

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 979 Session of 2013

INTRODUCED BY FLECK, BAKER, BIZZARRO, BOBACK, CARROLL, CAUSER, DAVIDSON, DAVIS, DeLUCA, EVERETT, FREEMAN, GALLOWAY, GOODMAN, GROVE, HALUSKA, HESS, F. KELLER, M. K. KELLER, KORTZ, MASSER, MICOZZIE, MILLARD, MILLER, MULLERY, MUNDY, MUSTIO, O'BRIEN, O'NEILL, PAINTER, PASHINSKI, PEIFER, PICKETT, REED, ROZZI, SCHLOSSBERG, SONNEY, STERN, SWANGER AND TOBASH, MARCH 12, 2013

REFERRED TO COMMITTEE ON EDUCATION, MARCH 12, 2013

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," in charter schools, further providing  
6 for funding for charter schools and for provisions applicable  
7 to charter schools; providing for cyber charter schools and  
8 for actual costs of education services for cyber charter  
9 schools; and further providing for applicability of other  
10 provisions of this act and of other acts and regulations.

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

13 Section 1. Sections 1725-A(a)(2) and 1732-A(a) of the act of  
14 March 10, 1949 (P.L.30, No.14), known as the Public School Code  
15 of 1949, amended June 29, 2002 (P.L.524, No.88), are amended to  
16 read:

17 Section 1725-A. Funding for Charter Schools.--(a) Funding  
18 for a charter school shall be provided in the following manner:

19 \* \* \*

(2) For non-special education students, the charter school shall receive for each student enrolled no less than the [budgeted] actual total expenditure per average daily membership of the prior school year, as defined in section 2501(20), minus the [budgeted] actual expenditures at the end of the most recent fiscal year of the district of residence for nonpublic school programs and services; adult education programs; community/junior college programs; student transportation services; for special education programs; facilities acquisition, construction and improvement services; athletic funds and school-sponsored extracurricular activities set up in accordance with section 511; the full employer's share of retirement contributions paid to the Public School Employees' Retirement System; tuition to Pennsylvania charter schools for educational services provided to students attending the charter school; tax collection; 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.

\* \* \*

Section 1732-A. Provisions Applicable to Charter Schools.--

(a) Charter schools shall be subject to the following:

Sections 108, 110, 111, 321, 325, 326, 327, 431, 436, 443, 510, 518, 527, 708, 736, 737, 738, 739, 740, 741, 752, 753, 755, 771, 776, 777, 808, 809, 810, 1109, 1111, 1112(a), 1123.1, 1301, 1310, 1317, 1317.1, 1317.2, 1318, 1327, 1330, 1332, 1303-A, 1513, 1517, 1518, 1521, 1523, 1531, 1547, 2014-A, Article XIII-A and Article XIV.

\* \* \*

1 Section 2. The act is amended by adding sections to read:

2 Section 1748.1-A. Funding for cyber charter schools.

3 Funding for a cyber charter school shall be provided in the  
4 following manner:

5 (1) There shall be no tuition charge for a resident or  
6 nonresident student attending a cyber charter school.

7 (2) For non-special education students, the cyber  
8 charter school shall receive for each student enrolled not  
9 less than the actual total expenditure per average daily  
10 membership of the prior school year, as defined in section  
11 2501(20), minus the actual expenditures at the end of the  
12 most recent fiscal year of the district of residence for  
13 nonpublic school programs and services; adult education  
14 programs; community/junior college programs; student  
15 transportation services; special education programs;  
16 facilities acquisition, construction and improvement  
17 services; athletic funds and school-sponsored extracurricular  
18 activities set up in accordance with section 511; the full  
19 employer's share of retirement contributions paid to the  
20 Public School Employees' Retirement System; tuition to  
21 Pennsylvania charter schools for educational services  
22 provided to students attending the charter school; library  
23 services; food services; health services; tax collection;  
24 school district cyber or online programs and technology; and  
25 other financing uses, including debt service and fund  
26 transfers as provided in the Manual of Accounting and Related  
27 Financial Procedures for Pennsylvania School Systems  
28 established by the department. This amount shall be paid by  
29 the district of residence of each student.

30 (3) (i) For special education students, the cyber

1 charter school shall receive for each student enrolled  
2 the same funding as for each non-special education  
3 student as provided in paragraph (2), plus an additional  
4 amount determined by dividing the district of residence's  
5 total special education expenditure by the product of  
6 multiplying the combined percentage of section 2509.5(k)  
7 times the district of residence's total average daily  
8 membership for the prior school year. This amount shall  
9 be paid by the district of residence of each special  
10 education student enrolled, but the amount of additional  
11 tuition per student under this subparagraph shall not  
12 exceed the actual cost of special education services  
13 provided by the cyber charter school to the special  
14 education student during the school year. If the amount  
15 of tuition paid by the school district to the cyber  
16 charter school for the school year exceeds the amount of  
17 special education services provided by the cyber charter  
18 school, the excess shall be refunded to the school  
19 district within 60 days of the end of the cyber charter  
20 school year, notwithstanding the annual audit and  
21 reconciliation process required in section 1748.2-A. The  
22 cyber charter school shall report to the school district  
23 of residence within 45 days following the end of the  
24 cyber charter school year the actual cost of special  
25 education services for each special education student.  
26 This report shall include the actual cost of  
27 psychological services, speech pathology and audiology  
28 services, social work services, special education legal  
29 services, medical services and nursing services provided  
30 to each special education student.

1           (ii) If a non-special education student is  
2           identified by the cyber charter school in which the  
3           student is enrolled as a student with a disability in  
4           need of special education services, the school district  
5           of residence shall have the power to administer and  
6           deliver the educational services required to address the  
7           special education services of the student in lieu of  
8           providing the cyber charter school with the amount for  
9           such student required in subparagraph (i).

10           (iii) The amount a school district provides to a  
11           cyber charter school on a per student basis for special  
12           education students of the district who are enrolled in  
13           the cyber charter school shall not exceed the amount the  
14           school district receives in Federal and State subsidies  
15           for special education each year on a per special  
16           education student basis.

17           (4) A cyber charter school may request the intermediate  
18           unit in which the school district of residence is located to  
19           provide services to assist the cyber charter school to  
20           address the specific needs of exceptional students. The  
21           intermediate unit shall assist the cyber charter school and  
22           bill the cyber charter school for the services. The  
23           intermediate unit may not charge the cyber charter school  
24           more for any service than it charges the constituent  
25           districts of the intermediate unit. If the service is  
26           provided by the intermediate unit or school district, the  
27           cyber charter school shall provide a copy of the contract and  
28           invoice for the services to the student's school district of  
29           residence.

30           (5) Payments shall be made to the cyber charter school

1 in 12 equal monthly payments, by the fifth day of each month,  
2 within the operating school year. A student enrolled in a  
3 cyber charter school shall be included in the average daily  
4 membership of the student's district of residence for the  
5 purpose of providing basic education funding payments and  
6 special education funding pursuant to Article XXV. If a  
7 school district fails to make a payment to a cyber charter  
8 school as prescribed in this paragraph, the secretary shall  
9 deduct the estimated amount, as documented by the cyber  
10 charter school, from any and all State payments made to the  
11 district after receipt of documentation from the cyber  
12 charter school.

13 (6) Within 30 days after the secretary makes the  
14 deduction described in paragraph (5), a school district may  
15 notify the secretary that the deduction made from State  
16 payments to the district under this subsection is inaccurate.  
17 The secretary shall provide the school district with an  
18 opportunity to be heard concerning whether the cyber charter  
19 school documented that its students were enrolled in the  
20 cyber charter school, the period of time during which each  
21 student was enrolled, the school district of residence of  
22 each student and whether the amounts deducted from the school  
23 district were accurate.

24 (7) The amounts calculated under paragraphs (2) and (3)  
25 shall be calculated using the actual expenditure data at the  
26 end of the most recently completed fiscal year and submitted  
27 on a form prescribed by the department not later than October  
28 31 of each year. The amount calculated shall remain in effect  
29 until October 31 of the next year.

30 Section 1748.2-A. Actual costs of education services for cyber

1           charter schools.

2       (a) General rule.--Within 180 days of the effective date of  
3 this section, the department shall issue audit guidelines and  
4 may promulgate audit regulations under this article which shall  
5 be used in determining the year-end actual costs of educational  
6 services per non-special education student and special education  
7 student provided by a cyber charter school to any student who is  
8 a resident of a school district, which are subject to payment in  
9 accordance with section 1748.1-A. The audit guidelines shall  
10 take effect at the beginning of the first school year after  
11 which such audit guidelines have been issued.

12       (b) Audit guidelines.--In order that the year-end actual  
13 costs of educational services per non-special education student  
14 and special education student are thoroughly and properly  
15 determined for the purpose of final reconciliation pursuant to  
16 subsection (d), the audit guidelines issued by the department  
17 shall specify the actual costs of the educational services  
18 associated with the operation of the educational program offered  
19 by a charter school.

20       (c) Excluded costs.--The following may not be considered  
21 actual costs of educational services associated with the  
22 operation of the educational program offered by a cyber charter  
23 school:

24           (1) Any paid media advertisement, including television,  
25 radio, movie theater, billboard, bus poster, newspaper,  
26 magazine, the Internet or any other commercial method that  
27 may promote student enrollment in a cyber charter school.

28           (2) Any lobbying, legislative advocacy consulting or any  
29 effort to influence any member of the executive or  
30 legislative branch of the Federal or State Government

1 regarding the formulation, modification or adoption of  
2 legislation or other policy affecting either that cyber  
3 charter school in particular or cyber charter schools in  
4 general.

5 (3) Any bonuses or additional compensation beyond the  
6 annual or termed contractual compensation for members of the  
7 board of trustees, faculty, administration and staff,  
8 including salary, benefits and any additional compensation  
9 not specifically enumerated in the contract.

10 (d) Contents of audit guidelines.--The audit guidelines  
11 issued by the department shall do the following:

12 (1) Allow a closely related business entity to charge  
13 not more than 107% of the actual educational costs.

14 (2) Require information as necessary for a full-scope  
15 review of a finalized management agreement entered into  
16 between a cyber charter school and a closely related business  
17 entity, including:

18 (i) All payments received from school districts of  
19 residence.

20 (ii) Expenditures of the closely related business  
21 entity related to the delivery of educational and  
22 administrative services pursuant to the management  
23 agreement.

24 (3) List and provide copies of all receipts and  
25 expenditures for an educational service provider that  
26 provides any service to a cyber charter school.

27 (4) Provide reasonable penalties for failure to comply.

28 (e) Reconciliation process.--

29 (1) Within 60 days from the effective date of this  
30 section the department shall effectuate an annual year-end



1 final reconciliation process of tuition payments against  
2 actual costs of educational services per non-special  
3 education student and special education student provided and  
4 necessary procedures for the transfer of funds from a cyber  
5 charter school to a school district of residence. The final  
6 reconciliation process shall include one of the following:

7 (i) Allowing a school district of residence to  
8 withhold its last monthly payment from a cyber charter  
9 school to account for any overpayments as identified by  
10 the year-end audit. If the school district of residence  
11 has sent overpayments, the district may adjust its last  
12 monthly payment accordingly.

13 (ii) Requiring a cyber charter school at the end of  
14 each school year to return any overpayments to a school  
15 district of residence owed a refund based on payments  
16 made during that school year. A cyber charter school may  
17 not return any overpayments on a pro rata basis.

18 (2) The department shall not deduct from a school  
19 district of residence's basic education subsidy any amount in  
20 excess of the selected expenditure per average daily  
21 membership amount calculated in accordance with section  
22 1748.1-A.

23 (f) Duty to provide information.--Cyber charter schools,  
24 educational service providers, charter school foundations and  
25 closely related business entities shall provide to the  
26 department, unless already retained by the department, any  
27 information necessary to carry out the provisions of this  
28 section within ten days from a request by the department.

29 (g) Construction.--Except as provided under subsection (e),  
30 nothing contained under this section shall be construed to

permit a school district of residence to provide funding for  
cyber charter schools in a manner other than that which is  
specified in section 1748.1-A.

(h) Definitions.--As used in this section, the following  
words and phrases shall have the meanings given to them in this  
subsection unless the context clearly indicates otherwise:

"Closely related business entity." An organization with a  
management or operational relationship with a cyber charter  
school involving either shared or overlapping aspects of  
corporate identity such as ownership, board of directors or  
trustees membership, capital or profits.

"Educational and administrative services." Any direct  
expenditures for any instruction and the administration of the  
instructional program. The term shall not include any  
expenditures not pertaining directly to the instruction and the  
administration of the instructional program.

"Educational service provider." A for-profit education  
management organization, nonprofit charter management  
organization, school design provider, business manager or any  
other partner entity with which a cyber charter school intends  
to contract or presently contracts to provide educational  
services, operational services or management services to the  
cyber charter school. The term shall not include a charter  
school foundation.

"Management agreement." Any contract establishing a  
management or operational relationship between a cyber charter  
school and closely related business entity for the provision of  
professional or nonprofessional services to the cyber charter  
school.

Section 3. Section 1749-A(a)(1) of the act, added June 29,

1 2002 (P.L.524, No.88), is amended to read:

2 Section 1749-A. Applicability of other provisions of this act  
3 and of other acts and regulations.

4 (a) General requirements.--Cyber charter schools shall be  
5 subject to the following:

6 (1) Sections 108, 110, 111, 321, 325, 326, 327, 431,  
7 436, 443, 510, 518, 527, 609, 687(a), (b), (c), (d), (h) and  
8 (i), 708, 752, 753, [755,] 771, 776, 777, 807.1, 808, 809,  
9 810, 1109, 1111, 1112(a), 1123.1, 1205.1, 1205.2, 1301, 1302,  
10 1310, 1317.2, 1318, 1330, 1332, 1333, 1354, 1355, 1303-A,  
11 1518, 1521, 1523, 1531, 1547, 1702-A, 1703-A, 1714-A, 1715-A,  
12 1716-A, 1719-A, 1721-A, 1722-A, 1723-A(a) and (b), 1724-A,  
13 1725-A, 1727-A, 1729-A, 1730-A, 1731-A(a) (1) and (b) and  
14 2014-A and Articles XII-A, XIII-A [and] XIV and XXIV.

15 \* \* \*

16 Section 4. This act shall take effect in 60 days.