

No. 2002-36

AN ACT

HB 1289

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," providing for approval of unfunded debt in certain distressed school districts, for educational assessment centers and for notification of pesticide treatments at schools.

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

Section 1. The act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, is amended by adding sections to read:

Section 636.1. Approval of Unfunded Debt in Certain Distressed School Districts.—(a) Notwithstanding any other provision of law, the governing body of a distressed school district may approve the issuance of bonds or notes to fund unfunded debt of the school district if the governing body finds all of the following:

(1) The unfunded debt is a lawful obligation or is a lawfully budgeted obligation of the school district.

(2) Paying the unfunded debt by reducing school district services will endanger student health or safety and public education.

(3) It is not feasible or in the public interest to levy sufficient additional taxes to fund the unfunded debt in the current fiscal year or ensuing fiscal years.

(b) In addition to the requirements of 53 Pa.C.S. § 8111 (relating to submission to department), a governing body authorizing bonds or notes under subsection (a) shall include certified copies of the findings of the governing body made pursuant to subsection (a) with the copy of the proceedings certified to the Department of Community and Economic Development under 53 Pa.C.S. § 8201 (relating to certification to department of bond or note transcript or lease, guaranty, subsidy contract or other agreement).

(c) Bonds or notes authorized in accordance with subsection (a) shall be stated to mature or be subject to mandatory redemption in the principal amounts and over the number of years, not to exceed thirty (30) years, as the governing body finds will allow for the payment of the bonds or notes without endangering student health or safety and public education or requiring the levying of excessive taxes.

(d) Except as provided in this section, bonds or notes authorized in accordance with subsection (a) shall be issued and sold by a distressed school district in accordance with provisions of 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing).

(e) The amount by which payments appropriated and paid by a city of the first class to a distressed school district in the fiscal year in which the declaration of distress was issued exceed the payments appropriated and paid by the city to the distressed school district in the immediately preceding fiscal year shall be excluded in determining the obligations of the city to make payments to the distressed school district under section 696(h).

(f) Subsections (a) and (b) of 53 Pa.C.S. § 8022 (relating to limitations on incurring of other debt) shall not apply to bonds or notes authorized in accordance with subsection (a).

(g) This section shall provide the exclusive method for the issuance of bonds and notes to fund unfunded debt of a distressed school district.

(h) The Pennsylvania Supreme Court shall have exclusive jurisdiction to hear any challenge to or to render a declaratory judgment concerning this section. The Supreme Court is authorized to take any action it deems appropriate, consistent with the Supreme Court retaining jurisdiction over the matter, to find facts or to expedite a final judgment in connection with a challenge or request for declaratory relief.

(i) Subsections (a) and (g) shall expire July 1, 2003.

(j) The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

“Distressed school district.” A school district of the first class which has been declared to be distressed by the Secretary of Education under section 691.

“Governing body.” A school reform commission established in accordance with section 696(a) or the commission’s successor.

“Unfunded debt.” Obligations, including tax anticipation notes, of a distressed school district incurred for current expenses; obligations of a distressed school district for expenses included in a budget adopted on or before June 30, 2003, which are to become due and owing; or judgments against a distressed school district entered by a court after adversary proceedings; if the taxes and other revenues remaining to be collected in the current fiscal year or to be collected in the ensuing fiscal years and the funds on hand will not be sufficient for payment of the obligations or judgments without endangering student health or safety and public education and the distressed school district either may not legally levy a sufficient tax for the balance of the fiscal year or a sufficient tax, if legally leviable, would not be in the public interest. The term excludes debt incurred under or obligations in respect of a project or part of a project as incurred in respect of the cost of a project as defined in 53 Pa.C.S. Pt. VII Subpt. B.

Section 697. Educational Assessment Center.—(a) A governing body of a distressed school district shall establish an independent educational assessment and reporting center to monitor and report on the

performance of the publicly funded schools in the distressed school district.

(b) The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

“Distressed school district.” A school district of the first class which has been declared to be distressed by the Secretary of Education under section 691.

“Governing body.” A school reform commission established in accordance with section 696(a) or the commission’s successor.

Section 772.2. Notification of Pesticide Treatments at Schools.—(a) The following apply to pesticide applicators:

(1) For a pesticide treatment at a school building, the certified applicator or pesticide application technician shall supply the pest control information sheet and a pest control sign, which must be at least eight and one-half by eleven (8 1/2 by 11) inches in size, to the chief administrator or building manager.

(2) For a pesticide treatment on school grounds, including athletic fields and playgrounds, the certified applicator or pesticide application technician shall supply the pest control information sheet and a pest control sign, which must be at least eight and one-half by eleven (8 1/2 by 11) inches in size, to the chief administrator or grounds manager.

(b) Responsibilities of schools are as follows:

(1) Except as provided in clause (3), notification of pesticide treatments shall be as follows:

(i) For a pesticide treatment at a school building, the school shall be responsible for all of the following:

(A) Posting the pest control sign received under subsection (a)(1) in an area of common access where individuals are likely to view the sign on a regular basis at least seventy-two (72) hours before and for at least two (2) days following each planned treatment.

(B) Providing the pest control information sheet received under subsection (a)(1) to every individual working in the school building at least seventy-two (72) hours before each planned treatment.

(C) Providing notice, including the name, address and telephone number of the applicator providing the treatment, day of treatment and pesticide to be utilized, to the parents or guardians of students enrolled in the school at least seventy-two (72) hours before each planned treatment as follows:

(I) notice to all parents or guardians utilizing normal school communications procedures; or

(II) notice to a list of interested parents or guardians who at the beginning of each school year or upon the child’s enrollment requested notification of individual application of pesticides. The school shall provide procedures or materials for such requests to parents and

guardians of students. Notification of each pesticide application shall be provided using first class mail or other means deemed appropriate by the school to each parent or guardian requesting notification.

(ii) For a pesticide treatment on school grounds, the school shall be responsible for all of the following:

(A) Posting the pest control sign received under subsection (a)(2) at the place to be treated at least seventy-two (72) hours before and for two (2) days after the planned treatment.

(B) Providing the pest control information sheet received under subsection (a)(2) to every individual working in the school building at least seventy-two (72) hours before each planned treatment.

(C) Providing notice, including the name, address and telephone number of the applicator providing the treatment, day of treatment and pesticide to be utilized, to the parents or guardians of students enrolled in the school at least seventy-two (72) hours before each planned treatment as follows:

(I) notice to all parents or guardians utilizing normal school communications procedures; or

(II) notice to a list of interested parents or guardians who at the beginning of each school year or upon the child's enrollment requested notification of individual application of pesticides. The school shall provide procedures or materials for such requests to parents and guardians of students. Notification of each pesticide application shall be provided using first class mail or other means deemed appropriate by the school to each parent or guardian requesting notification.

(iii) Notwithstanding any other provision of this section, where pests pose an immediate threat to the health and safety of students or employes, the school may authorize an emergency pesticide application. In the case of an emergency pesticide application, the school shall notify by telephone any parent or guardian who has requested such notification. School officials shall annually advise parents or guardians of their right to request notification of emergency pesticide use and shall explain procedures for requesting such notification.

(2) Except as provided in clause (3), each school shall maintain detailed records of all chemical pest control treatments for a period of at least three (3) years.

(3) The notice and recordkeeping requirements in clauses (1) and (2) and subsection (c) do not apply to the application of:

(i) disinfectant and antimicrobial products;

(ii) self-containerized baits placed in areas not accessible to students and gel-type baits placed in cracks, crevices or voids; or

(iii) swimming pool maintenance chemicals in the care and maintenance of a swimming pool.

(c) The following prohibitions shall apply:

(1) Except as provided in clause (2):

(i) *pesticides may not be applied within a school building where students are expected to be present for normal academic instruction or organized extracurricular activities within seven (7) hours following the application or on school grounds where students will be in the immediate vicinity for normal academic instruction or organized extracurricular activities within seven (7) hours following the application; or*

(ii) *the applicator shall comply with reentry time restrictions contained on the pesticide label; whichever time period is longer.*

(2) *Students may not be present in an untreated portion of the school building unless the area being treated has a separate ventilation system and is separated from the untreated portion by smoke or fire doors or is a separate building.*

(d) *The department shall promulgate such rules and regulations as necessary to administer this section.*

(e) *The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:*

“Applicator.” A certified applicator, commercial applicator or public applicator.

“Certified applicator.” An individual who is certified under section 16.1, 17 or 17.1 of the act of March 1, 1974 (P.L.90, No.24), known as the “Pennsylvania Pesticide Control Act of 1973,” as competent to use or supervise the use or application of any pesticide.

“Commercial applicator.” A certified applicator, whether or not he is a private applicator with respect to some uses, who uses or supervises the use of any pesticide on the property or premises of another or on easements granted under State law, or any applicator who uses or supervises the use of any restricted-use pesticide on property owned or rented by him or his employer, when not for purposes of producing an agricultural product. The secretary may by regulation deem certain types of applicators using any pesticide on their own property or that of their employer as commercial applicators.

“Department.” The Department of Agriculture of the Commonwealth.

“Insect.” Any of the numerous small invertebrate animals generally having a more or less obviously segmented body, for the most part belonging to the class Insecta, comprising six-legged, usually winged forms, as, for example, beetles, bugs, bees and flies, and to other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, as, for example, spiders, mites, ticks, centipedes and wood lice.

“Nematode.” An invertebrate animal of the phylum Nemathelminthes and class Nematoda, that is, unsegmented round worms with elongated, fusiform or saclike bodies covered with cuticle and inhabiting soil, water, plants or plant parts. The term includes nemas and eelworms.

“Person.” *An individual, partnership, association, corporation or any organized group of persons, whether incorporated or not.*

“Pest.” *An insect, rodent, nematode, fungus, weed or other form of terrestrial or aquatic plant or animal life or virus, bacteria or other microorganism, except viruses, bacteria or other microorganisms on or in living man or other living animals, declared to be a pest under section 25(c)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (61 Stat. 163, 7 U.S.C. § 136w).*

“Pest control information sheet.” *A document which contains the date of treatment, the name, address and telephone number of the applicator, the pesticide utilized and any other information that is required by the Secretary of Agriculture.*

“Pesticide.” *A substance or mixture of substances intended for preventing, destroying, repelling or mitigating a pest and a substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.*

“Pesticide application technician.” *An individual employed by a commercial applicator or governmental agency who, having met the competency requirements as set forth in the act of March 1, 1974 (P.L.90, No.24), known as the “Pennsylvania Pesticide Control Act of 1973,” is registered by the Secretary of Agriculture to apply pesticides under the direct supervision of a certified applicator.*

“Public applicator.” *A certified applicator who applies pesticides as an employe of the Commonwealth or its instrumentalities or a local agency.*

“School.” *A school district, an intermediate unit or an area vocational-technical school or any of these entities acting jointly.*

Section 2. This act shall take effect as follows:

- (1) The addition of sections 636.1 and 697 of the act shall take effect immediately.
- (2) The addition of section 772.1 of the act shall take effect January 1, 2003.
- (3) This section shall take effect immediately.

APPROVED—The 18th day of April, A.D. 2002.

MARK S. SCHWEIKER