

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2563 Session of
2004

INTRODUCED BY METCALFE, ARMSTRONG, COLEMAN, CREIGHTON, HABAY,
LEDERER, ROHRER, SATHER, STERN AND THOMAS, APRIL 13, 2004

REFERRED TO COMMITTEE ON EDUCATION, APRIL 13, 2004

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," providing for the election of State
6 Board of Education members; and making related repeals.

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

9 Section 1. Sections 2601-B and 2602-B of the act of March
10 10, 1949 (P.L.30, No.14), known as the Public School Code of
11 1949, added March 30, 1988 (P.L.321, No.43), are amended to
12 read:

13 Section 2601-B. Definitions.--When used in this article the
14 following words and phrases shall have the following meanings:

15 (1) "Board" shall mean the State Board of Education.

16 (2) "State Board of Education" shall mean the entity known
17 as the State Board of Education [and placed within, and made a
18 departmental], an independent administrative board, [of, the
19 Department of Education by section 202 of the act of April 9,

1 1929 (P.L.177, No.175), known as "The Administrative Code of
2 1929."]

3 Section 2602-B. Membership.--(a) The board shall consist of
4 twenty-one (21) members[, ten (10) of whom] who shall be elected
5 by the electors of the State at large. Ten (10) members shall
6 also serve as members of the Council of Basic Education, and ten
7 (10) [of whom] members shall also serve as members of the
8 Council of Higher Education, as designated by the chairman of
9 the board. The [member designated by the Governor as] chairman
10 of the board shall also [service] serve as a member of the
11 Council of Basic Education and of the Council of Higher
12 Education. [Except the legislative members, each member shall be
13 appointed by the Governor, by and with the advice and consent of
14 a majority of all the members of the Senate, and shall, except
15 as hereinafter provided, hold office for terms of six (6) years
16 each or until his successor has been appointed and has
17 qualified. An appointment to fill a vacancy shall be for the
18 unexpired term or until his successor has been appointed and has
19 qualified. The chairmen and minority chairmen of the House of
20 Representatives and Senate Education Committees, or their
21 respective designees from such committees, shall serve as ex
22 officio members of the board with full voting privileges and
23 shall serve as members for as long as they hold their respective
24 positions. The Chairman of the Professional Standards and
25 Practices Commission, or a commission member designated by the
26 chairman, created by the act of December 12, 1973 (P.L.397,
27 No.141), referred to as the Teacher Certification Law, shall be
28 an ex officio member of the board without voting privileges or
29 assignment to either council.] Members shall be elected in even-
30 numbered years. The term of office shall begin on the second

1 Monday of January following election and shall continue for four
2 (4) years. However, for the first election of board members, the
3 eleven (11) candidates receiving the highest percentage of the
4 votes cast for the office of board member shall serve for terms
5 of four (4) years, and the remaining ten (10) successful
6 candidates receiving the next highest percentage of votes shall
7 serve for terms of two (2) years. Thereafter, all terms shall be
8 for four (4) years. Members may be elected to successive terms.
9 In the event of a vacancy, the Governor shall appoint a person
10 to serve for the remainder of the term in cases where less than
11 two (2) years of service remain in the term of the office that
12 became vacant. In cases where more than two (2) years of service
13 remain in a vacated office, the Governor shall appoint a person
14 to fill the vacancy until the next general election to be held
15 that is more than ninety (90) days after the vacancy occurs, at
16 which time a member shall be elected to fill the vacancy for the
17 remainder of the term. A member so elected shall assume his
18 office thirty (30) days after being elected, at which time the
19 term of service of the member appointed by the Governor to fill
20 the vacancy shall end. Members shall receive no salary but shall
21 be entitled to travel expenses and other necessary expenses
22 incurred in the performance of their duties as members of the
23 board.

24 (b) Eleven (11) members shall constitute a quorum provided
25 that at least five (5) members serving on each of the councils
26 are present. The affirmative vote of a majority of all the
27 members of the board duly recorded showing how each member voted
28 shall be required in order to take action adopting statements of
29 policy, standards, rules and regulations. The board shall meet
30 at least six (6) times a year at such times and places as it

1 shall determine. Special meetings may be called by the chairman
2 or at the request of a majority of the members of the board.

3 [(c) An appointed member who fails to attend three (3)
4 consecutive board meetings shall forfeit his or her membership
5 on the board, unless the board chairman, upon written request
6 from the member, determines that the member should be excused
7 from a meeting or meetings for reasons of illness or the death
8 of an immediate family member.]

9 (d) (1) The [Governor shall designate, to serve at his
10 pleasure, a member as] members of the board shall annually elect
11 a member to serve as chairman of the board.

12 (2) The chairman of the board, or a member of the board
13 designated by the chairman, shall be an ex officio member of the
14 Professional Standards and Practices Commission, without voting
15 privileges.

16 (e) For the purpose of formulating policy proposals
17 applicable to elementary, secondary, vocational-technical
18 education and higher education in this Commonwealth, there shall
19 be two councils, which shall consist of ten (10) members of the
20 board each, the chairman being a member of both councils, and
21 shall be known as the Council of Basic Education and the Council
22 of Higher Education. The [Governor] board members shall
23 designate to serve at [his] the pleasure of the board a member
24 serving on each council to act as chairman of the council. Each
25 council shall meet at the call of its chairman or at the request
26 of a majority of the members of the council. The chairman of the
27 board may appoint special joint committees from among the
28 members of the board to formulate policy proposals in those
29 areas which fall within the purview of both of the councils.

30 [(f) Except for the chairman, not more than two (2) members

1 serving on each council shall be employed either in a school
2 system or in the Department of Education. For purposes of this
3 subsection, the State System of Higher Education shall not be
4 considered a school system. Three (3) members of the Council of
5 Higher Education shall be actively employed by an institution of
6 higher education, at least one holding an administrative
7 position and at least one holding a professional position on a
8 faculty of an institution of higher education. At least two (2)
9 members serving on each council shall have had previous
10 experience with vocational-technical education or training.

11 (g) The Secretary of Education, or his designated
12 representative, shall be the chief executive officer of the
13 board, shall be entitled to attend all meetings of the board and
14 councils, and shall have the right to speak on all matters
15 before the board and the councils but not to vote.]

16 Section 2. Section 2603-B of the act, amended December 23,
17 2003 (P.L.304, No.48), is amended to read:

18 Section 2603-B. Powers and Duties of the Board.--* * *

19 (b) The board [and the Secretary of Education] shall jointly
20 employ and fix the compensation of such staff as it deems
21 necessary to perform the duties of the board. The board shall
22 [be entitled to legal counsel which shall be designated by the
23 Office of General Counsel, which legal counsel shall not also be
24 legal counsel to the Department of Education.] appoint an
25 attorney to serve as independent legal counsel. The board shall
26 define the duties and establish the compensation of the legal
27 counsel.

28 (c) The board shall develop an annual operating budget,
29 including projected operating expenses of the Professional
30 Standards and Practices Commission. It shall include salaries

1 for staff, office materials and equipment, and all expenses for
2 the operation of the board and commission. [This budget shall be
3 presented to the Secretary of Education. Upon adoption of the
4 general appropriations act, the department shall notify the
5 board of the amount of its allocation.]

6 (d) The board shall also have the authority and duty to:

7 (1) approve or disapprove an application for the creation of
8 a new school district, or change in the boundaries of an
9 existing school district;

10 (2) establish, whenever deemed advisable, committees of
11 professional and technical advisors to assist the councils in
12 performing research studies undertaken by them;

13 (3) manage and have custody of the State School Fund;

14 (4) (i) apply for, receive and administer, subject to any
15 applicable regulations or laws of the Federal Government or any
16 agency thereof, any Federal grants, appropriations, allocations
17 and programs for the development of academic facilities on
18 behalf of the Commonwealth, any of its school districts or any
19 institution of higher education, public or private, within this
20 Commonwealth;

21 (ii) [subject to criteria developed by the Secretary of
22 Education and] subject to any applicable regulations or laws of
23 the Federal Government or any agency thereof, to develop, alter,
24 amend and submit to the Federal Government State plans for
25 participation in Federal grants, appropriations, allocations and
26 programs for the development of academic facilities and to make
27 regulations, criteria, methods, forms, procedures and to do all
28 other things which may be necessary to make possible the
29 participation of the Commonwealth in such Federal grants,
30 appropriations, allocations and programs for the development of

1 academic facilities;

2 (iii) hold hearings, issue subpoenas and render decisions as
3 to the priority assigned to any project, or as to any other
4 matter or determination affecting any applicant for Federal
5 grants, appropriations, allocations and programs for the
6 development of academic facilities;

7 (iv) adopt rules or procedures and prescribe regulations for
8 the submission to it of all matters within its jurisdiction; and

9 (v) submit, annually, to the Governor, on or before the
10 first Monday of December, a report of its proceedings during
11 that year, together with such recommendations as the board shall
12 deem necessary;

13 (5) adopt policies under which the Secretary of Education
14 shall approve or disapprove any action of a State-owned
15 university, community college or State-related or State-aided
16 college or university in establishing additional branches or
17 campuses, or in discontinuing branches or campuses;

18 (6) adopt policies under which the Secretary of Education
19 shall approve or disapprove any action of a State-owned
20 university, community college or State-related or State-aided
21 college or university in establishing new professional schools
22 or upper division programs by two (2) year institutions;

23 (7) adopt policies under which the Secretary of Education
24 shall approve or disapprove applications by two (2) year
25 institutions to become four (4) year institutions;

26 (8) adopt policies under which the Secretary of Education
27 shall approve or disapprove the request of any private
28 institution of higher education for admission to State-related
29 or State-aided status, or for eligibility for other State
30 financial support; and

(9) require the submission of long-range plans from all public and private institutions of higher education at the times and in the form requested by the board. Such documents shall be reviewed by the Council of Higher Education and the board in the development of a master plan for higher education as provided in subsection (h) and section 2604-B(c)(1).

(10) (i) Approve or disapprove standards proposed by the department in order to comply with the provisions of the No Child Left Behind Act of 2001 to maintain the eligibility of this Commonwealth to receive Federal funding for education programs. The board shall approve or disapprove the standards within 30 days of submission to the board's office or at its next scheduled meeting, whichever is sooner. Failure of the board to approve or disapprove the standards within the time established under this section shall be deemed an approval of the standards.

(ii) Standards promulgated under this section shall be deposited with the Pennsylvania Bulletin for publication.

(iii) These standards shall be exempt from:

(A) Sections 201 through 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.

(C) The act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act."

(D) This subclause shall expire June 30, 2004.

(iv) (A) Prior to its deposit with the Legislative Reference Bureau as required by section 204(b) of the act of October 15, 1980 (P.L.950, No.164), known as the "Commonwealth Attorneys Act," the board shall submit any standard under this paragraph to the Attorney General. The Attorney General shall

1 determine whether action on the standard is required to comply
2 with the provisions of the No Child Left Behind Act of 2001 to
3 maintain the eligibility of this Commonwealth to receive Federal
4 funding for education programs and shall transmit such
5 determination to the board.

6 (B) Where the Attorney General determines that action on the
7 standard is not required to comply with the provisions of the No
8 Child Left Behind Act of 2001 to maintain the eligibility of the
9 Commonwealth to receive Federal funding for education programs,
10 the board may not take action on the standard under this
11 paragraph.

12 (C) Where the Attorney General fails to make a determination
13 within ten (10) days of the board's submission of the standard
14 under this subclause, action on the standard shall be deemed to
15 be required to comply with the provisions of the No Child Left
16 Behind Act of 2001 to maintain the eligibility of the
17 Commonwealth to receive Federal funding for education programs.

18 (D) This subclause shall expire June 30, 2004.

19 * * *

20 Section 3. Terms of State Board of Education members
21 appointed before the date when members elected under this act
22 assume office shall terminate at noon of the second Monday of
23 January following the first general election in which members
24 are elected.

25 Section 4. The following acts and parts of acts are
26 repealed:

27 (1) As much as relates to the State Board of Education
28 in section 207.1(d)(2) of the act of April 9, 1929 (P.L.177,
29 No.175), known as The Administrative Code of 1929.

30 (2) Section 3(g) of the act of May 29, 1931 (P.L.210,

1 No.126), entitled, as amended, "An act to regulate the
2 certification and the registration of persons qualified to
3 teach in accredited elementary and secondary schools in this
4 State; imposing certain duties upon the Department of Public
5 Instruction and the State Board of Education; defining
6 violations; providing penalties, and for appeal to the court
7 of common pleas of Dauphin County."

8 (3) The last sentence of section 6(a) of the act of
9 December 12, 1973 (P.L.397, No.141), referred to as the
10 Teacher Certification Law.

11 Section 5. This act shall take effect immediately.