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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1408 Session of  
2023

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INTRODUCED BY SCHWEYER, ISAACSON, FIEDLER, SCHLOSSBERG, MADDEN,  
T. DAVIS, WAXMAN, KRAJEWSKI, KINSEY, STEELE, NEILSON, KHAN,  
HANBIDGE, HILL-EVANS, CIRESI, BOROWSKI, PARKER, KAZEEM,  
PROBST, CURRY AND McNEILL, JUNE 16, 2023

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REFERRED TO COMMITTEE ON EDUCATION, JUNE 16, 2023

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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 limitation on new applications for Department  
7 of Education approval of public school building projects;  
8 and, in construction and renovation of buildings by school  
9 entities, further providing for definitions, for school  
10 construction and renovation approval process, for high-  
11 performance building standards, for maintenance program, for  
12 project reimbursement and for applicability.

13 The General Assembly of the Commonwealth of Pennsylvania  
14 hereby enacts as follows:

15 Section 1. Section 732.1(a) of the act of March 10, 1949  
16 (P.L.30, No.14), known as the Public School Code of 1949,  
17 amended July 8, 2022 (P.L.620, No.55), is amended to read:

18 Section 732.1. Limitation on New Applications for Department  
19 of Education Approval of Public School Building Projects.--(a)  
20 For the 2012-2013 fiscal year, 2013-2014 fiscal year, 2017-2018  
21 fiscal year, 2018-2019 fiscal year, 2019-2020 fiscal year, 2020-  
22 2021 fiscal year, 2021-2022 fiscal year [and], 2022-2023 fiscal

1 year and each fiscal year thereafter, the Department of  
2 Education shall not accept or approve new school building  
3 construction or reconstruction project applications under this  
4 article.

5 \* \* \*

6 Section 2. The definitions of "program," "project" and  
7 "school entity" in section 2601-J of the act are amended and the  
8 section is amended by adding definitions to read:

9 Section 2601-J. Definitions.

10 The following words and phrases when used in this article  
11 shall have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "Account." The Public School Facility Improvement Account  
14 established under section 2604-J(k).

15 \* \* \*

16 "Authority." The Commonwealth Financing Authority.

17 \* \* \*

18 "Board." The board of directors of the authority.

19 \* \* \*

20 "PlanCon project." The construction of a new building, the  
21 addition to an existing building or the renovation of an  
22 existing building.

23 "Program." The [maintenance project grant program] Public  
24 School Facility Improvement Grant Program established under  
25 [this article] section 2604-J(a.1).

26 ["Project." The construction of a new building, the addition  
27 to an existing building or the renovation of an existing  
28 building.]

29 "School entity." [A] Except as provided for under section  
30 2604-J(1), a school district or career and technical center.

1 \* \* \*

2 Section 3. Sections 2602-J(a) and (e), 2603-J(b), 2604-J and  
3 2606-J(b) and (d) of the act are amended to read:

4 Section 2602-J. School construction and renovation approval  
5 process.

6 (a) General rule.--To be eligible to receive reimbursement  
7 from the Commonwealth for costs of a PlanCon project, a school  
8 entity must receive appropriate approval from the department. To  
9 be eligible to receive approval, a school entity shall comply  
10 with the following process as developed and administered by the  
11 department in the order prescribed under this section:

12 (1) Part 1 - PlanCon Project Justification.

13 (i) The school entity must first submit an  
14 application containing the following to the department  
15 pursuant to the requirements developed by the department:

16 (A) The summary page from a school entity-wide  
17 facility study that is not more than five years old.

18 (B) A school board resolution approving the  
19 PlanCon project.

20 (C) The educational specifications of the  
21 PlanCon project.

22 (D) A design overview, drawings and scheduled  
23 area floor plan for the PlanCon project.

24 (E) A site plan for the PlanCon project.

25 (F) Preliminary materials required under section  
26 701.1.

27 (ii) To approve a school entity's application under  
28 this paragraph, the department shall:

29 (A) Verify compliance with the school entity's  
30 facility study.

1 (B) Verify receipt of the school board  
2 resolution approving the PlanCon project.

3 (C) Assess whether the project meets educational  
4 specifications and enrollment needs.

5 (D) Review the PlanCon project's compliance with  
6 section 701.1.

7 (E) Calculate the PlanCon project's preliminary  
8 reimbursement amount.

9 (F) Verify compliance with subsection (b).

10 (2) Part 2 - Construction Documents.

11 (i) The school entity must submit an application  
12 containing the following to the department pursuant to  
13 the requirements developed by the department:

14 (A) Evidence of the school entity's intent to  
15 award contracts.

16 (B) Materials required under section 701.1.

17 (C) Bid and construction documents for the  
18 PlanCon project.

19 (D) Notice of the intent to award bids and bid  
20 outcome materials for the PlanCon project.

21 (E) Confirmation of the PlanCon project's  
22 compliance with the requirements of other agencies.

23 (F) The PlanCon project's updated scheduled area  
24 floor plan.

25 (ii) To approve a school entity's application under  
26 this paragraph, the department shall:

27 (A) Review bid and construction documents for  
28 the PlanCon project.

29 (B) Review the PlanCon project's compliance with  
30 section 701.1.

1 (C) Confirm decisions of bids received for each  
2 bid event for the PlanCon project.

3 (D) Approve the PlanCon project's construction  
4 documents before contracts are signed as a condition  
5 of reimbursement.

6 (E) Confirm the PlanCon project has complied  
7 with the requirements of other agencies.

8 (F) Review the PlanCon project's updated  
9 scheduled area floor plan and the school entity's  
10 enrollment.

11 (G) Calculate the PlanCon project's final  
12 reimbursement amount.

13 (3) Part 3 - PlanCon Project Bid Awards.

14 (i) The school entity must submit an application  
15 containing the following to the department pursuant to  
16 the requirements developed by the department:

17 (A) Evidence of the school board's approval of  
18 signed contracts.

19 (B) Contractor certifications for the PlanCon  
20 project.

21 (C) Final bid tabulations for the PlanCon  
22 project.

23 (D) An application for reimbursement for the  
24 PlanCon project under section 2606-J.

25 (ii) To approve a school entity's application under  
26 this paragraph and begin reimbursement to the school  
27 entity under section 2606-J, the department shall:

28 (A) Assess the PlanCon project's cost accounting  
29 based on the actual bids.

30 (B) Review the PlanCon project's compliance with

1 subsection (b).

2 (C) Review the PlanCon project's compliance with  
3 section 701.1.

4 (D) Review the PlanCon project's application for  
5 reimbursement to the school entity under section  
6 2606-J.

7 (4) Part 4 - PlanCon Project Completion.

8 (i) The school entity must submit an application  
9 containing the following to the department pursuant to  
10 the requirements developed by the department:

11 (A) Within one year of occupancy, an independent  
12 audit of the PlanCon project that may correspond with  
13 the school entity's annual audit.

14 (B) Attestation of the PlanCon project's  
15 compliance with section 701.1.

16 (ii) To approve a school entity's application under  
17 this paragraph, the department shall:

18 (A) Review the PlanCon project's final costs  
19 pursuant to the independent audit.

20 (B) Review the PlanCon project's compliance with  
21 section 701.1.

22 \* \* \*

23 (e) [Project] PlanCon project information.--The department  
24 shall maintain the information submitted and reviewed under this  
25 section in an electronic format and make PlanCon project  
26 information available electronically to the applicant school  
27 entity.

28 \* \* \*

29 Section 2603-J. High-performance building standards.

30 \* \* \*

1 (b) Reimbursement enhancement.--

2 (1) A school entity that utilizes the high-performance  
3 building standards for a PlanCon project under subsection (a)  
4 and satisfies the requirement under paragraph (2) shall  
5 receive a 10% increase above the amount calculated under  
6 section 2606-J.

7 (2) For a school entity to receive the reimbursement  
8 incentive for a PlanCon project under paragraph (1), the  
9 school entity must provide the department with a projection  
10 showing a positive return on investment over the building's  
11 lifetime for utilizing the high-performance building  
12 standards when compared to regular construction practices.

13 (3) The department shall develop standards and a  
14 process, in coordination with the application process in  
15 section 2602-J, for awarding an enhanced reimbursement for  
16 compliance with high-performance building standards.

17 Section 2604-J. [Maintenance program.] Public School Facility  
18 Improvement Grant Program.

19 [(a) Grant program to be established.--The department shall  
20 establish a maintenance project grant program to support school  
21 entity maintenance projects.]

22 (a.1) Public School Facility Improvement Grant Program  
23 established.--The Public School Facility Improvement Grant  
24 Program is established within the authority to support school  
25 entity improvement projects. The authority shall administer and  
26 act as the fiscal agent for the program and shall be responsible  
27 for receiving and reviewing all grant applications and awarding  
28 grants.

29 (b) Eligibility.--[Maintenance] Improvement projects that  
30 are eligible for grants under this section shall include the

1 following:

- 2 (1) Roof repairs and roof replacement.
- 3 (2) Heating, ventilation and air conditioning equipment.
- 4 (3) Boilers and controls.
- 5 (4) Plumbing systems.
- 6 (5) Energy savings projects.
- 7 (6) Health and safety upgrades.
- 8 (7) Emergencies.

9 (8) Accessibility projects, in accordance with standards  
10 under 42 U.S.C. Ch. 126 (relating to equal opportunity for  
11 individuals with disabilities).

12 (9) Internet connectivity, not including purchasing  
13 educational technology hardware or software.

14 [(8)] (10) Other projects approved by the [secretary]  
15 board.

16 (c) Application process.--

17 (1) The [department] authority shall develop a process  
18 through which school entities may submit applications for  
19 grant awards. An application for an improvement project shall  
20 either:

21 (i) fall under a single eligibility type identified  
22 in subsection (b) and involve one or more school  
23 buildings; or

24 (ii) encompass one or more eligibility types  
25 identified in subsection (b) and be confined to one  
26 school building.

27 (2) A qualifying application shall have costs related to  
28 the eligible improvement project of at least \$500,000.

29 (3) A qualifying application shall include an indication  
30 that the school entity received three qualified bids or



1 estimates for the improvement project.

2 (4) There shall be no limitation on the number of  
3 applications for different improvement projects a school  
4 entity may submit in a fiscal year.

5 (5) The authority shall post the application on its  
6 publicly accessible Internet website.

7 (d) Funding rubric.--The [department] authority shall  
8 develop a rubric to prioritize grant awards under this section.  
9 The rubric shall consider the following:

10 (1) School entity wealth.

11 [(2) Prior receipt of grant awards.]

12 (3) Building conditions, including the age of the  
13 building.

14 (4) Emergencies.

15 (5) [Safety] Health, safety and security.

16 (e) Local match required.--

17 (1) A school entity shall provide a [50%] 25% match for  
18 each grant awarded.

19 (2) No matching funds shall be required for a project  
20 that is determined by the [secretary] board to be an  
21 emergency.

22 (3) The board may waive or reduce the match requirement  
23 for a school district that is in either financial watch or  
24 financial recovery status under Article VI-A.

25 (f) Limitation on grant award.--

26 (1) No grant award for [a maintenance] an improvement  
27 project may exceed [\$1,000,000] \$5,000,000.

28 (2) No school entity may receive an annual allocation of  
29 grants that exceeds [20%] 25% of the funds available under  
30 the program.

1           (3) The total allocation to career and technical centers  
2 and intermediate units shall not exceed 20% of the funds  
3 allocated by the authority under the program in a fiscal  
4 year.

5           (4) Subject to paragraph (2), there is no limitation on  
6 a school entity receiving multiple awards under the program  
7 in a single fiscal year.

8           (g) Funding.--

9           (1) The [program shall be funded from a set-aside equal  
10 to] State Treasurer shall annually transfer 25% of the  
11 appropriation to the department for school building projects  
12 [annually] under this article to the account.

13           (2) [No less than 20% of the funds allocated to the  
14 program under paragraph (1) shall be awarded to projects that  
15 enhance school building safety and security.] Except in the  
16 case of an emergency improvement project, for each funding  
17 round, the authority shall conduct a single vote to approve  
18 or disapprove the recommended slate of improvement projects.

19           (3) In any fiscal year when funds are available for  
20 grants under the program [as provided in paragraph (1)], the  
21 [department shall] board may allocate an amount not less than  
22 50% of the [set-aside for grants] amount planned to be  
23 allocated for the fiscal year by December 31 and the [other  
24 50% of the set-aside] remaining amount planned to be  
25 allocated for the fiscal year for grants not later than June  
26 30 of that fiscal year.

27           (h) Transmission of information to General Assembly.--The  
28 [department] authority shall annually transmit grant award  
29 information to the Appropriations Committee of the Senate and  
30 the Appropriations Committee of the House of Representatives,

1 including grant amounts [and scoring from the rubric under  
2 subsection (d)].

3 (i) Grant award.--

4 (1) Grant money may only be awarded for new projects  
5 approved by the board. The following shall apply:

6 (i) For grant awards for the 2023-2024 fiscal year,  
7 a new project shall have a project start date after July  
8 1, 2023.

9 (ii) For grant awards for the 2024-2025 fiscal year  
10 and each fiscal year thereafter, a new project shall have  
11 a project start date succeeding the date of the executed  
12 grant agreement under paragraph (3).

13 (2) Grant money may not be used for any of the  
14 following:

15 (i) Paying fees for securing financing.

16 (ii) Paying interest on borrowed money.

17 (iii) Refinancing existing debt.

18 (iv) Paying for lobbying services.

19 (v) Paying fines.

20 (vi) Application preparation fees.

21 (3) The authority shall execute a grant agreement  
22 between the board and a grant recipient before the payment of  
23 a grant award.

24 (4) A grant recipient may not make a substantial change  
25 to an approved improvement project without first obtaining  
26 authority consent in writing.

27 (5) A grant recipient shall maintain full and accurate  
28 records for the improvement project.

29 (6) A grant recipient shall submit to the authority  
30 copies of all canceled checks or other records verifying

1 expenditures of grant money.

2 (7) Any unused portion of a grant award shall be  
3 returned to the authority.

4 (8) A grant recipient shall submit to the authority a  
5 final report of the eligible improvement project, including  
6 any information as required by the board.

7 (9) The authority may establish additional restrictions  
8 and limitations as the authority deems necessary to  
9 administer the program.

10 (j) Guidelines.--Within 60 days of the effective date of  
11 this subsection, the board shall adopt guidelines to implement  
12 this section. The guidelines shall include provisions for  
13 submission, review and approval of applications, award of grants  
14 and administration of improvement projects funded under the  
15 program, including a provision for reasonable oversight and  
16 reporting to ensure that improvement project grant awards are  
17 used as intended.

18 (k) The Public School Facility Improvement Account.--The  
19 Public School Facility Improvement Account is established as a  
20 restricted account in the General Fund. The following shall  
21 apply:

22 (1) Money in the account is appropriated to the  
23 authority on a continuing basis to provide program grants  
24 under this section.

25 (2) The State Treasurer may accept appropriations,  
26 transfers, gifts, donations, legacies or any other revenues,  
27 including allowable Federal funds, for deposit into the  
28 account.

29 (3) Any interest that accrues in the account shall  
30 remain in the account.

1 (1) Definitions.--As used in this section, the following  
2 words and phrases shall have the meanings given to them in this  
3 subsection unless the context clearly indicates otherwise:

4 "School entity." A school district, career and technical  
5 center or intermediate unit.

6 Section 2606-J. Project reimbursement.

7 \* \* \*

8 (b) [Limitation.--The maximum payment under this section  
9 shall not exceed 65% of a project's structural cost.]

10 (Reserved).

11 \* \* \*

12 (d) Adjustment factor.--

13 (1) Beginning July 1, 2020, through June 30, 2023, the  
14 adjustment factor shall be zero.

15 (2) For school entity projects that receive department  
16 approval on an application under section 2602-J(a)(1) after  
17 July 1, 2023, the adjustment factor shall be five tenths.

18 Section 4. Section 2608-J of the act, amended July 8, 2022  
19 (P.L.620, No.55), is amended to read:

20 Section 2608-J. Applicability.

21 This article shall apply to projects for which approval and  
22 reimbursement is sought and to the [maintenance project grant  
23 program] program beginning July 1, 2023.

24 Section 5. This act shall take effect July 1, 2023, or  
25 immediately, whichever is later.