness  
9 by the issuance of general obligation bonds on account of  
10 buildings for which the general construction contract is awarded  
11 on or after March 22, 1956, an amount to be determined by  
12 multiplying the district's [capital account reimbursement  
13 fraction computed for the year 1967 or] aid ratio [whichever is  
14 larger] by the approved reimbursable rental or approved  
15 reimbursable sinking fund charge.

16 \* \* \*

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

19 Section 2575.1. Payments on Account of Building Costs.--(a)  
20 The Commonwealth shall pay to any school district making a  
21 preliminary payment on account of the approved building  
22 construction or approved renovation cost as authorized by  
23 section 783 or by clause (4) of section 790 or by clause (5) of  
24 section 791 of this act, an amount determined by multiplying the  
25 district's [capital account reimbursement fraction computed for  
26 the year 1967 or] aid ratio [whichever is larger] by the amount  
27 of the payment made by the school district.

28 (b) Whenever any school district provides the full payment  
29 on account of approved building construction or approved  
30 renovation cost without incurring debt, or without assuming a

1 lease, the Commonwealth shall pay to such school district an  
2 amount determined by multiplying the district's [capital account  
3 reimbursement fraction computed for the year 1967 or] aid ratio  
4 [whichever is larger] by the amount of the payment made by the  
5 school district.

6 (c) The payment required by this section shall be made for  
7 the year in which the school district made its payment on  
8 account of the approved building construction or approved  
9 renovation cost.

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

11 Section 2581. Lump Sum Reimbursement for Construction or  
12 Reconstruction.--

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

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

28 Section 10. For the 2014-2015 fiscal year the General  
29 Assembly shall appropriate not less than \$396,198,000 to the  
30 Authority Rentals and Sinking Fund Requirements line item in the

1 General Appropriation Act.

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

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

5 (2) The remainder of this act shall take effect  
6 immediately.