
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 399 Session of
2009

INTRODUCED BY LEACH, WASHINGTON, FERLO, ERICKSON, BOSCOLA, COSTA
AND M. WHITE, FEBRUARY 20, 2009

REFERRED TO EDUCATION, FEBRUARY 20, 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
20 into a contract to lease a new school building or substantial
21 addition to an existing school building without the consent of

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

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

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

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

13 For purposes of this section:

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

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

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

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

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

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

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

22 Section 2. Section 2574(a) of the act, amended September 29,
23 1959 (P.L.992, No.407), is amended to read:

24 Section 2574. Approved Reimbursable Rental for Leases
25 Hereafter Approved and Approved Reimbursable Sinking Fund
26 Charges on Indebtedness.--(a) For school building projects for
27 which the general construction contract is awarded subsequent to
28 March 22, 1956, and for approved school building projects for
29 which the general construction contract was awarded but for
30 which a lease was not approved by the Department of [Public

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

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

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

1 contract is awarded, and

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

4 * * *

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