

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1595 Session of  
2011

INTRODUCED BY SCHRODER, AUMENT, BLOOM, BOYD, CAUSER, COX,  
CREIGHTON, EVERETT, GINGRICH, GOODMAN, GROVE, HARRIS,  
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MILLER, MILNE, MUSTIO, PICKETT, REICHLEY, ROAE, ROSS,  
SACCONE, SAYLOR, SCAVELLO, SIMMONS, SWANGER AND VULAKOVICH,  
MAY 25, 2011

REFERRED TO COMMITTEE ON EDUCATION, MAY 25, 2011

AN ACT

1 Providing for the suspension of mandates by school entities;  
2 requiring the Department of Education to maintain a list of  
3 suspended mandates on its Internet website and to report  
4 annually to the General Assembly the mandates suspended by  
5 the school entities.

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the Mandate  
10 Suspension Act of 2011.

11 Section 2. Definitions.

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

15 "Board." The board of school directors or other governing  
16 board of a school entity.

17 "Commonwealth agency." An executive agency or independent

1 agency of the Commonwealth.

2 "Department." The Department of Education of the  
3 Commonwealth.

4 "Executive agency." The Governor and any department, board,  
5 commission, authority, officer and agency of the Commonwealth  
6 government. The term does not include a court or other officer  
7 or agency of the unified judicial system, the General Assembly  
8 and any of its officers and agencies or any independent agency.

9 "Independent agency." A board, commission, authority and any  
10 other agency and officer of the Commonwealth government which is  
11 not subject to the policy supervision and control of the  
12 Governor. The term does not include any court or other officer  
13 or agency of the unified judicial system or the General Assembly  
14 and any of its officers and agencies.

15 "Mandate." A duty, standard or procedure imposed by a law or  
16 regulation enacted by the General Assembly or promulgated by a  
17 Commonwealth agency the effect of which requires that a school  
18 entity conduct or fulfill its authorized activities,  
19 responsibilities, purposes or functions in a manner that  
20 increases the entity's cost of doing so or prevents the entity  
21 from doing so in a more cost-effective or educationally  
22 effective manner. The term does not include any limit on a rate  
23 of taxation or the manner of adopting or levying a tax or rate  
24 of taxation.

25 "Oversight agency." The Commonwealth agency which does any  
26 of the following:

27 (1) Administers or has jurisdiction over the law or  
28 regulation pursuant to which a school entity is to implement  
29 a mandate.

30 (2) Has the duty to make reimbursement payments to a

1 school entity pursuant to a regularly scheduled reimbursement  
2 regimen.

3 (3) Has a duty to monitor a school entity's compliance  
4 with implementation of a mandate.

5 "Public officer." An elected or appointed school board  
6 member as provided by State law.

7 "Regulation." A regulation, rule, standard, policy,  
8 guideline, basic education circular, schedule, manual or similar  
9 document promulgated or issued by a Commonwealth agency.

10 "School entity." A school district, joint school district,  
11 career and technical school or intermediate unit.

12 Section 3. Mandate suspension resolution.

13 (a) Motion.--Except as otherwise provided in this section,  
14 the board of a school entity may adopt at a public meeting a  
15 resolution to suspend any mandate or combination of related  
16 mandates if doing so will enable the school entity to improve  
17 its instructional program or operate in a more effective,  
18 efficient or economical manner.

19 (b) Memorandum.--The resolution suspending the mandate or  
20 combination of related mandates shall incorporate by reference  
21 and have attached thereto a mandate suspension justification  
22 memorandum that:

23 (1) Identifies with specificity the regulation, rule,  
24 procedure, standard, policy, guideline, basic education  
25 circular, schedule, manual or similar document, or  
26 combination thereof, that imposes the mandate or combination  
27 of mandates to be suspended.

28 (2) Describes how the mandate or combination of mandates  
29 causes the entity to conduct or fulfill its authorized  
30 activities, responsibilities, purposes or functions in a

1 manner that increases the entity's cost of doing so, or  
2 prevents the entity from doing so in a more cost-effective or  
3 educationally effective manner.

4 (3) Describes how suspension of the mandate or  
5 combination of mandates will enable the entity to operate in  
6 a different manner that will improve educational  
7 effectiveness or cost effectiveness.

8 (4) Specifies the date the suspension of the mandate or  
9 combination of mandates will expire or states that the  
10 suspension will be indefinite.

11 (5) Outlines the procedures by the economic and  
12 educational benefits of suspending the mandate or combination  
13 of mandates will be assessed, measured and reported on an  
14 ongoing basis.

15 (c) Deemed approved.--Unless the suspension is disapproved  
16 by the department as provided in section 5, suspension of the  
17 mandates pursuant to a resolution adopted under this section  
18 shall take effect 60 days after the department receives notice  
19 of such resolution or upon such later date as many be specified  
20 in the resolution.

21 (d) Effective.--Unless a mandate suspension is disapproved,  
22 expires or is resumed under section 7, the suspension shall  
23 remain in effect indefinitely.

24 (e) Renewal.--The board of the school entity may renew a  
25 mandate suspension that has expired or is set to expire by  
26 adopting a mandate suspension resolution in the same manner set  
27 forth in this act.

28 (f) Public input.--The board of the school entity may, at  
29 its discretion, conduct a public hearing for the purpose of  
30 receiving input regarding whether the mandate or mandates should

1 be suspended.

2 (g) Public access.--Mandate suspension resolutions and any  
3 departmental determinations related thereto shall be posted on  
4 the school entity's Internet website and be accessible to the  
5 public.

6 Section 4. Notice to the department and oversight agency;  
7 objections.

8 (a) Notice.--A school entity adopting a mandate suspension  
9 resolution shall promptly provide a copy of the resolution and  
10 suspension justification memorandum to the department and any  
11 other oversight agency by certified mail, return receipt  
12 requested.

13 (b) Objections.--An oversight agency receiving notice of a  
14 mandate suspension resolution may, within 30 days of receipt,  
15 submit objections to the department. Objections shall state with  
16 particularity any respect in which the mandate suspension fails  
17 to meet the requirements of this act.

18 Section 5. Actions by department.

19 (a) Disapproval.--The department may, within 60 days of  
20 receipt of a mandate suspension resolution and upon  
21 consideration of objectives, if any, disapprove the resolution  
22 if the department determines that the resolution fails to meet  
23 the requirements of this act.

24 (b) Effect.--If the department disapproves a mandate  
25 suspension resolution, the mandate or combination of mandates  
26 shall not be suspended and the school entity shall continue to  
27 be subject to the mandate as otherwise applicable.

28 (c) Deemed approved.--If the department does not disapprove  
29 a mandate suspension resolution within 60 days of receipt, the  
30 mandate or combination of mandates shall be suspended and shall

no longer apply to the school entity unless the mandate suspension expires in accordance with the terms of the mandate suspension resolution or is resumed under section 7.

(d) Appeal.--Disapproval of mandate suspension resolutions may be appealed by the school entity as provided by law.

#### Section 6. Reporting success of suspended mandates.

(a) Reporting.--Whenever any mandate or combination of mandates is suspended under this act, the school entity shall, on an ongoing basis, assess and measure the economic and educational benefits of suspending the mandate or combination of mandates, and shall prepare a report of the benefits on the third anniversary of the effective date of the suspension and each third anniversary thereafter.

(b) Submission.--Reports of the benefits of each mandate suspension shall be submitted to the department within 90 days after the third anniversary of the effective date of the suspension and each third anniversary thereafter.

#### Section 7. Resumption of suspended mandates.

(a) Effectiveness of suspension.--The mandate or combination of mandates shall resume upon the expiration of the mandate suspension as set forth in the mandate suspension resolution or if one or more of the following occurs:

(1) The governing board of the school entity adopts a resolution terminating the mandate suspension.

(2) A final determination of the department that the entity has failed to submit a report of effectiveness as required or has not enabled the entity to operate in a different manner that improved educational effectiveness or cost effectiveness.

(b) Notification to school entity.--The department shall

1 notify the school entity of any determination by the department  
2 that the effect of a mandate suspension has not been measured  
3 and reported as required or has not had the intended effect and  
4 shall conduct a hearing thereon if requested by the school  
5 entity.

6 (c) Appeal.--A determination by the department that the  
7 effect of a mandate suspension has not been measured and  
8 reported as required or has not had the intended effect may be  
9 appealed by the school entity as provided by law.

10 (d) Notice of resumption.--A school entity shall notify the  
11 department and any oversight agency in writing when the  
12 effectiveness of a mandate or combination of mandates is resumed  
13 under this act. Such notice shall include a copy of any solution  
14 terminating the suspension or of any final determination of the  
15 department that the effect of a mandate suspension has not been  
16 measured and reported as required or has not had the intended  
17 effect.

#### 18 Section 8. Mandate suspension register.

19 (a) Creation.--No later than 90 days after the effective  
20 date of this act, the department shall create a searchable  
21 register of suspended mandates for which it has received notice,  
22 searchable and accessible to the public, via the department's  
23 Internet website, from which website visitors may find for each  
24 school district the mandates that have been suspended, the date  
25 the suspension took effect, the expiration, if any, and the  
26 date, if any, the mandate resumed.

27 (b) Links.--All listings of mandates on the mandate  
28 suspension register shall include a link to the mandate  
29 suspension resolution posted on the school entity's Internet  
30 website and any determinations of the department related

1 thereto.

2 Section 9. Mandates not subject to suspension.

3 Mandates may not be suspended as provided in this act to the  
4 extent they are imposed by the following:

5 (1) A court order.

6 (2) Federal law or Federal regulation.

7 (3) The Constitution of the United States.

8 (4) The Constitution of Pennsylvania.

9 (5) A law or regulation concerning the form,  
10 organization, reorganization or structure of a school entity.

11 (6) A law or regulation governing elections.

12 (7) A law or regulation designating a public officer or  
13 a duty or power of a public officer or the incompatible  
14 offices of a public employee.

15 (8) A law or regulation regarding the ethics of a public  
16 official or employee or the protection of the public from  
17 malfeasance, misfeasance or nonfeasance by a public official  
18 or employee of a school district.

19 (9) The provisions set forth in 2 Pa.C.S. Chs. 5 Subch.  
20 B (relating to practice and procedure of local agencies) and  
21 7 Subch. B (relating to judicial review of local agency  
22 action) and other laws or regulations proscribing practices  
23 and procedures relating to meetings, hearings and other  
24 administrative adjudications on behalf of a school entity or  
25 agency of a school entity.

26 (10) A law or regulation that involves the  
27 administration of justice or procedures for administration  
28 and judicial review of actions taken by a school entity.

29 (11) An existing contract, including a collective  
30 bargaining agreement.



1           (12) The right to collectively bargain.

2           (13) The provisions of the act of June 2, 1915  
3           (P.L.736, No.338), known as the Workers' Compensation Act,  
4           and its regulations.

5           (14) The provisions of the act of December 5,  
6           1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the  
7           Unemployment Compensation Law, and its regulations.

8           (15) The provisions of the act of November 10, 1999  
9           (P.L.491, No.45), known as the Pennsylvania Construction Code  
10          Act, and any regulations promulgated under that act.

11          (16) A law or regulation related to public health and  
12          safety, such as mandatory immunization of students.

13          (17) A law or regulation pertaining to the substantive  
14          or procedural due process rights of students or employees.

15          (18) The provisions of the act of October 15, 1998  
16          (P.L.729, No.93), known as the Sunshine Act.

17          (19) The provisions of Chapter 7 of the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know  
18          Law, and any regulations promulgated under that act.

19          (20) A law or regulation setting forth time lines and  
20          notice requirements for the adoption of budgets by a school  
21          district.  
22

23          (21) A law or regulation requiring liability insurance.

24          (22) A law or regulation governing hazardous walking  
25          routes for students.

26          (23) A law or regulation governing academic standards  
27          and assessments.

28          (24) A law or regulation governing student attendance.

29          (25) A law governing charter school tuition payments.

30          (26) The provisions of this act.

1 Section 10. Liability and immunity.

2 Nothing in this act nor any actions taken under this act,  
3 including, but not limited to, the suspension of any mandate,  
4 resumption of a mandate or the termination of suspension of a  
5 mandate, shall have the effect of modifying, enlarging or  
6 diminishing an existing legal basis for determining any aspect  
7 of the civil or criminal liability of the Commonwealth, school  
8 entities and officials or employees of the Commonwealth and  
9 school entities.

10 Section 11. Effectiveness.

11 A suspension of mandates in accordance with this act shall  
12 remain in effect notwithstanding the repeal, amendment or  
13 expiration of this act.

14 Section 12. Effective date.

15 This act shall take effect in 30 days.