

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 988 Session of  
2003

INTRODUCED BY C. WILLIAMS, SCHWARTZ AND BOSCOLA,  
DECEMBER 19, 2003

REFERRED TO EDUCATION, DECEMBER 19, 2003

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 mandate waiver program.

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

10 Section 1. Section 701.1 of the act of March 10, 1949  
11 (P.L.30, No.14), added June 27, 1973 (P.L.75, No.34), known as  
12 the Public School Code of 1949, is amended to read:

13 Section 701.1. Referendum or Public Hearing Required Prior  
14 to Construction or Lease.--(a) Except as provided in subsection  
15 (b) and except where the approval of the electors is obtained to  
16 incur indebtedness to finance the construction of a school  
17 project, the board of school directors of any school district of  
18 the second, third or fourth classes, shall not construct, enter  
19 into a contract to construct or enter into a contract to lease a  
20 new school building or substantial addition to an existing

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

1 submitted shall specify the maximum project cost, the maximum  
2 building construction cost and the annual sinking fund charge or  
3 lease rental to be incurred by the school district and the  
4 portion of such charge or rental expected to be reimbursed by  
5 the Commonwealth. If the final building construction cost bids  
6 to be submitted to the Department of Education for approval are  
7 less than the aggregate building expenditure standard hereafter  
8 specified but exceed by eight (8) per cent or more the initial  
9 building construction cost estimates submitted to the Department  
10 for approval, a second public hearing shall be held before the  
11 Department shall give its final approval.

12       The applicable aggregate building expenditure standard shall  
13 be a total amount calculated for each building or substantial  
14 addition by multiplying the rated pupil capacity under the  
15 approved room schedule by the following: two thousand eight  
16 hundred dollars (\$2,800) for each pupil of rated elementary  
17 capacity; four thousand two hundred dollars (\$4,200) for each  
18 pupil of rated secondary capacity in grades seven, eight and  
19 nine and five thousand two hundred dollars (\$5,200) for each  
20 pupil of rated secondary capacity in grades ten, eleven and  
21 twelve and five thousand two hundred dollars (\$5,200) for each  
22 pupil of rated vocational-technical capacity in grades ten,  
23 eleven and twelve to not include the cost of equipment and  
24 fixtures in such vocational-technical schools: Provided,  
25 however, That each of the preceding per pupil amounts shall be  
26 adjusted by the Department of Education on July 1, 1974; and  
27 annually thereafter by multiplying said amounts by the ratio of  
28 the composite construction cost index compiled and published by  
29 the United States Department of Commerce for the preceding  
30 calendar year to such index for the next preceding calendar

1 year. Rated elementary pupil capacity or rated secondary pupil  
2 capacity for any school building shall be the rated pupil  
3 capacity determined on the basis of the method used by the  
4 Department for school building reimbursement purposes during the  
5 school year 1971-1972.

6 (b) (1) The board of school directors may adopt a  
7 resolution to apply for a waiver to the provisions of subsection  
8 (a). The application for a waiver shall be in a manner and in a  
9 form developed by the Department of Education and shall:

10 (i) Specify the need for the waiver.

11 (ii) Provide supporting data and information to explain the  
12 benefits to be obtained by the waiver.

13 (2) The application for a waiver shall be adopted by a  
14 resolution of the board of directors at a regularly scheduled  
15 meeting of the board and shall be subject to approval by the  
16 Department of Education.

17 (3) The Department of Education shall have sixty (60) days  
18 from receipt of the application to approve, disapprove or  
19 request modifications to the application. If the Department of  
20 Education fails to act within that time period, the waiver shall  
21 be deemed to be approved. When considering an application for a  
22 waiver, the Department of Education shall consider the  
23 following:

24 (i) The educational interests of affected students.

25 (ii) Taxpayer interests.

26 (iii) The original purpose of and underlying rationale for  
27 the provisions of subsection (a).

28 (4) If the Department of Education disapproves the  
29 application for waiver, the basis for the department's  
30 disapproval shall be transmitted to the board of school

1 directors. The board of school directors may submit a revised  
2 application for a waiver.

3 (5) The Department of Education shall issue an annual report  
4 to the chairman and minority chairman of the Education Committee  
5 of the Senate and the chairman and minority chairman of the  
6 Education Committee of the House of Representatives listing all  
7 waiver requests and department approvals or disapprovals under  
8 this section.

9 (c) For purposes of this section:

10 (1) "Site acquisition" includes the cost of land and mineral  
11 rights, demolition and clearing, rights-of-way and related  
12 utility relocations, surveys and soils analysis, and the cost of  
13 all fees relating thereto.

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

17 (3) "Equipment and fixtures" means property fixed or movable  
18 which is incidental and necessary to conduct the educational  
19 program, and includes, but is not limited to movable equipment  
20 such as desks, chairs, tables, portable physical education  
21 equipment, audio-visual equipment and science, homemaking,  
22 industrial art and business equipment and instructional  
23 materials and fixtures such as casework, laboratory equipment,  
24 kitchen equipment, auditorium seating and any other special  
25 fixtures or equipment required to conduct a particular  
26 educational program.

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

30 Section 2. Section 1714-B(g) of the act, added May 10, 2000

1 (P.L.44, No.16), is amended to read:

2 Section 1714-B. Mandate Waiver Program.--\* \* \*

3 (g) The following provisions of this act shall not be  
4 subject to waiver pursuant to this section: sections 108, 110,  
5 111, 321, 322, 323, 324, 325, 326, 327, 431, 436, 437, 440.1,  
6 443, 510, 513, 518, 527, [701.1,] 708, 736, 737, 738, 739, 740,  
7 741, 752, 753, 755, 771, 776, 777, 808, 809, 810, 1303(a), 1310,  
8 1317, 1317.1, 1317.2, 1318, 1327, 1327.1, 1330, 1332, 1361,  
9 1366, 1501, 1502, 1513, 1517, 1518, 1521, 1523, 1546 and 1547;  
10 provisions prohibiting discrimination; Articles VI, XI, XI-A,  
11 XII, XIII-A, XIV and XVII-A and this article.

12 \* \* \*

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