

PUBLIC SCHOOL CODE OF 1949 - PUBLIC HIGHER EDUCATION FUNDING
COMMISSION, CONSTRUCTION AND RENOVATION OF BUILDINGS BY SCHOOL
ENTITIES AND GRANT PROGRAM FOR MAINTENANCE PROJECTS

Act of Jul. 2, 2019, P.L. 417, No. 70

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No. 2019-70

SB 700

AN ACT

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," establishing the Public Higher Education Funding Commission; providing for construction and renovation of buildings by school entities; and establishing a grant program for maintenance projects.

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

Section 1. The act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, is amended by adding articles to read:

ARTICLE XX-I
MISCELLANEOUS PROVISIONS RELATING TO
INSTITUTIONS OF HIGHER EDUCATION

Section 2001-I. Public Higher Education Funding Commission.

(a) Establishment.--The Public Higher Education Funding Commission is established.

(b) Duties.--The commission shall review and make recommendations related to higher education funding, affordability and effectiveness and administration and operations as provided in this section.

(c) Membership.--

(1) The commission shall consist of the following members:

(i) The chair and minority chair of the Appropriations Committee of the Senate and the chair and minority chair of the Education Committee of the Senate.

(ii) The chair and minority chair of the Appropriations Committee of the House of Representatives and the chair and minority chair of the Education Committee of the House of Representatives.

(iii) Two legislators from each of the four legislative caucuses, to be appointed by the President pro tempore of the Senate and the Speaker of the House of Representatives in consultation with the Majority Leader and Minority Leader of the Senate and the Majority Leader and Minority Leader of the House of Representatives.

(iv) The Secretary of Education.

(v) The Deputy Secretary for Postsecondary and Higher Education.

(vi) An individual from the administration appointed by the Governor.

(2) The commission shall appoint a member to serve as chair of the commission.

(d) Meetings.--

(1) The commission shall hold its first meeting within 45 days of the effective date of this section, regardless of whether all legislative caucuses have approved members to the commission.

(2) The commission shall hold meetings at the call of the chair.

(e) Payments to members.--The members may not receive compensation for their services but shall be reimbursed for all necessary travel and other reasonable expenses incurred in connection with the performance of their duties as members of the commission.

(f) Administrative support.--The General Assembly shall provide administrative support, meeting space and any other assistance required by the commission to carry out its duties under this section in cooperation with the department. The department shall provide the commission with data, research and other information upon request by the commission.

(g) Cooperation from public institutions of higher education and agency.--The public institutions of higher education and the agency shall provide meeting space and any other assistance required by the commission to carry out its duties under this section. The public institutions of higher education and the agency shall provide the commission with data, research and other information upon request of the chairman.

(h) Higher education funding formula.--The commission shall develop a higher education funding formula and identify factors that may be used to determine the distribution of funding among the public institutions of higher education. The factors identified under this subsection may include all of the following:

(1) Goals for higher education.

(2) Goals for higher education completion and attainment.

(3) This Commonwealth's higher education needs.

(4) The affordability of higher education for residents of this Commonwealth.

(5) Resident and nonresident undergraduate and graduate enrollments.

(6) Graduation rates.

(7) Retention rates.

(8) Time to degree, including associate's degrees and bachelor's degrees.

(9) Cost per degree, including tuition and fees.

(10) Operational cost per full-time student.

(11) Student debt, including debt of graduates and noncompleters.

(12) Student financial aid, including programs administered by the agency on behalf of the Commonwealth.

(13) Job placement after graduation.

(14) Entry level wages.

(15) Degrees granted in occupations that will align with the Commonwealth's long-term economic needs.

(16) Utilization of existing educational programs and facilities.

(17) Transfer and articulation of credits between public institutions of higher education.

(18) Institutional mission, including metrics that reflect differences in the missions between institutions and the differences between two-year and four-year institutions.

(19) The appropriate level of recurring State support to maintain operations.

(20) The appropriate level of formula-driven funding to incentivize success.

(21) The access, enrollment and outcomes of underrepresented populations, including, but not limited to, low-income students, first-generation students, rural students, adult students, veterans and students of color.

(22) Comparisons of the factors contained in this section with those factors for private institutions of higher education that are located inside and outside this Commonwealth, when available.

(23) Other factors related to higher education and the distribution of higher education funding that the commission deems appropriate.

(i) Additional powers and duties.--The commission shall have all of the following powers and duties:

(1) Review and make findings and recommendations related to higher education funding in this Commonwealth.

(2) Consult with and utilize experts to assist the commission in carrying out the duties under this subsection.

(3) Receive input from interested parties, including, but not limited to, public institutions of higher education.

(4) Hold public hearings in different regions of this Commonwealth.

(5) Review and consider higher education funding formulas and factors utilized throughout the United States.

(6) In identifying the higher education funding factors under subsection (h) and in completing the report required under this subsection, consider the impact these factors may have on the distribution of higher education funding among the public institutions of higher education.

(7) Review the administration and operation of State and regional higher education programs and services, including the public institutions of higher education and the agency to determine if cost savings for the Commonwealth and its students may be achieved and make recommendations to implement savings and efficiencies.

(8) Review the administration and operations of State and regional higher education programs and services, including the public institutions of higher education and the agency, and make recommendations regarding administration and operations.

(9) Prior to recommending a higher education funding formula under this section, consider the potential consequences of a higher education funding formula that does not allocate to each public institution of higher education at least the same level or proportion of State funding as the institution received in the prior fiscal year.

(10) Prior to recommending a higher education funding formula under this section, consider nationally accepted accounting and budgeting standards.

(11) Develop a proposed higher education funding formula and factors pursuant to subsection (h).

(12) Draft proposed legislation based on the commission's findings.

(13) Issue a report of the commission's findings and recommendations to the Governor, the President pro tempore of the Senate, the Speaker of the House of Representatives, the Majority Leader and Minority Leader of the Senate, the Majority Leader and Minority Leader of the House of Representatives, the Secretary of Education, the State Board of Education, the Appropriations Committee of the Senate, the Appropriations Committee of the House of Representatives,

the Education Committee of the Senate and the Education Committee of the House of Representatives not later than one year after the effective date of this section.

(j) Effective date of higher education funding formula.--The higher education funding formula developed by the commission shall not go into effect unless the formula is approved by an act of the General Assembly enacted after the effective date of this section.

(k) Continuation of commission.--Every five years the commission shall be reconstituted in accordance with subsection (c) and shall meet and hold public hearings to review the operation of the higher education funding provisions of this section and shall make a further report and issue the report to the recipients listed in subsection (i) (13).

(l) Level of State funding through appropriations.--The General Assembly shall, through the annual appropriations process, determine the level of State funding for public institutions of higher education.

(m) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Agency." The Pennsylvania Higher Education Assistance Agency.

"Commission." The Public Higher Education Funding Commission established under this section.

"Department." The Department of Education of the Commonwealth.

"Public institution of higher education." Any of the following:

- (1) A community college operating under Article XIX-A.
- (2) A rural regional college established under Article XIX-G.
- (3) A university within the State System of Higher Education under Article XX-A.
- (4) A State-related institution as defined in section 2001-C.
- (5) The Thaddeus Stevens College of Technology.
- (6) The Pennsylvania College of Technology.

ARTICLE XXVI-J

CONSTRUCTION AND RENOVATION OF BUILDINGS BY SCHOOL ENTITIES

Section 2601-J. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Adjustment factor." A fraction between zero and one established under this article.

"Base reimbursement amount." The State median structural cost per full-time equivalent student for completed school building projects receiving reimbursement calculated by the department for every five years prior to the effective date of this section and every five-year period thereafter.

"Department." The Department of Education of the Commonwealth.

"Emergency." A deficiency in a school building that prohibits the school building or a portion of the building from being occupied.

"Full-time equivalent building capacity." The sum of the products of the room capacity multiplied by the cost-weighting factor for each of the building's rooms as follows:

(1) For a regular classroom that is instructional space with no specialized construction, the room capacity shall be 25 and the cost-weighting factor shall be one.

(2) For a prekindergarten or kindergarten classroom that is instructional space with no specialized construction, the room capacity shall be 25 and the cost-weighting factor shall be one.

(3) For a special education classroom, the room capacity shall be 15 and the cost-weighting factor shall be one.

(4) For an alternative education classroom, the room capacity shall be 20 and the cost-weighting factor shall be one.

(5) For an art or music classroom, including a band room, orchestra room or choral room, the room capacity shall be 25 and the cost-weighting factor shall be one and one-tenth.

(6) For a career and technical education classroom or television studio, the room capacity shall be 20 and the cost-weighting factor shall be one and six-tenths.

(7) For a laboratory, including a science laboratory, business room, consumer science room or computer laboratory, the room capacity shall be 25 and the cost-weighting factor shall be one and three-tenths.

(8) For a library or gymnasium, including an auxiliary gymnasium, the room capacity shall be 50 and the cost-weighting factor shall be one and four-tenths.

For the purpose of performing the full-time equivalent building capacity calculation, a planetarium, natatorium and administration building shall not be included.

"Program." The maintenance project grant program established under this article.

"Project." The construction of a new building, the addition to an existing building or the renovation of an existing building.

"School entity." A school district or career and technical center.

"Secretary." The Secretary of Education of the Commonwealth.

"Wealth factor." As follows:

(1) For a career and technical center, the market value aid ratio of the career and technical center.

(2) For a school district, the greater of the market value aid ratio of the school district or the result of the following calculation:

(i) Multiply the school district's median household income index under section 2502.53(d)(5) by the school district's local effort capacity index under section 2502.53(c)(4).

(ii) Divide the State median of the products in subparagraph (i) by the school district's product in subparagraph (i).

(iii) Multiply the quotient in subparagraph (ii) by 0.5 and subtract the product from 1.

(iv) Determine the greater of the product in subparagraph (iii) and 0.1500.

(v) If applicable, add the following amount to the amount determined under subparagraph (iv):

(A) If the school district qualifies for the sparsity size adjustment under section 2502.53(c)(1)(vii), the amount of 0.1000.

(B) If the school district qualifies for the concentrated poverty weight under section 2502.53(c)(1)(iv), the amount of 0.0500.

Section 2602-J. School construction and renovation approval process.

(a) General rule.--To be eligible to receive reimbursement from the Commonwealth for costs of a project, a school entity must receive appropriate approval from the department. To be eligible to receive approval, a school entity shall comply with the following process as developed and administered by the department in the order prescribed under this section:

(1) Part 1 - Project Justification.

(i) The school entity must first submit an application containing the following to the department pursuant to the requirements developed by the department:

(A) The summary page from a school entity-wide facility study that is not more than five years old.

(B) A school board resolution approving the project.

(C) The educational specifications of the project.

(D) A design overview, drawings and scheduled area floor plan for the project.

(E) A site plan for the project.

(F) Preliminary materials required under section 701.1.

(ii) To approve a school entity's application under this paragraph, the department shall:

(A) Verify compliance with the school entity's facility study.

(B) Verify receipt of the school board resolution approving the project.

(C) Assess whether the project meets educational specifications and enrollment needs.

(D) Review the project's compliance with section 701.1.

(E) Calculate the project's preliminary reimbursement amount.

(F) Verify compliance with subsection (b).

(2) Part 2 - Construction Documents.

(i) The school entity must submit an application containing the following to the department pursuant to the requirements developed by the department:

(A) Evidence of the school entity's intent to award contracts.

(B) Materials required under section 701.1.

(C) Bid and construction documents for the project.

(D) Notice of the intent to award bids and bid outcome materials for the project.

(E) Confirmation of the project's compliance with the requirements of other agencies.

(F) The project's updated scheduled area floor plan.

(ii) To approve a school entity's application under this paragraph, the department shall:

(A) Review bid and construction documents for the project.

(B) Review the project's compliance with section 701.1.

(C) Confirm decisions of bids received for each bid event for the project.

(D) Approve the project's construction documents before contracts are signed as a condition of reimbursement.

(E) Confirm the project has complied with the requirements of other agencies.

(F) Review the project's updated scheduled area floor plan and the school entity's enrollment.

(G) Calculate the project's final reimbursement amount.

(3) Part 3 - Project Bid Awards.

(i) The school entity must submit an application containing the following to the department pursuant to the requirements developed by the department:

(A) Evidence of the school board's approval of signed contracts.

(B) Contractor certifications for the project.

(C) Final bid tabulations for the project.

(D) An application for reimbursement for the project under section 2606-J.

(ii) To approve a school entity's application under this paragraph and begin reimbursement to the school entity under section 2606-J, the department shall:

(A) Assess the project's cost accounting based on the actual bids.

(B) Review the project's compliance with subsection (b).

(C) Review the project's compliance with section 701.1.

(D) Review the project's application for reimbursement to the school entity under section 2606-J.

(4) Part 4 - Project Completion.

(i) The school entity must submit an application containing the following to the department pursuant to the requirements developed by the department:

(A) Within one year of occupancy, an independent audit of the project that may correspond with the school entity's annual audit.

(B) Attestation of the project's compliance with section 701.1.

(ii) To approve a school entity's application under this paragraph, the department shall:

(A) Review the project's final costs pursuant to the independent audit.

(B) Review the project's compliance with section 701.1.

(b) Additions to and renovations of existing buildings.--Unless the secretary grants an exception, the department may not approve the following for school construction reimbursement:

(1) An addition to or renovation of an existing school building where a previous reimbursable construction project occurred at the school building within 20 years of the current application.

(2) Renovation of an existing school building if the cost of the addition or renovation is less than 20% of the replacement value of the entire building.

(c) Internet-based application.--The department shall develop an Internet-based application to comply with the provisions of this section and provide for school entities to submit required documents electronically via the Internet.

(d) (Reserved).

(e) Project information.--The department shall maintain the information submitted and reviewed under this section in an

electronic format and make project information available electronically to the applicant school entity.

(f) (Reserved).

Section 2603-J. High-performance building standards.

(a) Recognition of standards.--

(1) The secretary shall recognize the United States Green Building Council's Leadership in Energy and Environmental Design green building rating system or two, three or four Green Globes under the Green Building Initiative's Green Globes green building rating system as high-performance building standards and the department shall use the standards in the administration of this article.

(2) The secretary may recognize other high-performance building standards, in addition to those under paragraph (1), that meet or exceed the standards outlined under paragraph (1).

(3) The department shall use only the recognized standards provided for in this section in the administration of this article.

(4) Prior to recognizing a high-performance building standard under paragraph (2), the secretary shall transmit notice to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin and on the department's publicly accessible Internet website 90 days prior to recognizing the new standard.

(b) Reimbursement enhancement.--

(1) A school entity that utilizes the high-performance building standards for a project under subsection (a) and satisfies the requirement under paragraph (2) shall receive a 10% increase above the amount calculated under section 2606-J.

(2) For a school entity to receive the reimbursement incentive for a project under paragraph (1), the school entity must provide the department with a projection showing a positive return on investment over the building's lifetime for utilizing the high-performance building standards when compared to regular construction practices.

(3) The department shall develop standards and a process, in coordination with the application process in section 2602-J, for awarding an enhanced reimbursement for compliance with high-performance building standards.

Section 2604-J. Maintenance program.

(a) Grant program to be established.--The department shall establish a maintenance project grant program to support school entity maintenance projects.

(b) Eligibility.--Maintenance projects that are eligible for grants under this section shall include the following:

- (1) Roof repairs and roof replacement.
- (2) Heating, ventilation and air conditioning equipment.
- (3) Boilers and controls.
- (4) Plumbing systems.
- (5) Energy savings projects.
- (6) Health and safety upgrades.
- (7) Emergencies.
- (8) Other projects approved by the secretary.

(c) Application process.--The department shall develop a process through which school entities may submit applications for grant awards.

(d) Funding rubric.--The department shall develop a rubric to prioritize grant awards under this section. The rubric shall consider the following:

- (1) School entity wealth.

- (2) Prior receipt of grant awards.
 - (3) Building conditions.
 - (4) Emergencies.
 - (5) Safety and security.
- (e) Local match required.--
- (1) A school entity shall provide a 50% match for each grant awarded.
 - (2) No matching funds shall be required for a project that is determined by the secretary to be an emergency.
- (f) Limitation on grant award.--
- (1) No grant award for a maintenance project may exceed \$1,000,000.
 - (2) No school entity may receive an annual allocation of grants that exceeds 20% of the funds available under the program.
- (g) Funding.--
- (1) The program shall be funded from a set-aside equal to 25% of the appropriation for school building projects annually under this article.
 - (2) No less than 20% of the funds allocated to the program under paragraph (1) shall be awarded to projects that enhance school building safety and security.
 - (3) In any fiscal year when funds are available for grants under the program as provided in paragraph (1), the department shall allocate 50% of the set-aside for grants by December 31 and the other 50% of the set-aside for grants not later than June 30 of that fiscal year.
- (h) Transmission of information to General Assembly.--The department shall annually transmit grant award information to the Appropriations Committee of the Senate and the Appropriations Committee of the House of Representatives, including grant amounts and scoring from the rubric under subsection (d).

Section 2605-J. Building condition assessments.

- (a) Duties of department.--
- (1) The department shall develop guidelines for school entities to voluntarily report information related to school building safety, inventory and condition. The guidelines shall include a building condition assessment to be voluntarily completed every 10 years for school entities that includes, but is not limited to, a projection of costs to maintain and renovate existing school buildings.
 - (2) The department shall post completed building condition assessments on the department's publicly accessible Internet website.
 - (3) The department shall provide additional points under the funding rubric contained in section 2604-J(d) for grants applied for by school entities that complete building condition assessments.
- (b) Completion incentive.--A school entity that completes a building condition assessment shall receive a 2% increase above the amount calculated under section 2606-J. The department shall develop a process, in coordination with the application process in section 2602-J, for awarding an enhanced reimbursement for completing a building condition assessment.
- Section 2606-J. Project reimbursement.
- (a) General rule.--The Commonwealth shall reimburse a school entity that receives department approval on an application under section 2602-J(a)(3) by the amount calculated as follows:
- (1) Multiply the base reimbursement amount by the adjustment factor.

(2) Multiply the product under paragraph (1) by the lesser of the project's enrollment and full-time equivalent building capacity.

(3) Multiply the product under paragraph (2) by the school entity's wealth factor.

(b) Limitation.--The maximum payment under this section shall not exceed 65% of a project's structural cost.

(c) Installment payments.--A school entity shall receive equal payments over 20 years totaling the amount determined for reimbursement under subsections (a) and (b).

(d) Adjustment factor.--Beginning July 1, 2020, the adjustment factor shall be zero.

Section 2607-J. School entity education.

The Department of Labor and Industry shall make information available to school entities to help them understand the difference between "public work" and "maintenance work" based on industry standards and the act of August 15, 1961 (P.L.987, No.442), known as the Pennsylvania Prevailing Wage Act.

Section 2608-J. Applicability.

This article shall apply to projects for which approval and reimbursement is sought after the effective date of this section.

Section 2609-J. Guidelines.

The department shall issue guidelines for the administration of this article not later than March 31, 2020.

Section 2. This act shall take effect as follows:

(1) The addition of Article XX-I and section 2602-J(c) of the act and this section shall take effect immediately.

(2) The remainder of this act shall take effect July 1, 2020, or immediately, whichever is later.

APPROVED--The 2nd day of July, A.D. 2019.

TOM WOLF