

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
26 Department of Education for reimbursement payments owed to

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

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

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

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

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

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

30 (2) To assist school districts in preplanning construction

1 and reconstruction projects, and offer such architectural,
2 engineering and financial advice as will enable the project to
3 comply with the standards prescribed by the State Board of
4 Education;

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (i) project description;

15 (ii) project justification; and

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

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

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

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

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

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

26 (i) project accounting based on costs for actual

27 construction bids for which contracts shall be awarded; and

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

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

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

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

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

11 (A) construction of the project; and

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

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

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

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

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

29 (c) (1) School districts shall develop a complete
30 districtwide facility study of all district educational

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

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

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

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

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

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

1 the school district and its students than a building expansion
2 or renovation.

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

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

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

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

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

1 abatement, roof replacement, site development and architect
2 fees, is less than forty (40) percent of the replacement value
3 of the entire building.

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

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

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

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

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

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

30 (k) No later than twelve (12) months after the effective

1 date of this section, the department shall develop such rules
2 and guidelines as may be necessary to implement this section:
3 Provided, however, That the department shall not create steps of
4 approval in addition to those provided for under subsection (a)
5 and shall not require more than one school board resolution at
6 each step.

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

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

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

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

30 (2) The Statewide analysis shall be completed and submitted

1 to the chairman and minority chairman of the Appropriations
2 Committee of the Senate, the chairman and minority chairman of
3 the Education Committee of the Senate, the chairman and minority
4 chairman of the Appropriations Committee of the House of
5 Representatives and the chairman and minority chairman of the
6 Education Committee of the House of Representatives no later
7 than May 1, 2015.

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

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

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

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

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

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

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

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

17 * * *

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

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

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

26 [(b.1) For school buildings constructed and based on an
27 approved school facility design received from the Department of
28 Education's school facility design clearinghouse, for which the
29 general construction contract is awarded subsequent to January
30 1, 2005, and for approved school building projects for which the

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

15 * * *

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

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

11 * * *

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

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

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

25 * * *

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

28 Section 2575. Payments on Account of Leases Hereafter
29 Approved and on Account of Sinking Fund Charges on Indebtedness
30 for School Buildings Hereafter Constructed.--(a) The

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

15 * * *

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

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

27 (b) Whenever any school district provides the full payment
28 on account of approved building construction or approved
29 renovation cost without incurring debt, or without assuming a
30 lease, the Commonwealth shall pay to such school district an

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

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

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

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

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

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

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

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

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

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