

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1408 Session of 2023

INTRODUCED BY SCHWEYER, ISAACSON, FIEDLER, SCHLOSSBERG, MADDEN, T. DAVIS, WAXMAN, KRAJEWSKI, KINSEY, STEELE, NEILSON, KHAN, HANBIDGE, HILL-EVANS, CIRESI, BOROWSKI, PARKER, KAZEEM, PROBST, CURRY, McNEILL, KIM, PISCIOTTANO, SANCHEZ, DONAHUE, ROZZI, BOYD, D. WILLIAMS, WEBSTER, GUZMAN AND TAKAC, JUNE 16, 2023

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 22, 2023

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 BUILDING CONDITION ASSESSMENTS, for project reimbursement and
13 for applicability.

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

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

19 Section 732.1. Limitation on New Applications for Department
20 of Education Approval of Public School Building Projects.--(a)
21 For the 2012-2013 fiscal year, 2013-2014 fiscal year, 2017-2018

1 fiscal year, 2018-2019 fiscal year, 2019-2020 fiscal year, 2020-  
2 2021 fiscal year, 2021-2022 fiscal year [and], 2022-2023 fiscal  
3 year and each fiscal year thereafter, the Department of  
4 Education shall not accept or approve new school building  
5 construction or reconstruction project applications under this  
6 article.

7 \* \* \*

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

11 Section 2601-J. Definitions.

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

15 "Account." The Public School Facility Improvement Account  
16 established under section ~~2604-J(k)~~ 2604-J(L). <--

17 \* \* \*

18 "Authority." The Commonwealth Financing Authority.

19 \* \* \*

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

21 \* \* \*

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

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

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

1 "School entity." [A] Except as provided for under section  
2 ~~2604-J(1)~~ 2604-J(M), a school district or career and technical <--  
3 center.

4 \* \* \*

5 Section 3. Sections 2602-J(a) and (e), 2603-J(b), 2604-J, <--  
6 2605-J and 2606-J(b) and (d) of the act are amended to read:  
7 Section 2602-J. School construction and renovation approval  
8 process.

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

15 (1) Part 1 - PlanCon Project Justification.

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

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

21 (B) A school board resolution approving the  
22 PlanCon project.

23 (C) The educational specifications of the  
24 PlanCon project.

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

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

28 (F) Preliminary materials required under section  
29 701.1.

30 (ii) To approve a school entity's application under

1 this paragraph, the department shall:

2 (A) Verify compliance with the school entity's  
3 facility study.

4 (B) Verify receipt of the school board  
5 resolution approving the PlanCon project.

6 (C) Assess whether the project meets educational  
7 specifications and enrollment needs.

8 (D) Review the PlanCon project's compliance with  
9 section 701.1.

10 (E) Calculate the PlanCon project's preliminary  
11 reimbursement amount.

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

13 (2) Part 2 - Construction Documents.

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 entity's intent to  
18 award contracts.

19 (B) Materials required under section 701.1.

20 (C) Bid and construction documents for the  
21 PlanCon project.

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

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

26 (F) The PlanCon project's updated scheduled area  
27 floor plan.

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

30 (A) Review bid and construction documents for

1 the PlanCon project.

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

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

6 (D) Approve the PlanCon project's construction  
7 documents before contracts are signed as a condition  
8 of reimbursement.

9 (E) Confirm the PlanCon project has complied  
10 with the requirements of other agencies.

11 (F) Review the PlanCon project's updated  
12 scheduled area floor plan and the school entity's  
13 enrollment.

14 (G) Calculate the PlanCon project's final  
15 reimbursement amount.

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

17 (i) The school entity must submit an application  
18 containing the following to the department pursuant to  
19 the requirements developed by the department:

20 (A) Evidence of the school board's approval of  
21 signed contracts.

22 (B) Contractor certifications for the PlanCon  
23 project.

24 (C) Final bid tabulations for the PlanCon  
25 project.

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

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

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

3 (B) Review the PlanCon project's compliance with  
4 subsection (b).

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

7 (D) Review the PlanCon project's application for  
8 reimbursement to the school entity under section  
9 2606-J.

10 (4) Part 4 - PlanCon Project Completion.

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) Within one year of occupancy, an independent  
15 audit of the PlanCon project that may correspond with  
16 the school entity's annual audit.

17 (B) Attestation of the PlanCon project's  
18 compliance with section 701.1.

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

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

23 (B) Review the PlanCon project's compliance with  
24 section 701.1.

25 \* \* \*

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

1 \* \* \*

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

3 \* \* \*

4 (b) Reimbursement enhancement.--

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

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

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

20 Section 2604-J. [Maintenance program.] Public School Facility  
21 Improvement Grant Program.

22 [(a) Grant program to be established.--The department shall  
23 establish a maintenance project grant program to support school  
24 entity maintenance projects.]

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

1 grants.

2 (b) Eligibility.--[Maintenance] Improvement projects that  
3 are eligible for grants under this section shall include the  
4 following:

5 (1) Roof repairs and roof replacement.

6 (2) Heating, ventilation and air conditioning equipment.

7 (3) Boilers and controls.

8 (4) Plumbing systems.

9 (5) Energy savings projects.

10 (6) Health and safety upgrades.

11 (7) Emergencies.

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

15 (9) Internet connectivity, not including purchasing  
16 educational technology hardware or software.

17 [(8)] (10) Other projects approved by the [secretary]  
18 board.

19 (c) Application process.--

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

24 (i) fall under a single eligibility type identified  
25 in subsection (b) and involve one or more school  
26 buildings; or

27 (ii) encompass one or more eligibility types  
28 identified in subsection (b) and be confined to one  
29 school building.

30 (2) A qualifying application shall have costs related to



1 the eligible improvement project of at least \$500,000.

2 (3) A qualifying application shall include an indication  
3 that the school entity received three qualified bids or  
4 estimates for the improvement project.

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

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

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

13 (1) School entity wealth.

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

15 (3) Building conditions, including the age of the  
16 building.

17 (4) Emergencies.

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

19 (e) Local match required.--

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

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

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

28 (f) Limitation on grant award.--

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

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

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

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

11 (g) Funding.--

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

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

22 (3) In any fiscal year when funds are available for  
23 grants under the program [as provided in paragraph (1)], the  
24 [department shall] board may allocate an amount not less than  
25 50% of the [set-aside for grants] amount planned to be  
26 allocated for the fiscal year by December 31 and the [other  
27 50% of the set-aside] remaining amount planned to be  
28 allocated for the fiscal year for grants not later than June  
29 30 of that fiscal year.

30 (h) Transmission of information to General Assembly.--The

1 [department] authority shall annually transmit grant award  
2 information to the Appropriations Committee of the Senate and  
3 the Appropriations Committee of the House of Representatives,  
4 including grant amounts [and scoring from the rubric under  
5 subsection (d)].

6 (i) Grant award.--

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

9 (i) For grant awards for the 2023-2024 fiscal year,  
10 a new project shall have a project start date after July  
11 1, 2023.

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

16 (2) Grant money may not be used for any of the  
17 following:

18 (i) Paying fees for securing financing.

19 (ii) Paying interest on borrowed money.

20 (iii) Refinancing existing debt.

21 (iv) Paying for lobbying services.

22 (v) Paying fines.

23 (vi) Application preparation fees.

24 (3) The authority shall execute a grant agreement  
25 between the board and a grant recipient before the payment of  
26 a grant award.

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

30 (5) A grant recipient shall maintain full and accurate

1 records for the improvement project.

2 (6) A grant recipient shall submit to the authority  
3 copies of all canceled checks or other records verifying  
4 expenditures of grant money.

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

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

10 (9) The authority may establish additional restrictions  
11 and limitations as the authority deems necessary to  
12 administer the program.

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

21 (K) QUORUM.--A VOTE OF THE BOARD TO DEVELOP A RUBRIC UNDER <--  
22 SUBSECTION (D), ADOPT GUIDELINES UNDER SUBSECTION (J) AND TO  
23 APPROVE PROJECTS UNDER THIS SECTION SHALL BE MADE IN ACCORDANCE  
24 WITH 64 PA.C.S. § 1512(D) (1) (RELATING TO BOARD).

25 ~~(k)~~ (L) The Public School Facility Improvement Account.--The <--  
26 Public School Facility Improvement Account is established as a  
27 restricted account in the General Fund. The following shall  
28 apply:

29 (1) Money in the account is appropriated to the  
30 authority on a continuing basis to provide program grants

1 under this section.

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

6 (3) Any interest that accrues in the account shall  
7 remain in the account.

8 ~~(1)~~ (M) Definitions.--As used in this section, the following <--  
9 words and phrases shall have the meanings given to them in this  
10 subsection unless the context clearly indicates otherwise:

11 "School entity." A school district, career and technical  
12 center or intermediate unit.

13 SECTION 2605-J. BUILDING CONDITION ASSESSMENTS. <--

14 (A) DUTIES OF DEPARTMENT.--

15 (1) THE DEPARTMENT SHALL DEVELOP GUIDELINES FOR SCHOOL  
16 ENTITIES TO [VOLUNTARILY] REPORT INFORMATION RELATED TO  
17 SCHOOL BUILDING SAFETY, INVENTORY AND CONDITION. THE  
18 GUIDELINES SHALL INCLUDE A BUILDING CONDITION ASSESSMENT TO  
19 BE [VOLUNTARILY] COMPLETED EVERY [10] FIVE YEARS FOR SCHOOL  
20 ENTITIES THAT INCLUDES, BUT IS NOT LIMITED TO, A PROJECTION  
21 OF COSTS TO MAINTAIN AND RENOVATE EXISTING SCHOOL BUILDINGS.

22 (2) THE DEPARTMENT SHALL POST COMPLETED BUILDING  
23 CONDITION ASSESSMENTS ON THE DEPARTMENT'S PUBLICLY ACCESSIBLE  
24 INTERNET WEBSITE.

25 [(3) THE DEPARTMENT SHALL PROVIDE ADDITIONAL POINTS  
26 UNDER THE FUNDING RUBRIC CONTAINED IN SECTION 2604-J(D) FOR  
27 GRANTS APPLIED FOR BY SCHOOL ENTITIES THAT COMPLETE BUILDING  
28 CONDITION ASSESSMENTS.]

29 (B) COMPLETION INCENTIVE.--A SCHOOL ENTITY THAT COMPLETES A  
30 BUILDING CONDITION ASSESSMENT SHALL [RECEIVE A 2% INCREASE ABOVE

1 THE AMOUNT CALCULATED UNDER SECTION 2606-J. THE DEPARTMENT SHALL  
2 DEVELOP A PROCESS, IN COORDINATION WITH THE APPLICATION PROCESS  
3 IN SECTION 2602-J, FOR AWARDING AN ENHANCED REIMBURSEMENT FOR  
4 COMPLETING A BUILDING CONDITION ASSESSMENT] BE ELIGIBLE TO  
5 RECEIVE A GRANT UNDER SECTION 2604-J AND REIMBURSEMENT UNDER  
6 SECTION 2606-J.

7 Section 2606-J. Project reimbursement.

8 \* \* \*

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

11 (Reserved).

12 \* \* \*

13 (d) Adjustment factor.--

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

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

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

21 Section 2608-J. Applicability.

22 This article shall apply to projects for which approval and  
23 reimbursement is sought and to the [maintenance project grant  
24 program] program beginning July 1, 2023, THROUGH JUNE 30, 2026. <--

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