

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 185 Session of
2005

INTRODUCED BY STAIRS, CALTAGIRONE, CORNELL, CRAHALLA, CREIGHTON,
DALEY, J. EVANS, GEIST, GEORGE, HERSHEY, KENNEY, LEACH,
LEDERER, MANDERINO, MCGILL, MELIO, PRESTON, REICHLEY, SEMMEL,
E. Z. TAYLOR, WILT, YOUNGBLOOD, CAUSER, SURRA, DENLINGER,
ALLEN AND BELARDI, FEBRUARY 1, 2005

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 21, 2005

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 SCHOOL DISTRICT <—
6 NOTIFICATION OF RESIDENTIAL DEVELOPMENT AND for contracts for
7 competitive food, ~~beverage and advertising~~ OR BEVERAGE <—
8 contracts; FURTHER PROVIDING FOR FUNDING FOR CHARTER SCHOOLS, <—
9 FOR CYBER CHARTER SCHOOL REQUIREMENTS AND PROHIBITIONS AND
10 FOR ENROLLMENT AND NOTIFICATION; AND PROVIDING FOR FREE AND
11 REDUCED-PRICE SCHOOL LUNCHES FOR CERTAIN STUDENTS.

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

14 ~~Section 1. The act of March 10, 1949 (P.L.30, No.14), known <—~~
15 ~~as the Public School Code of 1949, is amended by adding a~~
16 ~~section to read:~~

17 SECTION 1. THE ACT OF MARCH 10, 1949 (P.L.30, NO.14), KNOWN <—
18 AS THE PUBLIC SCHOOL CODE OF 1949, IS AMENDED BY ADDING AN
19 ARTICLE TO READ:

20 ARTICLE II-A

1 NOTIFICATION OF RESIDENTIAL DEVELOPMENT

2 SECTION 201-A. DEFINITIONS.

3 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ARTICLE
4 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
5 CONTEXT CLEARLY INDICATES OTHERWISE:

6 "APPLICANT." A LANDOWNER OR DEVELOPER WHO HAS FILED AN
7 APPLICATION FOR DEVELOPMENT WITH A GOVERNING BODY. THE TERM
8 INCLUDES THE LANDOWNER'S OR DEVELOPER'S HEIRS, SUCCESSORS AND
9 ASSIGNS.

10 "APPLICATION FOR DEVELOPMENT." EVERY APPLICATION, WHETHER
11 PRELIMINARY, TENTATIVE OR FINAL, REQUIRED BY LAW OR ORDINANCE TO
12 BE FILED AND APPROVED PRIOR TO START OF CONSTRUCTION OR
13 DEVELOPMENT, INCLUDING, BUT NOT LIMITED TO, AN APPLICATION FOR A
14 BUILDING PERMIT, FOR THE APPROVAL OF A SUBDIVISION PLAT OR PLAN
15 OR FOR THE APPROVAL OF A RESIDENTIAL DEVELOPMENT PLAN.

16 "DEVELOPER." ANY LANDOWNER, AGENT OF THE LANDOWNER OR TENANT
17 WITH THE PERMISSION OF THE LANDOWNER, WHO MAKES OR CAUSES TO BE
18 MADE A SUBDIVISION OF LAND OR A LAND DEVELOPMENT.

19 "GOVERNING BODY." THE COUNCIL IN CITIES, BOROUGH AND
20 INCORPORATED TOWNS; THE BOARD OF COMMISSIONERS IN TOWNSHIPS OF
21 THE FIRST CLASS; THE BOARD OF SUPERVISORS IN TOWNSHIPS OF THE
22 SECOND CLASS; THE BOARD OF COMMISSIONERS IN COUNTIES; OR AS MAY
23 BE DESIGNATED IN THE LAW PROVIDING FOR THE FORM OF GOVERNMENT.

24 "LANDOWNER." THE LEGAL OR BENEFICIAL OWNER OR OWNERS OF
25 LAND, INCLUDING THE HOLDER OF AN OPTION OR CONTRACT TO PURCHASE,
26 WHETHER OR NOT SUCH OPTION OR CONTRACT IS SUBJECT TO ANY
27 CONDITION, A LESSEE IF THE LESSEE IS AUTHORIZED UNDER THE LEASE
28 TO EXERCISE THE RIGHTS OF THE LANDOWNER OR OTHER PERSON HAVING A
29 PROPRIETARY INTEREST IN LAND.

30 "PLANNED RESIDENTIAL DEVELOPMENT." AN AREA OF LAND,

1 CONTROLLED BY A LANDOWNER, TO BE DEVELOPED AS A SINGLE ENTITY
2 FOR A NUMBER OF DWELLING UNITS, OR COMBINATION OF RESIDENTIAL
3 AND NONRESIDENTIAL USES, THE DEVELOPMENT PLAN FOR WHICH DOES NOT
4 CORRESPOND IN LOT SIZE, BULK, TYPE OF DWELLING, OR USE, DENSITY,
5 OR INTENSITY, LOT COVERAGE AND REQUIRED OPEN SPACE TO THE
6 REGULATIONS ESTABLISHED IN ANY ONE DISTRICT CREATED, FROM TIME
7 TO TIME, UNDER THE PROVISIONS OF A MUNICIPAL ZONING ORDINANCE.

8 "PLANNING AGENCY." A PLANNING COMMISSION, PLANNING
9 DEPARTMENT OR A PLANNING COMMITTEE OF THE GOVERNING BODY.

10 "PLAT." THE MAP OR PLAN OF A SUBDIVISION OR LAND
11 DEVELOPMENT, WHETHER PRELIMINARY OR FINAL.

12 "RESIDENTIAL DEVELOPMENT PLAN." THE PROVISIONS FOR
13 RESIDENTIAL DEVELOPMENT, INCLUDING A PLANNED RESIDENTIAL
14 DEVELOPMENT, A PLAT OF SUBDIVISION, ALL COVENANTS RELATING TO
15 USE, LOCATION AND BULK OF BUILDINGS AND OTHER STRUCTURES,
16 INTENSITY OF USE OR DENSITY OF DEVELOPMENT, STREETS, WAYS AND
17 PARKING FACILITIES, COMMON OPEN SPACE AND PUBLIC FACILITIES. THE
18 PHRASE "PROVISIONS FOR RESIDENTIAL DEVELOPMENT" WHEN USED IN
19 THIS SECTION SHALL MEAN THE WRITTEN AND GRAPHIC MATERIALS
20 REFERRED TO IN THIS DEFINITION.

21 "SCHOOL DISTRICT." INCLUDES SCHOOL DISTRICTS OF ALL CLASSES.
22 SECTION 202-A. NOTIFICATION OF SUBDIVISION AND LAND DEVELOPMENT
23 IN SCHOOL DISTRICTS.

24 AN APPLICANT SHALL SEND VIA CERTIFIED MAIL RETURN RECEIPT
25 REQUESTED, WITHIN FIVE DAYS AFTER FILING WITH A GOVERNING BODY
26 OR PLANNING AGENCY, A COPY OR SUMMARY OF THE APPLICATION FOR
27 PRELIMINARY APPROVAL OF A RESIDENTIAL DEVELOPMENT PLAN TO THE
28 SUPERINTENDENT OF THE SCHOOL DISTRICT WHEREIN THE RESIDENTIAL
29 DEVELOPMENT PLAN IS PROPOSED. A SUMMARY SHALL INCLUDE, BUT NOT
30 BE LIMITED TO, THE LOCATION OF THE DEVELOPMENT, THE NUMBER AND

1 TYPES OF UNITS TO BE INCLUDED IN THE DEVELOPMENT AND THE
2 PROPOSED CONSTRUCTION SCHEDULE OF THE DEVELOPMENT AND WHERE
3 REQUIRED BY LOCAL ORDINANCE TO BE INCLUDED IN THE APPLICATION,
4 AN ECONOMIC ASSESSMENT OF THE PROPOSED DEVELOPMENT. THE
5 APPLICANT SHALL PROVIDE A COPY OF THE RETURN RECEIPT TO THE
6 GOVERNING BODY SHOWING COMPLIANCE WITH THIS SECTION.
7 SECTION 203-A. SCHOOL DISTRICT COMMENTS.

8 THE SCHOOL DISTRICT MAY SUBMIT WRITTEN COMMENTS, WITHIN 30
9 DAYS AFTER RECEIPT OF THE COPY OR SUMMARY OF THE APPLICATION, TO
10 THE GOVERNING BODY OR PLANNING AGENCY THAT IS CONSIDERING THE
11 RESIDENTIAL DEVELOPMENT PLAN. IF THE GOVERNING BODY OR PLANNING
12 AGENCY DOES NOT RECEIVE THE WRITTEN COMMENTS FROM THE SCHOOL
13 DISTRICT WITHIN 30 DAYS, THE GOVERNING BODY OR PLANNING AGENCY
14 SHALL PROCEED WITH CONSIDERATION OF THE APPLICATION. NOTHING IN
15 THIS SECTION SHALL EMPOWER THE SCHOOL DISTRICT WITH ANY
16 AUTHORITY TO APPROVE OR DENY ANY APPLICATION FOR APPROVAL OF A
17 PLAT.

18 SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

19 Section 504.1. ~~Competitive Food, Beverage or Advertising OR~~ <—
20 BEVERAGE Contracts.--(a) ~~Exclusive and nonexclusive competitive~~ <—
21 ~~food, beverage or advertising~~ COMPETITIVE FOOD OR BEVERAGE <—
22 contracts may not be entered into or renewed by the district or
23 a school within the district unless the board of the school
24 district does the following: <—

25 ~~(1) Holds a public hearing during or prior to a regularly~~
26 ~~scheduled board meeting, at which time students, parents and~~
27 ~~other members of the community may comment on the contract.~~

28 ~~(2) Adopts a policy after the public hearing ensuring that~~
29 ~~such contracts are entered into or renewed pursuant to 62~~
30 ~~Pa.C.S. (relating to procurement) and funds raised from such~~

~~contracts go to the district's food service department,
educational programs or student organizations or activities
approved by the school board.~~

~~(b) Contracts for electronic products or services requiring
the dissemination of advertising to pupils may not be entered
unless the school board does the following:~~

~~(1) Enters into the contract at a properly advertised public
hearing of the school board.~~

~~(2) Determines that the electronic product or service would
be an integral component in educating students.~~

~~(3) Finds that the school district cannot afford to provide
the electronic product or service unless it contracts to permit
the dissemination of advertising to pupils.~~

~~(4) Provides written notice to the parents or guardians of
students through the district's normal ongoing communication
that the advertising will be used in the classroom or other
learning centers.~~

~~(5) Offers parents and guardians the opportunity to request
in writing that the student not be exposed to the program that
contains the advertising.~~

~~Any request shall be honored for the school year in which it is
submitted or longer, if specified, but may be withdrawn by the
student's parents or guardians at any time.~~

~~(c)~~
~~PROVIDES REASONABLE PUBLIC NOTICE OR HOLDS A PUBLIC HEARING
ABOUT THE CONTRACT. AS USED IN THIS SUBSECTION, "REASONABLE
PUBLIC NOTICE" SHALL MEAN PROVIDING NOTICE TO ALL PARENTS OR
GUARDIANS UTILIZING NORMAL SCHOOL COMMUNICATION PROCEDURES AT
LEAST 30 DAYS PRIOR TO THE SCHOOL ENTERING INTO AN EXCLUSIVE
COMPETITIVE FOOD OR BEVERAGE CONTRACT. THE NOTICE MUST INCLUDE~~

<—

GUIDANCE FOR PARENTS OR GUARDIANS ON HOW TO OFFER PUBLIC COMMENT
TO THE SCHOOL REGARDING THE CONTRACT.

(B) Contracts prohibiting a school district employe from
disparaging the goods or services of the party contracting with
the school board may not be entered into by any school board.

~~(d)~~ (C) Any contract entered into under this section may not
include a confidentiality clause prohibiting a school or school
district from making any part of the contract public. Contracts
entered into or renewed under this section shall be made
accessible to the public pursuant to section 2 of the act of
June 21, 1957 (P.L.390, No.212), referred to as the Right-to-
Know Law.

~~(e)~~ (D) The school board shall report to the parents and the
community the amounts and specific sources of funds received and
the nature of expenditures made from funds received from
competitive food, beverage or advertising contracts. An annual
public hearing may be held to fulfill this requirement. OR
BEVERAGE CONTRACTS AT A REGULARLY SCHEDULED BOARD MEETING, A
PUBLIC HEARING OR ON THE DISTRICT'S INTERNET WEBSITE.

~~(f)~~ (E) Advertising, products or services on a nonexclusive
basis may be sold only with the approval of the school board.

~~(g)~~ (F) The school board may post signs publicly expressing
the district's appreciation of a business or person for their
support of the district's educational programs.

~~(h)~~ (G) As used in this section, the term "competitive food"
means any food or beverages offered or sold in competition with
reimbursable meals served under the National School Lunch or
School Breakfast Program.

SECTION 3. SECTION 1725-A(A) OF THE ACT, AMENDED JUNE 29,
2002 (P.L.524, NO.88), IS AMENDED TO READ:

SECTION 1725-A. FUNDING FOR CHARTER SCHOOLS.--(A) FUNDING FOR A CHARTER SCHOOL SHALL BE PROVIDED IN THE FOLLOWING MANNER:

(1) THERE SHALL BE NO TUITION CHARGE FOR A RESIDENT OR NONRESIDENT STUDENT ATTENDING A CHARTER SCHOOL EXCEPT FOR STUDENTS AT CYBER CHARTER SCHOOLS WHO DO NOT MEET THE RESIDENCY REQUIREMENTS OF CLAUSE (2).

(2) FOR NON-SPECIAL EDUCATION STUDENTS, THE CHARTER SCHOOL SHALL RECEIVE FOR EACH STUDENT ENROLLED NO LESS THAN THE BUDGETED TOTAL EXPENDITURE PER AVERAGE DAILY MEMBERSHIP OF THE PRIOR SCHOOL YEAR, AS DEFINED IN SECTION 2501(20), MINUS THE BUDGETED EXPENDITURES OF THE DISTRICT OF RESIDENCE FOR NONPUBLIC SCHOOL PROGRAMS; ADULT EDUCATION PROGRAMS; COMMUNITY/JUNIOR COLLEGE PROGRAMS; STUDENT TRANSPORTATION SERVICES; FOR SPECIAL EDUCATION PROGRAMS; FACILITIES ACQUISITION, CONSTRUCTION AND IMPROVEMENT SERVICES; AND OTHER FINANCING USES, INCLUDING DEBT SERVICE AND FUND TRANSFERS AS PROVIDED IN THE MANUAL OF ACCOUNTING AND RELATED FINANCIAL PROCEDURES FOR PENNSYLVANIA SCHOOL SYSTEMS ESTABLISHED BY THE DEPARTMENT. THIS AMOUNT SHALL BE PAID BY THE DISTRICT OF RESIDENCE OF EACH STUDENT.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IN THE CASE OF CYBER CHARTER SCHOOLS, FOR THE PURPOSES OF THIS CLAUSE A STUDENT IS A RESIDENT OF A SCHOOL DISTRICT ONLY IF BOTH OF THE FOLLOWING CRITERIA ARE MET:

(I) IT IS THE SCHOOL DISTRICT IN WHICH HIS PARENTS OR THE GUARDIAN OF HIS PERSON RESIDES; AND

(II) IT IS THE SCHOOL DISTRICT IN WHICH THE STUDENT SLEEPS AT LEAST ONE HUNDRED EIGHTY-THREE (183) NIGHTS OF THE YEAR DURING WHICH PAYMENT IS MADE.

(3) FOR SPECIAL EDUCATION STUDENTS, THE CHARTER SCHOOL SHALL RECEIVE FOR EACH STUDENT ENROLLED THE SAME FUNDING AS FOR EACH

1 NON-SPECIAL EDUCATION STUDENT AS PROVIDED IN CLAUSE (2), PLUS AN
2 ADDITIONAL AMOUNT DETERMINED BY DIVIDING THE DISTRICT OF
3 RESIDENCE'S TOTAL SPECIAL EDUCATION EXPENDITURE BY THE PRODUCT
4 OF MULTIPLYING THE COMBINED PERCENTAGE OF SECTION 2509.5(K)
5 TIMES THE DISTRICT OF RESIDENCE'S TOTAL AVERAGE DAILY MEMBERSHIP
6 FOR THE PRIOR SCHOOL YEAR. THIS AMOUNT SHALL BE PAID BY THE
7 DISTRICT OF RESIDENCE OF EACH STUDENT.

8 (4) A CHARTER SCHOOL MAY REQUEST THE INTERMEDIATE UNIT IN
9 WHICH THE CHARTER SCHOOL IS LOCATED TO PROVIDE SERVICES TO
10 ASSIST THE CHARTER SCHOOL TO ADDRESS THE SPECIFIC NEEDS OF
11 EXCEPTIONAL STUDENTS. THE INTERMEDIATE UNIT SHALL ASSIST THE
12 CHARTER SCHOOL AND BILL THE CHARTER SCHOOL FOR THE SERVICES. THE
13 INTERMEDIATE UNIT MAY NOT CHARGE THE CHARTER SCHOOL MORE FOR ANY
14 SERVICE THAN IT CHARGES THE CONSTITUENT DISTRICTS OF THE
15 INTERMEDIATE UNIT.

16 (5) PAYMENTS SHALL BE MADE TO THE CHARTER SCHOOL IN TWELVE
17 (12) EQUAL MONTHLY PAYMENTS, BY THE FIFTH DAY OF EACH MONTH,
18 WITHIN THE OPERATING SCHOOL YEAR. A STUDENT ENROLLED IN A
19 CHARTER SCHOOL SHALL BE INCLUDED IN THE AVERAGE DAILY MEMBERSHIP
20 OF THE STUDENT'S DISTRICT OF RESIDENCE FOR THE PURPOSE OF
21 PROVIDING BASIC EDUCATION FUNDING PAYMENTS AND SPECIAL EDUCATION
22 FUNDING PURSUANT TO ARTICLE XXV. IF A SCHOOL DISTRICT FAILS TO
23 MAKE A PAYMENT TO A CHARTER SCHOOL AS PRESCRIBED IN THIS CLAUSE,
24 THE SECRETARY SHALL DEDUCT THE ESTIMATED AMOUNT, AS DOCUMENTED
25 BY THE CHARTER SCHOOL, FROM ANY AND ALL STATE PAYMENTS MADE TO
26 THE DISTRICT AFTER RECEIPT OF DOCUMENTATION FROM THE CHARTER
27 SCHOOL.

28 (6) WITHIN THIRTY (30) DAYS AFTER THE SECRETARY MAKES THE
29 DEDUCTION DESCRIBED IN CLAUSE (5), A SCHOOL DISTRICT MAY NOTIFY
30 THE SECRETARY THAT THE DEDUCTION MADE FROM STATE PAYMENTS TO THE

DISTRICT UNDER THIS SUBSECTION IS INACCURATE. THE SECRETARY SHALL PROVIDE THE SCHOOL DISTRICT WITH AN OPPORTUNITY TO BE HEARD CONCERNING WHETHER THE CHARTER SCHOOL DOCUMENTED THAT ITS STUDENTS WERE ENROLLED IN THE CHARTER SCHOOL, THE PERIOD OF TIME DURING WHICH EACH STUDENT WAS ENROLLED, THE SCHOOL DISTRICT OF RESIDENCE OF EACH STUDENT AND WHETHER THE AMOUNTS DEDUCTED FROM THE SCHOOL DISTRICT WERE ACCURATE.

* * *

SECTION 4. SECTION 1743-A OF THE ACT IS AMENDED BY ADDING A SUBSECTION TO READ:

SECTION 1743-A. CYBER CHARTER SCHOOL REQUIREMENTS AND PROHIBITIONS.

* * *

(A.1) TRUANCY.--IN ORDER TO ENROLL A STUDENT, THE SCHOOL DISTRICT IN WHICH THE STUDENT IS A RESIDENT MUST CERTIFY TO THE CYBER CHARTER SCHOOL THAT THE STUDENT IS IN COMPLIANCE WITH SECTION 1327.

* * *

SECTION 5. SECTION 1748-A(A) OF THE ACT IS AMENDED BY ADDING A PARAGRAPH TO READ:

SECTION 1748-A. ENROLLMENT AND NOTIFICATION.

(A) NOTICE TO SCHOOL DISTRICT.--

* * *

(3) WHEN A SCHOOL DISTRICT HAS RECEIVED NOTICE UNDER PARAGRAPH (1), THE SCHOOL DISTRICT SHALL CERTIFY TO THE CYBER CHARTER SCHOOL WHETHER THE STUDENT IS IN COMPLIANCE WITH SECTION 1327.

* * *

SECTION 6. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

SECTION 2505.2. SUPPLEMENTAL FUNDING FOR SCHOOL LUNCHES.--

1 NOTWITHSTANDING FEDERAL FUNDING OF SCHOOL LUNCHES FOR
2 INDIVIDUALS WHO QUALIFY FOR FREE OR REDUCED-PRICE LUNCHES, THERE
3 SHALL BE A SUPPLEMENT FROM THE GENERAL FUND ANNUALLY TO ACHIEVE
4 THE FOLLOWING:

5 (1) INDIVIDUALS WHO LIVE AT OR UNDER ONE HUNDRED EIGHTY-FIVE
6 PER CENTUM (185%) OF THE FEDERAL POVERTY GUIDELINE SHALL RECEIVE
7 FREE SCHOOL LUNCH EACH SCHOOL DAY.

8 (2) INDIVIDUALS WHO LIVE BETWEEN ONE HUNDRED EIGHTY-FIVE PER
9 CENTUM (185%) AND TWO HUNDRED FIFTY PER CENTUM (250%) OF THE
10 FEDERAL POVERTY GUIDELINE SHALL RECEIVE SCHOOL LUNCH EACH SCHOOL
11 DAY AT THE REDUCED PRICE SPECIFIED UNDER FEDERAL GUIDELINES.

12 Section 2 7. This act shall take effect ~~in 60 days~~. AS
13 FOLLOWS:

14 (1) THE ADDITION OF SECTION 504.1 OF THE ACT SHALL TAKE
15 EFFECT IN 180 DAYS.

16 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
17 DAYS.

<—