

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 894 Session of 2007

INTRODUCED BY LEACH, BENNINGTON, CALTAGIRONE, DePASQUALE, FABRIZIO, FREEMAN, GEORGE, GRUCELA, HENNESSEY, JAMES, JOSEPHS, McCALL, M. O'BRIEN, PALLONE, ROEBUCK, ROSS, RUBLEY, SCHRODER, McILVAINE SMITH, STURLA, THOMAS, VITALI, YOUNGBLOOD, WAGNER AND KORTZ, MARCH 22, 2007

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 27, 2007

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," further providing for referendum or
6 public hearing required prior to construction or lease AND ←
7 FOR APPROVED REIMBURSABLE RENTAL FOR CERTAIN LEASES AND
8 APPROVED REIMBURSABLE SINKING FUND CHARGES ON INDEBTEDNESS.

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

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

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

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

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

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

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

19 For purposes of this section:

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

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

27 (3) "Equipment and fixtures" means property fixed or movable
28 which is incidental and necessary to conduct the educational
29 program, and includes, but is not limited to movable equipment
30 such as desks, chairs, tables, portable physical education

1 equipment, audio-visual equipment and science, homemaking,
2 industrial art and business equipment and instructional
3 materials and fixtures such as casework, laboratory equipment,
4 kitchen equipment, auditorium seating and any other special
5 fixtures or equipment required to conduct a particular
6 educational program.

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

10 ~~(5) "Operating cost" means building expenses necessary in~~ <—
11 ~~the operation of the school building, including, but not limited~~
12 ~~to, insulation of the building structure or systems, automated~~
13 ~~or computerized energy control systems, heating, ventilating,~~
14 ~~air conditioning, lighting or energy recovery systems and energy~~
15 ~~conservation measures that provide utility cost reductions. The~~
16 ~~term shall not include the cost associated with school district~~
17 ~~personnel or student instruction.~~

18 (5) "LEED" MEANS THE LEADERSHIP IN ENERGY AND ENVIRONMENTAL <—
19 DESIGN, A PROGRAM DESIGNED BY THE UNITED STATES GREEN BUILDING
20 COUNCIL AND COMMITTED TO DESIGNING BUILDINGS IN AN ENERGY-
21 EFFICIENT AND ENVIRONMENTALLY CONSERVATIVE MANNER.

22 (6) "LEED FOR SCHOOLS RATING SYSTEM" MEANS THE MOST CURRENT
23 VERSION OF THE LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN
24 (LEED) PROGRAM DESIGNED BY THE UNITED STATES GREEN BUILDING
25 COUNCIL (USGBC) TO MEASURE THE ENERGY AND ENVIRONMENTAL
26 PERFORMANCE OF K-12 SCHOOLS.

27 (7) "LEED COST" MEANS THE DESIGN, CONSTRUCTION AND
28 REGISTRATION COSTS DIRECTLY ATTRIBUTABLE TO ACHIEVING POINTS
29 UNDER THE LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN (LEED)
30 FOR SCHOOLS RATING SYSTEM, INCLUDING, BUT NOT LIMITED TO, ENERGY

1 PERFORMANCE BENCHMARKING, LIFE-CYCLE COST ASSESSMENTS, LOW-
2 IMPACT DEVELOPMENT STORMWATER MANAGEMENT TECHNOLOGIES, ENERGY
3 AND LIGHTING MODELING, ALTERNATIVE ENERGY TECHNOLOGY, BUILDING
4 COMMISSIONING, AND REGISTRATION WITH THE UNITED STATES GREEN
5 BUILDING COUNCIL (USGBC).

6 SECTION 2. SECTION 2574(A) OF THE ACT, AMENDED SEPTEMBER 29,
7 1959 (P.L.992, NO.407), IS AMENDED TO READ:

8 SECTION 2574. APPROVED REIMBURSABLE RENTAL FOR LEASES
9 HEREAFTER APPROVED AND APPROVED REIMBURSABLE SINKING FUND
10 CHARGES ON INDEBTEDNESS.--(A) FOR SCHOOL BUILDING PROJECTS FOR
11 WHICH THE GENERAL CONSTRUCTION CONTRACT IS AWARDED SUBSEQUENT TO
12 MARCH 22, 1956, AND FOR APPROVED SCHOOL BUILDING PROJECTS FOR
13 WHICH THE GENERAL CONSTRUCTION CONTRACT WAS AWARDED BUT FOR
14 WHICH A LEASE WAS NOT APPROVED BY THE DEPARTMENT OF [PUBLIC
15 INSTRUCTION] EDUCATION PRIOR TO MARCH 22, 1956, THE DEPARTMENT
16 OF [PUBLIC INSTRUCTION] EDUCATION SHALL CALCULATE AN APPROVED
17 REIMBURSABLE RENTAL OR APPROVED REIMBURSABLE SINKING FUND
18 CHARGES. REIMBURSABLE SINKING FUND CHARGES MAY INCLUDE CHARGES
19 FOR TEMPORARY INDEBTEDNESS WITHIN CONSTITUTIONAL LIMITATIONS, IF
20 THE INDEBTEDNESS IS INCURRED FOR APPROVED [PERMANENT]
21 IMPROVEMENTS TO THE SCHOOL PLANT INCLUDING THE COST OF ACQUIRING
22 A SUITABLE SITE FOR A SCHOOL BUILDING, THE COST OF CONSTRUCTING
23 A NEW SCHOOL BUILDING, OR THE COST OF PROVIDING NEEDED ADDITIONS
24 OR ALTERATIONS TO EXISTING BUILDINGS FOR WHICH NO BOND ISSUE IS
25 PROVIDED AND FOR WHICH AN APPROVED OBLIGATION OR OBLIGATIONS
26 OTHER THAN BONDS HAVE BEEN ISSUED AND THE OBLIGATION OR
27 OBLIGATIONS ARE PAYABLE WITHIN FIVE (5) YEARS FROM THE DATE OF
28 ISSUE OF THE OBLIGATION IN EQUAL ANNUAL INSTALLMENTS. AS USED IN
29 THIS SECTION, "BUILDING" SHALL INCLUDE A PERMANENT STRUCTURE
30 THAT CONTAINS OR IS ATTACHED TO RELOCATABLE OR MODULAR

1 CLASSROOMS. THE TERM "RELOCATABLE OR MODULAR CLASSROOM" SHALL
2 MEAN A CLASSROOM NOT OF A PERMANENT NATURE WHICH MEETS THE
3 CRITERIA AND SPECIFICATIONS OF THE DEPARTMENT OF EDUCATION.

4 APPROVED REIMBURSABLE RENTAL OR SINKING FUND CHARGE SHALL
5 CONSIST OF THAT PART OF THE ANNUAL RENTAL OR SINKING FUND CHARGE
6 ATTRIBUTABLE TO--

7 (1) THE COST OF ACQUIRING THE LAND UPON WHICH THE SCHOOL
8 BUILDINGS ARE SITUATE, THE COST OF NECESSARY ROUGH GRADING TO
9 PERMIT PROPER PLACEMENT OF THE BUILDING UPON SAID LAND AND THE
10 COST OF SEWAGE TREATMENT PLANTS, AS REQUIRED BY THE DEPARTMENT
11 OF HEALTH, TO THE EXTENT THAT SUCH COSTS ARE DEEMED REASONABLE
12 BY THE DEPARTMENT OF [PUBLIC INSTRUCTION] EDUCATION AND THE
13 INTEREST ON SUCH COSTS OF ACQUISITION, GRADING AND SEWAGE
14 TREATMENT PLANTS EARNED SUBSEQUENT TO DATE THE CONSTRUCTION
15 CONTRACT IS AWARDED, AND

16 (2) THE APPROVED BUILDING CONSTRUCTION COST AND THE INTEREST
17 ON SUCH CONSTRUCTION COST.

18 * * *

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

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