
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 694 Session of
2015

INTRODUCED BY EICHELBERGER, MENSCH, RAFFERTY, AUMENT,
VULAKOVICH, YAW, McILHINNEY, STEFANO, SCHWANK, WHITE AND
WARD, APRIL 7, 2015

REFERRED TO EDUCATION, APRIL 7, 2015

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," in grounds and buildings, further
6 providing for approval by department of plans of buildings
7 and exceptions, providing for accountability and reducing
8 costs in construction process, further providing for
9 limitation on new applications for Department of Education
10 approval of public school building projects; and, in
11 reimbursements by Commonwealth and between school districts,
12 further providing for definitions, for approved reimbursable
13 rental for leases hereafter approved and approved
14 reimbursable sinking fund charges on indebtedness, for
15 payments on account of leases hereafter approved and on
16 account of sinking fund charges on indebtedness for school
17 buildings hereafter constructed and for payments on account
18 of building costs and providing for lump sum reimbursement
19 for construction or reconstruction.

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

22 Section 1. Section 731 of the act of March 10, 1949 (P.L.30,
23 No.14), known as the Public School Code of 1949, amended June
24 27, 1973 (P.L.75, No.34) and June 30, 2011 (P.L.112, No.24), is
25 amended to read:

26 Section 731. Approval by Department of Plans, etc., of

1 Buildings; Exceptions.--(a) The Department of Education, with
2 respect to construction or reconstruction of public school
3 buildings, shall have the power and its duties shall be:

4 (1) To review all projects, plans and specifications for
5 school building construction or reconstruction, and to make
6 recommendations thereon to the General Assembly and the
7 Governor: Provided, however, That approval of the Department of
8 Education shall not be required for projects, plans and
9 specifications for school construction projects for which
10 reimbursement from the Commonwealth is not requested;

11 (2) To assist school districts in preplanning construction
12 and reconstruction projects, and offer such architectural,
13 engineering and financial advice as will enable the project to
14 comply with the standards prescribed by the State Board of
15 Education;

16 (3) To hold hearings on any or all projects and subpoena
17 witnesses, administer oaths, take testimony and compel the
18 production of documents relevant to any investigation;

19 (4) To act as liaison between the public, local school
20 officials, the General Assembly, and the Governor on school
21 building construction and reconstruction projects;

22 (5) To receive and investigate complaints from the public or
23 other source concerning any school building construction or
24 reconstruction project;

25 (6) To conduct investigations on any phase of school
26 building construction or reconstruction projects.

27 (7) To provide for an electronic database on its publicly
28 accessible Internet website for the purpose of providing public
29 access to information on public school construction and
30 reconstruction projects, building purchases and charter school

1 lease reimbursements submitted for the approval of, or approved
2 by, the Department of Education. The electronic database shall
3 indicate the date each application for reimbursement was
4 submitted to the Department of Education and the date of
5 approval for each step of the reimbursement process as outlined
6 in section 731.2 of this act. The Department of Education shall
7 establish the database no later than July 1, 2016.

8 (b) The Department of Education shall employ engineers,
9 architects, financial advisors, and such other staff personnel
10 as may be necessary for the proper performance of the duties of
11 the Department with respect to construction or reconstruction of
12 public school buildings.

13 (c) No public school building shall be contracted for,
14 constructed, or reconstructed, in any school district of the
15 second, third, or fourth class until the plans and
16 specifications therefor have been approved by the Department of
17 Education[.

18 When ordinary repairs are proposed, such as plastering,
19 painting, replacement of floors, improvement of school grounds,
20 repairing or providing walks, roadways or retaining walls, the
21 cost of which in districts of the second class or in districts
22 of the third and fourth class will not exceed fifteen thousand
23 dollars (\$15,000) per building, no approval shall be required.
24 Where any structural change is involved, such as moving or
25 adding doors, windows, partitions, making additions or any
26 excavations, or any work which may affect the safety or health
27 of the pupils, or any work which comes under the jurisdiction of
28 another department of the Commonwealth, approval of the
29 Department of Education shall be required regardless of the cost
30 of such structural change.]: Provided, however, That approval of

1 the Department of Education shall not be required for projects,
2 plans and specifications for school construction projects for
3 which reimbursement from the Commonwealth is not requested.

4 (d) No school building shall be purchased by any school
5 district until such purchase shall have been approved by the
6 Department of Education. Such approval shall not be given unless
7 the school building to be purchased and any approved structural
8 changes or renovations meet the standards required to operate
9 public school buildings of a similar age currently in use in the
10 Commonwealth.

11 Section 2. The act is amended by adding a section to read:

12 Section 731.2. Accountability and Reducing Costs in
13 Construction Process.--(a) No later than July 1, 2016, the
14 department shall develop and implement a process, including
15 standardized forms and procedures, which shall be used by school
16 districts to apply for Commonwealth reimbursement for school
17 construction and reconstruction projects and which shall be
18 known as the Accountability and Reducing Costs in Construction
19 Process. In developing the Accountability and Reducing Costs in
20 Construction Process, the department shall separate the process
21 into five (5) benchmark steps of department approval which shall
22 be labeled one (1) through five (5) and shall minimally include
23 the following:

24 (1) Step 1 shall consist of the following:

25 (i) project description;

26 (ii) project justification; and

27 (iii) a technical schematic design review conference with
28 the department.

29 (2) Step 2 shall consist of the following:

30 (i) site acquisition, if applicable to the project;

1 (ii) project accounting based on cost estimates; and
2 (iii) a conference with the department to review completed
3 construction documents, including bid specifications, drawings
4 for the project and documentation regarding the fulfillment of
5 State and local agency requirements.

6 (3) Step 3 shall consist of the following:

7 (i) project accounting based on costs for actual
8 construction bids for which contracts shall be awarded; and

9 (ii) project financing, including financing method and the
10 calculation of the temporary reimbursable percent for the
11 project. In calculating the temporary reimbursable percent, the
12 department shall factor in a five (5) percentage point reduction
13 which shall be utilized until the calculation of the permanent
14 reimbursable percent is completed in Step 4.

15 Approval through Step 3 shall initiate project reimbursement
16 from the Commonwealth.

17 (4) Step 4 shall consist of the following:

18 (i) interim reporting of project modifications, including
19 the reporting of change orders and supplemental contracts; and

20 (ii) project accounting based on the final costs of a
21 project after completion of the following:

22 (A) construction of the project; and

23 (B) payment for all construction or reconstruction work,
24 unless the department has granted an exception.

25 The calculation of the permanent reimbursable percent for a
26 project shall take place during Step 4.

27 (5) Step 5 shall consist of project refinancing, where
28 applicable, to allow for the restructuring, refinancing or
29 refunding of existing indebtedness.

30 (b) (1) Except as provided for in paragraph (2), school

1 districts shall be reimbursed by the department in the order in
2 which their projects received approval for Commonwealth
3 reimbursement by the department.

4 (2) The Secretary of Education may prioritize the
5 reimbursement of a school construction or reconstruction project
6 of a school district declared to be in financial recovery status
7 under Article VI-A of this act. Projects that are given priority
8 under this paragraph shall be reimbursed before all other
9 projects.

10 (c) (1) School districts shall develop a complete district-
11 wide facility study of all district educational facilities,
12 including the district administrative offices. The study shall
13 be completed prior to, and within five (5) years of, the initial
14 date of submission to the department of an application for
15 Commonwealth reimbursement of a school construction or
16 reconstruction project.

17 (2) The study shall provide an appraisal as to each
18 facility's ability to meet current and planned education program
19 requirements, the degree to which the present facilities meet
20 reasonably current construction standards, and an estimated cost
21 of necessary repairs and improvements.

22 (3) The study shall be submitted to the department along
23 with an initial application for Commonwealth reimbursement of a
24 school construction or reconstruction project.

25 (4) The department shall not grant to school districts any
26 exceptions, waivers or variances to the provisions of this
27 subsection.

28 (d) (1) In order to receive Commonwealth reimbursement for
29 the construction of a new building, a school district shall,
30 within Step 1 of the Accountability and Reducing Costs in

1 Construction Process provided for in subsection (a), complete
2 and submit to the department a cost-benefit analysis of the
3 project that compares the construction of the proposed new
4 building to the expansion or renovation of an existing building
5 for the same purpose.

6 (2) If the cost of a new building exceeds that of the
7 expansion or renovation of an existing building for the same
8 purpose, the school district shall only be eligible for
9 Commonwealth reimbursement for the new building if substantial
10 evidence is presented which demonstrates the necessity of a new
11 building and how a new building would better meet the needs of
12 the school district and its students than a building expansion
13 or renovation.

14 (3) A determination by the department that insufficient
15 evidence was provided to demonstrate the necessity of a new
16 building rather than a building expansion or renovation shall be
17 appealable by a school district under 2 Pa.C.S. (relating to
18 administrative law and procedure).

19 (4) The department shall not grant to school districts any
20 exceptions, waivers or variances to the provisions of this
21 subsection.

22 (e) (1) School districts shall not be eligible for
23 Commonwealth reimbursement of school construction or
24 reconstruction project costs for any existing building which is
25 less than thirty (30) years old or for which a Commonwealth
26 reimbursable project has been approved by the department within
27 the preceding thirty (30) years. The thirty (30) year period
28 between eligible Commonwealth reimbursable projects for a school
29 building shall be calculated from the bid opening date of the
30 previous Commonwealth reimbursable project to the bid opening

1 date of the proposed Commonwealth reimbursable project.

2 (2) The department shall not grant to school districts any
3 exceptions, waivers or variances to the provisions of this
4 subsection except in the case of an emergency. For the purposes
5 of this paragraph, an emergency shall include a natural
6 disaster, fire, flood, mold contamination, a criminal or
7 terrorist attack or an extraordinary and unanticipated increase
8 in student enrollment.

9 (f) (1) School districts shall not be eligible for
10 Commonwealth reimbursement of school construction or
11 reconstruction project costs for any existing building where the
12 cost of expansion or renovation of the building, excluding costs
13 for building purchase, movable fixtures and equipment, asbestos
14 abatement, roof replacement, site development and architect
15 fees, is less than forty (40) percent of the replacement value
16 of the entire building.

17 (2) The provisions of this subsection shall not apply to
18 area vocational-technical school construction or reconstruction
19 projects.

20 (3) The department shall not grant to school districts any
21 exceptions, waivers or variances to the provisions of this
22 subsection.

23 (g) The department shall, where possible and appropriate,
24 automate the Accountability and Reducing Costs in Construction
25 Process to allow school districts to submit plans and documents
26 relating to reimbursement for a school construction or
27 reconstruction project electronically.

28 (h) A school district shall not be required to submit any
29 school construction or reconstruction project plans, drawings,
30 bid specifications or other documents to the department on

1 microfilm as a condition of receiving Commonwealth reimbursement
2 for a construction or reconstruction project.

3 (i) A school district shall not be required to resubmit to
4 the department any completed plans, drawings, bid specifications
5 or other documents for a school construction or reconstruction
6 project for which the department received a completed initial
7 application before July 1, 2016, due to the implementation of
8 this section.

9 (j) Subsections (c), (d), (e) and (f) shall not apply to any
10 school construction or reconstruction project for which a
11 completed initial school construction or reconstruction project
12 application was submitted to the department before July 1, 2016.

13 (k) No later than twelve (12) months after the effective
14 date of this section, the department shall develop such rules
15 and guidelines as may be necessary to implement this section:
16 Provided, however, That the department shall not create steps of
17 approval in addition to those provided for under subsection (a)
18 and shall not require more than one school board resolution at
19 each step.

20 (l) For the purposes of this section, the term "department"
21 shall mean the Department of Education of the Commonwealth.

22 Section 3. Section 732.1(b) of the act, amended July 9, 2013
23 (P.L.408, No.59), is amended and the section is amended by
24 adding a subsection to read:

25 Section 732.1. Limitation on New Applications for Department
26 of Education Approval of Public School Building Projects.--* * *

27 (b) (1) The Department of Education shall, in consultation
28 with school district officials and the General Assembly, conduct
29 a review of the Department of Education's current process
30 through which public school building projects are reviewed and

1 approved for Commonwealth reimbursement. The review shall
2 incorporate an analysis of impacting local factors, including,
3 but not limited to, tax effort and building requirements, and
4 shall make recommendations to the chair and minority chair of
5 the Appropriations Committee of the Senate, the chair and
6 minority chair of the Education Committee of the Senate, the
7 chair and minority chair of the Appropriations Committee of the
8 House of Representatives and the chair and minority chair of the
9 Education Committee of the House of Representatives by May 1,
10 2013. The Department of Education shall also conduct a Statewide
11 analysis of school facilities and future capital needs and shall
12 submit a preliminary report on that analysis by May 1, 2014.

13 (2) The Statewide analysis shall be completed and submitted
14 to the chairman and minority chairman of the Appropriations
15 Committee of the Senate, the chairman and minority chairman of
16 the Education Committee of the Senate, the chairman and minority
17 chairman of the Appropriations Committee of the House of
18 Representatives and the chairman and minority chairman of the
19 Education Committee of the House of Representatives no later
20 than May 1, 2016.

21 (c) (1) Any school district that began a school
22 construction or reconstruction project during the time in which
23 the Department of Education was not accepting or approving new
24 school construction and reconstruction project applications for
25 reimbursement under subsection (a) shall be eligible and may
26 apply for Commonwealth reimbursement for those school
27 construction or reconstruction projects.

28 (2) No later than twelve (12) months after the effective
29 date of this section the department shall develop such rules and
30 guidelines as may be necessary to implement this subsection.

1 Section 4. Section 2501 of the act is amended by adding a
2 definition to read:

3 Section 2501. Definitions.--For the purposes of this article
4 the following terms shall have the following meanings:

5 * * *

6 (40) "Department." The Department of Education of the
7 Commonwealth.

8 Section 5. Section 2574(b.1) and (c.6) of the act, amended
9 or added July 13, 2005 (P.L.226, No.46) and July 11, 2006
10 (P.L.1092, No.114), are amended to read:

11 Section 2574. Approved Reimbursable Rental for Leases
12 Hereafter Approved and Approved Reimbursable Sinking Fund
13 Charges on Indebtedness.--* * *

14 (b.1) (1) For school buildings constructed and based on an
15 approved school facility design received from the Department of
16 Education's school facility design clearinghouse, for which the
17 general construction contract is awarded subsequent to January
18 1, 2005, and for approved school building projects for which the
19 general construction contract was awarded but for which a lease
20 or general obligation bond resolution was not approved by the
21 Department of Education prior to January 1, 2005, the approved
22 building construction cost shall additionally include the
23 product of the rated pupil capacity as determined by the
24 Department of Education at the time the project is approved and
25 (i) four hundred seventy dollars (\$470) in the case of
26 elementary schools, (ii) six hundred twenty dollars (\$620) in
27 the case of secondary schools, (iii) an amount in the case of
28 combined elementary-secondary schools obtained by multiplying
29 the rated elementary pupil capacity by four hundred seventy
30 dollars (\$470) and the rated secondary pupil capacity by six

1 hundred twenty dollars (\$620) and dividing the sum by the total
2 rated pupil capacity.

3 (2) The provisions of this subsection shall only apply to
4 school construction or reconstruction projects for which a
5 completed initial school construction or reconstruction project
6 application was submitted to the department before July 1, 2016.

7 * * *

8 (c.4) (1) For school buildings for which the general
9 construction contract is awarded on or after January 1, 2005,
10 and for approved school building projects for which the general
11 construction contract was awarded but for which a lease or
12 general obligation bond resolution was not approved by the
13 Department of Education prior to January 1, 2005, and where the
14 school building receives a silver, gold or platinum
15 certification from the United States Green Building Council's
16 Leadership in Energy and Environmental Design Green Building
17 Rating System or two, three or four Globes under the Green
18 Building Initiative's Green Globes Green Building Rating System
19 on or after January 1, 2005, the Department of Education shall
20 adjust the approved building construction cost to additionally
21 include the product of the rated pupil capacity as determined by
22 the Department of Education at the time the project is approved
23 and (i) four hundred seventy dollars (\$470) in the case of
24 elementary schools, (ii) six hundred twenty dollars (\$620) in
25 the case of secondary schools, (iii) an amount in the case of
26 combined elementary-secondary schools obtained by multiplying
27 the rated elementary pupil capacity by four hundred seventy
28 dollars (\$470) and the rated secondary pupil capacity by six
29 hundred twenty dollars (\$620) and dividing the sum by the total
30 rated pupil capacity. The Department of Education in

1 consultation with the Governor's Green Government Council shall
2 issue guidelines to carry out this section.

3 (2) The provisions of this subsection shall only apply to
4 school construction or reconstruction projects for which a
5 completed initial school construction or reconstruction project
6 application was submitted to the department before July 1, 2016.

7 * * *

8 (c.6) (1) If a school district receives reimbursement for a
9 school construction project under this section, the school
10 district, upon request by the Department of Education, shall do
11 all of the following:

12 (i) Provide information required by the department to
13 determine whether the school construction project meets criteria
14 established by the department for certification as an approved
15 school facility design for purposes of the department's school
16 facility design clearinghouse.

17 (ii) Authorize the department, in its discretion, to certify
18 the school construction project as an approved school facility
19 design and to include information about the certified project in
20 the department's school facility design clearinghouse.

21 (2) The provisions of this subsection shall only apply to
22 school construction or reconstruction projects for which a
23 completed initial school construction or reconstruction project
24 application was submitted to the department before July 1, 2016.

25 * * *

26 Section 6. Section 2575(a) of the act, amended July 12, 1968
27 (P.L.192, No.96), is amended and the section is amended by
28 adding a subsection to read:

29 Section 2575. Payments on Account of Leases Hereafter
30 Approved and on Account of Sinking Fund Charges on Indebtedness

1 for School Buildings Hereafter Constructed.--(a) (1) The
2 Commonwealth shall pay annually to each school district erecting
3 or sharing in the erection of a building or buildings under the
4 provisions of the Public School Building Authority Act, the
5 Municipality Authority Act, section 758 [of the Public School
6 Code of 1949,] or section 791 of [the Public School Code of
7 1949,] this act on account of buildings for which the lease is
8 approved on or after March 22, 1956, or through the incurring of
9 indebtedness by the issuance of general obligation bonds on
10 account of buildings for which the general construction contract
11 is awarded on or after March 22, 1956, an amount to be
12 determined by multiplying the district's capital account
13 reimbursement fraction computed for the year 1967 or aid ratio
14 whichever is larger by the approved reimbursable rental or
15 approved reimbursable sinking fund charge.

16 (2) The provisions of this subsection shall only apply to
17 school construction or reconstruction projects for which a
18 completed initial school construction or reconstruction project
19 application was submitted to the Department of Education before
20 July 1, 2016.

21 (a.1) (1) The Commonwealth shall pay annually to each
22 school district erecting or sharing in the erection of a
23 building or buildings under the provisions of the Public School
24 Building Authority Act, the Municipality Authority Act or
25 section 758 or 791 of this act, on account of buildings for
26 which the lease is approved on or after July 1, 2016, or through
27 the incurring of indebtedness by the issuance of general
28 obligation bonds on account of buildings for which the general
29 construction contract is awarded on or after July 1, 2016, an
30 amount to be determined by multiplying the district's aid ratio

1 by the approved reimbursable rental or approved reimbursable
2 sinking fund charge.

3 (2) The provisions of this subsection shall only apply to
4 school construction or reconstruction projects for which a
5 completed initial school construction or reconstruction project
6 application was submitted to the Department of Education on or
7 after July 1, 2016.

8 * * *

9 Section 7. Section 2575.1 of the act, amended July 9, 1992
10 (P.L.392, No.85), is amended to read:

11 Section 2575.1. Payments on Account of Building Costs.--(a)

12 (1) The Commonwealth shall pay to any school district making a
13 preliminary payment on account of the approved building
14 construction or approved renovation cost as authorized by
15 section 783 or by clause (4) of section 790 or by clause (5) of
16 section 791 of this act, an amount determined by multiplying the
17 district's capital account reimbursement fraction computed for
18 the year 1967 or aid ratio whichever is larger by the amount of
19 the payment made by the school district.

20 (2) The provisions of this subsection shall only apply to
21 school construction or reconstruction projects for which a
22 completed initial school construction or reconstruction project
23 application was submitted to the Department of Education before
24 July 1, 2016.

25 (a.1) (1) The Commonwealth shall pay to any school district
26 making a preliminary payment on account of the approved building
27 construction or approved renovation cost as authorized by
28 section 783 or by clause (4) of section 790 or by clause (5) of
29 section 791 of this act, an amount determined by multiplying the
30 district's aid ratio by the amount of the payment made by the

1 school district.

2 (2) The provisions of this subsection shall only apply to
3 school construction or reconstruction projects for which a
4 completed initial school construction or reconstruction project
5 application was submitted to the Department of Education on or
6 after July 1, 2016.

7 (b) (1) Whenever any school district provides the full
8 payment on account of approved building construction or approved
9 renovation cost without incurring debt, or without assuming a
10 lease, the Commonwealth shall pay to such school district an
11 amount determined by multiplying the district's capital account
12 reimbursement fraction computed for the year 1967 or aid ratio
13 whichever is larger by the amount of the payment made by the
14 school district.

15 (2) The provisions of this subsection shall only apply to
16 school construction or reconstruction projects for which a
17 completed initial school construction or reconstruction project
18 application was submitted to the Department of Education before
19 July 1, 2016.

20 (b.1) (1) Whenever any school district provides the full
21 payment on account of approved building construction or approved
22 renovation cost without incurring debt, or without assuming a
23 lease, the Commonwealth shall pay to such school district an
24 amount determined by multiplying the district's aid ratio by the
25 amount of the payment made by the school district.

26 (2) The provisions of this subsection shall only apply to
27 school construction or reconstruction projects for which a
28 completed initial school construction or reconstruction project
29 application was submitted to the Department of Education on or
30 after July 1, 2016.

1 (c) The payment required by this section shall be made for
2 the year in which the school district made its payment on
3 account of the approved building construction or approved
4 renovation cost.

5 Section 8. The act is amended by adding a section to read:

6 Section 2581. Lump Sum Reimbursement for Construction or
7 Reconstruction.--(a) The department may, at any time, upon the
8 availability of sufficient funds and the mutual agreement of the
9 department and a school district, provide an immediate lump sum
10 payment to the school district as full reimbursement for a
11 construction or reconstruction project that has received all
12 required approvals from the department for Commonwealth
13 reimbursement. The lump sum payment provided for under this
14 section shall be no greater than seventy-five percent (75%) of
15 the total allowable construction or reconstruction reimbursement
16 provided for under Article XXV of this act for which the school
17 district is eligible: Provided, however, That such payments
18 shall not include reimbursement for interest incurred by a
19 school district. A school district that does not agree to a lump
20 sum payment under this section shall remain eligible for the
21 total allowable construction or reconstruction reimbursement
22 provided for under Article XXV of this act.

23 (b) Each agreement for lump sum reimbursement under this
24 section shall require the school district receiving a lump sum
25 payment to relinquish any current claim to the total allowable
26 construction or reconstruction reimbursement provided for under
27 Article XXV of this act for which the school district is
28 eligible in exchange for the immediate lump sum payment of a
29 lesser amount.

30 (c) The department shall make the opportunity for a lump sum

1 payment available to school districts in the order in which each
2 school district construction or reconstruction project receives
3 approval for Commonwealth reimbursement by the department. A
4 school district that does not agree to a lump sum payment under
5 this section shall retain its place in the order in which the
6 department reimburses school districts.

7 (d) No later than twelve (12) months after the effective
8 date of this section, the department shall develop such rules
9 and guidelines as may be necessary to implement this section.

10 Section 9. For the 2015-2016 fiscal year and each fiscal
11 year thereafter, the State Public School Building Authority
12 shall assist all school districts with refinancing projects that
13 are currently receiving State reimbursement for a portion of
14 their school construction costs to make additional funds
15 available through which to provide State reimbursement to
16 projects that have not yet begun receiving State reimbursement.

17 Section 10. This act shall take effect in 60 days.