



House Education Committee Report

March 31, 2014

Committee(s):	House Education Committee
Audio:	 (click here) (Note: Depending on your audio player and the length of the hearing this could take a few minutes to load.)
Video:	 (click here)
Meeting type:	Public Hearing
Subject:	HB 2124
Bills discussed:	HB 2124
Keyword(s):	Education, construction, PlanCon
Testimony:	<p>Carolyn Dumaresq, Acting Secretary, Department of Education Dr. Wayne McCullough, Chief Financial and Operations Officer for Southern York County School District Shawn Sampson, Business Manager, Titusville Area School District Jay Himes, Executive Director, Pennsylvania Association of School Business Officials Stephen Swarney, Executive Director, Pennsylvania Chapter of the American Institute of Architects, (AIA PA) Vern McKissick, III, President, McKissick Associate Architects, speaking on behalf of AIA PA Richard Karcher, Executive Vice President, McKissick Associates Architects, speaking on behalf of AIA Pennsylvania Dr. Joseph Roy, Superintendent, Bethlehem Area School District John Callahan, Senior Director of Government Affairs, Pennsylvania School Boards Association James Gaffney, Goshen Mechanical Inc. and speaking on behalf of the Concerned Contractors of Pennsylvania Chad Harvey, Executive Director, Mid Atlantic BX Terrence McDonough, Executive Director, General Contractors Association of Pennsylvania (GCAP)</p>
Members Present:	Chairman Paul Clymer (R-Bucks), Minority Chairman James Roebuck (D-Philadelphia), Rep. Seth Grove (R-York), Rep. Mike Carroll (D-Luzerne), Rep. Scott Conklin (D-Centre), Rep. Jim Christiana (R-Beaver), Rep. Hal English (R-Allegheny), Rep. Mike Fleck (R-Huntingdon), Rep. Mark Gillen (R-Berks), Rep. Pat Harkins (D-Erie), Rep. Mark Longietti (D-Mercer), Rep. Erin Molchany (D-Allegheny), Rep. Bernie O'Neill (R-Bucks), Rep. Kathy Rapp (R-Warren), Rep. Mike Reese (R-Westmoreland), Rep. Dan Truitt (R-Chester), and Rep. Brad Roae (R-Mercer).

The committee held a public hearing on HB 2124.

[HB 2124 Grove, Seth](#) - (PN 3245) Amends the Public School Code, in grounds and buildings, further providing for approval by Department of Education of plans, etc. of buildings and exceptions; providing for accountability and reducing costs in construction process; further providing for limitation on new applications for Department of Education approval of school building projects; providing for interest on delayed reimbursement; and, in reimbursements by Commonwealth and between school districts, further providing for definitions, for approved reimbursable rental for leases hereafter approved and approved reimbursable sinking fund charges on indebtedness, for payments on account of leases hereafter approved and on account of sinking fund charges on indebtedness for school buildings hereafter constructed and for payments on account of building costs; and providing for lump sum reimbursement for construction or reconstruction. For the 2014-2015 fiscal year the General Assembly shall appropriate not less than \$396,198,000 to the Authority Rentals and Sinking Fund Requirements line item in the General Appropriation Act. Section 731.2(d), (e), (f) and (g) 4 are effective July 1, 2015; and the

remainder is effective immediately. (PN 3245) Amends the Public School Code, in grounds and buildings, further providing for approval by Department of Education of plans, etc. of buildings and exceptions; providing for accountability and reducing costs in construction process; further providing for limitation on new applications for Department of Education approval of school building projects; providing for interest on delayed reimbursement; and, in reimbursements by Commonwealth and between school districts, further providing for definitions, for approved reimbursable rental for leases hereafter approved and approved reimbursable sinking fund charges on indebtedness, for payments on account of leases hereafter approved and on account of sinking fund charges on indebtedness for school buildings hereafter constructed and for payments on account of building costs; and providing for lump sum reimbursement for construction or reconstruction. For the 2014-2015 fiscal year the General Assembly shall appropriate not less than \$396,198,000 to the Authority Rentals and Sinking Fund Requirements line item in the General Appropriation Act. Section 731.2(d), (e), (f) and (g) 4 are effective July 1, 2015; and the remainder is effective immediately.

Rep. Grove explained, "HB 2124 addresses the challenges that have developed and escalated over a period of years in the process of the Commonwealth's reimbursement for school construction," he stated. "HB 2124 amends the Public School Code to provide for a modern, simplified and financially stable process of reimbursement and will further call for an appropriation of additional state money to address a backlog of school construction projects awaiting reimbursement."

Rep. Grove said the current eleven stage PlanCon process is onerous for school districts and there is currently a backlog of projects. The Department of Education (PDE) "is currently unable to meet its financial obligations to school districts under PlanCon," he stated. "According to a May 2013 report by PDE, PDE would be approximately \$20 million short of being able to reimburse all approved projects if districts were to file updated paperwork on those projects. Further, of the 354 unapproved projects now working their way through PlanCon, 203 are being bottlenecked due to financial constraints. PDE estimates that it would take approximately \$1.2 billion to completely reimburse all 354 projects... The legislature imposed a moratorium preventing the department from accepting any new applications for construction reimbursement in the 2012-2013, 2013-2014 fiscal years. The governor now proposes to extend this moratorium the upcoming fiscal year. A moratorium may avoid exacerbating the problem however it does nothing to resolve the Commonwealth's unsustainable financial obligations under PlanCon."

Rep. Grove highlighted key aspects of the bill:

- Sets a ceiling for an appropriation of an additional \$100 million for school construction reimbursement;
- Requires PDE to establish a public database for information on school construction projects;
- Establishes a simplified process for school districts to apply for construction reimbursement, to be known as Accountability and Reducing Costs in Construction Process (ArcCon);

[Carolyn Dumaresq](#), Acting Secretary, Department of Education, gave background information on PlanCon and provided the committee an overview of the 347 projects currently in the PlanCon pipeline:

- 42 projects received by PDE but no approval letter issued;
- 54 projects approved through Parts A/B
- 8 projects approved through Part D
- 17 projects approved through Part E
- 23 projects approved through Part F
- 2103 projects approved through Part G

Sec. Dumaresq said the department supports a two-pronged approach to reforming the current system that includes action that addresses both the funding of existing local education agencies in the pipeline and the future role of the Commonwealth in reimbursing school construction. "The current system of reimbursement for specific projects should be reviewed and it should be determined whether a more efficient manner of delivering commonwealth funds for school construction projects can be developed," she stated. "One idea I have heard from some local officials is to shift the payment system from a reimbursement on specific projects to a simpler payment made through the annual Basic Education

subsidy provided to school districts: required to be 'banked' in a restricted account, which could only be used for maintenance and construction."

Sec. Dumaresq raised concerns about several aspects of the bill. "House Bill 2124 would codify in legislation some steps of the process that are currently in regulation or guidelines and we understand the desire to streamline the steps by codifying them in law, but you need to be careful not to limit school's flexibility for certain steps," she stated. "The proposed legislation has several provisions that may add significant cost, including: creation of a database, paying interest if there is a delay at Part H approval, allowing any project to get in to the process that was previously excluded due to moratorium, the addition of a hearing process, thus adding increased duties on PDE. The proposed legislation does not change the reimbursement formula or provide for other long-term changes. Without these changes in the process, even if you clear the pipeline, the Commonwealth will likely end up back in the same place it finds itself today unless significant funds are added to the line each year."

Chairman Clymer noted that the state spends \$296 million a year on PlanCon and questioned why very few projects get through the process. Sec. Dumaresq stated "once you are approved at H you have to go back and calculate the years on what you owe" and cited a school district in Lancaster as an example. "If you take a look at the back payments plus what we would owe for the last two years it was a \$4 million issue and it would be \$600,000 going forward until we sunset that bond issue," she stated. "I don't have the details on how long that financing is that they have but that would continue until we sunset that debt for them."

Chairman Roebuck questioned if there is a census of school buildings throughout Pennsylvania. Sec. Dumaresq said the department has issued sent out a survey to all school districts on the number and condition of facilities and will issue a report on the findings by the end of the year.

Rep. Grove questioned how much money it would take to move the 203 projects currently in G to H. Sec. Dumaresq said it would cost \$140 million in the first year to move those projects from G to H and would cost approximately \$2 billion to completely fund every project in H. Rep. Grove asked what would happen if the legislature provided \$140 million to move those projects from G to H and continue the moratorium on new projects for another year. Sec. Dumaresq stated "you would need to commit that \$140 million as a long term commitment and then as projects sunset out of H that line item would again get less; one of the things you want to consider is making sure that whatever you put in to basic construction that this money, whatever you don't need, gets transferred into the formula."

[Dr. Wayne McCullough](#), Chief Financial and Operations Officer for Southern York County School District, expressed support for the legislation and shared an example of the district's attempt to renovate Friendship Elementary School more than six years ago. "The Southern York County School District entered the PlanCon process with the full expectation that the Commonwealth of Pennsylvania would fund a portion of the project," he stated. "Construction began in July 2011 and was completed in December 2012. The total cost of the project was \$16.418 million. We made our first scheduled debt service payment in September 2011. We expected to receive reimbursement from the Department of Education in the amount of \$4.7 million, which was estimated to be received annually in the amount of \$241,000 to \$283,000. I mention this because the project was well planned and met all Department timelines along the way. We fully expected the reimbursement to also be made in a timely manner. The total amount owed to the Southern York County School District to-date is \$745,000. We have made up for the lack of state reimbursement by using fund balance and reducing staff."

[Shawn Sampson](#), Business Manager, Titusville Area School District, discussed the school district's renovation of the Pleasantville Elementary School. "On November 15, 2010, the district submitted Part H which establishes a temporary reimbursement rate. This is the last approval needed before reimbursements from the state starts. To date, the district has waited over three years for this approval," he stated. "This means the district has not received any reimbursement from the state for this renovation project even though the district has complied with the PlanCon process. The district has issued debt, paid its bills, and completed all of its obligations. We are simply asking the state to do the same. To-date the state owes the district approximately \$675,000 in reimbursement for this project and will owe over \$2.5 million over the life of the financing for this project."

[Jay Himes](#), Executive Director, Pennsylvania Association of School Business Officials (PASBO), emphasized PASBO's support for increasing the total Authority Rentals and Sinking Fund Reimbursement line item by \$100 million and indicated that the organization "generally supports" the legislation. "While additional changes beyond an influx of dollars are needed, the proposed allocation of additional dollars to the PlanCon line item both recognizes the importance of aiding school districts in providing students with safe, appropriate, and updated educational facilities and ensures that the state lives up to the promises it made to school districts that have already entered the lengthy PlanCon process," he stated. "PASBO generally supports the changes proposed in House Bill 2124. The combination of the backlog, the moratorium, the antiquate current PlanCon process, the lack of transparency and the funding concerns leads us to the conclusion that the current program needs an overhaul to ensure efficiency, predictability, and transparency and to ensure that the program is sustained in the future."

Himes expressed concern about several provisions in the bill. He explained that the legislation would change the "current 20-year rule to a 30-year rule" which will prohibit the reimbursement for a reconstruction project on an existing building within 30 years of the last project involving that facility. "While there is a narrow exception built into this new 30-year rule, it applies only to emergencies, which are defined as natural disasters, fires, or floods," he stated. "While we understand the reasons for modifying this rule, and we believe any exceptions provided must be appropriately limited to ensure that the exception does not become standard practice, we do believe that the exception provided must be broadened to provide some reasonable safeguards to school districts."

Chairman Clymer asked what percentage of the total cost of a construction project is funded by the state. Both Sampson and Dr. McCullough said approximately 30 percent of their project costs should have been reimbursed by the state. Himes explained that the reimbursement rate varies by district and is based in part by aid ratio. "Very wealthy communities with very low aid ratios are getting less than ten percent, their getting single reimbursement on the total project," he stated. "Very poor districts might be as high as 40 or 45 percent generally speaking."

Rep. Carroll noted that Gov. Corbett is proposing \$240 million for the Ready to Learn Block Grant and questioned if the districts would prefer that money be used for school construction reimbursement. Dr. McCullough stated "the PlanCon money is a known quantity, we did the work for it and we should get it." In regard to the proposed block grant, Dr. McCullough stated "as a business manager I have concerns, it is putting money somewhere that we are going to obligate for programs that we may not be doing now and then we are owning those programs and then that money is cut some day."

Rep. Grove questioned how critical state assistance is to school district construction projects. Sampson said it is "extremely important" and noted that the Titusville Area School District is delaying a project until there is certainty in the reimbursement process.

Rep. Grove asked how PASBO would address the long term issue of reimbursement for construction projects. Himes noted that student enrollment fluctuates across the state and indicated that the growing school districts need a more equitable way to fund construction projects. "Would we like to see the elimination of the sort of 'mother may I' approach? Certainly, but it's a vexing problem trying figure out how we would do that in an equitable way," he stated. "The current system matches up the needs at that point with actual construction as opposed to payments that may be assembled over a period of time and reserved."

[Stephen Swarney](#), Executive Director, Pennsylvania Chapter of the American Institute of Architects (AIA Pennsylvania), said the organization supports the legislation. "As we collectively continue striving toward an economic recovery, the construction industry, the infrastructure of the state, the needs of our school districts, and needs of the taxpayers who pay the bills deserve this type of thinking to assure that Pennsylvania is providing the best possible situations for all to have a winning scenario," Swarney stated.

[Richard Karcher](#), Executive Vice President, McKissick Associates Architects, speaking on behalf of AIA Pennsylvania, emphasized that school construction has rapidly declined since 2006 and the decline has negatively impacted Pennsylvania's economy. "In 2013, over 500 licensed architects did not renew their

registrations," he stated. "Many Pennsylvania legacy K-12 design firms have seen their staff size reduced from a peak of 120 in 2005 to barely three dozen as of this week. Some have simply stopped designing schools or closed their doors because the school work has essentially dried up. The size of our own K-12 focused firm - McKissick Associates - has been reduced from 27 employees to ten, since 2010. Graduating architectural students no longer look to Pennsylvania architectural firms for employment and the opportunity to perhaps design a new or renovated school in their home school district. Instead they are seeking work opportunities in Maryland, Ohio, Virginia, and North Carolina where growth is taking place, new methods for school construction are implemented, funding is adequate and referendums are routinely passed."

Vern McKissick, III, President, McKissick Associate Architects, speaking on behalf of AIA Pennsylvania, discussed key provisions of the legislation and spoke in support of it. "The most important thing is for the legislature to adopt something and remove the ongoing 'unknowns' to our local school districts," he stated. "Our state needs to follow its constitution and its historic commitment to encourage the development of roads, utilities, schools and other facilities in rural areas. Removing the uncertainty of what a school district can do with their aging buildings and shifting demographics will unquestionably allow many of these school districts to plan and to operate more fiscally responsibly, undertake long term capital upgrade/maintenance, undertake restructurings to optimize operations, and maintain and/or restore lost educational offerings."

Chairman Clymer questioned what percentage of the firm's business is from school construction projects. McKissick said approximately 75 percentage of the firm's business comes from school construction projects.

Rep. Grove noted that only three school districts have used the prototypical school construction design provided by the state and asked for thoughts on the initiative. Karcher stated "any time we have been asked to do a prototypical school, we have lost our fees on them" and indicated that many districts change plans during the process which increases the cost of the project. McKissick noted that 80 percent of the projects in PlanCon are reconstruction projects and would not be eligible of the prototypical construction design.

Rep. Grove inquired about AIA Pennsylvania's thoughts on PDE waivers and changing the current 20-year rule prohibiting the reimbursement for a reconstruction project to a 30-year rule. McKissick indicated that there would be a reduction construction projects but reiterated support for the legislation. "When viewed in the context of trying to fix PlanCon, trying to reduce the cash flow out and make it a sustainable system such as the elimination of waivers do work towards that end without pulling the state out of its long term commitment to aiding school construction adequately," he stated.

Rep. English asked how many technical reviewers the Department of Education has to examine PlanCon projects. McKissick said there is currently one technical reviewer and indicated that more would have to be added if the legislation is enacted. "At this point it is even a struggle," he stated.

Dr. Joseph Roy, Superintendent, Bethlehem Area School District, explained schools do not just educate children, they serve as a community resource that serves a role far beyond their primary role and purpose. He said the moratorium on applications for reimbursement of school construction projects has negatively affected Bethlehem Area School District; he described a project currently "caught up" in the moratorium. Dr. Roy said the lack of payment on completed projects hampers district's financial planning, saying "in an era of extremely difficult budgets for school districts, the loss of expected PlanCon reimbursements leads to higher local property taxes or reductions in educational programs, or both." He highlighted a few areas his organization supports then provided several suggestions to improve the bill. He said he appreciates the provision in the legislation that requires the Commonwealth to pay interest on payments overdue to districts for more than one year. Roy also said the part of the legislation that prohibits PDE from requiring school districts to resubmit documents to meet the new ArcCon requirements that had already been submitted to PDE before the moratorium will be helpful for the project in his school district.

[John Callahan](#), Senior Director of Government Affairs, Pennsylvania School Boards Association, commended Rep. Grove for "addressing the fiscal and process challenges of the School Construction Reimbursement Program." He said the plan will begin to address the backlog of school district construction projects awaiting reimbursement. Callahan provided some background into the current reimbursement process and said the problem with the process is only growing worse. He explained many schools undertake construction or renovation projects to make schools safer, and 203 of the projects in the pipeline are currently halted due to fiscal constraints. Callahan highlighted the impact of the current process is having on several school districts in Pennsylvania. He praised the proposed legislation and pointed out that it does not address the fact that charter schools currently receive direct reimbursement for leased and owned buildings and thus have their bill paid twice; he asked the members to address the overpayment.

Rep. Carroll questioned if the organizations would prefer the \$240 million proposed for the Ready to Learn Block Grant be used for school construction reimbursement. Dr. Roy stated "I would prefer the money on the grant side" and indicated that the Bethlehem Area School District has already built those grant funds into its budget moving forward. Callahan stated "every locality has their own budget, their own situation" and indicated that some may prefer to have the block grant and others would want the money for construction projects. Rep. Carroll opined "I think the best recommendation is to adequately fund PlanCon and provide additional funding for basic ed."

Rep. Grove questioned if the "lump sum option" included in the legislation would benefit school districts. Dr. Roy spoke in support of the provision. "The reimbursement would be a lump sum that would allow us to borrow significantly less than then drives down the debt service every year for the next 20 years," he stated. "That makes a lot of sense to me."

Rep. Grove inquired about figures regarding the double reimbursement for construction costs by charter schools. Callahan said charters have the opportunity to get funds for leases through PlanCon and through their host school district. "We're doing a little bit more research on how those numbers work out, again it's pretty tough to get some of those numbers and we need a little more time to get those but we'll get them to you," he stated.

[James Gaffney](#), Goshen Mechanical Inc. and speaking on behalf of the Concerned Contractors of Pennsylvania, said he believes the current system should be maintained because it is a fair and transparent process. He explained the buildings his company works on are generally old and cost a lot of money to maintain. He detailed the local element of his work, saying 60 percent of his workforce paid school taxes in the districts they performed work in. Gaffney said the moratorium is hurting contractors and school district. "PlanCon is good for the Commonwealth of Pennsylvania. The \$300 million in construction each year betters our schools, our students, our workers, and finally our local taxing authority," stated Gaffney. "It keeps the transparency in the system that everyone needs and it allows my workers to live in the areas where they currently reside."

[Chad Harvey](#), Executive Director, Mid Atlantic BX (MABX), said MABX is supportive of the legislation and also supports efforts to secure adequate funding for primary and secondary educational construction projects. "School construction projects are critically important to our membership and the construction community as a whole and it's no accident that the 100,000th project that MABX reported on in the summer of 2012 was a dual middle school project built just down the road in Carlisle," stated Harvey. He explained his organization saw 16 percent fewer projects in 2013, creating "a sizable impact on the economy of Pennsylvania." Harvey said the funding for construction and renovation of schools must be at a level that not only meets the needs of the Commonwealth's future but also ensures that the jobs and skills required to continually meet the obligation remain in Pennsylvania.

[Terrence McDonough](#), Executive Director, General Contractors Association of Pennsylvania (GCAP), said his organization believes addressing the complex problems with the current reimbursement process is beneficial for both economic development and job creation in the Commonwealth. McDonough said he understands why the moratorium was put in place, but he believes it did little to correct the systemic problem with the process. "HB 2124 not only simplifies a burdensome reimbursement process for school districts addressing the underlying problems causing the backlog and provides for additional funding, it creates jobs which increases revenue collections, spurs investment in our local economies and saves

taxpayer dollars through energy efficient buildings in the future," stated McDonough. "GCAP respectfully urges the Education Committee and the Legislature to support HB 2124."

Rep. Grove questioned if a HVAC system could hold up in a school building for 30 years. Gaffney indicated that a HVAC system could last more than 30 years but schools can save more money by increasing their energy efficiency. "Efficiencies change every day," he stated. "What we could have installed five years ago and said it was the highest efficient boiler on the line is now the distant past and you can't get parts for it anymore and it's a good thing because the savings that that district could see is probably upwards of 60 percent."