

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 689 Session of 2009

INTRODUCED BY DRUCKER, BELFANTI, BRENNAN, BROWN, CALTAGIRONE,  
DePASQUALE, FRANKEL, GEIST, GRUCELA, HARPER, JOHNSON,  
JOSEPHS, KORTZ, MAHONEY, MANN, McILVAINE SMITH, MELIO, MUNDY,  
MURT, M. O'BRIEN, ROSS, SIPTROTH, STURLA AND VULAKOVICH,  
MARCH 3, 2009

REFERRED TO COMMITTEE ON EDUCATION, MARCH 3, 2009

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 (P.L.  
12 30, No.14), known as the Public School Code of 1949, amended  
13 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 any  
19 additional LEED costs. In all cases, a public hearing shall be  
20 held not later than thirty (30) days before the school district  
21 submits the initial building construction cost and LEED cost  
22 estimates to the Department of Education for approval. Notice of  
23 the hearing shall be given not later than twenty (20) days  
24 before the date of the scheduled hearing. In the event that the  
25 maximum building construction cost authorization exceeds the  
26 aggregate building expenditure standard hereinafter specified,  
27 the aforesaid authorization of the school board shall be  
28 submitted to the electors of the school district for their  
29 approval within six (6) months prior to submission of the final  
30 building construction cost bids to the Department of Education

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

15 The applicable aggregate building expenditure standard shall  
16 be a total amount calculated for each building or substantial  
17 addition by multiplying the rated pupil capacity under the  
18 approved room schedule by the following: two thousand eight  
19 hundred dollars (\$2,800) for each pupil of rated elementary  
20 capacity; four thousand two hundred dollars (\$4,200) for each  
21 pupil of rated secondary capacity in grades seven, eight and  
22 nine and five thousand two hundred dollars (\$5,200) for each  
23 pupil of rated secondary capacity in grades ten, eleven and  
24 twelve and five thousand two hundred dollars (\$5,200) for each  
25 pupil of rated vocational-technical capacity in grades ten,  
26 eleven and twelve to not include the cost of equipment and  
27 fixtures in such vocational-technical schools: Provided,  
28 however, That each of the preceding per pupil amounts shall be  
29 adjusted by the Department of Education on July 1, 1974; and  
30 annually thereafter through July 1, 2003, by multiplying said

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

15 For purposes of this section:

16 (1) "Site acquisition" includes the cost of land and mineral  
17 rights, demolition and clearing, rights-of-way and related  
18 utility relocations, surveys and soils analysis, and the cost of  
19 all fees relating thereto.

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

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

1 fixtures or equipment required to conduct a particular  
2 educational program.

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

6 (5) "LEED" means the Leadership in Energy and Environmental  
7 Design, a program designed by the United States Green Building  
8 Council and committed to designing buildings in an energy-  
9 efficient and environmentally conservative manner.

10 (6) "LEED for schools rating system" means the most current  
11 version of the Leadership in Energy and Environmental Design  
12 (LEED) program designed by the United States Green Building  
13 Council (USGBC) to measure the energy and environmental  
14 performance of K-12 schools.

15 (7) "LEED cost" means the design, construction and  
16 registration costs directly attributable to achieving points  
17 under the Leadership in Energy and Environmental Design (LEED)  
18 for schools rating system, including, but not limited to, energy  
19 performance benchmarking, life-cycle cost assessments, low-  
20 impact development storm water management technologies, energy  
21 and lighting modeling, alternative energy technology, building  
22 commissioning, and registration with the United States Green  
23 Building Council (USGBC).

24 Section 2. Section 2574(a) of the act, amended September 29,  
25 1959 (P.L.992, No.407), is amended to read:

26 Section 2574. Approved Reimbursable Rental for Leases  
27 Hereafter Approved and Approved Reimbursable Sinking Fund  
28 Charges on Indebtedness.--(a) For school building projects for  
29 which the general construction contract is awarded subsequent to  
30 March 22, 1956, and for approved school building projects for

1 which the general construction contract was awarded but for  
2 which a lease was not approved by the Department of [Public  
3 Instruction] Education prior to March 22, 1956, the Department  
4 of [Public Instruction] Education shall calculate an approved  
5 reimbursable rental or approved reimbursable sinking fund  
6 charges. Reimbursable sinking fund charges may include charges  
7 for temporary indebtedness within constitutional limitations, if  
8 the indebtedness is incurred for approved [permanent]  
9 improvements to the school plant including the cost of acquiring  
10 a suitable site for a school building, the cost of constructing  
11 a new school building, or the cost of providing needed additions  
12 or alterations to existing buildings for which no bond issue is  
13 provided and for which an approved obligation or obligations  
14 other than bonds have been issued and the obligation or  
15 obligations are payable within five (5) years from the date of  
16 issue of the obligation in equal annual installments. As used in  
17 this section, "building" shall include a permanent structure  
18 that contains or is attached to relocatable or modular  
19 classrooms. The term "relocatable or modular classroom" shall  
20 mean a classroom not of a permanent nature which meets the  
21 criteria and specifications of the Department of Education.

22 Approved reimbursable rental or sinking fund charge shall  
23 consist of that part of the annual rental or sinking fund charge  
24 attributable to--

25 (1) The cost of acquiring the land upon which the school  
26 buildings are situate, the cost of necessary rough grading to  
27 permit proper placement of the building upon said land and the  
28 cost of sewage treatment plants, as required by the Department  
29 of Health, to the extent that such costs are deemed reasonable  
30 by the Department of [Public Instruction] Education and the

1 interest on such costs of acquisition, grading and sewage  
2 treatment plants earned subsequent to date the construction  
3 contract is awarded, and

4 (2) The approved building construction cost and the interest  
5 on such construction cost.

6 \* \* \*

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